AGENDA
REGULAR MEETING
CITY COUNCIL, CITY OF ASHEBORO
THURSDAY, FEBRUARY 4, 2016, 7:00 PM

1. Call to order.

2. Silent prayer and pledge of allegiance.

3. Appearance and recognition of guests and citizens.

4. Mayor Smith will update the Council on the receipt by the city of the Cornerstone Award from the Asheboro/Randolph Home Builders Association.

5. Mr. Steve Hackett, CPA, of the firm Maxton McDowell, CPA will present the city's fiscal year-end audit report.

6. Randolph County Economic Development Corporation President Bonnie Renfro will present the corporation's annual report.

7. Randolph County Manager Hal Johnson, will discuss Randolph County's strategic planning and megasite initiatives.

8. Consent agenda:

   (a) Approval of the minutes of the city council's regular meeting on January 7, 2016.

   (b) Approval of the minutes of the city council's special meeting on January 28, 2016.

   (c) Approval of an ordinance to amend the current fiscal year budget for the water & sewer fund.

9. Community Development Director Trevor Nuttall will introduce the following land use cases:

   (a) Zoning Case RZ-16-01: A legislative zoning hearing on the application filed by the city for general text amendments to Articles 200, 200A, 300A, 400, 600, 800, 1000, and 1100 in the City of Asheboro Zoning Ordinance.

   (b) SUB-12-01: A preliminary plat review for Phase 2 of the Olde Towne Village subdivision.

10. Public comment period.

11. Chief Building Inspector Randy Purvis will present his annual report.

12. Code Enforcement Officer Ed Brown will present his annual report.

13. Human Resources Director Stacy Griffin will discuss and request approval of a resolution expressing the Council's concurrence with the newly revised City of Asheboro Employee Policies and Procedures Manual.

14. The City Manager will present a resolution requesting the assistance of the local legislative delegation in amending the city's charter to allow the donation of animals retired by the city to the officer or employee who had normal custody or control of the animal.

15. Items not on the agenda.

16. Adjournment.

Item 5

CITY OF ASHEBORO
Comparative Balance Sheets - Governmental Funds
June 30, 2015 and 2014

	2015	2014	
Assets			
Cash & Investments	7,463,952	5,554,329	34.38%
Restricted Cash	1,130,490	1,089,906	3.72%
Taxes Receivable - Net	181,818	193,480	-6.03%
Accounts Receivable	120,934	92,186	31.18%
Due From Other Governments	2,314,458	2,610,741	-11.35%
Due From Component Unit	-	-	
Due From Other Funds	585,407	350,000	67.26%
Other	1,152,887	1,175,916	-1.96%
Inventories	504,120	512,114	-1.56%
Total Assets	13,454,066	11,578,672	16.20%
Liabilities & Fund Equity			
Accounts Payable & Accrued Liabilities	288,458	250,093	15.34%
Due to Other Funds	350,000	350,000	0.00%
Other	20,255	16,000	26.59%
Payable From Restricted Assets	26,491	13,826	91.60%
Unearned Revenues	272,347	340,502	-20.02%
Deferred Revenues	-	-	
Total Liabilities	957,551	970,421	-1.33%
Deferred Inflows of Resources	932,247	912,744	2.14%
Fund Balance:			
Nonspendable:			
Long-term Receivables	585,407	350,000	
Inventories	504,120	512,114	
Restricted:			
Streets	442,798	654,582	
Stabilization by State Statute	2,840,063	3,161,086	
Capital Projects	104,344	204,057	
Committed:			
Capital Projects	-	-	
Economic & Physical Development	1,097,345	892,177	
Assigned:			
Subsequent Year's Expenditures	-	225,000	
Unassigned	5,990,191	3,696,491	
Total Fund Balance	11,564,268	9,695,507	
Total Liabilities and Fund Equity	13,454,066	11,578,672	

CITY OF ASHEBORO

Statement of Revenues, Expenditures, and Changes in Fund Balance - Governmental Funds

For the Years Ended June 30, 2015 and 2014

	2015	2014	
Revenues			
Ad Valorem Taxes	14,519,022	13,014,586	11.56%
Other Taxes and Licenses	323,903	346,197	-6.44%
Intergovernmental Revenues:	8,686,356	8,720,755	-0.39%
Permits and Fees	139,882	121,736	14.91%
Sales and Services	1,687,425	1,325,556	27.30%
Investment Earnings	42,488	33,436	27.07%
Miscellaneous	393,497	575,080	-31.58%
Total revenues	25,792,573	24,137,346	6.86%
Expenditures			
General Government	3,151,731	3,017,602	4.44%
Public Safety	12,302,052	11,382,276	8.08%
Transportation	3,486,959	3,262,437	6.88%
Environmental Protection	2,169,598	2,574,066	-15.71%
Cultural and Recreational	3,218,540	3,138,685	2.54%
Economic and Physical Development	329,546	365,011	-9.72%
Debt Service	755,124	828,502	-8.86%
Capital Outlay	48,385	702,180	-93.11%
	25,461,935	25,270,759	0.76%
Revenues Over (Under) Expenditures	330,638	(1,133,413)	-129.17%
Other Financing Sources (Uses)			
Transfers From Other Funds	703,673	975,700	
Transfers to Other Funds	(203,673)	(207,700)	
Sale of Assets	39,440	-	
Installment Purchase Obligations	690,040	25,550	
Net Change in Fund Balances	1,560,118	(339,863)	
Fund Balance Beg. Of Year	9,695,507	10,035,370	
Prior Period Adjustment	308,643		
Fund Balance End of Year	11,564,268	9,695,507	

CITY OF ASHEBORO
Comparative Statements of Net Position - Proprietary Fund
June 30, 2015 and 2014

	2015	2014	
Assets			
Cash & Investments	8,416,872	8,859,987	-5.00%
Accounts Receivable	2,075,034	1,993,573	4.09%
Due From Other Governments	-	13,405	-100.00%
Note Receivable	88,890	88,890	0.00%
Inventories	834,084	799,603	4.31%
Net Pension Asset	386,888	-	
Capital Assets (Net of Depreciation)	47,950,059	48,947,881	-2.04%
Total Assets	59,751,827	60,703,339	-1.57%
Deferred Outflows of Resources	253,860	535	47350.47%
Current Liabilities			
Accounts Payable & Accrued Liabilities	487,805	131,506	270.94%
Due to Other Funds	235,407	-	
Customer Deposits	476,253	457,475	4.10%
Unearned Revenues	107,307	128,342	-16.39%
Accrued Interest Payable	22,486	25,594	-12.14%
Compensated Absences - Current	200,983	84,513	137.81%
Installment Purchases Payable - Current	177,904	193,217	-7.93%
General Obligatio Bonds Payable - Current	-	62,508	-100.00%
Notes Payable - Current	662,167	662,167	0.00%
Total Current Liabilities	2,370,312	1,745,322	35.81%
Noncurrent Liabilities			
Other Post Employment Benefits	949,378	752,167	26.22%
Compensated Absences	134,615	243,075	-44.62%
Installment Purchases Payable	351,159	529,063	-33.63%
Notes Payable	4,996,615	5,658,782	-11.70%
Total Noncurrent Liabilities	6,431,767	7,183,087	-10.46%
Total Liabilities	8,802,079	8,928,409	-1.41%
Deferred Inflows of Resources	972,525	156	
Net Position:			
Net Investment in Capital Assets	41,762,170	41,842,479	
Unrestricted	8,468,913	9,932,830	
Total Net Position	50,231,083	51,775,309	

CITY OF ASHEBORO

Statement of Revenues, Expenditures, and Changes in Net Position/Net Assets - Water & Sewer Fund

For the Years Ended June 30, 2015 and 2014

	2015	2014	
Revenues			
Water Sales	6,652,529	6,494,470	2.43%
Sewer Charges	5,151,114	4,835,452	6.53%
Water and Sewer Taps	32,400	45,315	-28.50%
Sampling and Monitoring Fees	29,717	28,947	2.66%
Surcharges	107,547	198,263	-45.76%
Septic Tank Discharge	19,715	195	
Other Operating Revenues	451,272	452,562	-0.29%
Total revenues	12,444,294	12,055,204	3.23%
Expenditures			
Billing and Collections	382,413	422,485	-9.48%
Water Meter Operations	724,316	660,864	9.60%
Water Supply Treatment	2,438,028	2,106,348	15.75%
Wastewater Treatment	3,153,074	2,397,521	31.51%
Water Maintenance	875,642	970,230	-9.75%
Wastewater Maintenance	1,193,961	1,309,976	-8.86%
Technical Services	179,548	185,422	-3.17%
Systems Maintenance	1,171,118	1,115,218	5.01%
Water Quality	582,637	574,806	1.36%
Depreciation	1,996,209	1,856,115	7.55%
	12,696,946	11,598,985	9.47%
Operating Income	(252,652)	456,219	-155.38%
Nonoperating Revenues (Expenses):			
Investment Earnings	9,231	8,958	
Interest and Other Charges	(165,596)	(211,398)	
Other Nonoperating Revenues	187,235	207,123	
Amortization of Bond Issue Costs	-	-	
Gain (Loss) on Disposal of Assets	(39,304)	-	
Transfers From Other Funds	-	-	
Transfers to Other Funds	(500,000)	(768,000)	
Capital Contributions	94,325	75,873	
Change in Net Position/ Assets	(666,761)	(231,225)	188.36%
Net Assets Beg. Of Year	51,775,309	52,006,534	
Prior Period Adjustment	(308,643)		
Restatement	(568,822)	-	
Total Net Assets - End of Year	50,231,083	51,775,309	

REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, JANUARY 7, 2016
7:00 p.m.

This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and city management team members present:

David H. Smith) – Mayor Presiding

Clark R. Bell)
Edward J. Burks)
Linda H. Carter)
Walker B. Moffitt) – Council Members Present
Jane H. Redding)
Katie L. Snuggs)
Charles A. Swiers)

John N. Ogburn, III, City Manager
D. Jason Cheek, Police Captain
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Michael L. Leonard, P.E., City Engineer
Mark T. Lineberry, Police Major
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
James O. Smith, Assistant Chief of Police
Jeffrey C. Sugg, City Attorney
Jody P. Williams, Chief of Police
Roy C. Wright, Fire Chief

1. Call to order.

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows.

2. Silent prayer and pledge of allegiance.

After a moment of silence was observed in order to allow for private prayer or meditation, Mayor Smith asked everyone to stand and say the pledge of allegiance.

3. Recognition of Detective Todd DeHaven as the Asheboro Police Department's Officer of the Year for 2015.

Police Chief Jody Williams recognized Detective Todd DeHaven as the Asheboro Police Department's Officer of the Year for 2015 and presented him with a plaque.

4. Recognition of Firefighter II Brandon Hurley and Firefighter I Pete Sulzer as the Asheboro Fire Department's Firefighters of the Year for 2015.

Fire Chief Roy Wright recognized Firefighter II Brandon Hurley and Firefighter I Pete Sulzer as the Asheboro Fire Department's Firefighters of the Year for 2015 and presented both of them with a plaque.

5. Recognition of Service Rendered by Retiring Employees:

(a) Chief Fire Inspector Mike Jones

On behalf of the city council and the city manager's office, City Manager John Ogburn presented Chief Fire Inspector Mike Jones with a retirement plaque from the municipal corporation in honor of his loyal service to the City of Asheboro.

(b) Master Police Officer Arthur L. Milligan, Jr.

On behalf of the Asheboro Police Department, Chief Williams presented Master Police Officer Milligan with a plaque that included his badge as a token of gratitude for his loyal service to the City of Asheboro. Along with his badge, Chief Williams presented Master Police Officer Milligan with his service side arm that he carried at the time of his retirement.

Additionally, on behalf of the city council and the city manager's office, Mr. Ogburn presented Master Police Officer Milligan with a retirement plaque from the municipal corporation.

6. Consent agenda:

Upon motion by Mr. Burks and seconded by Mr. Bell, Council voted unanimously to approve/adopt the following consent agenda items.

(a) The minutes of the city council's meeting on December 10, 2015.

(b) Acknowledgement of the receipt from the Asheboro ABC Board of the board's meeting minutes for meetings held on November 2, 2015 and December 7, 2015.

(c) The reappointment of City Council Member Eddie Burks to a 2-year term of office (January 1, 2016 to January 1, 2018) on the Asheboro Board of the North Carolina Firefighters Relief Fund.

(d) The reappointment of Van Rich to a 5-year term of office (January 1, 2016 to January 1, 2021) on the Asheboro Planning Board.

7. Community Development Division Items:

(a) <u>Zoning Case RZ-15-10</u>: A legislative zoning hearing on an application to rezone property located at 609 and 617 N.C. Highway 42 North from O & I (Office and Institutional) to R10 (Medium – Density Residential).

Mayor Smith opened the public hearing on the following request.

The requested rezoning pertains to a total of approximately 1.66 acres of land. The property located at 617 N.C. Highway 42 North is owned by Richard Scott Stockner and Todd York Stockner and is more specifically identified by Randolph County Parcel Identification Numbers 7761321382 and 7761322224. The property located at 609 N.C. Highway 42 North is owned by Richard S. Stockner and Robin S. Stockner and is more specifically identified by Randolph County Parcel Identification Number 7761322047.

Mr. Nuttall utilized a visual presentation to summarize the request by Richard S. Stockner to rezone the above-described property from O & I (Office and Institutional) zoning to R10 (Medium-Density Residential) zoning.

The staff report noted the following:

1. The property is inside the city limits and all city services are available.
2. N.C. Highway 42 North is a state-maintained major thoroughfare.
3. Prior to the property being rezoned to O & I (Office and Institutional) in 2014, the property was zoned R10 (Medium-Density Residential), with a small portion zoned R7.5
4. The proposed R10 district allows single-family and two-family dwellings by right.
5. There are two single-family dwellings on the property (on separate parcels).
6. Once the property was rezoned to O & I (Office and Institutional), the current single-family use of the property became a legal non-conforming use. As a legal non-conforming use, the single-family residential use may continue. However, expansion, such as additions to the dwelling(s) or new accessory structure(s), is restricted.
7. When the property was rezoned from R7.5/R10 to O&I (8-7-14), the Land Development Plan (LDP) Proposed Land Use designation was "neighborhood residential." On October 8, 2015, the proposed land use map was amended to designate this property and adjoining properties on this segment of N.C. Highway 42 North as "Office and Institutional." This amendment was part of a comprehensive update to the city's LDP to reflect changes in land uses occurring since its last update in 2000.

The Planning Board concurred with the following analysis from the Community Development Division staff and recommended approval of the requested rezoning.

> "Although the proposed land use map designates the property for Office and Institutional Use, this classification reflects the property's current O & I zoning. This designation is also based upon the property's location in an area mixed with residential and non-residential uses (with commercial uses primarily to the north and east and residential uses to the south and west). Accordingly, the proposed land use map proposes Office and Institutional use as an appropriate transitional designation for the property.

> Prior to the recent update of the city's Land Development Plan, the property was designated for "neighborhood residential" use to reflect the single-family and two-family uses along this segment of N.C. Highway 42 North. The LDP Central Small Area Plan also supports preservation of existing residential neighborhoods. Rezoning the property back to residential zoning (R10 Medium-Density) will continue to allow viable residential use of the property while remaining compatible with adjoining residential properties."

The Applicant's agent, Mr. H.R. Gallimore, was available to answer questions.

There being no comments and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council voted unanimously to approve the requested rezoning by adopting a multi-part motion that included the following actions:

1. Adopted and implemented the analysis of the Community Development Division staff and the Planning Board that recommended granting the requested rezoning; and
2. Adopted the following consistency statement that acknowledges the request is not consistent with the proposed land use map designation of Office and Institutional zoning for the property, but the requested R10 zoning is reasonable and in the public interest because, in view of the factors stated in the above-quoted passage taken from the staff report, the proposed R10 district will allow a reasonable use of the property, reflecting its residential use and history, and providing a partial level of conformance with the land development plans.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

(b) Discussion of enhanced partnership between the Fire Department and Community Development Division in connection with the city's fire code inspection program and pre-incident planning duties.

Mr. Ogburn discussed the enhanced partnership between the Fire Department and the Community Development Division in connection with the city's fire code inspection program and pre-incident planning operations. In essence, qualified Fire Department personnel will begin performing Level 1 fire inspections of certain building occupancy classifications along with pre-incident planning. The Chief Fire Inspector and Deputy Chief Fire Inspector, who are in the Community Development Division, will perform fire inspections of occupancies requiring level II or level III inspections. The Chief Fire Inspector and the Deputy Chief Fire Inspector will also be responsible for investigating suspicious fires and cases of unlawful burning.

The enhancement of this partnership will allow fire department personnel to become more familiar with buildings when responding to an incident, while providing cross-training opportunities and improving the ability for the staffs to collaborate.

No objections were raised by the council members, and no action was taken by the Council on this agenda item which functioned as a briefing. A copy of the visual presentation utilized by Mr. Ogburn during his presentation is on file in the city clerk's office.

(c) Update of code enforcement activities at 436 West Salisbury Street, Asheboro, NC.

Mr. Nuttall updated the council members on the on-going code enforcement activities related to 436 West Salisbury Street in Asheboro. The property was recently conveyed to a new owner, and preliminary plans for the property have been submitted to the Community Development Division staff. Further actions will be taken as necessary, but the Community Development Division has reason to believe that the owner will address the status of the building in a compliant manner. No action was taken by the Council on this agenda item.

8. Public comment period.

Mayor Smith opened the floor for public comments and none were offered.

In the absence of any comments, Mayor Smith closed the public comment period.

9. Presentation of an ordinance to amend the Airport Improvements Fund (#66) fiscal year 2015-2016 in order to clearly account for engineering expenditures.

Mr. Leonard presented and recommended adoption, by reference, of the aforementioned ordinance.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to adopt the following ordinance by reference.

01 ORD 1-16

ORDINANCE TO AMEND THE AIRPORT IMPROVEMENTS FUND (#66) FY 2015-2016

WHEREAS, the project referred to as State Project No #36237.23.13.1 now has a combined / dual purpose of accounting for expenditures for the Apron Rehab as well as the New Airport Terminal Building, and;

WHEREAS, City Staff would like to clearly account for the engineering expenditures for both projects separately, and;

WHEREAS, both projects expenditures have changed since initially allocated and funds initially earmarked for construction need to be reallocated toward engineering services for the Apron design and rehabilitation, and;

WHEREAS, the City of Asheboro desires to be in compliance with all generally accepted accounting principles.

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina

Section 1: That the following expense line items are increased / (decreased):

Account	Description	Increase / (Decrease)
66-982-0500	Engineering- Apron	109,000
66-982-4500	Construction	(109,000)
	Total change	0

Adopted this the 7th day of January 2016.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, City Clerk

10. Mayoral appointments:

Mr. Ogburn announced the following appointments that have been made by Mayor Smith:

(a) Council Member Eddie Burks is to serve as the governing board's designated voting delegate to the N.C. League of Municipalities.
(b) Council Member Linda Carter is to serve as the governing board's designated liason for city wellness initiatives.
(c) The City Manager is designated as an Ex Officio member of Randolph Public Library Board.

The council members expressed no objections to these appointments, and the appointments were deemed to have been made with the general consent of the council.

11. Mayor Smith announced the following upcoming events:

- Chamber of Commerce Annual Meeting on Friday, January 22, 2016 at 6:30 p.m. at Pinewood Country Club.
- Annual Martin Luther King, Jr. Day Breakfast on January 18, 2016 at 8:00 a.m. at the Central Gym.
- Special Council Meeting on January 28, 2016 at 5:30 p.m.

Mr. Ogburn reminded the council members of the following funeral arrangements for Sheriff Maynard B. Reid, Jr. who recently passed away:

- Visitation is scheduled for Friday, January 8, 2016 from 4:00 p.m. until 9:00 p.m. at Pugh Funeral Home.
- The funeral is scheduled for Saturday, January 9, 2016 at 2:00 p.m. at Sunset Avenue Church of God.

There being no further business, the meeting was adjourned at 7:48 p.m.

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Holly H. Doerr, CMC, NCCMC, City Clerk David H. Smith, Mayor

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

NOTICE OF A SPECIAL MEETING AT 5:30 P.M.
ON THURSDAY, JANUARY 28, 2016

CITY OF ASHEBORO PUBLIC WORKS FACILITY
1312 NORTH FAYETTEVILLE STREET
ASHEBORO, NORTH CAROLINA 27203

Notice is hereby given of a special meeting of the Asheboro City Council that will begin at 5:30 p.m. on Thursday, January 28, 2016, in the main conference room at the City of Asheboro Public Works Facility, 1312 North Fayetteville Street, Asheboro, North Carolina 27203. During this special meeting, the following agenda items will be brought before the governing board:

1. A staff report and recommendations pertaining to the proposed Great Oak Regional Landfill will be presented for consideration.

2. The human resources director will provide an overview of potential revisions to the City of Asheboro Employee Policies and Procedures Manual.

3. Mayor Smith and the Council Members will participate in an on-site tour of the employee health clinic at the public works facility and make first-hand observations of the renovations currently underway at the clinic.

This special meeting notice is issued on the 21st day of January, 2016.

/s/ David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

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SPECIAL MEETING
ASHEBORO CITY COUNCIL
CITY OF ASHEBORO PUBLIC WORKS FACILITY CONFERENCE ROOM
1312 NORTH FAYETTEVILLE STREET
THURSDAY, JANUARY 28, 2016
5:30 p.m.

This being the time and place for a special meeting of the Asheboro City Council, a meeting was held with the following elected officials and city management team members present:

David H. Smith) – Mayor Presiding

Clark R. Bell)
Edward J. Burks)
Linda H. Carter)
Walker B. Moffitt) – Council Members Present
Jane H. Redding)
Katie L. Snuggs)
Charles A. Swiers)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Stacy R. Griffin, Human Resources Director
David J. Hutchins, Public Works Director
Michael L. Leonard, P.E., City Engineer
Deborah P. Reaves, Finance Director
Michael D. Rhoney, P.E., Water Resources Director
Jonathan M. Sermon, Recreation Services Superintendent
Jeffrey C. Sugg, City Attorney

1. Call to order.

Mayor Smith called the meeting to order for the transaction of business, and business was transacted as stated below. Prior to considering the presentations scheduled for the meeting, Mayor Smith welcomed Randolph County Manager Hal Johnson, Randolph County Public Works Director Paxton Arthurs, and representation from Waste Management Inc.

2. Discussion of proposed changes impacting the personnel committee and the city pay plan.

Human Resources Director Stacy Griffin utilized a visual presentation and highlighted for the council members certain proposed changes impacting the city's Employee Policies and Procedures Manual, more specifically the elimination of the personnel committee and the implementation of a new pay plan. These proposed changes will be presented for further review and action at the council's regular February meeting.

In essence, after the results of an employee-wide survey and input from city employees, Ms. Griffin recommended that the city's personnel committee be dissolved. Employee input will continue to be sought via alternative channels such as focus groups and committees tasked with working on specific issues and/or policies.

Additionally, Ms. Griffin highlighted that a proposed new pay plan should be implemented in order to alleviate unintended compensative consequences that create an asymmetrical system. Additionally, the proposed plan should be easier to communicate and allows for the opportunity to build in a performance pay component.

Prior to full implementation of the new plan on July 1, 2016, Ms. Griffin proposed a transitional period from March 1, 2016 through June 30, 2016. In essence, the overall timeline for implementation of the new plan can be summarized as follows:

- On July 1, 2016, the new pay plan will be fully implemented.
- During July 1, 2016 through June 30, 2017, all employees will be educated on the performance based pay aspect of the plan.
- July 1, 2017 will be the beginning of the fiscal year where the city will include funds in the budget earmarked for performance based pay.

No formal action was taken by the council. The final proposed changes will be presented for council's review as part of a package of employee policies and procedures manual amendments to be considered during the council's regular meeting in February 2016.

A copy of the visual presentation utilized by Ms. Griffin is on file in the city clerk's office.

3. Report and recommendations pertaining to the proposed Great Oak Regional Landfill.

Mr. Leonard reported that the city has received a request from the County of Randolph and Waste Management, Inc. to extend water and sanitary sewer to the proposed site for the Great Oak Landfill as well as a request for the city to accept leachate from the landfill for treatment at the city's wastewater treatment plant. This would require an extension of the city's water and sewer system in the form of 7,887 linear feet of 6-inch ductile iron water main along with 13, 373 linear feet of 4-inch ductile iron sanitary sewer force main with the addition of a pump station, all of which would be maintained by the city upon completion of the proposed landfill project.

During his presentation, Mr. Leonard summarized the cost estimates for the extension of water and sewer to the proposed site. The cost estimate for the proposed water main extension is approximately $572,980.10, while the estimated cost for the sanitary sewer extension is approximately $1,341,183.80.

With the aforementioned cost estimates, Mr. Leonard highlighted that the city would save approximately $184,950.00 annually by hauling solid waste to the proposed landfill as opposed to hauling to Uwharrie Environmental located in Montgomery County.

In regards to the proposed landfill leachate, Mr. Rhoney summarized the estimated leachate generation as follows:

Leachate Revenue:

- Billed at ½ of the current inside rate - $1.39/100 cubic feet
- First year – approximately $14,600/year on leachate
- Tenth year – approximately $410,000/year

In summary, based on the financial value and the Wastewater Treatment Plant's ample treatment capacity, Mr. Ogburn highlighted the following recommendations:

1. The City of Asheboro should allow Waste Management, Inc. to construct, at their expense, water and sewer line improvements to serve the proposed Great Oak Landfill.
2. Upon completion of the water/sewer extensions, the improvements become an asset of the municipal system that the city would maintain.
3. Based on the recommendations of the city's police chief and fire chief, the proposed landfill will not be annexed.
4. The city council should establish a Leachate Rate of $1.39 per 100 cubic feet.
5. The City of Asheboro will reserve the right to require leachate to be pretreated if said leachate exceeds established pollutant limits.

City staff will update the council as the proposed project progresses. No formal action was taken by the council.

Final action on the above-stated recommendations is anticipated to be taken during the upcoming budget preparation process. Rates and policy decisions affecting the city's water and sewer utility are expected to be incorporated into the Code of Asheboro at the conclusion of the upcoming budget process.

4. Tour of the renovations that are in progress for the employee health clinic.

Mr. Ogburn led the council members on a tour of the renovations that are in progress for the employee health clinic located in the public works facility. No action was taken by the council during this tour. When the tour was concluded, the elected officials returned to the main conference room in the Public Works Facility for the adjournment of the meeting.

There being no further business, the meeting adjourned at 6:44 p.m.

_____ _____

Holly H. Doerr, CMC, NCCMC, City Clerk David H. Smith, Mayor

Item 8 (c)

ORDINANCE TO AMEND THE WATER & SEWER FUND FY 2015-2016

WHEREAS, The City of Asheboro has received a Technical Assistance Grant (TAG) in the amount of $49,999 from the North Carolina Department of Environmental Quality Division of Water Infrastructure to study a portion of the Sanitary Sewer Collection System along Penwood Branch to locate potential sources of inflow and infiltration (I & I) into the collection system, and;

WHEREAS, The City repeatedly experiences sanitary sewer overflows in this area during rain events as rainwater runs into the sewer pipes in the system, and;

WHEREAS, The Wooten Company is managing the grant by providing professional services to evaluate manholes, direct cleaning and videoing sections of the system, and provide flow meter analysis to help the City determine what improvements need to be made to repair the sewer system and prevent these overflows from occurring in the future, and;

WHEREAS, the 2015 - 2016 Water and Sewer Fund adopted budget needs to be amended to incorporate the grant proceeds in revenue and offsetting equal increase in professional services expenditures in the Systems Maintenance departmental budget, and;

WHEREAS, the City Council of the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue line item be increased:

Account #	Revenue Description	Increase
30-335-0200	Grant Revenue	49,999

Section 2: That the following Expense line item be increased:

Account #	Expense Description	Increase
30-870-0400	Professional Services	49,999

Adopted this 4th day of February, 2016

_____
David H. Smith, Mayor

ATTEST:

_____
Holly H. Doerr, CMC, NCCMC, City Clerk

RZ-16-01: Text Amendments to the Zoning Ordinance (City of Asheboro)

Planning Board Recommendation and Staff Report

Planning Board Recommendation & Comments to City Council

NOTE: Have applicant Certify to Council mailings to all adjoining property owners.

Case # **RZ-16-01** **Date** 2/1/2016

Applicant City of Asheboro

Legal Description

General Text Amendments to Articles 200 through 400 (including Table 400-1), 600, 800, 1000, and 1100 (definitions, to address consistency with statewide legislation & more precisely define certain uses). Proposed amendments include, but are not limited to, procedural requirements for Table of Permitted Uses amendments, terminology for child care facilities, covering/painting of street fronting facades within Tier 1 of Center City Planning Area, updates to terminology involving road types to reflect current Comprehensive Transportation Plan, landscaping requirements for parking facilities, update of terminology related to places of worship, required improvements for expansion of manufactured homes parks, staff review of certain additions to places of worship and schools located in districts requiring Special Use Permit, non conforming uses and situations, administrative provisions (including receipt of applications for zoning map amendments & conditional/special use permits, enforcement procedures, who may file zoning amendment, required zoning compliance permit application contents & improvement cost prompting requirement for such permit), correction of various clerical errors, & updates reflecting state legislation (including, but not limited to, legal advertising requirements, child care & abolishment of rezoning protest petition).

Requested Action See legal description above

Existing Zone N/A

Land Development Plan See Staff report

Planning Board Recommendation

The Planning Board received a draft of this request during its January 4, 2016 meeting, and was asked to continue the request. During its following regularly scheduled meeting on Monday, February 1, 2016, the Planning Board received additional information and recommended approval of the request as presented.

Reason for Recommendation

The Planning Board concurred with staff reasoning.

Planning Board Comments

The Planning Board had no additional comments concerning the proposed text amendments.

Rezoning Staff Report

RZ Case # **RZ-16-01** **Date** 2/4/2016 City Council

General Information

Applicant City of Asheboro

Address 146 North Church Street

City Asheboro NC 27203

Phone 336-626-1201

Location N/A

Requested Action General Text Amendments to the Zoning Ordinance (see description in "Analysis" section)

Existing Zone N/A **Existing Land Use** N/A

Size N/A **Pin #** N/A

Applicant's Reasons as stated on application

The amendments are part of a phased program of updating and improving the zoning ordinance.The amendments are to make corrections to various sections of the Zoning Ordinance that no longer apply due to changes in state legislation, correction of clerical errors, updates to terminology, and to improve the development review process. The proposed text amendments will address ongoing situations that staff has encountered, and will improve the public health, safety, and general welfare.

Surrounding Land Use

North N/A **East** N/A

South N/A **West** N/A

Zoning History The proposed text amendment reflect language in place since a major reorganization of the zoning ordinance in the early 1990s and some provisions were in place prior to that.

Legal Description

See attached legal description

Analysis

1. Updates are proposed to the following sections of the zoning ordinance. Highlights include:

Article 200: Remove redundant, unnecessary requirement for the Clerk to certify the Table of Uses.
Table 200-2: Amend child care related references that involve # of children to be consistent with state statutes.
Article 200A: Proposal concerning street fronting facades in Tier 1 of the Center City Planning area.
Article 300A: Make clerical changes and remove redundant references.
Table 400-1: Update terminology related to parking for places of worship.
Article 600: Update references to Comprehensive Transportation Plan, update language concerning receipt of applications, allowance of small additions to legal non conforming places of worship/schools, clarity concerning which provisions apply to existing manufactured home parks needing Special Use Permit.
Article 800: Improve general organization & clarity distinguishing between non conforming situations and uses.
Article 1000: Various amendments concerning legal notices and advertising, zoning permit contents and cost that prompts zoning permit requirements, abolishment of protest petition, and improvement to enforcement process.
Article 1100: Update various definitions to improve clarity, reflect changes in state legislation and more precisely define certain uses.

2. Possible revisions to Article 500 and other sections of the Zoning Ordinance related to signs are under review to reflect changes that are necessary due to a recent US Supreme Court case (*Reed vs. Gilbert*).

Rezoning Staff Report

RZ Case # **RZ-16-01**

Consistency with the 2020 LDP Growth Strategy designations

In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.

Proposed Land Use Map Designation	N/A
Small Area Plan	N/A
Growth Strategy Map Designation	N/A

LDP Goals/Policies Which Support Request

Goal 2.2: Development that is located in appropriate locations

Goal 3.1: Enhancement, maintenance, and preservation of the built environment

Rezoning Staff Report

LDP Goals/Policies Which Do Not Support Request

Recommendation **Approve**

Reason for Recommendation

The proposed amendments are necessary to ensure consistency with current state legislation, better reflect current operational practices, better define ambiguous terminology, improve clarity of the zoning ordinance and its review processes, and preserve the character of the historic core of Asheboro. The Land Development Plan supports each of these actions.

Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest

Considering these factors, staff believes that the proposed text amendments are supported by the Land Development Plan, correct references to other adopted comprehensive plans, such as the 2014 Asheboro Comprehensive Transportation Plan, and are therefore in the public interest in supporting a reasonable use of property.

Legal Description for Text Amendments to Zoning Ordinance

RZ-16-01: General Text Amendments to Articles 200 through 400 (including Table 400-1), 600, 800, 1000, and 1100 (definitions, to address consistency with statewide legislation & more precisely define certain uses). Proposed amendments include, but are not limited to, procedural requirements for Table of Permitted Uses amendments, terminology for child care facilities, covering/painting of street fronting facades within Tier 1 of Center City Planning Area, updates to terminology involving road types to reflect current Comprehensive Transportation Plan, landscaping requirements for parking facilities, update of terminology related to places of worship, required improvements for expansion of manufactured homes parks, staff review of certain additions to places of worship and schools located in districts requiring Special Use Permit, non conforming uses and situations, administrative provisions (including receipt of applications for zoning map amendments & conditional/special use permits, enforcement procedures, who may file zoning amendment, required zoning compliance permit application contents & improvement cost prompting requirement for such permit), correction of various clerical errors, & updates reflecting state legislation (including, but not limited to, legal advertising requirements, child care & abolishment of rezoning protest petition).

DRAFT AS OF 2-2-16

2015-2016 Zoning Ordinance Amendments (RZ-16-01): Phase 2

ARTICLE 200

202 ~~Authentication~~ (Reserved)

~~Each sheet of the Official Schedules of District Regulations shall be authenticated by the signature of the City Clerk and shall bear the seal of the City under the following words:~~

~~*"This is to certify that this is page _____ of the Official Schedule of District Regulations referred to and adopted by reference by Ordinance No._____ of the City Council approved _____, 19____."*~~

Reason: The City Clerk maintains a Zoning Ordinance in its entirety. Its redundant and unnecessary for the Clerk to make special certification of the Schedule of District Regulations (Table of Permitted Uses).

Table of Uses 200-2

Use	Buffer/Screen	R40	R15	R10	R75	RA6	OA6	O&I	B1	M	B2	TH	B3	I1	I2	I3	Supp. Reg.
Family Child ~~Day~~ Care Large Home (9 - 12 children)	1	S		S	S	S	P										Note 4; Section 616
Child ~~Day~~ Care Center - Medium (30 - 79 children)	2								S		S		S	A	A	A	Note 4; Section 616
Child ~~Day~~ Care Center - Large (80+ children)	2										S		S	A	A	A	Note 4; Section 616
Child ~~Day~~ Care Center - Small (13 - 29 children)	1						S	S		S	P		P	A	A	A	Note 4; Section 616
Family Child ~~Day~~ Care Home (8 or less children)		P	P	P	P	P	P										Note 4

Reason: Consistency with terminology in state statutes and other sections of zoning ordinance

ARTICLE 200A

(C)(4)(c) Existing Street Fronting Facades:

(i) For existing buildings, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material so as to render the opening functionally obsolete (unable to be utilized for entry into the building) or inhibit transparency.

(ii) Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any building wall oriented toward a public street. Such devices may be installed on the interior of the building.

(iii) A zoning compliance permit shall be obtained prior to painting, staining, or covering any street front facade. Any street front facade of masonry buildings that has historically been left in a natural, uncovered state shall not be painted, stained or otherwise covered; this prohibition shall apply only to the masonry portion of the building and not to any non-masonry building trim or accents. This subsection shall not apply to single-or two family dwellings and/or decorative murals.

Reason: Preserve and enhance the visual appeal and aesthetic integrity of Asheboro's core

ARTICLE 300

316A Performance Standards for all Industrial Districts

316A.C.3 Accessory Buildings and Structures

a. All accessory structures, located on any major thoroughfare as described in Section 1.a above, and which are larger than 12 X 12 or 144 square feet shall comply with the provisions of Section 317A. ~~D~~ G. 1. (Amended 12/07)

Reason: Update to reflect proper section reference

317A Performance Standards for all Commercial Districts

Delete standards related to an Existing Residential or Commercial Front Setback Line, including Sections 317A.D.g, 317A.E.l and 317A.F.l.

Reason: Previously approved amendments (August 2015) modified how front setback averaging is determined.

317A, Subsection G.1.a (Design Standards for B2 Commercial Districts)

All principal structures shall have at least one entrance oriented towards the street

317A, Subsection H.1 (Design Standards for B3 Commercial Districts)

All principal structures shall have at least one entrance oriented towards the street

Reason: Correction of clerical error inadvertently omitting word "entrance" and consistent with requirements in other commercial districts.

ARTICLE 400 OFF-STREET PARKING REQUIREMENTS

Place of Worship ~~Church / Synagogue *NOT Places of Assembly~~ 0.3 per seat in sanctuary/main assembly area

Reason: The use "church/synagogue" was recently changed to "Place of Worship" in Table of Uses 200-2. Staff also proposes more precisely clarifying the interpretation that the parking

requirement is based on seating within the sanctuary/main assembly area, which reflects the interpretation that has been made since this provision's inception. Staff also notes that Section 406B also guides staff in determining parking requirements for places of worship and other uses without fixed seating.

409, Subsection B.2 Landscaping Standards for Off Street Parking: Correct reference to approved materials list for landscaping (change from "Appendix 1" to "Article 300A, Appendix A").

ARTICLE 600 SPECIAL USES

602.2 Public Use Facilities

5. All structures permitted under this section shall be planned and constructed to be harmonious with the area in which they are located. In addition to plans required, elevations shall be submitted indicating final appearance in compliance with this subsection.

6. The parking areas and walkways shall be illuminated for public safety at night. However, such lighting shall be designed so as not to disturb adjacent properties.

Any lot created for a Public Facility that is to be in Public ownership ~~is~~ shall not be required to meet lot area and width regulations as established in Table 200-1. ~~All such lots shall abut a dedicated public street.~~

Reason: Previously approved amendments (August 2015) establishing Special Purpose Lot standards, which can be created for Public Use Facilities, exempt such lots from abutting public streets.

603 Procedure for Submission and Consideration of Applications for Approval of Special Uses

A. Application Submitted to Zoning Administrator.

Application for a Special Use shall be filed with the Planning Department, who shall, before accepting any application, ensure that it contains all required information, as specified in Section 605.

The deadline for filing of applications for a Special Use will normally be 5:00 PM on the day which is 55 days prior to the date of the City Council meeting for which the public hearing is to be set.

The ~~City Manager~~ Zoning Administrator, ~~acting as agent for the City Council~~ in consultation with the City Manager, shall schedule each complete application for a public hearing. Hearings dates

may be established for a regular or special meeting of the City Council; however, the ~~Manager~~Administrator shall not schedule a combined total of more than five (5) hearings on amendments to this Ordinance, Special Use Permits and Conditional Use Permits at any meeting of the City Council.

Reason: Updates language to reflect operational practices.

609 Withdrawal of Application

An applicant may withdraw his or her application at any time by written notice to the ~~City Manager~~Zoning Administrator.

Reason: Updates language to reflect operational practices.

616 Child ~~Day~~ Care Facilities in Districts where such facilities require a Special Use Permit.

Child Day Care Facilities may be permitted provided that the following requirements are met:

616.1 Child ~~Day~~ Care Facilities must meet the standards provided by the Child Day Care Commission. Evidence that Commission requirements are met shall be presented to the City prior to any Certificate of Zoning Compliance being issued.

616.2 Child ~~Day~~ Care Facilities may be permitted in Industrial Districts provided they are operated as an accessory use to a legal permitted use.

Reason: Consistency with terminology in state statutes and other sections of zoning ordinance

617.1 Colleges/Universities

The site for any parochial or private college or seminary shall have an area of at least 10 acres, plus 5 acres for each 100 pupils, or major portion thereof, in excess of 400 pupils. Such a site shall have a frontage on a ~~major or~~ minor thoroughfare or higher classification street as shown on the Asheboro ~~Thoroughfare~~ Comprehensive Transportation Plan.

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.

618.4 Combustible Liquid Storage in Quantities Greater than 2,000 but less 100,000 Gallons Aggregate

As a prerequisite to the approval of a Special Use Permit, the City Council shall find that the use of the proposed site for petroleum storage will not endanger the safety of residential or other properties in the area, and that vehicular access to the storage facility will be provided from ~~major~~ minor thoroughfares or higher classification streets and will not require the use of residential streets for access to the site.

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.

626.1 Junkyards

The site shall have direct access to a ~~major or~~ minor thoroughfare or higher classification street as shown on the Asheboro ~~Thoroughfare~~ Comprehensive Transportation Plan.

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.

627.1 Landfills, Sanitary

The site shall have direct access to a major/minor thoroughfare or higher classification street ~~or a state secondary roads~~ as shown on the Asheboro ~~Thoroughfare~~ Comprehensive Transportation Plan, or a road designed for commercial vehicles which connects directly to such street. No access shall be through local residential streets.

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.Amendment ensures access will be from street designed to move higher volume and weight traffic.

629 Manufactured Home Parks

629.3
An engineering study of storm water runoff shall be made for new parks as well as existing parks proposing new built-upon area exceeding one acre. If such study indicates that post development runoff will exceed predevelopment conditions, plans for runoff control shall be designed and certified by a professional engineer. Such controls shall be designed to reduce the runoff during the occurrence of a 10 year storm to predevelopment flow rate. Prior to a Certificate of Occupancy, a Professional Engineer shall provide certification that the storm water controls were built according to the plans. The continued maintenance of all runoff control measures shall be the responsibility of the property owner.

Reason: Ensures new parks and significant expansions of existing parks control stormwater runoff while permitting minor additions to existing parks without a standard requirement to prepare an engineering analysis or construct stormwater controls.

629.21
A designated and separate storage area for recreational vehicles, boats, and camp travel/trailers shall provide 72 square feet for every ~~required parking space~~ manufactured home lot with a minimum of 720 square feet to be provided. Such area(s), when visible from the public right-of-way, shall have screening consisting of landscaping and/or fencing compatible with the development's architectural and landscaping design and compliant with applicable design

standards. ~~shall have screening and landscaping which is consistent with other screening for similar uses (i.e. solid waste and mechanical screening).~~ This area may be fenced. Fencing shall comply with any applicable design standards.

Reason: Previously approved amendments (August 2015) changed how and when recreational vehicle storage is to be provided for multi-family developments. Proposal aligns manufactured home park and multi-family development standards for recreational vehicle storage areas.

630 Planned Unit Developments

3. Commercial and Industrial PUDs shall be located so that they have direct access to ~~major or~~ minor thoroughfares or higher classification streets as shown on the Asheboro ~~Thoroughfare~~ Comprehensive Transportation Plan. Residential PUDs may have direct access to City streets or State roads which are not major or minor thoroughfares, provided such access will not create safety hazards due to design or congestion.

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.

634 Schools, Public, Private, Charter Elementary, Middle & Schools

634.10 Notwithstanding Article 800, a legal non-conforming School is permitted to make minor changes permitted by Section 606 whether or not a Special Use Permit has been granted by the Asheboro City Council.

Reason: Clarification of when a Special Use Permit is required for a School that is a legal non-conforming use

635.1 Signs, Off Premise

Off premise signs may only be located along existing major thoroughfares or freeways as identified by the adopted Asheboro ~~Thoroughfare~~ Comprehensive Transportation Plan.

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.

Article 600- SPECIAL USES

616 Child ~~Day~~ Care Facilities in Districts where such facilities require a Special Use Permit.

Child ~~Day~~ Care Facilities may be permitted provided that the following requirements are met:

616.1 Child ~~Day~~ Care Facilities must meet the standards provided by the Child Day Care Commission. Evidence that Commission requirements are met shall be presented to the City prior to any Certificate of Zoning Compliance being issued.

616.2 Child ~~Day~~ Care Facilities may be permitted in Industrial Districts provided they are operated as an accessory use to a legal permitted use.

…

636.19 Adult Establishment with Live Entertainment and On Premise Consumption of Alcoholic Beverages

The exterior signage permitted ~~for an Adult Establishment General~~ is strictly limited to the ground sign and wall sign described above.

Reason: Clerical correction

638 Mental Institution/Sanitarium

All mental institutions/sanitariums shall have direct frontage onto a collector or ~~arterial street~~ higher classification street, as shown on the ~~Thoroughfare~~ Comprehensive Transportation Plan.

Reason: Update reflecting new CTP.

640 ~~Church/Synagogue~~ Place of Worship in Residential Districts

~~Church/Synagogues~~ Places of Worship may be permitted in R40, R15, R10, R7.5, and RA6 Districts subject to the following regulations.

640.1 ~~Church/Synagogue~~ Place of Worship sites shall contain a minimum of one acre.

640.2 ~~Church/Synagogue~~ Places of Worship shall ~~maintain the character and appearance of a residential use and~~ meet the requirements of Design Standards for Residential Districts.

640.3 ~~Church/Synagogue~~ Places of Worship shall provide screening around parking areas to avoid any nuisance to adjoining residential property.

640.5 ~~Applications for permits under this Section shall be accompanied by a site plan or plat which includes the location of all structures; parking areas including ingress, egress and maneuvering space; required screening; permitted signs and additional information as may be necessary to indicate compliance with these regulations.~~

Notwithstanding Article 800, a legal non-conforming Place of Worship is permitted to make minor changes permitted by Section 606 whether or not a Special Use Permit has been granted by the Asheboro City Council.

640.6 Any ~~Church or Synagogue~~ Place of Worship that was a legal use prior to October 2000 shall not be considered nonconforming due to non-compliance with the requirements of this Section. Any ~~Church or Synagogue~~ Place of Worship that was a legal use prior to October 2000 shall be permitted to apply for a Special Use Permit as set forth in this Section regardless of non-compliance with Subsections 640.1, 640.2, 640.3 and 640.4. In reviewing such request all new construction shall comply with Subsections 640.2, 640.3 and 640.5. (6/02)

Reason: Update reflecting change in term for use and clarification of when a Special Use Permit is required for a Place of Worship that is a legal non-conforming use.

643 Transfer Stations

643.2 The use shall be located on a ~~major or~~ minor thoroughfare or higher classification street or within an industrial development with direct access to such street ~~thoroughfare~~ (direct access shall mean without having to travel residential streets).

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.Amendment ensures access will be from street designed to move higher volume and weight traffic.

649 Recreational Vehicle Resort

Subsection 5: A Recreational Vehicle Resort~~s~~ shall be located so that ~~they have~~ it has direct access to ~~major or~~ minor thoroughfare~~s~~ or higher classification street as shown on the Asheboro Comprehensive Transportation ~~Thoroughfare~~ Plan.

Reason: The Thoroughfare Plan (2001) that is referenced has been supplanted by the Comprehensive Transportation Plan which was adopted in 2014.

Article 700- FLOOD DAMAGE PREVENTION ORDINANCE- NO CHANGES ARE PROPOSED.

ARTICLE 800- ~~NON-CONFORMING SITUATIONS~~ NONCONFORMITIES

Reason: Amendments to Article 800 are to improve the organization of the entire chapter and also more clearly distinguish between non-conforming uses and non-conforming situations.

~~**801: Continuation of Nonconforming Situations**~~
~~**801.1:** Nonconforming situations~~

801: Nonconformities that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in ~~Subs~~Sections ~~802 through 805~~ (802) through (807) of this Article ~~Section~~.

802: ~~802:~~ Nonconforming Lots

(A) ~~802.1:~~ When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right. Otherwise, the nonconforming lot may be used only in accordance with a Special Use Permit issued by the City Council. The Council shall issue such a permit if it finds that

(1) ~~A.~~ the proposed use is one permitted by the regulations applicable to the district in which the property is located, and

(2) ~~B.~~ the property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. ~~In issuing the permit authorized by this paragraph, the Council may allow deviations from applicable dimensional requirement (such as set-back lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.~~

(B) ~~802.2:~~ If an undeveloped (a lot that has no substantial structures upon it) nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section's Division (A), except as provided in (1) through (3) below.

(1) ~~This subsection shall not apply to a nonconforming lot~~ The combination of lots shall not be required if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming.

(2) The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

(3) ~~EXCEPTION:~~ The combination of lots shall not be required when ~~Where~~ the nonconforming lots were created by the exercise of the power of eminent domain or threat thereof or as a result of a court order. ~~, combination of the lots shall not be required.~~

803: Nonconforming Uses

(A) Extensions

(1) ~~803.2:~~ Subject to paragraph ~~(4)~~ (3) of this subsection, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. A nonconforming use may not be extended to additional buildings or to land outside the original building.

(2) ~~803.3:~~ A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if 10 percent or more of the earth products had already been removed at the effective date of this ordinance.

(3) ~~803.4:~~ The volume, intensity, or frequency of use of property where a nonconforming ~~situation~~ use exists may be increased and the equipment or processes used at a location where a nonconforming ~~situation~~ use exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in ~~kind~~ use and no violations of other paragraphs of this subsection occur.

(4) ~~803.5:~~ Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:

(a) ~~A.~~ An increase in the total amount of space devoted to a nonconforming use;

(b) ~~B.~~ Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or

(c) ~~C.~~ The enclosure of previously unenclosed areas, even though those areas were previously used in connection with the nonconforming use ~~activity~~. An area is unenclosed unless at least 75 percent of the perimeter of the area is marked by a permanently constructed wall or fence.

(5) ~~803.7:~~ Notwithstanding any part of 803(A)(4) ~~Section 803.5~~, any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. For illustration purposes, a manufactured home may be replaced with a larger manufactured home, and a "single-wide" manufactured home may be replaced

with a "double-wide." The replacement manufactured home must meet the criteria for manufactured/mobile homes as listed in Article 300A, Section 326A.1.This paragraph is subject to the limitations stated in subsection ~~805~~ 803(C) on abandonment and discontinuance of nonconforming ~~situations~~ uses.

(6) ~~803.9:~~ Manufactured home parks for which the City Council has not issued a Special Use Permit shall be permitted to replace existing manufactured homes with similar manufactured homes. ~~A manufactured home shall not be deemed similar, for purposes of this Ordinance, if the date of manufacture of the replacement home is earlier than July 1, 1979 or the date of manufacture of the original home, whichever date is later.~~

(B) Change of Use

(1) ~~804.1:~~ A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.

(2) ~~804.2:~~ A nonconforming use may be changed to another nonconforming use only in accordance with a Special Use Permit issued by the City Council. The Council shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for. If a nonconforming use is changed to any use other than a conforming use without obtaining a Special Use Permit pursuant to this paragraph, ~~that changes~~ such a change shall constitute a discontinuance of the nonconforming use, with consequences as stated in subsection ~~805~~ 803(C).

(3) ~~804.3:~~ If a nonconforming use and a conforming use, or any combination of conforming and nonconforming uses, or any combination of nonconforming uses exist on one lot, the use made of the property may not be changed substantially (except to a conforming use), only in accordance with a Special Use Permit issued by the City Council. The Council shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the permit is applied for.

(C) Abandonment and Discontinuance

(1) ~~805.1:~~ When a nonconforming use is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may

thereafter be used only for conforming purposes, except as provided in Section ~~805.2~~ 803(C)(2) ~~of this subsection~~.

(2) ~~805.2:~~ The City Council may issue a Special Use Permit to allow a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated if it finds that (1) the nonconforming use has been discontinued for less than two years, and (2) the discontinuance resulted from factors that, for all practical purposes were beyond the control of the person maintaining the nonconforming use.

(3) ~~805.5:~~ When a ~~structure or operation~~ use made nonconforming by this ordinance is vacant or discontinued at the effective date of this ordinance, the 180 day period for purposes of this subsection begins to run at the effective date of the ordinance.

804: Nonconforming Situations

(A) Extensions

(1) ~~803.1:~~ Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.

(2) ~~803.4~~ The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this subsection occur.

(3) Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:

(a) Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or

(b) The enclosure of previously unenclosed areas, even though those areas were previously used in connection with the nonconforming situation. An area is unenclosed unless at least 75 percent of the perimeter of the area is marked by a permanently constructed wall or fence.

(B) Abandonment and Discontinuance

(1) ~~805.3:~~ If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be use only in conformity with all of the regulations applicable to the district in which the property is located, unless the City Council issues a Special Use Permit to allow the property to be used (for a conforming purpose) without correcting the nonconforming situation. The Council shall issue such a permit if it finds that (1) the nonconforming situation cannot be corrected without undue hardship or expense, and (2) the nonconforming situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent.

(2) ~~805.4:~~ For purposes of determining whether a right to continue a non-conforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming mobile home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long at the apartment building or mobile home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a mobile home is used as a nonconforming use on a residential lot where a conforming residential structure is also located, removal of that mobile home for 180 days terminates the right to replace it.

(3) ~~805.5:~~ When a situation ~~structure or operation~~ made nonconforming by this ordinance is vacant or discontinued at the effective date of this ordinance, the 180 day period for purposes of this subsection begins to run at the effective date of the ordinance.

805: ~~806:~~ Non-conforming Signs

~~806.1: This article and Article 500 shall regulate non-conforming signs. Where a value is required to be determined, fifty percent (50%) of current value shall be used.~~

(A) All signs except those specifically addressed below shall be regulated according to 806 Repairs and Reconstruction of Nonconforming Uses, Situations and Signs.

(B) All signs that are nonconforming because of location within public right-of-way shall, where permitted, comply with this Article. All others shall be considered as a violation and subject to Section 1014.

806: Repairs and Reconstruction of Nonconforming Uses, Situations and Signs

(A) ~~803.6:~~ Minor repairs to and routine maintenance of property not required by the partial or total destruction of a structure ~~(see 803.8)~~ where a non-conforming use, situation~~s~~ or sign exists are permitted and encouraged. Except for single-family residential structures (including mobile homes), if the estimated cost~~s~~ of the renovation work exceeds 10 percent of the appraised value of the structure, the work may be done only after issuance of a Special Use Permit by the City Council. The Council shall issue the permit if it finds that the work will not result in a violation of any other paragraphs of this ~~sub~~section ~~(particularly part 803.5)~~ or make the property more incompatible with the surrounding neighborhood.

(B) ~~803.8:~~ A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:

(1) ~~A.~~ The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single-family residential structure may be constructed in place of a smaller one and a larger mobile home intended for residential use may replace a smaller one.

(2) ~~B.~~ The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building;

(3) ~~C.~~ The reconstructed building may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity. An area is unenclosed unless at least 75 percent or more of the perimeter of the area is marked by a permanently constructed wall or fence.

(4) Except for single-family residential structures (including mobile homes), if the estimated cost of the reconstruction work exceeds 10 percent of the appraised value of the structure, the work may be done only after issuance of a Special Use Permit by the City Council. The Council shall issue the permit if it finds that the work will be done in accordance with this paragraph and that the

reconstructed building will not make the property more incompatible with the surrounding property than it was before the destruction occurred.

807: ~~807:~~ Nonconforming Situations within Flood Damage Prevention Zone

~~807.1:~~ All foregoing sections shall apply to ~~nonconformances~~ nonconformities within Flood Prevention Zones except in a case where conflict with Article 700 occurs. In a case of conflict with Article 700 regulations therein shall govern.

~~**803: Extension or Enlargement of Nonconforming Situations:**~~

~~**804: Change in Kind of Nonconforming Use**~~

~~**804.4: Notwithstanding any other provisions of this ordinance, a legally nonconforming mobile home may be relocated on the same lot provided that such relocation does not further encroach upon the side, front, or rear yard required for a single-family dwelling on said lot. Any legally nonconforming mobile home may be replaced by another mobile home provided that, (1) it is Owner-Occupied; (2) the total number of nonconforming mobile homes is not increased; and (3) all side, rear, and lot area requirements for a single-family dwelling are met. Any person or persons desiring to relocate or replace a legally non-conforming mobile home shall first make or have made an application to the Building Inspector for permission to do so.**~~

~~**805: Abandonment and Discontinuance of Nonconforming Situations**~~

ARTICLE 900- BOARD OF ADJUSTMENT WATERSHED REVIEW BOARD- NO CHANGES ARE PROPOSED.

ARTICLE 1000- ADMINISTRATIVE PROVISIONS

1004 Zoning Compliance Permit Required.

It shall be unlawful to begin the excavation for the construction, the moving, alteration, or repair, except ordinary repairs, of any building or other structure, including an accessory structure, costing more than ~~$100.00~~ $250.00 or exceeding one hundred square feet in area, until the Zoning Administrator has issued for such work a Zoning Compliance Permit which includes a determination that plans, specifications and the intended use of such structure do, in all respects, conform to the provisions of this Ordinance.

Reason: Proposed to reflect inflation since at least 5/1991 when this provision was in place.

1005 Contents of Application for Zoning Compliance Permit.

Every application for a Zoning Compliance Permit for site clearance, excavation, grading, filling, construction, moving, alteration, or change in type of use or type of

occupancy, shall be accompanied by a written statement and plans or plats, drawn to scale, showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed work or use is in conformance with the provisions of this Ordinance:

a. The actual shape, location and dimensions of the lot; if the lot is not a lot of record, sufficient data to locate the lot on the ground.

b. The shape, size, and location of all buildings, or other structures, to be erected, altered, or moved, and of any other buildings, or other structures already on the lot.

c. The existing and intended use of the lot and of all structures upon it.

d. Location and size of any required buffers, screens, front yard landscaping, and/or interior landscaping ~~as required by Article 200A and/or Article 300 A.(Show on site plan.)~~

~~e. Location and type of any required screening as required by Article 200A and/or Article 300A.(Show on site plan.)~~

~~f~~ e. Location and type of screening used to screen mechanical equipment ~~as required by Article 300A. (Show on site plan.)~~

~~g~~ f. Location, access to and screening of central solid waste area ~~as required by Article 300A.~~

~~h~~ g. Location and dimensions of off street parking and loading spaces ~~as required by Article 400. (No parking shall be located within the first 10 feet of any required front yard (Section 308A.)~~

~~I~~ h. Grade separation of building and parking areas ~~as required by Section 409 B.1.~~

~~j~~ i. Paving material for parking ~~as required by Section 408 E.~~

~~k. Interior landscaping of parking lots designed for more than 10 spaces as required by Section 409 B.2. (Show on site plan.)~~

~~l~~j. Curb cuts ~~as required by Section 408 L.~~

~~m. Landscaping as required by Article 300A within first 10 feet of any required front yard.(Show on site plan.)~~

~~n~~k. Location, size and height of any signs ~~as permitted by Article 500.~~

~~o~~l. Compliance with Performance Standards for ~~this~~ district ~~(Section 316A and/or Section 317A and/or Section 318A).~~

~~p~~m. Location of any flood zones if applicable.

~~q~~n. Location of watershed if applicable.

o. Sidewalks, when required

p. Information concerning permitting from other regulatory agencies, including but not limited to, NC Department of Transportation, NC Department of Environmental Quality, and/or other local, state, and/or federal agencies as necessary, depending on the specific proposal

In addition, such other information concerning the lot, adjoining lots, or other matters as may be essential for determining whether the provisions of this Ordinance are being observed.

Reason: This is proposed to reflect operational practice, consolidate certain items, and avoid potential errors in cross referencing specific ordinance sections.

1011.1 Amendment Initiation.

Subject to the limitations of the foregoing Statement of Intent, an amendment to this Ordinance may be initiated by:

A. The City Council on its own motion;
B. The Planning Board;
C. Application by any property owner or his or her agent, a citizen or his or her agent.
D. City Manager and/or designee

Reason: Reflect operational practice

1011.2 Filing and Contents of Amendment Application.

A. Filing of Applications
All applications for amendments to this Ordinance shall be in writing, signed and filed~~, one copy with the City Manager for presentation to the City Council and one copy~~ with the Zoning Administrator.

~~1011.3 Referral of Application to Planning Board and Zoning Administrator~~

~~The City Manager acting as agent for the City Council, shall upon receipt of an application to amend this Ordinance, examine and approve as to form the application and shall refer the same to the Planning Board for study and report. The City Manager,~~

~~concurrently with the referral to the Planning Board, shall require the Zoning Administrator to prepare a report on the application.~~

~~The Zoning Administrator shall prepare and submit a written report to the Planning Board for study. Such report shall be submitted prior to the meeting at which the Board will consider the application. The administrator shall also submit a copy of the report, to the City Council prior to the public hearing described in Section 1011.4.~~

~~1011.4 Public Hearing and Notice Thereof.~~

~~A. A public hearing shall be held by the City Council before adoption of any proposed amendment to this Ordinance. Notice of the public hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in Asheboro, stating the time and place of such hearing and the substance of the proposed amendment. This notice shall appear in said newspaper for two successive weeks with the first notice appearing not less than 10 days nor more than 15 days before the date set for the public hearing.~~

~~B. In addition to the notice required by A. above, where the proposed amendment involved a change in the designation of any parcel of land, the applicant shall, by first class mail, give notice of the public hearing to the owner(s) of parcel(s) involved in the proposed amendment, if the owner(s) are different from the applicant(s), as well as the owners, as shown on the tax rolls of Randolph County, of all land abutting the parcel(s) involved in the proposed amendment. The applicant(s), at the beginning of the public hearing on the proposed amendment, shall certify to the City Council that such notice has been made.~~

~~1011.5 Receipt of Applications and Public Hearings Thereon.~~

~~The City Manager, acting as agent for the City Council, shall receive applications for amendments to this Ordinance and shall refer them for recommendation as stated in 1011.3.~~

~~The deadline for filing of applications for changes and amendments and Special Use Permits and Conditional Use Permits will normally be 5:00 PM on the day which is 55 days prior to the date of the City Council meeting for which the public hearing is to be set.~~

~~The City Manager, acting as agent for the City Council, shall schedule each complete application for a public hearing. Hearings dates may be established for a regular or special meeting of the City Council; however, the Manager shall not schedule a combined total of more than five (5) hearings on amendments to this ordinance, Special Use Permits and Conditional Use Permits at any meeting of the City Council.~~

1011.3 Authorization to Schedule & Publish Notice of a Public Hearing

(A) The Zoning Administrator shall coordinate with the City Manager's office the placement of the application on the City Council's consent agenda for approval to schedule and advertise a public hearing on the requested amendment.

(B) The deadline for filing of applications for changes and amendments will normally be 5:00 PM on the day which is 55 days prior to the date of the City Council meeting for which the public hearing is to be set.

(C) Hearing dates may be established for a regular or special meeting of the City Council; however, a combined total of more than five (5) hearings on amendments to this ordinance, Special Use Permits and Conditional Use Permits shall not be heard at any meeting of the City Council.

Reason: The language above is proposed to better reflect current practice and is consistent with the proposal for Special Use Permit applications.

1011.4 Publication of Notice of the Public Hearing

In accordance with NC General Statute 160A-364(a), a notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in Asheboro. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Reason: The above language is proposed to reflect current state statutes concerning advertising and notice requirements. While staff will continue to advise applicants to mail a letter to adjoining property owner(s) notifying them of a proposed amendment, a separate mailed notice by an applicant is not required by state law, therefore, this provision is unnecessary.

1011.5 Reports Prepared by Zoning Administrator

In addition to taking the action prescribed by division 1011.3 of this section, the Zoning Administrator shall prepare and submit a written report to the Planning Board for study. Such report shall be submitted prior to the meeting at which the Board will consider the application. The administrator shall also submit a copy of the report, along with the report summarizing the study of the proposed amendment by the Planning Board, to the City Council prior to the public hearing that is to be conducted by the City Council.

Reason: Proposed to reflect operational practice.

1011.7 ~~Protest Petition; Vote Required, Form, Contents and Timing.~~ Written Comments Received from Citizen(s) Prior to Public Hearing

~~In case, however, of a protest against an amendment to the Zoning Atlas, signed by the owners of twenty percent or more either of the area of the lots included in a proposed amendment, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an~~

~~amendment shall not become effective except by favorable vote of three fourths of all the members of the City Council. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.~~

~~No protest against any change in or amendment to a zoning ordinance or zoning Atlas shall be valid or effective for the purposes of this section unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment, and unless it shall have been received by the City Clerk in sufficient time to allow the City at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.~~

In accordance with NC General Statute 160A-385(a)(1), if any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the City Council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

Reason: State statutes recently abolished the protest petition provisions. The language above reflects amendments to the statute which now only provides that a written statement may be presented to the City Clerk and subsequently to the City Council if certain conditions are met.

1013 Conditional Use Permits

1013.1 Procedure for Submission

A. Application Submitted to Zoning Administrator.

Application for a Conditional Use Permit shall be filed with the ~~Planning Department~~ Zoning Administrator, who shall, before accepting any application, ensure that it contains all required information.

The deadline for filing of applications for a Conditional Use Permit will normally be 5:00 PM on the day which is 55 days prior to the date of the City Council meeting for which the public hearing is to be set.

The ~~City Manager~~ Zoning Administrator, ~~acting as agent for the City Council~~ in consultation with the City Manager, shall schedule each complete application for a public hearing. Hearings dates may be established for a regular or special meeting of the City Council; however, the

~~Manager~~ Administrator shall not schedule a combined total of more than five (5) hearings on amendments to this Ordinance, Special Use Permits and Conditional Use Permits at any meeting of the City Council.

Applications which are not complete, or otherwise do not comply with the provisions of this Article, shall not be accepted by the Zoning Administrator ~~Planning Department~~, but shall be returned forthwith to the applicant, with a notation by the Zoning Administrator of the deficiencies in the application.

Change references of "Planning Director" and "Director of Planning" to "Community Development Director" throughout Article 1000 including Sections 1009 and 1013.B.

Reason: Reflect Operational practice

1014 Enforcement and Review.

1014.3 Procedures Upon Discovery of Violations.

A. If the administrator, or his authorized designee, finds that any provision of this Ordinance is being violated, a written notice shall be sent to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's , or his authorized designee's, discretion.

B. The final written notice (and the initial written notice may be the final notice) shall state what action the administrator, or his authorized designee, intends to take if the violation is not corrected and shall advise that the decision or order may be appealed to the Board of Adjustment as provided in Article 900 Board of Adjustment.

C. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the administrator, or his authorized designee, may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this section.

D. A notice of violation shall not be required where a notice of the same violation has been issued to the same violator at the same property within the previous two years. In such cases, the violator may be charged with an continuing violation without further notice.

1014.4 Penalties and Remedies for Violations.

A. Violations of the provisions of the Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards

established in connection with grants of variances or Special Use or Conditional Use Permits, shall constitute a misdemeanor, punishable as provided in General Statutes ***160A-175***

B. Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or Special Use or Conditional Use Permits, shall also subject the offender to a civil penalty of up to ***five hundred ($500)*** dollars for each day the violation continued unabated. The amount of the civil penalty will be based on the following criteria:

(1) Whether the violator has been notified of similar violations in the past;

(2) The potential profit to the violator in continuing the violation;

(3) The degree and duration of noncompliance; and

(4) The City's cost to investigate and pursue abatement of the violation.

If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the City in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Section 1014.3 B and did not take an appeal to the Board of Adjustment within the prescribed time. The Enforcement Officer has the discretion to waive the penalty if the violator worked to correct the violation in good faith.

C. This section may also be enforced by any appropriate equitable action.

D. Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

E. Any permit, certificate, or other authorization for property on which there is an uncorrected violation may be withheld, or may be conditioned on the correction of the violation and/or payment of a civil penalty.

~~E~~ F. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

1014.5 Permit Revocation.

A. A zoning, building, sign, special use, or Conditional Use Permit may be revoked by the permit issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or

maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit issuing board.

B. Before a Conditional Use or Special Use Permit may be revoked, all requirements of ~~Article 1000: Administrative and Legal Provisions~~ this Ordinance shall be complied with. The notice of violation shall inform the permit recipient of the alleged grounds for the revocation.

C. Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient ten days notice of the intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

D. No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, Special Use or Conditional Use Permit after such permit has been revoked in accordance with this section.

Reason: Proposed amendments to Section 1014 are designed to result in more effective enforcement and address ongoing issues that have been identified in the enforcement process.

ARTICLE 1100- DEFINITIONS

Adult Day Care ~~Center~~ Facility:
~~Institutions for the care or instruction of nonpreschool aged persons.~~

A facility where an individual, agency, or organization provides supervision or care for more than 6 adults in a place other than the recipient's residence.

This is to match the use in Table 200-2.

Airport: A facility intended and used as the place where one or more fixed-wing or rotary-wing aircraft are regularly stored, maintained, or repaired while not in flight with an area that the aircraft may use to take off and land, and including the sale of goods or materials to users of such aircraft.

Amusement Park: a commercially operated park having various devices for entertainment (as a merry-go-round and roller coaster) and usually booths for the sale of food and drink. This definition does not include limited duration events.

Bank- Automatic Teller: A machine used by bank and financial service patrons for conducting transactions including deposits, fund transfers, and withdrawals without contact with financial institution personnel. An automatic teller machine may be a walk-up or drive-through machine. The machine may be located at or within a bank, or in other locations.

Reason: "Airport", "Amusement Park" and "Bank-Automatic Teller" lack definitions.

Child ~~Day~~ Care: ~~Any child care arrangement wherein three or more children less than 13 years old receive care away from their own home by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care. GS 110-86 (2)~~

A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

a. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;

b. Recreational programs operated for less than four consecutive months in a year;

c. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;

d. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;

d1. Drop-in or short-term care provided by an employer for its part-time employees where (i) the child is provided care not to exceed two and one-half hours during that day, (ii) the parents are on the premises, and (iii) there are no more than 25 children in any one group in any one room;

e. Public schools;

f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by national or regional accrediting agencies with early childhood standards and that operate (i) a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site or (ii) a child care facility for more than six and one-half hours per day, but do not receive NC Pre-K or child care subsidy funding;

g. Bible schools conducted during vacation periods;

h. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;

i. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and

j. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

~~Child Day Care Home: Any day care program or child care arrangement wherein any person not excluded in the above provides day care on a regular basis of at least once per week for more than four hours per day for more than two children under 13 years of age and fewer than nine children at any one time, wherever operated, and whether or not operated for profit. The four hour limit applies regardless of the time of day and regardless of whether the same or different children attend. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment are not included. To determine whether a child care arrangement is a child day care home, all children shall be counted except the operator's own school-age children and school-aged children who reside at the location of the day care home. Notwithstanding the limitation to five children prescribed above, the day care home operator may care for three additional school-aged children. GS 110-86(4)~~

~~Church/Synagogue~~ (Change name to Place of Worship)

Family Child Care Home: A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.

Family Child Care Home, Large: A Child Care Home providing child care for nine (9) to twelve (12) children

Reason: Update child care related definitions are proposed to reflect current state statutes.

Commercial Use: Any use permitted within the OA6, O &I, M, B1, B2, TH, and B3 districts.

Reason: Updated to reflect districts that have been added since definition was last updated.

Country/Racquet/Tennis and Swim Clubs: The use of land or structures for recreational activities such as course courses, swimming pools, tennis courts, ball fields, ball courts, and similar uses which are operated on a commercial or membership basis and not open to the general public. Customary accessory uses include snack bars, pro shops, club houses, private dining rooms, or similar facilities.

Reason: This use lacks a definition.

Density: The number of residential dwelling units per acre of land determined by dividing the number of dwelling units divided by the total number of acres in the parcel to be developed.

Reason: This definition is to clarify any references to density.

Drive Through: Relating to or conducting exchanges with clients who drive up to a window and remain in their motor vehicles:

Drive through is a use referenced in different sections of zoning ordinance (including Table 200-2), but isn't defined.

~~Drinking Establishment An establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. If the facility also sells food and the sale of food products represent more than fifty percent of the facility's total sales, the facility shall be considered an Eating Establishment.~~

Reason: Drinking establishments were removed from the Table of Uses after 2008 alcohol referendum when "bar" replaced this use.

Dwelling within mixed use structure: A residential dwelling contained within a structure that also contains non-residential use(s).

Exterminator: A business that is engaged in the extermination of troublesome rodents and pests.

Reason: Dwelling within mixed use structure and exterminator lack definitions.

Flood Damage Prevention related definitions: See Section 700

Reason: In order to be avoid conflict with Article 700 (Flood Damage Prevention Ordinance), staff recommends deleting the following definitions since they are already referenced in Art. 700. Definitions to be deleted from Article 1100 include:

~~Area of Special Flood Hazard~~
~~Base flood elevation~~
~~Flood or flooding~~
~~Flood control works~~
~~Flood fringe area~~
~~Flood insurance study,~~
~~Flood proofing,~~
~~Flood way,~~
~~Regulatory flood~~
~~Regulatory Flood Elevation~~

Golf Course: An area of land laid out for golf with a series of 9 or 18 holes each including tee, fairway, and putting green and often one or more natural or artificial hazards —called also golf links. Miniature/par 3 golf courses are not included in this definition.

Industrial Developments with Multi Uses and/or Structures:
An industrial development with more than one principal structure and/or use on one zoning lot that will not be developed into building lots.

Interior Cleaning Services: A business engaged in cleaning the interior of buildings, structures or dwellings, whether or not industrial, commercial or income-producing real property, or the contents thereof.

The preceding three uses (Golf Course, Industrial Development with Multi Uses and/or Structures, Interior Cleaning Services) lack a definition.

Massagists (and related definitions) See Chapter ~~III~~111, Section ~~III~~111.02, of the Asheboro City Code.

Reason: Corrects a clerical error that incorrectly references a section of the Asheboro City Code.

Meat Packing/Slaughterhouse**:** An industrial operation at which livestock is slaughtered and meat and other products are processed to produce food for humans and animals, industrial goods, and medical preparations.

Reason: This use isn't defined.

Mental Institutions/Sanitariums: An institution providing mental health and physical care services for inpatient medical or surgical care for the mentally ill who are dangerous to others as defined in G. S. ~~122- 58.2(1)b~~ 122C-3 or the physically sick.

Reason: This references the correct section of North Carolina General Statutes.

Mini Warehouse: A building or group of single story buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the dead storage of customers goods or wares, mainly excess personal property.

Mobile Home Sales Lot: A lot that displays manufactured homes for sale. This definition also includes modular homes that meet the NC Building Code on display for sale.

Open Air Sales Accessory: Sales in open air that are accessory directly subordinate to the operations of the permittee engaging the principal use on the zoning lot (i.e. outdoor sales of auto parts at an auto parts store, clothing brought outside a clothing store, etc.).

The preceding uses (mini warehouse, mobile home sales lot and open air sales accessory) are uses in Table 200-2 that aren't defined.

The open air sales accessory definition is currently in Article 300A.

Parking Lot as Principal Use: The use of a zoning lot for a parking lot, without a building , located on the same zoning lot.

Photographic Lab Facility Commercial: A facility in which photographs, taken off-site, are processed, developed, printed and/or duplicated for individuals or businesses.

Photographic Mini Lab Facility (one hour type): A facility in which photographs, taken off-site, are processed, developed, printed and duplicated for individuals or businesses.

Photography studio- with lab for inhouse use only: A facility in which photography occurs on the premises.

Reason: The above uses (Parking Lot as Principal Use, Photographic Lab Facility Commercial, Photographic Mini Lab Facility (one hour type), Photography studio- with lab for inhouse use only are uses with no definition).

Public Use Facility: The use of land, buildings, or structures by a public utility, railroad, or a unit of government, to provide public services, governmental or proprietary, directly to the general public. This definition includes, but is not limited to, water treatment plants or pumping stations, sewage treatment plants or pumping stations, substations, telephone exchanges, and other similar public service structures. This definition also includes police and fire stations, bus terminals or similar facilities for public transportation, municipal buildings, community centers, emergency response facilities and any other public facility providing the above services but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment and materials.

Reason: The update is proposed to accommodate public transportation facilities.

Railroad Classification Yard: A fan-shaped network of tracks and switches where railroad cars are sorted and made up into trains for their respective destinations.

School (Technical/Vocational): A school, whether privately or publicy owned, that trains persons in specific trades or occupations.

Reason: These two uses (railroad classification yard, school (technical/vocational)) lack definitions.

Sign, ~~Church~~ **Place of Worship** Directory or Identification A sign used to announce meetings or programs to be held on the premises of a place of worship ~~church~~. ~~Such sign shall not exceed 25 square feet.~~

Reason: Sign area should be eliminated from definition to avoid conflict with Article 500.
***Staff Note**: Depending on information discovered during the review to update sign requirements in an upcoming text amendment, this definition may need further modification.*

Sign Painting: A business that engages in painting, printing, or design of signs for businesses, organizations and individuals.

Taxi Stand: A location in which taxi cabs, as regulated by the City Code, are stored for dispatch to locations for customer-pick up. A taxi stand may also include the necessary office and administrative functions associated with this use.

Reason: Above uses (sign painting, taxi stand) lack definitions.

SUB-12-01: Olde Towne Village, Phase 2

Preliminary Plat: Proposed modifications from approved 2012 Preliminary Plat

Staff Report

SUBDIVISION STAFF REPORT
Preliminary Plat

CASE # SUB-12-01 **Date** 2-4-2016 CC

GENERAL INFORMATION

Subdivision Name	Olde Towne Village Section II
Requested Action	Preliminary Plat Approval
Applicant	Olde Towne Village, LLC
Address	317 Faith Road; Gibsonville, NC 27249
Phone	614-496-6415
Location	South side of Old Lexington Road

PARCEL INFORMATION

PIN	7741981618 (portion)		
Size	8.89 acres +/-	**Number of Lots**	16 + common area
Existing Zoning	CU-R10	**Average Lot Size**	3,646 square feet (+/-)
Existing Land Use	Residential PUD		

Surrounding Land Use

North	Low-density residential	**East**	Low-density residential
South	Undeveloped	**West**	Low-density residential

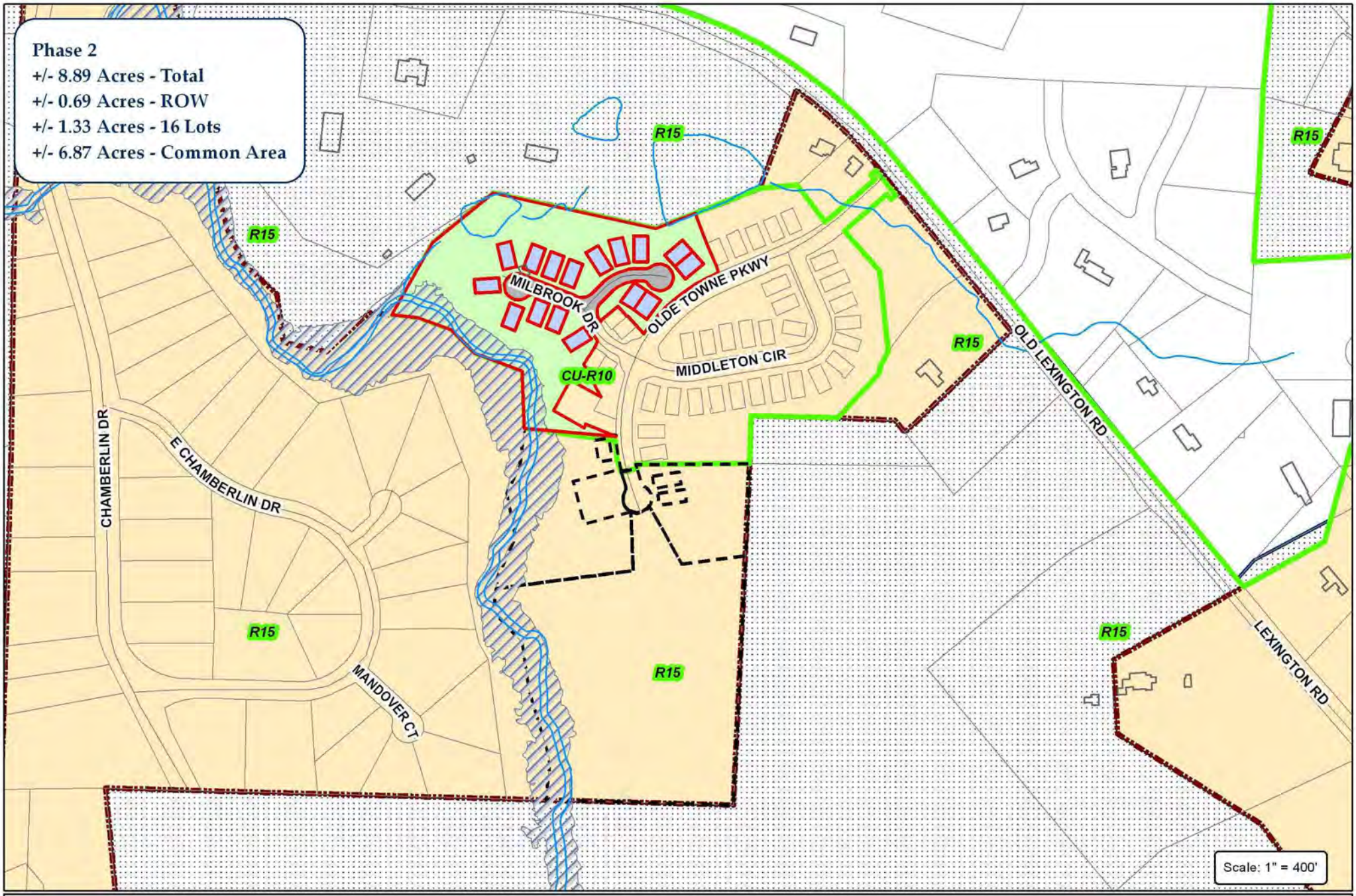
LAND DEVELOPMENT PLAN

Growth Strategy Map	Long-Range Growth
Proposed Land Use Map	Suburban Residential
Small Area Plan Map	Northwest
Identified Activity Center?	No
Development Issues	1. The development includes detached single-family and attached single-family dwellings (two dwellings per structure). 2. City Council approved a Conditional Use Permit request for this development in June, 2012, and a preliminary plat in July, 2012. 3. The previous preliminary plat included 18 attached dwellings (9 structures with 2 dwellings each). The current proposal includes 4 attached dwellings (2 structures with 2 dwellings each) and 12 detached dwellings. 5. A new preliminary plat is being reviewed due to this substantial modification to the number and ratio of detached/attached dwellings. 6. A subdivision variance was granted during the sketch design review allowing reduced right-of-way widths for public streets within the subdivision. No reduction in street widths is proposed.

SUBDIVISION STAFF REPORT
Preliminary Plat

DEPARTMENT COMMENTS

Engineering	Minor plat corrections have been addressed (as of 2-2-16).
Public Works	Public Works had no comments.
Planning	Minor plat corrections have been addressed (as of 2-2-16). Homeowners' documents restricting RV parking as required by the Ordinance shall be submitted and recorded with the final plat.
Other	The Fire Department has determined that the location of the proposed fire hydrant is adequate to serve this phase of the development.
Staff Recommendation	Approve noting above comments.
Planning Board Recommendation	Approve noting above comments.



CITY OF ASHEBORO
NORTH CAROLINA
Exactly where you want to be.

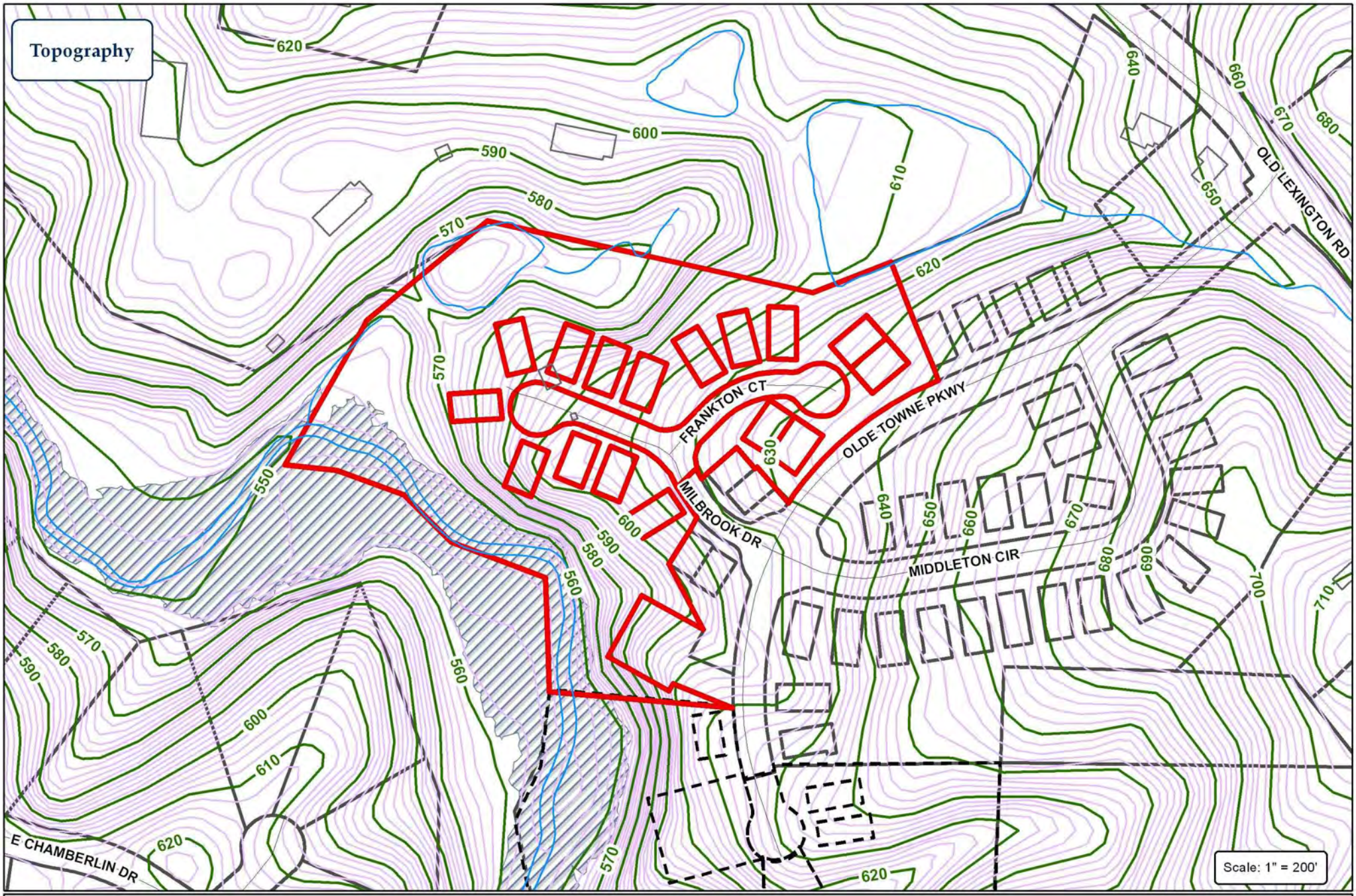
Lot
ROW
Common Area
SUB-15-01

City of Asheboro
Planning & Zoning Department

Subdivision Case: SUB-12-01

Parcel: 7741981618 (pt)

Subject Property
Zoning
City Limits
ETJ

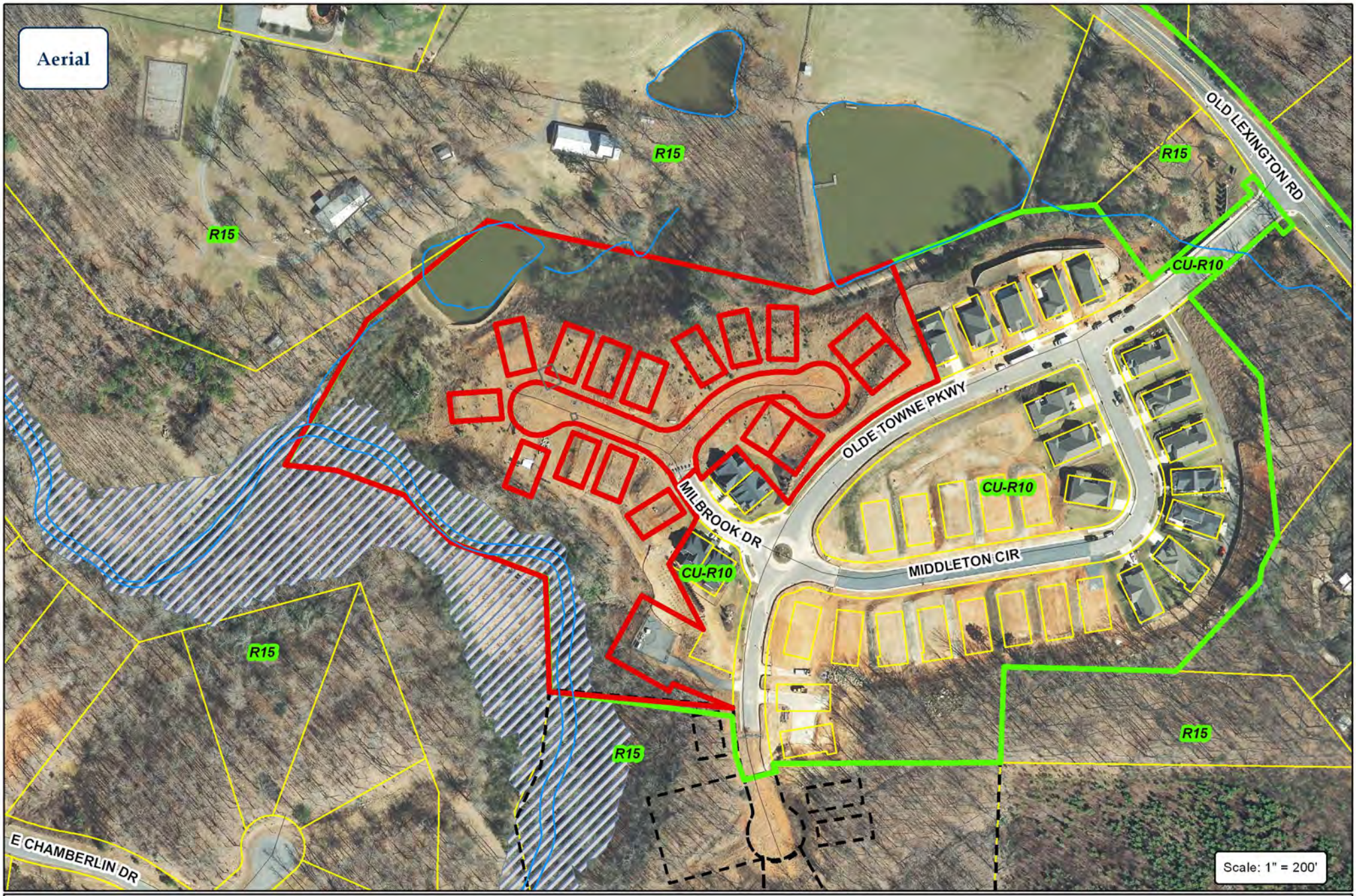


City of Asheboro
Planning & Zoning Department

Subdivision Case: SUB-12-01

Parcel: 7741981618 (pt)

Subject Property



City of Asheboro
Planning & Zoning Department

Subdivision Case: SUB-12-01

Parcel: 7741981618 (pt)

Subject Property
Zoning

Stoltzfus Engineering, Inc.
Civil Consulting Engineers
Aden R. Stoltzfus, PE C-3812
aden@seiengineering.com
336-904-0207
747 Park Lawn Ct.
Kernersville, NC 27284

OLDE TOWNE VILLAGE PHASE 2

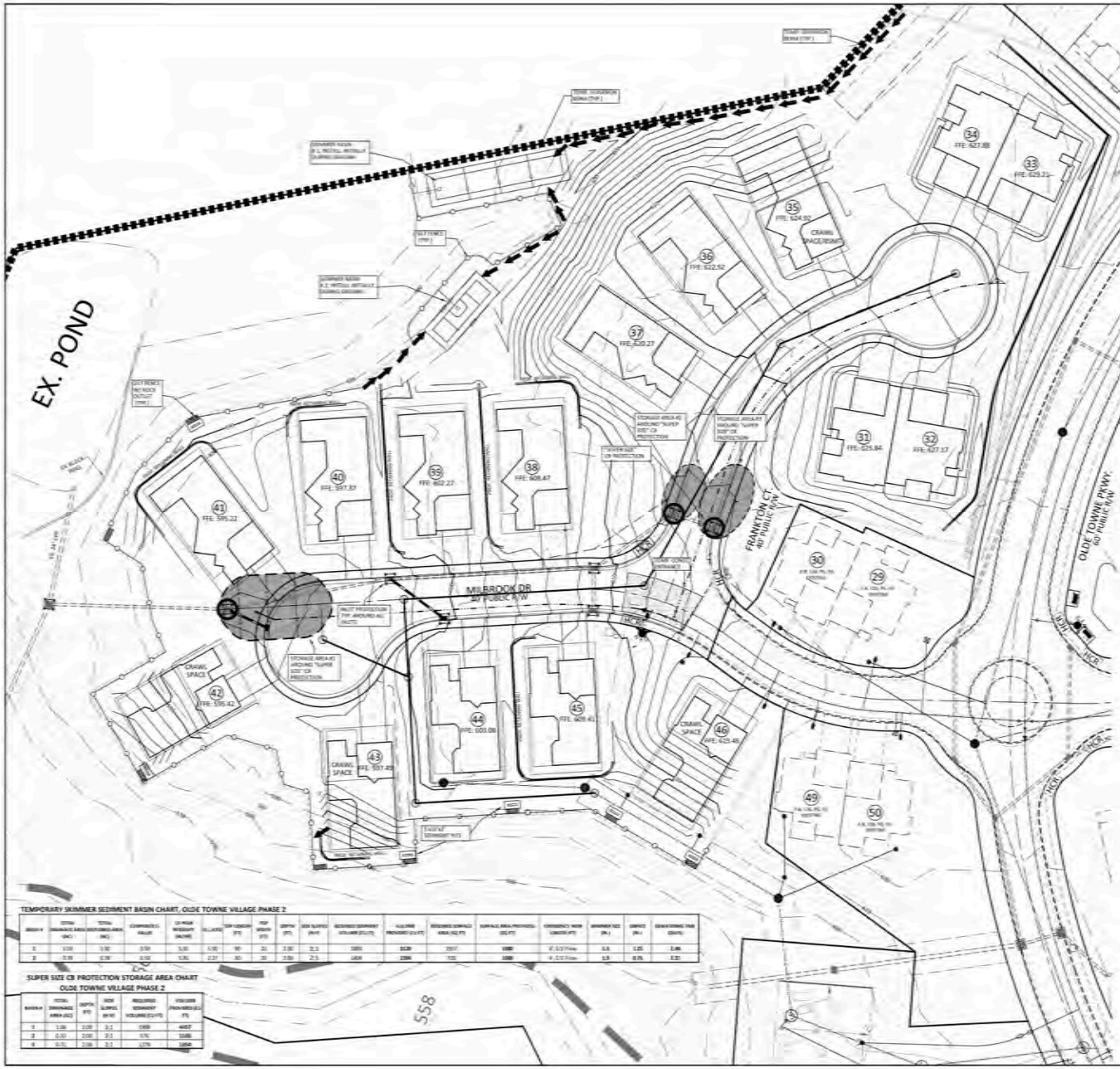
SITE & UTILITY PLAN

NO.	DATE	REVISION NOTE
1	01/27/16	CITY OF ASHEBORO PLAN REVIEW

DRAWN BY: SDI
CHECKED BY: ARS
DATE: 12/18/2015
PROJECT NO.: 2036.01
REF. NO.:
SCALE: 1"=40'

C1

1 OF 6



TEMPORARY SKIMMER SEDIMENT BASIN CHART, OLDE TOWNE VILLAGE PHASE 2

BASIN #	TOTAL DRAINAGE AREA (ac)	TOTAL DISTURBED AREA (ac)	COMPOSITE C VALUE	Q100 INTENSITY (in/hr)	Q100 (cfs)	TOP LENGTH (ft)	TOP WIDTH (ft)	DEPTH (ft)	SIDE SLOPES (H:V)	REQUIRED SEDIMENT VOLUME (CU.FT)	VOLUME PROVIDED (CU.FT)	REQUIRED SURFACE AREA (SQ.FT)	SURFACE AREA PROVIDED (SQ.FT)	EMERGENCY WEIR LENGTH (FT)	WEIRHEIGHT (ft)	ORIFICE (in)	DRAINTIME (DAYS)
2	2.00	0.50	0.50	5.00	5.00	90	20	2.00	2:1	1001	1120	2507	1080	4' 0.5' Flow	1.5	1.25	2.46
3	0.98	0.98	0.50	5.00	2.27	80	20	2.00	2:1	1404	2304	715	1080	4' 0.5' Flow	1.5	0.75	2.20

SUPER SIZE CB PROTECTION STORAGE AREA CHART
OLDE TOWNE VILLAGE PHASE 2

BASIN #	TOTAL DRAINAGE AREA (ac)	DEPTH (FT)	SIDE SLOPES (H:V)	REQUIRED SEDIMENT VOLUME (CU.FT)	VOLUME PROVIDED (CU.FT)
1	1.06	2.00	2:1	1909	4457
2	0.50	2.00	2:1	970	1080
4	0.91	2.00	2:1	1279	1080

SPECIAL INSPECTION PRACTICE(SPP):

1. THE EXCAVATED STORAGE AREAS # 1, # 2, AND # 3 SHALL BE MAINTAINED UNTIL PLACEMENT OF STONE ONTO ROADWAYS. THE ROADWAYS SHALL BE STABILIZED UPSTREAM OF THE EXCAVATED STORAGE AREAS PRIOR TO REMOVING THE EXCAVATED STORAGE AREAS.
2. IMMEDIATELY PRIOR TO REMOVING THE EXCAVATED STORAGE AREAS # 1, # 2 AND # 3, SILT FENCE (WITH STONE OUTLET) IN LOW LYING AREAS SHALL BE INSTALLED ALONG EACH LOT AND/OR DESIGN AREAS THAT DRAIN TOWARDS THE ROADWAYS TO PREVENT SEDIMENT FROM ENTERING ONTO SCHEME. IN ADDITION, CONSTRUCTION ENTRANCES SHALL BE PROVIDED FOR EACH BUILDING LOT UPON START OF HOME CONSTRUCTION.
3. UPON LAND DISTURBANCE ON LOTS 37, # 38 AND # 39, A TEMPORARY DIVERSION BERM SHALL BE PROVIDED ALONG THE LOTS 420 & 4 40 TO DIRECT AS MUCH DISTURBED AREA TO PROPOSED SEDIMENT BASIN # 2 AS POSSIBLE.

EROSION CONTROL NOTES: (ALSO SEE DETAIL SHEETS)

1. PROPOSED DISTURBED AREA: 4.44 AC
2. THE EROSION AND SEDIMENTATION CONTROL MEASURES AND DEVICES SHOWN ON THE DRAWINGS ARE INTENDED AS A GUIDE. AS GRADING PROCEEDS, MEASURES MAY BE ADDED OR DELETED BY THE EROSION CONTROL OFFICER AS DEEMED NECESSARY TO CONTROL EROSION AND SEDIMENTATION. IF GRADING CONTRACTOR FEELS THAT ADDITIONAL MEASURES ARE NEEDED OTHER THAN THOSE INDICATED HEREIN, THE CONTRACTOR SHOULD CONTACT THE OWNER AND ENGINEER IMMEDIATELY FOR APPROVAL OF THE CHANGES.
3. ALL EROSION AND SEDIMENTATION CONTROL MEASURES AND DEVICES SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE NCDEQ - LAND QUALITY SECTION'S EROSION AND SEDIMENTATION CONTROL PLANNING AND DESIGN MANUAL.
4. ALL DISTURBED AREAS SHALL BE SEEDED AND MULCHED IN ACCORDANCE WITH THE NPDES GROUND COVER REQUIREMENTS AS SHOWN ON DETAIL SHEETS.
5. TEMPORARY SLOPE SURFACES TO MAINTAIN EROSION DURING VEGETATION ESTABLISHMENT.
6. INSTALL INLET PROTECTION AROUND ALL INLETS.

NOTES:

THIS MAP DOES NOT MEET G.S. 47-30 AND IS NOT FOR RECORDING.

THIS PROPERTY IS SUBJECT TO ANY EASEMENTS, AGREEMENTS, OR RIGHTS-OF-WAY OF RECORD PRIOR TO THE DATE OF THIS MAP AND WHICH MAYS NOT VISIBLE AT THE TIME OF INSPECTION.

THIS MAP WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SURVEY AND DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES UPON THIS PROPERTY.

CONTRACTOR TO LOCATE ALL UTILITIES PRIOR TO CONSTRUCTION AND REPORT ANY CONFLICTS TO THE ENGINEER.

CONTRACTOR IS RESPONSIBLE FOR ANY REQUIRED PROTECTION OF TRAFFIC CONTROL PLANS, EQUIPMENT, AND LABOR REQUIRED FOR TRAFFIC CONTROL.

BOUNDARY FROM PLATS BY DUNCAN-REMKES HAND SURVEYING, PLLC. TOPOGRAPHIC SURVEY FOR RANDOLPH COUNTY GIS & DUNCAN-REMKES HAND SURVEYING, PLLC. NO BOUNDARY OR TOPOGRAPHIC SURVEY CONDUCTED BY STOLTZFUS ENGINEERING, INC.

CITY OF ASHEBORO NOTES:

20' WIDE CITY OF ASHEBORO SANITARY SEWER EASEMENT SHALL BE PROVIDED ALONG ALL 8" SANITARY SEWER LINES NOT IN PUBLIC R/W.

20' WIDE CITY OF ASHEBORO WATER LINE EASEMENT SHALL BE PROVIDED ALONG ALL WATER LINES CONNECTING TO THE CITY OF ASHEBORO WATER SYSTEM, TO FIRE HYDRANTS AND METERS THAT ARE NOT IN PUBLIC R/W.

ALL STORM SEWER NOT IN PUBLIC R/W SHALL BE MAINTAINED BY HOMEOWNERS ASSOCIATION.

STREET LIGHTS SHALL BE INSTALLED WHICH MEET THE DESIGN STANDARDS OF THE CITY OF ASHEBORO STREET LIGHTING POLICY. DECORATIVE LIGHTS MATCHING EXISTING OLDE TOWNE VILLAGE ARE PROPOSED FOR PHASE 2.

LEGEND

VICINITY MAP
NTS

SITE

811
BEFORE YOU DIG!
CALL 811 N.C. ONE-CALL CENTER
IT'S THE LAW!

GRAPHIC SCALE
(IN FEET)
1 inch = 50 ft.

Stoltzfus Engineering, Inc.
Civil Consulting Engineers
Aden R. Stoltzfus, PE C-3832
aden@stoltzengineering.com
336-904-0207
747 Park Lawn Ct.
Kernersville, NC 27284

OLDE TOWNE VILLAGE PHASE 2

GRADING & EROSION PLAN

PROJECT LOCATION:
CITY OF ASHEBORO
COUNTY: RANDOLPH
STATE: NORTH CAROLINA
CITY: ASHEBORO
COORDINATES: 35.6 -79.8

PROPERTY OWNER INFORMATION:
OLDE TOWNE VILLAGE, LLC
545 S. FAIRFIELD ST.
KERNERSVILLE, NC 27284
(336) 914-1149

NO.	DATE	REVISION NOTE
1	01/27/16	CITY OF ASHEBORO/NCDENR
2		
3		
4		
5		
6		

PRELIMINARY PLAN NOT FOR CONSTRUCTION PURPOSES

DRAWN BY: SDT
CHECKED BY: ARS
DATE: 12/18/2015
PROJECT NO.: 2015.07
REF. NO.:
SCALE: 1"=40'

01/22/2016

C2

Item 11

2015
CITY OF ASHEBORO
BUILDING INSPECTION DEPARTMENT
Annual Report

Mayor, Members of the City Council,

The number of new residential building permits issued in 2015 totaled thirty-seven (37). There were twenty-four (24) single family permits and thirteen (13) townhome permits issued. The total valuation for the new residential permits was $3,333,000.

There were (4) new commercial permit issued this year. The total valuation was $10,146,000.

We will continue to work closely with other departments within the city to make Asheboro a better place to work and live.

Respectfully submitted,

Randy C. Purvis
Chief Building Inspector

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Building Permits Valuations	Page 5
Number of permits For Dwelling Structures With Number of Units	Page 6
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Permit Valuations In Past	Page 8
Commercial and Residential Information	Page 9
Number of Dwelling Units in Previous Years	Page 10

DEPARTMENT STAFF

Randy C. Purvis	-	Chief Building Inspector
Jimmy L. Cagle	-	Part-time Inspector (All Trades)
Tamela Garner	-	PermitTechnician/Deputy City Clerk

Number of Permits Issued
2015

	Building Permits	Electrical Permits	Plumbing Permits	Heat/AC Permits	Mobile Home Permits	Totals
January	11	24	8	29		72
February	6	9	10	15		40
March	9	25	9	20	2	65
April	24	23	12	23	3	85
May	27	29	10	22	8	96
June	20	35	13	10	2	80
July	27	24	13	26	3	93
August	10	23	11	29	2	75
September	21	31	9	32	1	94
October	16	21	10	31	2	80
November	19	18	11	15	2	65
December	13	35	10	39		97
Total	203	297	126	291	25	942

Building Permit Valuations
2015

	New Construction	Additions & Alterations	**Total Valuations**
January	310,000	57,000	367,000
February	26,000	462,000	488,000
March	90,000	978,000	1,068,000
April	436,000	866,900	1,302,900
May	205,000	568,900	773,900
June	5,010,000	599,500	5,609,500
July	738,000	1,033,000	1,771,000
August		644,300	644,300
September	1,272,000	236,900	1,508,900
October	171,000	1,936,700	2,107,700
November	527,000	1,648,000	2,175,000
December	4,694,000	1,313,000	6,007,000
Totals	13,479,000	10,344,200	23,823,200

NUMBER OF PERMITS FOR DWELLING STRUCTURES

In addition, The Number of Dwelling Units

2015

	Single Family Permits	Townhouse Permits	Duplex Permits	Multi-family Permits	***Total Dwelling Units***
January	3	0	0	0	3
February	1	0	0	0	1
March	1	0	0	0	1
April	3	2	0	0	5
May	2	0	0	0	2
June	1	3	0	0	4
July	2	6	0	0	8
August	0	0	0	0	0
September	4	2	0	0	6
October	2	0	0	0	2
November	5	0	0	0	5
December	0	0	0	0	0
Total	24	13	0	0	37

2015

Revenue Summary

	Building Permits	Electrical Permits	Plumbing Permits	Heating/AC Permits	**Total**
January	1,895.00	870.00	310.00	1,125.00	4,200.00
February	2,450.00	300.00	335.00	570.00	3,655.00
March	3,640.00	940.00	325.00	1,030.00	5,935.00
April	6,512.00	1,055.00	535.00	910.00	9,012.00
May	4,407.00	1,390.00	475.00	955.00	7,227.00
June	11,792.50	1,590.00	685.00	450.00	14,517.50
July	8,043.00	1,110.00	700.00	690.00	10,543.00
August	2,089.50	3,660.00	735.00	1,125.00	7,609.50
September	6,247.50	1,100.00	515.00	1,575.00	9,437.50
October	5,070.00	1,150.00	540.00	2,150.00	8,910.00
November	7,498.50	660.00	645.00	790.00	9,593.50
December	12,095.00	1,340.00	650.00	2,035.00	16,120.00
Totals	71,740.00	15,165.00	6,450.00	13,405.00	**106,760.00**

PERMIT VALUATIONS
IN PAST YEARS

	New Building	Additions & Alterations	Totals
2005	$ 21,902,500	$8,452,609	$30,355,109
2006	$ 15,385,221	$8,540,343	$23,925,564
2007	$ 37,198,200	$6,678,835	$43,877,035
2008	$ 11,147,007	$8,388,817	$19,535,824
2009	$ 7,337,825	$4,427,274	$11,765,099
2010	$ 6,695,473	$8,896,585	$15,592,058
2011	$ 7,838,516	$52,341,180	$60,179,696
2012	$ 12,541,000	$12,128,345	$24,669,345
2013	$ 3,891,000	$12,468,525	$16,359,525
2014	$ 3,375,000	$ 6,084,021	$ 9,459,021
2015	$13,479,000	$10,344,200	$23,823,200

COMMERCIAL AND RESIDENTIAL
Number and Value of Building Permits
(Mobile Homes Excluded)

Commercial

	Number	Value
2010	85	$10,059,208
2011	79	$54,695,802
2012	76	$12,989,745
2013	82	$13,307,130
2014	68	$ 5,477,871
2015	61	$19,097,300

Residential

2010	132	$ 5,532,850
2011	86	$ 5,483,894
2012	82	$11,679,600
2013	85	$ 3,052,395
2014	77	$ 3,981,150
2015	117	$ 4,725,900

Number of Dwelling Units in Previous Years
Single Family, Townhomes, Duplexes, and Multi-Family Units

2005	253
2006	131
2007	174
2008	88
2009	132
2010	106
2011	81
2012	144
2013	20
2014	24
2015	37

Item 13

RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION EXPRESSING THE CITY COUNCIL'S CONCURRENCE WITH THE NEWLY REVISED CITY OF ASHEBORO EMPLOYEE POLICIES AND PROCEDURES MANUAL

WHEREAS, the City of Asheboro Employee Policies and Procedures Manual (formerly known as the City of Asheboro Personnel Policies and Procedures Manual and hereinafter referred to as the "Manual") was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004; and

WHEREAS, the city manager periodically receives recommendations from the human resources director to update the Manual by eliminating recently identified areas of ambiguity and to reflect current best practices; and

WHEREAS, subsequent to March 1, 2015, which was the effective date of the most recent revision of the Manual, the human resources director forwarded recommendations to the city manager to reorganize the Manual with enhanced or refined discussion of certain policy areas in order to effectively continue the city's implementation and communication of best practices for its workforce; and

WHEREAS, the recommendations forwarded to the city manager are contained in their entirety within a draft City of Asheboro Employee Policies and Procedures Manual that is attached to this Resolution as ATTACHMENT A and is hereby incorporated into this Resolution by reference as if copied fully herein; and

WHEREAS, the city manager agrees with these recommendations and has decided to promulgate the draft employee policies and procedures found in ATTACHMENT A as the new Manual with an effective date of March 1, 2016; and

WHEREAS, the Asheboro City Council has concluded that the city manager's decision to update and reorganize the policies and procedures that guide the city's human resources system is consistent with the governing board's adopted mission statement "to provide the citizens of Asheboro with excellence in leadership, fiscal management, and municipal services and to create meaningful and appropriate opportunities for citizen participation to improve the quality of life for all;"

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that it hereby concurs with the decision by the city manager to promulgate, with an effective date of March 1, 2016, the revised and reorganized City of Asheboro Employee Policies and Procedures Manual attached to this Resolution as ATTACHMENT A.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of February, 2016.

_____
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

_____
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

ATTACHMENT A

ARTICLE I: UNIFIED HUMAN RESOURCES SYSTEM

SECTION 1: ADMINISTRATION

The city manager shall have the final responsibility for the administration of employee policies and procedures. In addition, each supervisor and manager of the city has an affirmative duty to enforce the employee policies and procedures.

SECTION 2: HUMAN RESOURCES DEPARTMENT

The human resources department shall be under the direct supervision of the human resources director. The office shall have as its primary responsibility the maintenance of all personnel records, recruiting, screening, and assisting division/department heads with hiring new employees, and advising employees of all policies, benefits and procedures.

~~SECTION 3: PERSONNEL COMMITTEE~~

~~The purpose of the personnel committee will be to provide a representative body through which city employees, management and non-management alike, will be able to express their opinions as they relate to policies, benefits, and procedures.~~

~~Incumbents holding the following city positions shall serve as standing members of the committee: City manager, human resources director, accounting specialist, and personnel specialist. The human resources director shall serve as chairperson of the committee and will only vote on matters presented to the committee in the case of a tie.~~

~~In addition to the standing members of the committee, the chairperson shall initially appoint ten (10) employees to serve on the committee. Ultimately, these persons shall serve staggered two (2) year terms. The chairperson shall strive to maintain proportional representation of management and non-management employees on the committee at all times. The two (2) year term of service for each member of the committee shall commence on April 1st of the calendar year when the member is appointed. With the exception of the first five (5) members of the personnel committee to be appointed by the chairperson, a member's term shall not expire until two (2) years later at midnight on March 31st. The first (5) employees appointed by the chairperson to serve on the committee shall serve a term of one (1) calendar year that commences on April 1, 2002, and expires at midnight on March 31, 2003. The next group of five (5) appointees shall serve a full two (2) year term that commences on April 1, 2002, and expires at midnight on March 31, 2004. Prior to the expiration of terms of the first five (5) employees appointed by the committee, five (5) new members shall be appointed by the chairperson and confirmed by a majority of the existing committee members whose terms do not expire until midnight on March 31. The same procedure shall be followed every year subsequent to 2003 in order to replace the five (5) members whose term of office expires at midnight on March 31st of a given year. A currently serving member of the committee shall be eligible for reappointment to another term of service. However, other than standing members of the committee, no member shall serve in excess of four~~

~~(4) consecutive years on the committee. In the case of a member of the committee that is terminating his or her employment with the city or resigning from the committee prior to the expiration of his or her term, the chairperson, subject to confirmation by a majority of the existing members of the committee, shall appoint an employee to serve the remainder of the unexpired term.~~

(Following Section moved from former Article II with slight modifications to all definitions)

SECTION 3: DEFINITIONS

Full-time Employee/Position. A position in which the duties and responsibilities are required on a continuous basis for an indefinite duration requiring 37.5 or more hours of work per week from an individual. Full-time regular employees are eligible to receive all city offered benefits. Furlough and authorized leave-without-pay do not interrupt continuous employment for purposes of this section.

Part-time Position/Employee. A position in which the duties and responsibilities are required on a continuous basis for an indefinite duration requiring part-time hours averaging less than 26 hours per week. A part-time employee averaging greater than 19.23 hours per week (1,000+ hours per year) is eligible to and ***must*** participate in the North Carolina Local Governmental Employees' Retirement System (NCLGERS). Any part-time employee working more than 1000 hours in a 12-month period is also eligible to participate in the North Carolina 401(k) and North Carolina 457 Deferred Compensation retirement plans. No other benefits are offered.

New Probationary Employee/Position. An employee hired into a full-time or part-time position who has not yet completed the initial probationary period of employment. Reference to "regular employees" or "regular positions" should not be construed as a right or a contract to perpetual funding or employment with the city.

Regular Employee/Position. All full-time and part-time employees who have successfully completed their initial probationary period shall be considered regular employees.

Seasonal Recreational Employees. "Seasonal Recreational employees" are those who are employed in a recreational establishment in an interim position for less than six (6) full months in any one calendar year. As a matter of standard practice, the city will not maintain an employee in a position of employment that is classified as seasonal recreational for a period of time in excess of four (4) months consecutive calendar months during a calendar year. Seasonal employees are exempt from Fair Labor Standards Act overtime requirements and this manual's Employment of Relatives requirement.

SECTION 4: SUPPLEMENTARY POLICIES

Any and all municipal/departmental policies that are not contained herein and that impact the uniform human resources system administered by the City of Asheboro shall be subordinate to the policies found in this manual. In the event of a conflict, the

policies found in the City of Asheboro Employee Policies and Procedures Manual shall control. Divisions/departments may develop supplemental policies and procedures to meet their unique personnel requirements. Such supplemental policies must be approved by the human resources director and the city manager.

SECTION 5. EMPLOYMENT AT WILL

The policies and procedures set forth in this manual do not entitle any person to be employed or remain employed by the City of Asheboro. Employees of the City of Asheboro are subject to the employment at will doctrine.

SECTION 6. EQUAL EMPLOYMENT OPPORTUNITY

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, non-job-related disability, genetic information, national origin, or political affiliation. Discrimination because of past, present, or future military service will not be tolerated and is expressly prohibited in the areas of initial employment, retention in employment, promotion, or the benefits of employment.

SECTION 7. ~~PROHIBITION OF SEXUAL HARASSMENT~~ UNLAWFUL WORKPLACE HARASSMENT/DISCRIMINATION

The City of Asheboro prohibits ~~in~~ any form of workplace ~~the sexual~~ harassment. ~~of city employees or applicants, and requires that all work sites be free of sexual harassment. Sexual harassment is defined as deliberate, unsolicited, and unwelcomed verbal and/or physical conduct of a sexual nature or with sexual implications by a supervisor or co-worker which: (1) has or may have direct employment consequences resulting from the acceptance or rejection of such conduct; (2) interferes with an individual's work performance; or (3) creates an intimidating, hostile or offensive working place.~~
No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment, including but not limited to sexual harassment. Unlawful harassment is generally defined as unwelcome or unsolicited comments, treatment, or conduct based upon a Title VII protected class that creates a hostile work environment or circumstances involving quid pro quo. All employees have a right to work in an environment free from unlawful workplace harassment and retaliation. Furthermore, indifference by supervisors and other employees with authority will not be tolerated. Unlawful workplace harassing behaviors may be overt or subtle, and include physical, verbal or nonverbal acts. Behaviors which are viewed as unwelcome, offensive or abusive by the recipient are considered unlawful harassment.

It is the responsibility of the employee to report ~~sexual~~ unlawful workplace harassment to ~~management~~ the human resources director and any employee may file a complaint when that individual believes that he or she has been discriminated against or harassed on the basis of age, sex, race, color, religion, non-job-related disability, genetic

information, national origin or political affiliation. Complaints should be filed directly with the human resources director. The reporting requirement can be met by completing a "City of Asheboro ~~Sexual~~ Unlawful Workplace Harassment Complaint Form." This form can be obtained from either the employee's supervisor, department head, or by contacting ~~coming directly to~~ the human resources department.

(Following Section moved from the former Article VII with slight modifications to Policy – Types of Drug and Alcohol Tests Required)

SECTION 8. SUBSTANCE ABUSE POLICY

The following rules represent the City of Asheboro's policy concerning substance abuse. They will be enforced uniformly for all employees. The purposes of the policy are to:

1) establish and maintain a safe, healthy working environment for all employees;

2) comply with State and Federal Department of Transportation regulations in regards to holders of a Commercial Drivers License (CDL);

3) provide a drug-free workplace for the City of Asheboro;

4) ensure the reputation of The City of Asheboro and its employees within the community;

5) reduce accidental injuries, absenteeism, tardiness, and other work-related problems; and

6) provide the opportunity for rehabilitation assistance to employees who seek such help.

Employees with substance abuse problems are encouraged to seek help from counselors, from other types of medical professionals, or in treatment facilities. Participation in a treatment or rehabilitation program for substance abuse will not be grounds for dismissal provided the employee voluntarily enters such a program prior to being identified as a substance abuser by means identified in this policy.

Definitions

1) Alcohol Test: A test for the presence of alcohol in the body. This presence must be determined by the use of a Breath Alcohol Test or other device approved by United States Department of Transportation.

2) Drug Test: A test for the presence of the following drugs and/or drug metabolite(s) in the urine or blood of an employee:

   (a) Amphetamines (including Methamphetamine)
   (b) Cannabinoids (Marijuana)
   (c) Cocaine (including Crack)
   (d) Opiates

(e) Phencyclidine (PCP)
(f) Other drugs may also be included as directed by Federal law or expanded city policy.

3) Negative Drug Test: A drug test which does not show the presence of drugs and/or drug metabolite(s) at a level specified to be a positive test.

4) Positive Drug Test: A drug test which does indicate the presence of a drug and/or drug metabolite(s) in the urine or blood at the level specified to be positive by the Substance Abuse and Mental Health Services Administration (SAMHSA). All positive test results will be confirmed using a different technology than the first test, such as the Gas Chromatography Mass Spectrometry (GCMS) process.

5) Negative Alcohol Test: An alcohol test which indicates a breath alcohol concentration of less than 0.02.

6) Positive Alcohol Test: An alcohol test which indicates a breath alcohol concentration of 0.04 or greater.

7) Refusal to Submit: Occurs when an employee:

(a) Fails to provide an adequate amount of urine for a drug test without a valid medical explanation after he/she has received notice of the test.

(b) Fails to provide an adequate amount of breath for an alcohol test without a valid medical explanation after he/she has received notice of the test.

(c) Engages in conduct that clearly indicates that he/she is failing to follow through with the testing process or conduct that interferes with the ability to obtain an adequate specimen.

8) Employees Required to Have Commercial Driver's License (CDL):

(a) Drivers of commercial motor vehicles with a gross vehicle weight rating of 26,001 pounds or more.

(b) Drivers of commercial motor vehicles with a gross combination weight rating of 26,001 pounds or more, including a towed vehicle with a gross vehicle weight rating of 10,000 pounds or more.

(c) Drivers of motor vehicles designed to transport 16 or more passengers, including the driver.

(d) Drivers of motor vehicles of any size transporting hazardous materials in amounts that require placarding.

(e) NOTE: Fire department employees who operate emergency equipment are exempt from the CDL requirement.

9) Safety-Sensitive Function: The following activities constitute safety-sensitive functions as defined by the United States Department of Transportation (this list is not meant to be an exhaustive/exclusive list and other job activities/requirements may also be considered safety sensitive):

(a) Driving a commercial motor vehicle.

(b) Inspecting, servicing, or conditioning any commercial motor vehicle.

(c) All time at a city facility or other public property waiting to operate a commercial motor vehicle.

(d) Performing all other functions in or upon any commercial vehicle except resting in a sleeper berth.

(e) Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of a commercial motor vehicle, attending a commercial motor vehicle being loaded or unloaded, or remaining in readiness to operate the commercial motor vehicle.

(f) All time spent performing the driver requirements associated with an accident involving a commercial motor vehicle.

(g) Repairing, obtaining assistance, or remaining in attendance of a disabled commercial motor vehicle.

Policy

1) **Employees Who Are Subject to this Policy.** This policy covers all full-time employees, part-time employees, temporary employees, seasonal employees, employees who are required as part of their job to obtain and maintain a Commercial Driver's License (CDL), and applicants for employment with the City of Asheboro.

2) **Types of Drug and Alcohol Tests Required.**

(a) Pre-Employment Testing: Drug testing must be conducted prior to employment. This testing must be conducted on external applicants as well as **current employees transferring into jobs that require a Commercial Driver's License (CDL)**. The tests results must indicate a negative drug test in order to be considered for employment and/or transfer.

(b) Post-Accident Testing ~~(Non-CDL Holder)~~: A drug test will be conducted on **all employees** who have an at fault, whether primary or contributory fault, on-the-job accident that requires medical treatment other than first aid for the employee or others.~~, or results in lost work~~ This test is to be conducted at the time of the employee's first visit to ~~the city physician or substitute~~ a medical provider and/or by the next work day, whichever is less.

(c) Post-Accident Testing (CDL Holder): For the holder of a commercial driver's license (CDL), post-accident testing for drugs and alcohol must be

conducted on any surviving driver who was performing safety sensitive functions with respect to the vehicle if:

i. The accident involved a fatality; or
ii. The driver received a citation under state or local law for a moving traffic violation arising from the accident **and the vehicle is towed from the scene or someone is medically evacuated from the scene.**

Thus, even if a city CDL Holder is not at fault and/or is not issued a citation, if a fatality is involved, post-accident testing will be mandatory.

Testing for drugs and alcohol for CDL holders should occur within two (2) hours of the accident. If the employee is unable to be tested within two (2) hours, reasons for the delay must be documented. If an alcohol test required by this section is not administered within eight (8) hours of the accident, attempts to conduct the alcohol test shall cease and the reason for the inability to conduct the test shall be documented. If a drug test required by this section is not administered within thirty-two (32) hours of the accident, attempts to conduct the drug test shall cease and the reason for the inability to conduct the test shall be documented.

(d) Random Testing: Such testing must be conducted on a random, unannounced basis throughout the year on all holders of commercial driver's license (CDL). Random testing for drugs and alcohol for all holders of Commercial Driver's License (CDL) shall be at a rate mandated by Department of Transportation regulations. During the first year of the program, a minimum of twenty-five percent (25%) of the CDL holders must be tested for alcohol and fifty percent (50%) percent of the CDL holders must be tested for drugs.

(e) For Cause Testing: This testing is required of any employee who has been arrested or has had his/her driver's license suspended for any alcohol or drug related charge prior to his/her return to work. The employee shall notify his/her supervisor prior to returning to work after said arrest and/or suspension has occurred. Failure to report to his/her department head may result in termination. For Cause Testing may also be required for irrational or unusual behavior~~,~~ or gross negligence~~, or~~ as well as for conduct that displays a disregard for safety which results in the damage of property or the lack of well-being or injury of any employee or citizen.

(f) Return-To-Duty-Testing: Must be conducted on an employee seeking reinstatement who has had a positive alcohol test and/or drug test as defined in this policy. An employee who has had a positive alcohol or drug test will not be allowed to return to duty until he or she has been evaluated by a Substance Abuse Professional (SAP) and until he or she tests negative on a return to duty test.

(g) Follow-up Testing: Must be conducted on an employee once he or she is allowed to return to duty following a positive alcohol and/or drug test. The employee will be subject to a minimum of six (6) follow-up drug and/or

alcohol tests within the first twelve (12) months following his/her return to duty. Follow-up testing may be extended for up to sixty (60) months. Follow-up alcohol testing shall be conducted while the employee is performing safety-sensitive functions, immediately before the employee performs safety-sensitive functions, or immediately after the employee has performed safety-sensitive functions. Follow-up drug testing shall be conducted at any time while the employee is at work.

3) **Prohibited Conduct and Consequences.**

(a) No employee shall report for duty or remain on duty while having alcohol and/or drug concentrations in his or her system in amounts that would constitute a positive test. An employee who produces a confirmed positive test result will be removed from duty without pay. The employee must immediately schedule an evaluation with a Substance Abuse Professional (SAP) and must cooperate with any and all recommendations suggested by the SAP for treatment and/or follow-up. Refusal to cooperate will result in termination. The employee must have a negative test result before he or she will be allowed to return to duty.

(b) The City of Asheboro expressly prohibits the possession, sale, use, distribution, dispensation, manufacture, purchase, or storage of illegal drugs/controlled substances or related paraphernalia and/or alcoholic beverages by city employees while at the workplace. By way of illustration, and not limitation, no employee shall be on duty while in the possession of one or more alcoholic beverages and/or controlled substances. Any action taken in violation of this prohibition will result in termination. Notwithstanding the foregoing, this prohibition does not extend to law enforcement officers who are performing their lawful duties and shall not be construed or interpreted in any manner that impairs lawful operations conducted by the Asheboro Police Department. Furthermore, no employee who discovers alcoholic beverages and/or controlled substances in the course of performing his or her work duties and immediately contacts the Asheboro Police Department to take possession of the prohibited item(s) shall be deemed to be in violation of this policy.

(c) No employee required to take a post-accident alcohol test as defined in this policy shall use alcohol for eight hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever comes first. Refusal to cooperate will result in termination.

(d) A refusal by an employee to submit to and fully cooperate with an alcohol and/or drug test required by this policy shall be deemed to be a direct and intentional act of insubordination that will result in the termination of employment.

(e) Employees are prohibited from reporting for duty or remaining on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform his or her assigned work.

(f) A second occurrence of a positive drug and/or alcohol test will result in termination.

(g) An employee who has a confirmed Breath Alcohol Test result of 0.02 - 0.039 shall not be allowed to continue to perform safety-sensitive functions. The employee will be removed from duty without pay for this 24-hour period and will receive a notation in his/her personnel file about the importance of reporting to work without the presence of alcohol in his/her system. The employee will be subject to a return-to-duty alcohol test prior to returning to a safety sensitive position.

(h) No applicant will be offered employment if a confirmed positive pre-employment drug test result is produced.

4) **Supplemental Requirements.**

(a) The Omnibus Transportation Employee Testing Act of 1991 (final rules implemented February 15, 1994) requires, in part, that any commercial motor vehicle operator who is subject to the commercial driver's license (CDL) requirement in the State of North Carolina be tested for alcohol and controlled substances.

(b) Compliance with the Department of Health and Human Services (DHHS) mandatory guidelines for controlled substances testing shall be maintained by only using a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA).

(c) Federally mandated alcohol testing must be conducted by a Breath Alcohol Technician (BAT) trained to a level of proficiency that is demonstrated by successful completion of a generally recognized and accepted course of instruction. Alcohol testing shall be conducted using an Evidential Breath Testing (EBT) device.

(d) As required by the Federal Drug-Free Workplace Act, if an employee is convicted of a violation of a criminal drug statute and the violation occurred while the employee was at work, the employee must notify his department head of the conviction within five (5) days after the conviction. Failure to notify the department head will result in termination.

(e) All drug test results shall be reviewed and interpreted by a Medical Review Officer, or MRO. The MRO must be a licensed physician with specific training in substance abuse. If the laboratory reports a positive test result to the MRO, the MRO or designee will contact the employee, typically by telephone, and discuss the results with him/her. The MRO will then attempt to determine if there is a verifiable medical explanation for the employee to have the detected drug in his/her system. If there is none, the test result is to be reported as positive. If there is a verifiable medical explanation for the use of the drug, the result is to be reported as negative.

(f) An employee who does not pass a drug and/or alcohol test and is terminated, or an applicant who does not pass the pre-employment drug test, will not be considered for re-employment for a two-year period following the date of the test and then will be considered only when he/she provides documentation suitable to management that he/she has successfully completed an alcohol and/or drug rehabilitation program and passes a pre-employment drug and/or alcohol test.

SECTION ~~8~~9. AMERICANS WITH DISABILITIES ACT (ADA)

~~The City of Asheboro prohibits any form of discrimination against persons with physical or mental disabilities. The city is committed to full compliance with the Americans with Disabilities Act.~~

The Americans with Disabilities Act (ADA) requires employers to reasonably accommodate qualified individuals with disabilities. It is the policy of the City of Asheboro to comply with all federal and state laws concerning the employment of persons with disabilities.

The City of Asheboro is committed to providing reasonable accommodations to employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity. The City of Asheboro shall provide reasonable accommodation for the known physical or mental limitations of qualified employees and applicants with disabilities unless a particular accommodation would impose an undue hardship on its operations.

Definitions

Disability. An impairment that substantially limits one or more major life activity.

Essential Functions. Those job duties that are so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform them. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed and not simply the components of a generic position description.

Individual with a Disability. A person who has a physical or mental impairment that substantially limits one or more of that person's major life activities, has a record of having such an impairment, or is regarded as having such an impairment.

Interactive Process. The process by which an individual requesting an accommodation and the decision-makers talk to each other about the request for accommodation, the process for determining whether an accommodation will be provided, and potential accommodations.

Major Life Activity. Basic activities that the average person in the general population can perform with little or no difficulty, including but not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to the functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Qualified Individual with a Disability. An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation. An adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodations: Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille); Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in organization.)

Reassignment. A form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to vacant positions and to employees who are qualified for the new position. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete.

Request for Reasonable Accommodation. A statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition.

Process for Requesting Reasonable Accommodation

The City of Asheboro will make reasonable accommodations whenever necessary for all qualified employees or candidates for employment with disabilities, as defined by applicable law, provided that the individual is otherwise qualified to safely perform the essential functions of the job and such accommodations do not impose undue hardship on the City's operations.

Requesting an Accommodation

If an employee has a disability that requires an accommodation in order for him to perform the essential functions of his job, or otherwise enjoy the benefits and privileges of employment, he must initiate a request for accommodation by contacting his direct supervisor/manager or the human resources director and identify an adjustment or change at work that is needed because of said disability.

If a candidate for employment has a disability that requires an accommodation in order to apply for a job, he must initiate the request for accommodation by contacting the human resources department and identifying an adjustment or change in the application process or system that is needed because of said disability.

Participating in the Interactive Process

An employee seeking an accommodation under this policy will engage in an interactive dialog (the "interactive process") with his supervisor, department head and the human resources director to identify an accommodation that will allow the employee to perform the essential functions of the job effectively or engage in other benefits of employment that are enjoyed by similarly situated employees without disabilities.

If the city is able to accommodate the request as a result of the interactive process, without the need for supporting medical documentation or other information, the employee does not need to proceed with any further steps outlined in this process. If the employee's supervisor, department head or the human resources director have questions regarding the implementation of an accommodation, questions related to whether the medical condition is a qualifying disability under the ADA, or need additional medical information to determine what accommodations may be available or effective, the human resources director shall provide the employee with the city's medical inquiry form.

The employee must cooperate with human resources in submitting the necessary medical documentation and/or providing a release of medical information that permits human resources to communicate with the employee's health care provider. The employee must return all forms and responsive information within 15 days of the request. Processing the request for accommodation may not proceed until all required forms have been completed and returned to human resources.

Human resources will review the completed forms received from the employee and/or the employee's health care provider. If the information provided is incomplete or requires further clarification, human resources may request additional information from the employee or his health care provider.

Determination

If, based on medical and other information provided by the employee and/or his health care provider, the employee is determined to be a qualified individual with a disability, human resources will notify the employee and his department head.

The human resources director will work with the employee and his department head to identify and discuss reasonable accommodations that will enable the employee to perform the essential functions of the job or to participate in the same benefits and privileges of employment enjoyed by similarly situated employees without disabilities. In instances where there is no reasonable accommodation that enables the employee to perform the essential functions of the job, including unpaid leave and assignment to a vacant position, the employee may be terminated.

Modifications Not Necessarily Determinative of Disability Status
When appropriate, temporary modifications may be made pending review of medical information, or modifications may be made without relying on whether the employee has a disability as defined by law. These actions should not be construed as a finding by the city that it has made a determination that an employee is a qualified individual with a disability under the ADA.

Confidentiality
Information obtained in the course of this process will be kept confidential and will be disclosed only on a restricted, need-to-know basis and as otherwise permitted or required by law.

Protection from Discrimination and Retaliation
Discrimination or retaliation against an individual who has a disability and/or who requests a reasonable accommodation is strictly prohibited.

Responsibilities

Employees/Candidates
Employees and/or candidates with a disability that interferes with their ability to apply for a job, perform their essential job functions or otherwise enjoy the benefits and privileges of employment that are available to other similarly situated employees without disabilities, and who desire an accommodation, must follow the process set forth above.

The employee or candidate who requests an accommodation has the responsibility to submit all required documentation on a timely basis and to remain engaged in the interactive process with the city while a determination is being made. It is the employee's responsibility to work with his supervisor, department head, the human resources director and qualified health care professional to review and complete all forms required. Any failure by the employee to supply the city with all relevant and requested medical information or to otherwise meaningfully cooperate in the interactive process may result in the city's denial of the accommodation or delay in the process.

Department Heads/Supervisors
Department heads and supervisors are responsible for ensuring that all employees under their supervision are fully aware of the contents of this policy. When an employee requests an accommodation, the department head and/or supervisor must participate in the interactive process with the employee to determine if a reasonable accommodation can be made with our without seeking additional information about the employee's medical condition through human resources. If human resources determines that an employee's medical condition is a qualifying disability under the ADA, the department head and supervisor must continue to work with the employee to identify existing reasonable accommodations that will enable the employee to perform the essential functions of his job.

Human Resources
Human resources, in consultation with the city attorney when necessary, is responsible for determining whether an individual is entitled to an accommodation under the terms

of this policy, assisting in the interactive process to identify reasonable accommodations as necessary, and informing employees of their rights and obligations pursuant to this policy.

SECTION 9 10. EMPLOYMENT OF RELATIVES

The city prohibits the hiring of relatives within the same department; however, related persons may work for the city in different departments. When an issue pertaining to the employment of relatives within the same department arises subsequent to the hiring process, the permissibility of related persons working within the same department will be evaluated on a case-by-case basis. While not expressly prohibited, such a situation is discouraged. An employee may not serve as a direct supervisor for a related employee under any circumstances.

For the purpose of this section, relatives shall include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

Seasonal recreational and part-time employees in the Cultural Services or the Recreation Services departments are exempted from the prohibition specified in this section.

SECTION 11. WHISTLEBLOWER POLICY

The City of Asheboro requires its employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Employees must practice honesty and integrity in fulfilling responsibilities and must comply with all applicable city policies, and all applicable laws and regulations.

Reporting Responsibility

This policy is intended to encourage and enable employees and others to raise serious concerns internally so that the City of Asheboro can address and correct inappropriate conduct and actions. It is the responsibility of all employees and officers to report concerns about violations of the city's policies or suspected violations of law or of regulations that govern city operations.

No Retaliation

It is contrary to the City of Asheboro's values for anyone to retaliate against any board member, officer, employee or volunteer who, in good faith, reports a policy violation, an ethics violation, or a suspected violation of law or of any regulation governing city operations. An employee who retaliates against someone who has reported a violation in good faith is subject to disciplinary action up to and including dismissal.

Reporting Procedure

The City of Asheboro has an open door policy. If comfortable doing so, employees should first share their questions, concerns, suggestions and complaints with their supervisor or department head. If an employee is not comfortable speaking with his/her supervisor or department head, the employee should speak with the human

resources director or the city manager. Department heads and supervisors are required to report complaints or concerns about suspected ethical and legal violations to the human resources director, who has the responsibility to investigate all reported complaints.

Compliance Officer

The human resources director is responsible for ensuring that all whistleblower complaints are investigated and resolved. The human resources director will advise the city manager of all complaints and their resolution.

Accounting and Auditing Matters

The human resources director shall immediately notify the city manager and the finance director of any concerns or complaints regarding accounting practices, internal controls or auditing so that the finance director can inform and work with the auditor to see that the matter is resolved.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing that a violation exists. Making an unsubstantiated allegation maliciously or when known to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be reported on a confidential basis and will be kept confidential to the extent possible, consistent with applicable laws, and with the need to conduct an adequate investigation.

Handling of Reported Violations

The human resources director will notify the complainant and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated and appropriate action will be taken when warranted by the investigation.

SECTION ~~10~~ 12. IMPLEMENTATION OF POLICIES

All employees, supervisory and line employees alike, are hereby charged with the responsibility of continually reviewing the employee policies and procedures found in this manual and ensuring that conduct and practices in the workplace conform with the guidelines found. Workplace practices or customs are to be constantly reviewed in order to make sure that a divergence does not develop between the workplace practices and the city's written policies. Without limiting the importance of other policies, specific attention is to be given to ensuring that safety policies and guidelines are properly observed, workplace violence is prevented, and equal employment opportunity based on reasonable job-related job requirements is actively advocated and practiced to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, non-job related disability, genetic information, national origin, political affiliation, or military service.

ARTICLE II. POSITION CLASSIFICATION PLAN

(All Sections found in the former Article II have been moved to new Articles in the reorganized manual.)

SECTION 1. ALLOCATION OF POSITIONS

The city manager shall be the approving authority for the City of Asheboro classification and salary plan developed by the Human resources department. The director of human resources shall allocate each class title to the appropriate class code in the position classification plan.

SECTION 2. "FULL TIME EMPLOYEES" DEFINED

"Full-time employees" are those who are in positions for which an average work week consists of 40 hours or more and continuous employment of 12 months is required by the city. Layoff and authorized leave-without-pay do not interrupt continuous employment for purposes of this section.

SECTION 3. "PART TIME EMPLOYEES" DEFINED

"Part-time employees" are those who are in positions for which an average work week consists of less than 40 hours and the employee receives no benefits. If a part-time employee should occasionally work over 40 hours in a single week they would be paid according to Fair Labor Standard Act (FLSA) requirements. Notwithstanding any provision found within Article II of this Manual, the definitions found in Article VI, Section 3 of this Manual pertaining to part-time employees shall be controlling for the limited purpose of interpreting and implementing the group health and hospitalization insurance benefits described in the said Article VI, Section 3.

SECTION 4. "SEASONAL RECREATIONAL EMPLOYEES DEFINED"

"Seasonal Recreational employees" are those who are employed in a recreational establishment in an interim position for less than six (6) full months in any one calendar year. As a matter of standard practice, the city will not maintain an employee in a position of employment that is classified as seasonal recreational for a period of time in excess of four (4) consecutive calendar months during a calendar year. Seasonal employees are exempt from Fair Labor Standards Act overtime requirements and this policy's Article V Section 3, Employment of Relatives requirement. Notwithstanding any provision found within Article II of this Manual, the definitions found in Article VI, Section 3 of this Manual pertaining to seasonal employees shall be controlling for the limited purpose of interpreting and implementing the group health and hospitalization insurance benefits described in the said Article VI, Section 3.

~~Section 5. "Regular Employees" Defined~~

~~All full-time and part-time employees who have successfully completed their probation periods shall be considered regular employees.~~

~~All city positions are subject to budget review and approval each year, and employees must meet established standards of conduct and job performance. Reference to "regular employees" or "regular positions" should not be construed as a right or contract to perpetual funding or employment.~~

~~Section 6 . Administration~~

~~The human resources department shall administer and maintain the position classification plan.~~

~~(a) Department Heads shall be responsible for bringing to the attention of the director of human resources the need for additional or fewer positions and significant changes in the nature of duties, responsibilities, working conditions affecting a position.~~

~~(b) The city manager shall approve assigning the new position to an existing class title or amending the position classification plan to establish a new class title.~~

~~(c) The human resources department shall establish a schedule to audit one third of the class titles in the position classification plan each year.~~

~~(d) When the human resources department determines that a substantial change has occurred in the nature of duties, responsibilities, or working conditions of an existing class title, the existing job description shall be revised by the human resources director. Any such revisions shall be subject to the approval of the city manager.~~

~~Section 7. Amendment of the Position Classification Plan~~

~~The city manager may approve amendments recommended by the director of human resources to the position classification plan that change the assigned salary range of the existing class title, reassign the position to the appropriate class title within the existing position classification plan, or establish a new class title.~~

~~Section 8. Pilot Program~~

~~The Asheboro Police Department is authorized to implement an experimental trainee program to increase diversity within the department. The experimental program, which will enable the police department to pay qualified individuals to attend a properly credentialed basic law enforcement program, sunsets on June 30, 2017. It is expected that the program will continue to evolve during the pilot period. Thus, the city manager authorizes the human resources director and the police chief to monitor the program and implement changes, including exempting pilot program participants from the coverage of any articles, sections, or provisions of this policies and procedures manual, as warranted throughout the duration of the pilot period.~~

ARTICLE ~~III~~ II. RECRUITMENT AND EMPLOYMENT

SECTION 1. RECRUITMENT AND EMPLOYMENT APPLICATION PROCEDURES

At the time of an employment vacancy, members of the human resources department, in consultation with the division/department head, will determine to what extent, if any, the vacancy should be advertised. All vacancy announcements distributed throughout the community will specify qualifying requirements and the pay range of the positions to be filled. Employment advertisement shall contain assurances of equal employment opportunities and shall comply with federal and state statutes regarding the prohibition of discrimination in employment matters.

Upon inquiry, each individual interested in employment with the city shall be informed of all current job vacancies open to external candidates. In order to be considered for employment with the city, an individual must submit a written application on the form prescribed by the human resources department for current job vacancies only.

In order to ensure that an accurate background check can be completed in the event a conditional offer of employment is extended to an individual, applicants for employment with the city shall, upon request, provide information that can be used to confirm the identity of the applicant along with written consent to conduct a background check, including without limitation a check of the applicant's criminal history record information. The requested information may include, but is not limited to, the applicant's full name, documents such as a birth certificate or driver's license, and/or a completed applicant fingerprint card.

The request for written consent to conduct a background check shall include, at a minimum, notice that North Carolina law, subject to certain exceptions for individuals who are seeking or hold any certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission, allows applicants to not refer to any arrest, charge, or conviction that has been expunged. An applicant need not, in answer to a question concerning any arrest or criminal charge that has not resulted in a conviction, include a reference to or information concerning charges or convictions that have been expunged. An applicant shall not be denied employment solely because of the applicant's failure or refusal to disclose information concerning any arrest, criminal charge, or criminal conviction of the applicant that has been expunged.

Applications will be kept active for each position opening identified on the application during the recruitment process. Once the positions identified on the application are filled, the application will be inactive. In order for an individual to be considered for any future job vacancies, a new application will have to be properly submitted to the city.

Qualified persons currently employed by the city shall receive first consideration for filling those vacancies that represent promotional opportunities via the internal posting

process outlined below. Thus, not all position vacancies will be advertised and open to external candidates.

Persons dismissed by the city for unsatisfactory performance of duties or improper personal conduct may not be rehired.

SECTION 2. INITIAL SELECTION OF A CANDIDATE TO FILL A VACANCY

(A) Upon learning of a future vacancy, the division/department head should **immediately** notify the human resources department of the pertinent information concerning the vacancy.

(B) The human resources department, with guidance from the department head or division director, will complete a Request to Fill Vacancy Form.

(C) The human resources department, with guidance from the department head or division director, will determine whether or not the vacancy should be advertised externally and proceed accordingly. If external advertisement is deemed necessary, timelines for the closing of the announcement will then be established.

(D) The following guidelines are applicable to the posting of job vacancies:

(1) ***Internal Postings.*** Positions are to be posted internally for a minimum of 5 working days for promotional considerations. The human resources department will generate the internal posting for distribution upon notification of the vacancy. When a vacancy for a position occurs within a department, employees who meet the minimum qualifications may apply for that position. Internal postings may be department specific or city-wide.

(2) ***External Postings.*** Positions which are advertised externally shall be advertised (open to recruitment) for a minimum of 5 working days. When circumstances warrant, the 5-working day internal and external vacancy announcements may be posted concurrently. All positions advertised externally will be posted on the city's website and with the local office of the division of employment security and, as determined to be appropriate, advertised through media and other professional sources.

(E) The human resources department will receive and screen applications. All applications must be channeled through the human resources department in order for the application to be given consideration for employment. Applications will only be accepted for advertised openings. All persons expressing interest in employment with the city shall be given the opportunity to file an application for employment if a current vacancy exists. A person may apply for up to 3 current vacancies using the same application form.

(F) The human resources department will conduct a screening interview for the best qualified candidates.

(G) A final list of pre-screened candidates will then be referred to the division/department head and/or designee.

(H) The division/department head and/or designee will interview a candidate from the individuals suggested or request that the search process for a candidate be continued.

(I) Notwithstanding any other provision, the following exceptions to the procedures specified herein are hereby recognized and accepted as valid exceptions to the posting and selection procedures specified within this manual:

(a) The city manager may, at any time, fill a vacancy without an internal or external posting process when such an action is deemed by the city manager, in his sole discretion, to be in the best interest of the city; and

(b) Divisions or departments of the city, in consultation with the human resources director and with the approval of the city manager, may utilize a modified screening and selection procedure when such a modification is necessary to comply with occupational licensing board requirements applicable to the position that the division director or department head is attempting to fill.

SECTION 3. CONDITIONAL OFFER OF EMPLOYMENT

When a department head notifies the human resources department of the selection of an applicant as the candidate initially identified as best suited for an open position of employment, the human resources department will contact the selected applicant and extend a written conditional offer of employment. This written conditional offer of employment will advise the selected candidate that the granting of employment with the city is contingent upon the successful completion of a pre-employment drug screen, physical, and background check that includes a criminal history record check, verification of information contained within the individual's application materials, and, if the position sought by the applicant requires the ability to operate a motor vehicle, a review of the applicant's driving history. In addition to the items listed in the immediately preceding sentence, this offer of employment may also be conditioned on the completion, to the satisfaction of the city, of any other examinations, tests, or reviews that are mandated by the applicable federal, state, and local laws, ordinances, and administrative regulations for the occupation/job sought by the applicant.

When an inquiry of criminal history record information indicates that an individual has one or more pending criminal charges and/or has been convicted of or accepted responsibility for one or more felonious or misdemeanor criminal offenses, such information will not serve as an automatic disqualifier that mandates the withdrawal of

a conditional offer of employment. Any pending criminal charge(s) and/or past criminal conduct will be subjected to an individualized review of the entirety of the available information before a decision is made as to whether to withdraw a conditional offer of employment. At a minimum, this review will take into account the type of crime(s) of which the individual has been charged or was convicted/accepted responsibility, the frequency of violations and/or any pattern of offenses, the time that has elapsed since the date(s) of any conviction(s)/disposition(s), the applicant's age at the time of any conviction(s)/disposition(s), and the impact, if any, of the past criminal conduct or pending charges of criminal conduct on the ability of the applicant to perform the essential job functions of the position for which he or she has applied in a manner consistent with the maintenance of the public trust and confidence that is essential to the city's effective delivery of municipal services.

With regard to the pre-employment drug screen and the physical examination, a health care provider performing a medical examination shall be instructed to not report family medical history. The relevant inquiry in this employment-related medical exam is not what the candidate's health may be in the future, but rather what the candidate's present ability is to perform the essential functions of the job. If the selected candidate tests positive for drugs and/or is found to be unable to perform an essential function of the job for which the individual has been selected, the conditional offer of employment will be withdrawn.

Applicants for employment who refuse to comply with or are unable to fully satisfy the conditions attached to a conditional offer of employment, including without limitation fully cooperating with and completing the mandated physical exam and drug screening, are automatically disqualified from final appointment to the position for which they have applied.

Tests required or administered by the city shall be those measuring the skills actually required to perform the essential functions of the job for which an individual has applied.

SECTION 4. NOTIFICATION OF EMPLOYMENT

If and when a selected candidate satisfies the contingencies stated in the conditional offer of employment, the human resources department will transmit to the selected candidate a formal letter of probationary employment with the City of Asheboro. An effective date of hire will be determined based on the needs of the supervisor/department head.

The human resources department will then provide to the selected candidate a new employee orientation that will include, without limitation, an explanation of the city's safety policies and procedures, the necessary payroll documents, and the enrollment of the new employee in the city's insurance programs along with an explanation of the benefits package.

The human resources department will advise the appropriate supervisor that the new employee has completed orientation and the supervisor can greet the new employee at the human resources department or at the new employee's assigned workplace.

SECTION 5. PROBATIONARY PERIOD OF EMPLOYMENT

New employees, promoted employees, or any employee transferred to another position shall serve a probationary period of six (6) months. New employees may be dismissed during the probationary period at any time. A new probationary employee dismissed may not appeal such action. The new employee will be given notice of dismissal in writing.

Promoted or transferred employees may be reassigned at any time during the probationary period to their former position or a comparable position~~s~~ if the department head or division director concludes that the promoted or transferred employee is not satisfactorily progressing in the new assignment. Such reassignments are not subject to appeal.

While both vacation and sick leave are accrued during the probationary period, no vacation ~~or sick~~ leave may be taken by a new probationary employee. Should a ~~nor will a~~ new probationary employee terminate employment prior to the completion of the probationary period, no accrued leave will be paid. ~~for any accrued vacation or sick leave if employment is terminated during the probationary period.~~ However, if a probationary employee is injured on the job, they may use ~~any~~ accrued leave time, in the order specified in Position Classification and Payroll Administration Article of this manual during the seven (7) day waiting period imposed by the Workers' Compensation Act.

New probationary full-time employees are eligible for ~~general~~ salary increases or a cost of living allowance authorized by the city council. Upon the successful completion of an individual's initial probationary employment and the attainment of regular employee status, a ~~2-step~~ salary increase will be granted.

(Following section inserted with no changes from the former Article II)

SECTION 6. PILOT PROGRAM

The Asheboro Police Department is authorized to implement an experimental trainee program to increase diversity within the department. The experimental program, which will enable the police department to pay qualified individuals to attend a properly credentialed basic law enforcement program, sunsets on June 30, 2017. It is expected that the program will continue to evolve during the pilot period. Thus, the city manager authorizes the human resources director and the police chief to monitor the program and implement changes, including exempting pilot program participants from the coverage of any articles, sections, or provisions of this policies and procedures manual, as warranted throughout the duration of the pilot period.

ARTICLE ~~IV~~ III: POSITION CLASSIFICATION AND PAYROLL ADMINISTRATION

(Section 1 - *Allocation of Positions* and *Administration and Amendment of the Position Classification Plan* headings inserted from the former Article II with slight modifications to the *Administration* content)

SECTION 1. ~~GENERAL~~ POSITION CLASSIFICATION PLAN

Allocation of Positions

The city manager shall be the approving authority for the City of Asheboro classification and salary plan developed by the human resources department. The human resources director shall allocate each class title to the appropriate class code in the position classification plan.

Administration

The human resources department shall administer and maintain the position classification plan.

(a) Department heads shall be responsible for bringing to the attention of the human resources director the need for additional or fewer positions and for highlighting any significant changes in the nature of duties, responsibilities, ~~or~~ working conditions or other factors affecting the classification of a position.

(b) The city manager shall approve assigning the new position to an existing class title or amending the position classification plan to establish a new class title.

(c) ~~The human resources department shall establish a schedule to audit one third of the class titles in the position classification plan each year~~. The human resources director shall be responsible for the administration and maintenance of the position classification plan to accurately reflect the duties performed by employees in the classes to which their positions are allocated. If the human resources director determines that a substantial change has occurred in the nature of duties, responsibilities, or working conditions of an existing class title, the existing job description shall be revised in conjunction with the department/division head. Each position shall be assigned to a salary grade in the classification plan at the recommendation of the human resources director and approval of the city manager.

~~(d) When the human resources department determines that a substantial change has occurred in the nature of duties, responsibilities, or working conditions of an existing class title, the existing job description shall be revised by the human resources director. Any such revisions shall be subject to the approval of the city manager.~~

Definitions

Class. A group of positions having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary range.

Position (aka job description). A group of current duties and responsibilities, assigned by competent authority, requiring full- or part-time employment.

Position Classification Plan. A plan that assigns classes (positions) to the appropriate pay grade.

Reclassification. The reassignment of an existing position from one class to another based on changes in job content such as duty, kind, difficulty, required skill, and responsibility of the work performed.

Amendment of the Position Classification Plan

The city manager shall approve assigning ~~the~~ new or revised positions to an existing class title and may approve amendments recommended by the human resources director to the position classification plan that change the assigned salary range of the existing class title, reassign the position to the appropriate class title within the existing position classification plan, or establish a new class title.

SECTION 2. THE PAY PLAN

The pay plan includes the basic salary schedule adopted and amended by the City Council. The salary schedule shall consist of minimum and maximum rates of pay with developmental pay and performance based pay components ~~and intermediate steps~~ for all classes of positions included in the position classification plan.

~~SECTION 2.~~ *MAINTENANCE OF PAY PLAN*

The human resources department under the direction of the city manager shall be responsible for the maintenance and administration of the pay plan. The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private sector and in other public jurisdictions in the area, to changes in cost of living, to financial conditions of the area and other factors. The human resources department will periodically 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. Adjustments to the assigned salary level for the class of employees affected will be subject to approval by the city manager.

~~SECTION 3.~~ *TRANSITION TO A NEW PAY PLAN*

The following provisions shall govern the transition to a new pay plan.

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

b) An employee being paid at a rate lower than the minimum rate established for such employee's class shall be raised to a salary at or above the new minimum for the class.

c) An employee being paid at a rate above the maximum rate established for such employee's class shall remain at such rate until their salary falls within the established salary range for the classification.

~~SECTION 4.~~ *USE OF SALARY RANGES*

Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class, in providing employee incentive and in rewarding employees for meritorious service. All employees covered by the pay plan shall be paid at a listed rate within the salary ranges established for their perspective job classes except for employees in a trainee status.

~~SECTION 5:~~ *HIRING RATE/STARTING SALARIES*

~~The minimum rate established for the class shall be the normal hiring rate, except in cases where unusual circumstances warrant appointment at a higher rate. On the recommendation of the department head with the approval of the city manager approval of a rate above the minimum may be made when it is deemed to be in the best interest of the city. Approval will be based on the qualifications of the applicant in excess of the requirements for the class; where there is a shortage of qualified applicants available at the minimum step; and when qualified applicants decline employment at the minimum step.~~

Hiring rates are determined using multiple factors, including, but not limited to, education and experience required for the position, market conditions, internal equity where applicable and budget constraints. When an applicant meets the minimum requirements, the hiring rate will be the minimum of the pay grade. When an applicant exceeds the minimum requirements and those requirements are needed for the position, concessions may be allowed to hire that applicant at a higher starting salary than range minimum. Above-the-minimum appointments will be based on such factors as the applicant's qualifications where they exceed the minimum experience requirements for the position and market recruitment conditions such as job market competitiveness, talent pool, etc. Department heads must consult with the human resources director to determine hiring rates. Any request to hire at 15% or more above the range minimum must be approved by the city manager.

(Inserted former Article VIII in its entirety below with slight modifications.)

~~SECTION 6: PAY RATES IN~~ ***PROMOTION, DEMOTION OR TRANSFER***

~~When employees are promoted, demoted, or transferred, the rate of pay in the new position shall be established in accordance with the following provisions:~~

Promotions

It shall be the policy of the city to seek qualified applicants for vacant positions giving first consideration to promoting from within and across departmental lines. In the absence of qualified candidates for promotion, vacancies shall be filled by recruiting from the outside. Employees shall be considered for promotion on the basis of job-related experience, skill knowledge and ability; and on a review of the quality of past performance and general suitability for the higher level position. Factors shall not be considered in judging eligibility for promotion that are not job related, such as age, sex, race, color, religion, non-job related handicap, national origin or political affiliation. A department head's recommendation to promote an employee shall be reviewed by the human resources department and the city manager.

~~An employee promoted to a higher grade shall be placed at the minimum rate of the new grade (step 1) or the nearest step, without going over, to a 2 step increase on the employee's current grade, whichever is higher.~~ When a promotion occurs, if the employee's salary is below the new minimum, it shall be at least increased to the minimum rate of the salary range assigned to the class to which he is promoted. If an employee's current salary is already above the new minimum salary rate, his salary may be increased in accordance with the new responsibilities being assigned to and required of that employee. Employees receiving a one grade promotion will receive a one-time promotional 5% increase to base pay. Multi-grade promotional values will be determined on a case-by-case basis, but the employee will always be placed at least at the minimum of the new pay range. Hiring managers must consult with the human resources director on multi-grade promotions to determine promotional increases. Any promotional increase above 15% must be approved by the city manager.

When an employee is promoted, all compensatory time accrued up to the date of promotion will be paid out at the current rate of pay and compensatory accruals will begin on the date of the promotion for the employee at his/her new rate of pay and compensatory accrual rate (exempt v. non-exempt).

Transfers

It is the policy of the city to transfer employees temporarily or permanently from one department to another when doing so will be in the best interest of the city. A transfer to an authorized vacancy may be arranged upon mutual agreement of all interested administrative officials and the employee.

1) When an employee is transferred from the position of one class to the position of another class of the same level, the employee will continue to be paid at the same rate.

2) Subject to the following requirements, the pay of an employee transferred to a position of lower classification shall be adjusted ~~to a step~~ within the grade ~~level~~ to which the employee is assigned:

   (a) When the transfer is the result of a mutual decision by the employee and the city that such a transfer is in the best interest of both parties, the employee shall remain at the same rate of pay in the lower grade.

   (b) When the transfer is at the sole request of the employee, the employee's pay will be adjusted to the appropriate level of pay within the lower grade. Such an adjustment may result in a decrease in pay.

Demotions

The pay of an employee demoted to a position of lower classification shall be adjusted to ~~a step within the level~~ the new pay grade to which the employee is assigned. This action may result in a decrease in pay.

SECTION 3 ~~7~~: PAYROLL DEDUCTIONS

Deductions shall be made for each employee's salary as required by law. Additional deductions may be made upon the request of the employee and on determination of the city manager as to the capability of ~~equipment~~ the payroll system.

(Section 8 moved in its entirety to the reorganized Article V: Leaves of Absence, Section 24: Workers' Compensation Leave.)

~~SECTION 8: WORKERS' COMPENSATION~~

~~The City of Asheboro is subject to the North Carolina Workers' Compensation Act. Employees are required to report in writing all injuries arising out of and in the course of their employment with the city to their immediate supervisor at the time of the injury in order that appropriate action may be taken at once.~~

~~Subject to the provisions of the North Carolina Workers' Compensation Act and all applicable laws, rules, and regulations pertinent to workers' compensation claims, the following City of Asheboro guidelines shall be applicable to all claims submitted by city employees on and after April 11, 2008:~~

~~(A) Employees may utilize accrued compensatory time and accrued paid leave during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act. If an employee elects to use accrued compensatory time or accrued paid leave during the 7-day waiting period, all of the available accrued compensatory time shall be used prior to the utilization of any accrued paid leave time. With the commencement of weekly benefits in accordance with the North Carolina Workers' Compensation Act, neither compensatory time nor accrued paid leave time may be used by an employee to supplement the statutorily prescribed weekly benefits. An employee will not be required to reimburse the city for payments made by the city during the 7-day waiting period.~~

~~(B) On the eighth day of the authorized absence, the employee will automatically be placed on Workers' Compensation leave. Once the statutorily prescribed weekly benefits and Workers' Compensation leave have begun, qualified employees will be placed on FMLA leave. The FMLA leave and Workers' Compensation leave shall run concurrently with each other.~~

~~(C) Timesheets must reflect Workers' Compensation leave on the days in which leave is taken.~~

~~(D) Employees will not be required to use accrued compensatory time or accrued paid leave when appointments have been properly made during scheduled work hours as part of the process to resolve a claim filed under the North Carolina Workers' Compensation Act. This use of regular work hours shall be limited in duration to the reasonable period of time needed to satisfy the purpose of the scheduled appointment, including travel time. Employees should try to schedule appointments at a time most convenient for their work unit. The employee is expected to return to work after the appointment has been concluded, unless the authorized health care provider has restricted the employee from doing so.~~

~~(E) The city encourages early return to work for employees who suffer work related injuries or illnesses. If the healthcare provider determines that the injured employee cannot return to their job without restrictions, a modified work assignment or reassignment to a different job will be considered. In all cases, division/department heads are expected to consult with the human resources director and to work with employees to identify modified duty opportunities, with the primary focus being the return of the employee to their regular job. Employees who return to a modified duty assignment must perform the work within the restrictions indicated by the healthcare provider. Failure to report to a modified duty assignment may result in disciplinary action. Employees are responsible for providing their division/department head with written notice of any change in restrictions by the healthcare provider. The modified duty assignment will end when the employee reaches maximum medical improvement.~~

~~(F) Employees must report to their next scheduled shift once the healthcare provider releases them to work. If the employee reaches maximum medical improvement but cannot return to the original job, the human resources director will consider all other options available under the city's employment policies.~~

~~In compliance with Section 160A-164.1 of the North Carolina General Statutes, the provisions of this Section shall be deemed to be applicable in all respects to city employees that are absent from work due to an adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, Section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002) (to be codified at 42 U.S.C. sec. 233(p)).~~

SECTION 4 9: OVERTIME AND SPECIAL DUTY ASSIGNMENT

The FLSA (for the purposes of compensatory time and overtime pay) Standard Workweek for City employees is 12:01 am Sunday -12:00 Midnight Saturday. The FLSA standard workweek may not be altered by department heads without the permission of the human resources director and the city manager.

(A) The city abides by all applicable sections of the Fair Labor Standards Act, the Fair Labor Standards Amendments of 1986, and all subsequent amendments. On the basis of time sheets or time cards submitted by the employees, the city will properly record all applicable overtime accrued for each covered employee.

(B) With the exception of subsection ~~(J)~~ (K), this overtime and special duty assignment policy is applicable only to employees of the City of Asheboro who are non-exempt under the Fair Labor Standards Act.

(C) Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work during any time that they are not scheduled to work unless they receive prior approval from their immediate supervisor, except in cases of emergency. An emergency exists if a condition arises that could reasonably result in injury or harm to a person, damage to property, or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the unscheduled work as soon as practical following completion of the work.

(D) It is the policy of the city, in agreement with its employees, that non-exempt employees receive compensatory time-off at a rate of one-and-one-half (1-½) hours for each hour of overtime worked. Except for law enforcement officers and firefighters, non-exempt employees receive compensatory time-off at the rate of one-and-one-half (1-½) hours for every hour worked over forty (40) hours in a seven-day workweek. Non-exempt law enforcement officers are entitled to this overtime rate only for hours worked in excess of one hundred seventy-one (171) hours in a twenty-eight-day cycle, and firefighters are entitled to this overtime rate only for hours worked in excess of two hundred four (204) hours in a twenty-seven-day cycle.

(E) With the exception of Holiday leave only, when an employee takes leave from work, the compensatory leave time bank must be exhausted prior to using any other applicable vacation or sick accrued leave. Because accrued Holiday leave expires if not used within a designated timeframe, should an employee have accrued holiday leave, the employee may exhaust the holiday leave bank first, then any compensatory leave time prior to using vacation or sick time for time away from work.

(F) ~~(E)~~ In situations where a non-exempt employee performs work that fails to qualify as overtime work because the employee will not actually work over forty (40) hours during the seven-day workweek, or for law enforcement officers and firefighters

the threshold amount set for overtime work during the prescribed twenty-eight-day or twenty-seven-day cycle will not be satisfied, such an employee may accrue, as a bonus, one-and-one-half (1-½) hours of compensatory time-off for every hour worked in furtherance of the assigned task if the work is designated and explained as a special duty assignment by the employee's division director or department head on the employee's time sheet or time card. Alternatively, a non-exempt employee may receive, as a bonus, a monetary payment rather than compensatory time-off for work on an assigned task if such work, along with the request for the payment of a bonus, is designated and explained as a special duty assignment by the employee's division director or department head on the employee's time sheet or time card. Such a bonus monetary payment shall be one-and-one-half (1-½) times the employee's regular rate of pay for each hour worked as a special duty assignment.

(G) ~~(F)~~ When a non-exempt employee is called back to work outside regularly scheduled working hours, the employee's division director or department head is to evaluate the totality of the circumstances and make a determination as to which of the following options will be utilized:

(a) The call-back event can be designated as a special duty assignment, including using the rate for calculating bonus compensation described above in subsection ~~(E)~~ (F), with a guarantee that the employee will receive, under this option, credit for no less than two (2) hours of special duty assignment work, or

(b) The call-back event can be integrated into flexible, alternative scheduling of the employee's work time during the workweek or the twenty-eight-day/twenty-seven-day cycle in which the call-back event occurred.

(H) ~~(G)~~Non-exempt law enforcement officers~~,~~ and firefighters~~,~~ subject to the 7K exemption ~~and employees engaged in seasonal activities~~ may accrue not more than four hundred eighty (480) hours of compensatory time-off. All other non-exempt employees may accrue not more than two hundred forty (240) hours of compensatory time-off. When the thresholds specified in this subsection are reached, the non-exempt employee will receive a monetary payment of one-and-one-half (1-½) times the employee's regular rate of pay for each hour in excess of the limits specified in this subsection.

(I) ~~(H)~~ Employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her supervisor to use that accrued time at the convenience of the city.

(J) ~~(I)~~ Accrued compensatory time-off will be paid upon termination of employment and shall be calculated at the average regular rate of pay for the final three (3)

years of employment, or the final regular rate received by the employee, whichever is higher.

~~(J)~~(K) Subject to the conditions specified in this subsection, an exempt employee may be granted bonus compensatory time-off or pay to the same extent that such a bonus would be granted to a non-exempt employee for work designated and approved as special duty assignment work by the management official with approval authority for the exempt employee's time sheet or time card. The receipt of bonus compensatory time-off or pay by an exempt employee is subject to the following conditions:

a) The amount of compensatory time-off or pay shall be calculated on an hour-for-hour basis, not at the rate used for non-exempt employees of one-and-one-half (1-½) hour for each hour of special duty assignment. The maximum amount of time that can be accrued and reflected on leave reports for exempt employees is dependent on whether the employee is subject to the Section 7K exemption. If the Section 7K exemption is not applicable, the maximum accrual of special duty compensatory time that is allowed by this policy and that can be reflected on a leave report is 240 hours. If the Section 7K exemption is applicable to the employee, the maximum accrual of special duty compensatory time that is allowed by this policy and that can be reflected on a leave report is 480 hours. Any special duty compensatory time listed on a time record that would cause a leave balance to exceed the above stated amounts shall be disregarded as non-approved special duty compensatory time.

b) As with non-exempt employees, exempt employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her supervisor to use that accrued time at the convenience of the city. When compensatory time is needed within a week, the employee and the employee's supervisor should first make every effort to fluctuate the schedule to avoid compensatory time accrual.

c) Exempt employees who have been allowed to accumulate compensatory time-off, rather than receiving ~~contemporaneous~~ payment for ~~special duty assignment~~ overtime work, will not be paid for any portion of the accumulated compensatory time-off until the exempt employee is promoted or terminates his or her employment with the city. ~~The cap on the amount of approved compensatory time-off that may be accrued by an employee is wholly inapplicable to an exempt employee.~~

d) In the event an exempt employee separating from employment with the city is to receive a payment for some or all of the accumulated compensatory time-off, such terminal pay is to be calculated at the employee's final regular rate of pay. ~~The terminal pay cannot include, and exempt employees are expressly prohibited from receiving, any payment that is based on compensatory time-off~~

~~hours accumulated in excess of the number of hours that could have been accumulated by a non-exempt employee. The maximum number of hours that can be accumulated by the typical forty-hour exempt employee is two hundred forty (240) hours. An exempt employee in the police department or the fire department who qualifies for the Section 7k exemption can accumulate up to four hundred eighty (480) hours.~~ While exempt employees can accrue up to 240 hours and those subject to the Section 7K exemption can accrue up to 480 hours, the maximum terminal pay cannot exceed 120 hours for exempt employees who do not qualify for the Section 7K exemption or 240 hours for fire and police employees qualifying for the 7K exemption. When an exempt employee terminates his or her employment with the city, the balance of any accumulated compensatory time-off that has not been used by the employee prior to the separation from employment or included in the employee's terminal pay in strict accordance with the limits set within this subsection shall be deemed to be forfeited by the employee.

SECTION 5 ~~10~~: PAYROLL DISCREPANCIES

As a term and condition of employment, an employee who believes he or she has detected a payroll error or discrepancy must **report the issue or concern** in writing to his or her supervisor **within two (2) business days** from receipt of the paycheck or receipt of the notice of the payment of wages via direct deposit that displays the alleged error or discrepancy. It is the policy of the city, in agreement with its employees, that the absence of such a report and acceptance of wages will confirm proper payment for all hours worked.

ARTICLE ~~V~~ IV: LEAVES OF ABSENCE

(Article content intact with highlighted changes, but all Parts/Sections completely rearranged for better content flow.)

PART A: LEAVE ALLOWANCES

SECTION 1 ~~16~~. FAMILY AND MEDICAL LEAVE ACT (FMLA)

The Family and Medical Leave Act was passed by Congress to balance the demands of the workplace with the needs of families. Its purpose is to promote the stability and economic security of families, to promote national interests in preserving family integrity, and to minimize the potential for employment discrimination on the basis of gender by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons.

Eligible Employees

The Family and Medical Leave Act (FMLA) requires employers to grant eligible employees a total of twelve (12) workweeks, or up to twenty-six (26) weeks in the case of military caregiver leave, of job-protected, unpaid leave during any 12-month period for one or more of the following reasons:

1) The birth of a child of the employee and in order to care for the child;
2) The placement of a child with the employee for adoption or foster care;
3) Taking care of the employee's spouse, child, or parent who has a serious health condition;
4) A serious health condition of the employee that makes the employee unable to perform the functions of the employee's position;
5) A qualifying military exigency when the employee's spouse, son, daughter, or parent who is a covered military member of the National Guard or Reserve is on active duty or called to active duty in support of a contingency operation; and
6) To care for a covered service member (a member of the armed services including the Guard and Reserve) if the eligible employee is the spouse, son, daughter, parent, or next of kin, where the service member has a serious illness or injury incurred in the line of active duty that renders the service member unable to perform the duties of his or her office, grade, rank, or rating.

An employee is eligible for FMLA leave if both of the following conditions are met:

1) The employee has worked for the City of Asheboro for at least 12 consecutive months; and
2) The employee has worked at least 1,250 hours for the City of Asheboro during the 12-month period immediately preceding the beginning of the FMLA leave. Pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA), a

break in service due to the employee's fulfillment of Guard or Reserve obligations may count toward the 12-month and 1,250-hour requirement.

Definitions

Child. A biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing "in loco parentis," who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

Continuing treatment by a health care provider. Consists of one or more of the following:

1. A period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes

   - Treatment two (2) or more times by or under the supervision of a health care provider (i.e. in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or

   - One treatment by a health care provider (i.e. an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g. prescription medication, physical therapy, etc.).

2. Any period of incapacity related to pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence.

3. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence.

4. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment.

5. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) days if not treated.

Covered family member. For military caregiver leave, a covered family member is the spouse, son, daughter, parent, or next of kin of an employee who is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious illness or injury.

FMLA Leave Year. The FMLA leave year is defined as ~~shall be~~ a rolling twelve (12) – month period measured forward from the date the employee first takes FMLA leave after completion of any previous FMLA year.

Parent. A biological parent or an individual who stands or stood in "loco parentis" to an employee when the employee was a child. This term does not include parent "in-law."

Qualifying Exigency. An eligible employee may take FMLA leave for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active federal duty in the National Guard or Reserves, in support of a contingency operation. Qualifying exigencies may include any of the following as defined in federal law:

- Issues arising from a covered military member's short notice deployment (i.e. deployment on 7 or less days of notice) for a period of 7 days from the date of notification;
- Military events and related activities;
- Certain childcare and related activities;
- Making or updating financial and legal arrangements;
- Attending counseling provided by someone other than a health care provider;
- Taking up to 5 days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities; and
- Any other event that the employee and employer agree is a qualifying exigency.

Serious health condition. This refers to an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (i.e. an overnight stay) in a hospital, or residential medical-care facility, including any period of incapacity (i.e. inability to work, attend school/workshops, or perform other daily activities) or subsequent treatment in connection with such inpatient care; or

- Continuing treatment by a health care provider (see Definition 3 above).

Spouse. A husband or wife as defined or recognized under law for the purpose of marriage.

Spouses employed by the City of Asheboro

A husband and wife who are eligible for Family and Medical Leave and are both employed by the City of Asheboro are permitted to take a *combined* total of 12 weeks (480 hours) of leave during a rolling forward 12-month period if the leave is taken for the birth, adoption or foster care placement of a child. When both spouses use a portion of the combined FMLA leave entitlement, both the husband and wife are entitled to the difference between the amount he or she has taken individually and the 12 weeks (480 hours) of leave for other purposes. For example, if each spouse took six weeks (240

hours) of leave for the birth of a child, each could use an additional six weeks (240 hours) in the same rolling forward 12-month period for any other bona fide FMLA covered absence.

~~To the full extent permitted by the FMLA, the city reserves the right to designate as FMLA leave any approved paid or unpaid leave used by an eligible employee for a qualifying FMLA purpose. All accrued compensatory time and accrued paid leave (e.g. vacation, sick, and holiday leave) shall be substituted for unpaid FMLA leave. Article IV, Section 8 in this manual prescribes the manner in which FMLA leave interacts with workers' compensation leave.~~

~~The City of Asheboro will maintain any employer-paid health benefits while the employee is on FMLA leave.~~

~~The FMLA leave year shall be a rolling twelve (12) – month period measured forward from the date the employee first takes FMLA leave after completion of any previous FMLA year.~~

~~Permanent employees approved for leave of absence retain their permanent status upon return from the authorized leave.~~

~~Benefits under the Family and Medical Leave Act are available to eligible employees requesting Family Medical Leave. When the need for FMLA Leave arises, the employee should complete an FMLA Form (available in human resources) in a timely manner. Whether or not the employee elects to use paid or unpaid leave, the time counted toward the FMLA Leave Year will begin on the date designated by the employee or the date designated by the Human resources department after consultation with the employee. When the need to use FMLA leave is foreseeable, the employee should provide the human resources department with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave.~~

Effect of Holidays on FMLA Leave

Regular holidays which occur during a FMLA paid leave period shall not be charged as vacation, sick, or other paid leave, but will be counted towards the 12 week (480 hour) FMLA allowance. Employees whose medical certification returns them to full duty active status from FMLA leave the day following a holiday will receive payment for the holiday.

Intermittent Leave or Reduced Work Schedule

Employees may take leave intermittently or on a reduced schedule to care for the employee's child, spouse, or parent who has a serious health condition, or because the employee has a serious health condition. If such leave does not adversely affect department operations and schedules and is approved by the Department Head and Human Resources, employees may be approved to take leave intermittently or on a reduced work schedule due to childbirth, adoption, or foster care. However, such leave is not required under the FMLA. If intermittent leave is not conducive to department and city operations, the employee may be required to transfer temporarily

to an available alternative position at equal pay for which the employee is qualified, but that better accommodates recurring periods of intermittent leave.

Responsibilities

Employee

A. The employee should notify his supervisor and/or department head and human resources of the need for Family and Medical Leave in accordance with the FMLA notice requirements listed below.

B. The employee should complete and return all required forms to human resources in a timely manner.

C. Failure to report at the expiration of the leave, unless an FMLA leave extension or a General Leave of Absence has been requested and granted, shall be considered as a resignation.

D. If, at any point during FMLA leave, the employee decides not to return to work, the employee shall notify human resources and his department head immediately.

E. When required by the city, the employee shall provide a fitness for duty statement from his health care provider prior to returning to work.

Leave Notification

In general, the employee must give the employer at least 30 days advance notice of the need to take FMLA leave when he or she knows about the need for the leave in advance and it is possible and practical to do so. For example, if the employee is scheduled for surgery in two months, the need for leave is foreseeable and at least 30 days advance notice is required. If 30 days advance notice is not possible because the situation has changed or the employee does not know exactly when leave will be required, the employee must provide notice of the need for leave as soon as possible and practical. When the employee has no reasonable excuse for not providing at least 30 days advance notice, the employer may delay the FMLA leave until 30 days after the date notice is provided.

When the need for leave is unexpected, the employee must provide notice to the employer as soon as possible and practical. For example, if the employee's child has a severe asthma attack and the employee takes the child to the emergency room, the employee is not required to leave the child to report the absence while the child is receiving emergency treatment. If the employee does not give timely notice of unforeseeable leave and does not have a reasonable excuse, the employer may delay or deny the FMLA leave. The extent of an employer's ability to delay FMLA coverage for leave depends on the facts of the particular case.

In the case of FMLA leave for a qualifying exigency, the employee must give notice of the need for such leave as soon as possible and practical, regardless of how far in advance the leave is needed.

For planned medical treatment, the employee should consult with the department head prior to scheduling the treatment in order to arrange a schedule that best suits the needs of both the employee and the department.

Supervisor

The supervisor and/or department head should ensure that the employee reports the need for FMLA to the human resources department and shall assist as requested by human resources in the effort to secure supporting documents as needed from the employee.

Light or Transitional Duty Under FMLA

The city does not allow "light or transitional duty" upon return to work from FMLA leaves where the employee is requesting such restrictions that would prevent him from performing all of the essential duties of the position. Having said that, should the employee not be able to report to full duty at the expiration of the FMLA leave, the employee should contact human resources and the department head prior to the leave expiration to pursue a request for a reduced or alternative work schedule. When appropriate, requests for "light or transitional duty" under FMLA will be treated as a request for Reasonable Accommodation under the Americans with Disabilities Act and will follow the ADA policy outlined in this manual.

Certification

1. A claim for leave because of adoption shall be supported by acceptable proof of adoption.

2. A claim for leave because of a serious illness of the employee or of the employee's child, spouse, or parent shall be supported by a doctor's certification that includes the following:

   a. the date on which the serious health condition began;

   b. the probable duration of the condition;

   c. the appropriate medical facts regarding the condition;

   d. a statement that the leave is needed to care for the child, spouse, or parent, and an estimate of the amount of time needed; or that the employee is unable to perform the functions of the position, whichever applies; and

   e. where certification is necessary for intermittent leave for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment.

3. If there is any doubt as to the validity of the certification, the employee may be required to get the opinion of a second doctor designated or approved by the human resources director. The second certification and any recertification shall be at the city's expense.

Employment and Benefits Protection

1. Reinstatement - The employee shall be reinstated to the same position held when the leave began or one of like status, pay, benefits, and other conditions of employment. The human resources director or the department head may require the employee to report at reasonable intervals on the employee's status and intention to return to work. The human resources director also may require that the employee obtain certification that he is able to return to work.

2. Benefits - The City of Asheboro will maintain any employer-paid health benefits while the employee is on FMLA leave. Dependent health coverage or voluntary benefits deduction premiums will be deducted from pay as long as the employee is in paid status. If the employee is not in paid status, payment for these premiums must be paid to the city's human resources department by the end of the month.

3. To the full extent permitted by the FMLA, the city reserves the right to designate as FMLA leave any approved paid or unpaid leave used by an eligible employee for a qualifying FMLA purpose. All accrued compensatory time and accrued paid leave (e.g. vacation, sick, and holiday leave) shall be substituted for unpaid FMLA leave. The Worker's Compensation Leave Section ~~Article IV, Section 8~~ in this manual prescribes the manner in which FMLA leave interacts with workers' compensation leave.

4. As required by law, ~~Permanent~~ employees approved for an FMLA leave of absence retain their ~~permanent~~ employment status upon return from the authorized leave.

Conflict of Provisions

The City of Asheboro is committed to fully implementing the FMLA. In cases where the Family and Medical Leave Act and the City of Asheboro Employee Policies and Procedures Manual are in conflict, the Family and Medical Leave will overrule. ~~All questions of interpretation that arise with regard to the provisions found in the City of Asheboro Employee Policies and Procedures Manual shall be resolved in a manner that is consistent with this goal of full implementation. If a conflict is discovered between a provision in the City of Asheboro Employee Policies and Procedures Manual and the FMLA, the offending provision shall be deemed to be void and severed from the remaining provisions of the manual that are compliant with the FMLA.~~

SECTION 2. NON-FMLA LEAVE (GENERAL LEAVE OF ABSENCE)

Employees, who are not eligible for FMLA leave or who have exhausted FMLA leave may apply for a general leave of absence for a period of up to one (1) year. The following conditions apply:

A. General leaves of absence should be requested by the employee at least thirty (30) days prior to commencement in writing to the department head. Leaves necessitated by emergency circumstances must be requested as soon as possible. Leaves necessitated by an illness or injury must be requested as soon as possible after an illness develops or injury occurs.

B. All general leaves of absence must be approved by the city manager.

C. Leave may be granted for reasons of personal or immediate family illness or injury, completion of education, or special work which will permit the city to benefit by the experience gained or work performed; or for reasons that may be of general benefit to the city. General leaves of absence may not be used for vacation.

D. All employee accrued leave must be used in conjunction with the general leave of absence. Holiday, vacation and sick leave credits will accrue during a general leave as long as the employee is in paid status, but will cease if the employee goes into a leave without pay status.

E. The employee's group hospitalization and life insurance will continue to be provided for 6 months or as long as the employee is in paid status, whichever is greater. During this six months, the employee will continue to be responsible for any employee only or dependent premium costs for which the employee would normally be responsible. Group hospitalization and life insurance shall be made available to any employee and his or her dependents, with the full cost being paid by the employee, after 6 months on a general leave or when the employee ceases to be in paid status, whichever comes later.

F. If an employee is in paid status and receives earnings during the general leave of absence, the city will deduct all voluntary benefit premiums from the employee's pay. If the employee is not in paid status or if the amount of the paycheck does not cover the total amount of premiums, the employee is required to make a payment for the difference. If payment is not made by the deadlines set forth, benefits will be cancelled and notification of any COBRA rights will be sent directly to the employee's last known mailing address.

G. Failure to report for duty at the expiration of a general leave, unless an extension has been requested and granted, shall be considered a resignation.

H. Other employment while on an authorized general leave of absence for employee medical issues is prohibited. If outside employment is discovered, the general leave may be revoked.

Return to Work

The city will endeavor, to place employees returning from a general leave who have complied with all terms and conditions of the leave into their former position or one comparable in status and pay. However, reinstatement to the exact same position is

not guaranteed to employees on general leaves as department needs during the employee absence may necessitate position changes.

If applicable, an employee may be required to provide certification from his/her health care provider that he/she is able to return to work and perform all essential job functions upon return from a general leave of absence.

SECTION 3 ~~25~~. UNAUTHORIZED LEAVE

If an employee is absent from work without department head approval or if he/she has exhausted all accrued time and are not on any approved leave, this may be deemed unauthorized leave and disciplinary action may be taken.

PART B: TYPES OF LEAVE

SECTION 1. HOLIDAYS

~~The city manager is authorized to grant~~ T~~t~~he following holidays with pay are authorized for ~~to~~ all full-time employees, based on one (1) regular work day per holiday."

New Year's Day
Martin Luther King, Jr. Day
Good Friday
Memorial Day
Independence Day
Labor Day
Thanksgiving - 2 days
Christmas - 3 days

Regular holidays or unscheduled workdays which occur during a vacation, sick or other leave period of any officer or employee of the city shall not be considered as vacation, sick or other leave.

If any of the above-listed holidays occur during a previously approved leave period (e.g. vacation leave, sick leave, the use of accrued compensatory time-off, or otherwise), the available holiday leave will be used to the maximum extent permitted by this section in lieu of any other leave time authorized by this manual. By way of illustration, when calculating the use of accrued leave time, if holiday leave time is available for use by an employee, such holiday leave time shall be used in compliance with this section, as soon as the holiday leave time becomes available for use, in lieu of any other accrued leave time such as compensatory time-off, vacation leave, or sick leave.

Due to the obligation of the city to provide municipal services on a 24-hour basis, some employees will be required to adhere to a city work schedule that prevents the use of

holiday leave on the actual date of a city-recognized holiday. When the city work schedule prevents an employee from availing himself or herself of holiday leave on the actual date of a city-recognized holiday, such an employee may utilize, and the division/department head is to facilitate the employee's use of, the holiday leave time authorized by this section during a 60-calendar day* window of opportunity that shall begin to run on the date of the holiday that is the basis of the accrual of the holiday leave time. If an employee fails, for any reason, to avail himself or herself of the holiday leave time privilege during the 60-calendar day window of opportunity, the holiday leave time accrued more than 60 days prior to the date of review shall be forfeited by the employee.

*24 hour shift line personnel in the Fire department will be allowed a 120-day calendar window to use holiday leave time. All other conditions as stated in the policy above apply to the 120 calendar days.

When any of the aforementioned holidays fall on a Saturday or a Sunday, the day(s) observed will be at the discretion of the city manager.

Notwithstanding any other provision in this section, the city manager may suspend any previously approved holiday leave when, in the discretion of the city manager, the city is confronting events or circumstances that require the utilization of extraordinary measures and operations by city forces in order to provide the level of service expected of the city. This authority to suspend holiday leave shall not be construed as placing any employee "on-call." Unless an employee is subject to an on-call policy implemented in the regular course of business by a division or department of the city, the city manager's authority to suspend holiday leave does not require employees to remain on the city's premises or in close proximity to city facilities. Under this provision, an employee's obligation is to have accurate contact information on file with the human resources department so that he or she can be reached when not working and advised to return to work as soon as is practicable. This authority to suspend holiday leave is inapplicable to employees who are using holiday leave as part of an approved FMLA leave or during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act.

SECTION 2. VACATION LEAVE – ~~BASIC ACCRUAL~~

Basic Accrual

Effective January 1, 2002, each full-time regular employee shall earn vacation leave on a monthly basis in accordance with the following schedule of continuous City of Asheboro service. Periods of 15 calendar days or less during one month shall not be counted, but a period of 16 days or more shall count as a whole month for purposes of calculating leave under this section.

Years of Service	40 Scheduled Hours Per Week Employees	OVER 40 Scheduled Hours Per Week Employees
Less than 5 years	8 hours	10 hours
5, but less than 10 years	10 hours	12 hours

Years of Service	40 Scheduled Hours Per Week Employees	OVER 40 Scheduled Hours Per Week Employees
10, but less than 20 years	12 hours	14 hours
20 or more years	14 hours	16 hours

~~SECTION 3. VACATION LEAVE – *MAXIMUM ACCUMULATION*~~

Vacation leave may be accumulated without any applicable maximum until December 31 of each calendar year. On December 31, any employee with more than 240 hours of accumulated leave shall have the excess accumulation converted to sick leave so that only 240 hours are carried forward to January 1 of the next calendar year.

~~SECTION 4. VACATION LEAVE – *MANNER OF TAKING*~~

Employees shall be granted the use of earned vacation leave upon request and at those times designated by their supervisor which will least obstruct normal operations of the division or department.

Notwithstanding any other provision in this section, the city manager may suspend any previously approved vacation leave when, in the discretion of the city manager, the city is confronting events or circumstances that require the utilization of extraordinary measures and operations by city forces in order to provide the level of service expected of the city. This authority to suspend vacation leave shall not be construed as placing any employee "on-call." Unless an employee is subject to an on-call policy implemented in the regular course of business by a division or department of the city, the city manager's authority to suspend vacation leave does not require employees to remain on the city's premises or in close proximity to city facilities. Under this provision, an employee's obligation is to have accurate contact information on file with the human resources department so that he or she can be reached when not working and advised to return to work as soon as is practicable. This authority to suspend vacation leave is inapplicable to employees who are using vacation leave as part of an approved FMLA leave or during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act.

~~SECTION 5. VACATION LEAVE – *TERMINAL PAY – VOLUNTARY SEPARATION*~~

~~Unused vacation leave time, up to an absolute maximum of 240 hours, shall be paid as terminal pay.~~An employee who voluntarily separates from employment shall be paid for vacation leave accumulated to the date of separation, not to exceed a maximum of 240 hours provided that the resigning employee gives and works the proper notice, separates in good standing, and returns all city issued property on or prior to the last day worked. Notice requirements and good standing are defined in the Separations and Reinstatements Article or this handbook.

Terminal Pay – Involuntary Separation

When an employee is involuntarily separated from employment, the vacation leave accrual payment is forfeited unless the city manager authorizes a waiver of this provision. Such a waiver will only be granted when the city manager determines, in his sole discretion, that such action is in the best interest of the city.

~~SECTION 6. VACATION LEAVE – *DEATH PAYMENT*~~

Upon the death of an employee, compensation for accumulated vacation leave, if any, shall be paid to the estate.

SECTION ~~7~~ 3. SICK LEAVE ~~– GENERALLY~~

Sick leave is a benefit granted to an employee for personal sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease when continuing to work might jeopardize the health of others.

Sick leave may be granted to an employee for illness in ~~to~~ the employee's immediate family, which requires the care of the employee. For the purpose of this section immediate family shall be deemed to include spouse, parents, and children (including step and/or in-law -relationships).

Sick leave may be ~~granted~~ used by ~~to~~ an employee for the death of an immediate family member ~~of an employee's family (not to exceed 24 hours off for any one occurrence except by special permission from department head).~~ For the purpose of this section, immediate family shall be deemed to include ~~spouse, parents, children, brother, sister, grandparents and grandchildren. Also included are step, half and in-law relationships.~~ spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

~~SECTION 8. SICK LEAVE – *BASIC ACCRUAL*~~

Each full-time regular employee shall earn sick leave at the rate of eight (8) hours for each month worked. Periods of fifteen (15) calendar days or less during one (1) month shall not be counted but sixteen (16) days or more shall be counted as a whole month for purposes of calculating leave under this section.

~~SECTION 9. SICK LEAVE – *MAXIMUM ACCUMULATION*~~

Employees may accumulate unlimited sick leave.

~~SECTION 10. SICK LEAVE – *PHYSICIAN'S CERTIFICATE*~~

If an employee is out more than three (3) consecutive days he/she will be required to present a physician's certificate prior to his/her return to duty. Failure to produce a required physician's certificate will result in the employee not being allowed to use sick leave. The employee may be allowed to use accrued compensatory time, vacation leave, and/ or leave without pay.

If a department head has reasonable cause to believe that an employee is abusing his/her sick leave privileges, the department head may, with the approval of the human resources director, request a physician's certificate for each occasion on which an employee chooses to use sick leave.

SECTION 11. SICK LEAVE – *RETIREMENT CREDIT*

Employees who are members of the North Carolina Local Governmental Employees' Retirement System may apply unused sick leave toward retirement credit in accordance with System guidelines. Employees should take note that the application of unused sick leave toward retirement credit is governed exclusively by the North Carolina Local Governmental Employees' Retirement System. Accordingly, any questions or concerns about this issue should be directed to the North Carolina Local Governmental Employees' Retirement System.

SECTION 12. SICK LEAVE – *NOTIFICATION*

The employee shall be required to call his/her supervisor no later than one half hour after the scheduled start of the workday to advise him/her when illness prevents his/her reporting to work.

If an employee is away from his/her job for two (2) consecutive days without notice, it shall be assumed that the employee has resigned.

Also, if a physician places any physical restrictions on an employee which will limit the employee's ability to successfully complete the assigned duties of their position, the employee must notify his/her supervisor about those restrictions. This notification must be made as soon as is practical, but not later than the time appointed for the employee to return to duty for their next scheduled work period. Upon receiving such notification, the employee's supervisor must relay this information up the chain of command in order to allow the city to lawfully and appropriately respond to the situation.

Employees shall notify their immediate supervisor when required to use prescription medication that they have been informed has the potential to impair job performance. The employee shall advise the supervisor of the known side effects of such medication and the prescribed period of use. The employee may be temporarily reassigned to other duties, where appropriate.

SECTION 13. SICK LEAVE – *ADVANCEMENT*

The City Council may, on the recommendation of the city manager, advance sick leave to an employee with five or more years of service who has exhausted his/her sick leave because of a major operation, illness or injury. No advancement can be made to an employee who has a warning concerning sick leave in his/her file. After the employee returns to work, advanced sick leave previously used shall be repaid at the rate of eight (8) hours per month until such time the advanced leave is repaid in full. An employee who has received advanced sick leave and subsequently retires or terminates employment shall repay the city for the balance of the advanced sick leave at a rate of their hourly rate of pay at separation times the number of unpaid hours. In the event of death, liability to the city will cease to exist.

~~SECTION 14: SICK LEAVE – *TERMINATION OF EMPLOYMENT*~~

All sick leave accumulated by an employee shall end and terminate when an employee resigns or is dismissed by the city. However, at the time of termination, an employee may request that an official record of their unused sick leave balances be made available to them. If a former employee fails to request an official record of their unused sick leave balances at the time of separation of employment, the former employee may file a request with the finance department ~~human resources department~~ for an official record of unused sick leave that was accrued during an earlier term of employment. An official record of unused sick leave balances is not available for employees separated from the City of Asheboro prior to May 10, 2001.

~~SECTION 15. SICK LEAVE – *TRANSFER FROM OTHER AGENCIES/ENTITIES*~~

An individual who is employed by the City of Asheboro in a full-time position and who comes to the city from employment with another agency which participates in the Teachers' and State Employees' Retirement System of North Carolina or the North Carolina Local Governmental Employees' Retirement System may have his/her accrued sick leave transferred to the City of Asheboro under the following guidelines:

1) The employee bears the sole responsibility for requesting and obtaining certification of the prior sick leave balance from the former employer.

2) The employee's responsibility for obtaining certification of his/her accrued sick leave is not discharged until the employee receives from the Human resources department written acknowledgement of acceptance of the former employers' certification of the amount of accrued sick leave.

3) The employee will be credited with his/her certified prior sick leave balance after 1 month's service with the City of Asheboro. Except as provided below in subsection 4, employees rehired by the City of Asheboro will be credited with their prior sick leave balance using the same guidelines as specified above.

4) Employees rehired will not be given credit for sick leave earned with the city, if the employee separated during the initial probationary period of employment.

SECTION 4 ~~17~~. VOLUNTARY SHARED LEAVE

The purpose of voluntary shared leave is to provide economic relief for full-time regular employees who are likely to suffer financial hardship due to an ~~because of a prolonged~~ absence.

Eligibility: Only full-time regular employees who have exhausted all accumulated leave are eligible to receive donated leave.

Qualifying to receive leave: In order to receive voluntary shared leave, an employee must have complied with existing leave rules and:

- Have a ~~prolonged~~ medical condition; or have an immediate family member as defined under the FMLA policy ~~(spouse, child or parent)~~ whose medical care will require the employee's absence for a ~~prolonged~~ period of time;
- Apply to become a recipient of a specified amount of leave time;
- Produce medical evidence to support the need for the requested amount of leave time beyond the available accumulated leave, and;
- Upon the recommendation of the human resources director, be approved by the city manager to participate in the program.

Application: An employee who, due to a serious medical condition of self or of his/her immediate family, faces an ~~prolonged or frequent~~ absence~~s~~ from work may apply for donated leave by completing a "Voluntary Shared Leave Application" and submitting it to the human resources director. Application may also be made by someone acting on the employee's behalf if the employee is unable to make application. The application must include a doctor's statement and verification of the need for additional leave.

Donation: Any eligible employee in the city may donate vacation leave to any approved employee. In order to donate leave an employee must complete a "Voluntary Shared Leave Authorization of Donation of Leave" form and submit it to the human resources director.

Restrictions on Donation of Leave:

1) All leave donations must be to a designated employee approved by the city manager for receipt of donated leave.
2) All donations must be in writing and signed by the donating employee. The employee to receive the donation of leave shall be named and the amount of vacation leave donated shall be specified.
3) Any eligible employee may donate vacation leave to any approved employee.
4) The maximum donation amount of vacation leave cannot reduce the donor's accrued vacation bank to less than 96 hours. ~~A donating employee may not donate more vacation leave than he/she could earn in one year. Additionally, the amount donated must not reduce the donor's vacation leave balance below one-half of what that person can earn in the year~~
5) For the purposes of voluntary shared leave, all leave donated will be credited to the recipient's sick leave account.
6) The minimum amount of leave donated is 4 hours.
7) The amount of leave donated to an employee may not exceed the amount of leave requested. Donated leave will be taken in the order received by the human resources ~~director~~ department.

Use of Donated Leave:

1) All donated leave must be used in 4-hour increments.
2) Holidays occurring while the employee is using donated leave will be paid. Vacation and sick leave will continue to be earned by the employee while he/she is using donated leave. Available earned leave accrued during this period must be used by the employee prior to continued use of any voluntary shared leave.

Unused Leave: When the recipient returns to work or separates employment due to resignation, death, retirement or termination, any remaining donated leave balance will be returned to the donors. ~~At the expiration of the period approved for voluntary shared leave, as determined by the city manager, the recipient's sick leave account balance shall not exceed a total of 40 hours. Donated leave time in excess of the time allowed by this policy shall be returned to the appropriate donor(s) vacation leave account(s).~~ In calculating the return of donated leave, priority shall be given to the most recent donor(s) in reverse chronological order.

~~If a recipient separates due to resignation, death, or retirement from local government, participation in the program ends. Unused leave shall be returned to the appropriate donor(s) vacation leave account(s) with priority being given to the most recent donor(s) in reverse chronological order.~~

Required Process:

1) Requests to participate in the Voluntary Shared Leave Program shall be submitted to ~~the~~ human resources ~~director~~. All requests must include a doctor's statement regarding the medical condition of the recipient or FMLA defined family member of the recipient before action can be taken. Human resources will edit out all protected health information and forward the ~~Each~~ request, along with the human resources recommendation for approval or denial, to the ~~must then be approved the~~ city manager for final approval/denial.
2) ~~The~~ Human resources ~~director~~ shall give written acknowledgement to both recipient and the donor(s) of his/her request to participate in the program.
3) ~~A doctor's statement regarding the medical condition of the recipient, or family member of the recipient, must be submitted to the human resources director before action can be taken on a request for shared leave.~~

SECTION 5 ~~18~~. BEREAVEMENT LEAVE

When a death occurs in an employee's immediate family, an employee shall be granted up to 24 consecutive work hours of bereavement leave. Bereavement leave shall be capped at no more than 48 hours per calendar year.

When a death occurs, the employee is to contact his or her supervisor as soon as possible, but no later than the next business day following the death, to arrange the necessary time-off. Bereavement leave will not be considered as time actually worked for purposes of calculating overtime pay or the accrual of compensatory time-off.

The city may request supporting documentation (obituary~~,~~ or death certificate~~, etc.~~) to support the request for bereavement leave.

For the purpose of interpreting this section, the term "immediate family" shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

SECTION 6 ~~19~~. MILITARY LEAVE

An employee who is a member of the National Guard or the Armed Forces Reserve will be allowed ten (10) working days of military training leave annually, with partial compensation. If the compensation received while on military leaves is less than the salary that would have been earned during the same period as an active employee, the employee shall receive partial compensation equal to the difference between the base salary earned as a reservist and the salary that would have been earned during this same period as a city employee. The effect will be to maintain the employee's salary at the normal level during this period of ten (10) working days. If such military duty is required beyond this period of ten (10) working days, the employee shall be eligible to take accumulated annual leave or be placed on leave-without pay status.

While on military leave with partial pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee remained with the city during this period. Employees who are reservists have all applicable job rights specified in the Veterans Readjustment Assistance Act.

Notwithstanding the above stated provisions, all compensation and benefits authorized by this section shall be paid or accrued in strict accordance with applicable laws and regulations, specifically including without limitation, Internal Revenue Service regulations.

SECTION 7 ~~20~~. CIVIL LEAVE

A full-time employee called for jury duty shall receive leave with pay for each day during the required absence without charge to accrued compensatory time or accrued paid leave. An employee may keep fees received for jury duty in addition to regular compensation.

SECTION 8 ~~21~~. LEAVE FOR PARENTAL/GUARDIAN INVOLVEMENT IN SCHOOLS

North Carolina law requires employers to grant up to 4 hours per calendar year (not school year) of unpaid leave to any person who is a parent or guardian of a school-aged child so that they can become involved in school activities. The term "school" shall mean any public or private day school, preschool, or child care facility. Leave under this section is subject to the following conditions:

1) The leave must be scheduled for a time that is mutually agreeable to the division/department head and the employee;

2) The employee must make a written request at least 48 hours before the leave begins; and

3) The employee may be required to provide written verification from the child's school that the employee attended or was involved in school activities during the time of the leave.

SECTION 9 ~~22~~. ADVERSE WEATHER AND EMERGENCY CLOSINGS

(A) The purpose of this section is to establish guidelines for accounting for time and releasing employees from work:

(1) When adverse weather or some other condition of a serious nature prohibits some employees from reporting to work but does not necessitate the closing of city offices/facilities; and

(2) When emergency conditions necessitate the closing of city offices/facilities.

(B) For the purpose of implementing this section, the phrases listed below shall be defined as follows:

(1) The term "*adverse weather or other conditions of a serious nature*" means physically severe weather or other conditions of a serious nature that prohibit some employees from reporting to work but do not necessitate the closing of city offices/facilities;

(2) The term "*emergency closing conditions*" means conditions that are hazardous to life and safety and that warrant the closing of one or more city offices/facilities. Conditions that may be hazardous to life or safety and that warrant closing city offices/facilities include the following: life threatening weather (e.g. snow, ice, hurricane conditions, tornado, flood, or other natural disaster), fire, equipment failure, disruption of power and/or water service, contamination by hazardous agents, criminal or terrorist acts, or forced evacuations from the work site. When hazardous conditions are present and city offices/facilities are closed, each notice of such a closure shall state the duration of the office/facility closure triggered by the emergency closing conditions described in the notice; and

(3) The term "*emergency employee*" means an employee who is required to work during an emergency because his or her position has been designated by the city as mandatory/essential to city operations during an emergency.

(C) City offices/facilities shall be open during normally scheduled operating hours unless and until a specific decision has been made by the city manager or his designee to close one or more city offices/facilities because of the existence of emergency closing conditions.

(D) Regardless of the existence of adverse weather, other conditions of a serious nature, or emergency closing conditions, some city operations must continue to provide services. Therefore, division/department heads, in consultation with the human resources director, shall predetermine and designate the mandatory/essential operations that will remain open when one or any combination of the hazardous conditions referenced above is present and shall also designate the emergency employees that will staff these operations. The city manager shall make the final decision as to which operations are designated as

mandatory/essential and as to which job positions are designated as those of emergency employees.

(E) Division/department heads, in consultation with the human resources director, shall develop written procedures for the implementation of this section. These procedures shall be consistent with this section and shall include, at a minimum, the following topics:

(1) The methodology to be used to advise employees of office/facility closures;

(2) The designation and notification of employees deemed to be emergency employees;

(3) The methodology for notifying emergency employees of their schedules during emergency closing conditions;

(4) A clear and unequivocal explanation that general closing announcements for city offices/facilities do not apply to emergency employees unless specific instructions to the contrary are transmitted to the emergency employees in accordance with the communication procedures adopted by the division/department; and

(5) For each division/department, employees will be informed whether, and under what conditions, the operational needs of the division/department allow management the opportunity to arrange schedules so as to give employees who are not emergency employees the opportunity to make up time not worked rather than charging the time not worked to accrued leave or entering leave without pay status.

(F) An emergency employee's failure to report to work can result in disciplinary action and/or requiring the hours missed to be charged to leave with or without pay, as appropriate.

(G) This division addresses the issue of accounting for time during adverse weather or other conditions of a serious nature.

(1) It is the responsibility of employees to make a good faith effort to come to work during times that adverse weather or other conditions of a serious nature exist.

(2) Employees who have not been designated as emergency employees and who anticipate problems in transportation should be permitted and encouraged to avail themselves of leave privileges when encountering difficulty in reporting for work or when leaving early.

(3) To cover absences from assigned work sites during adverse weather or other conditions of a serious nature, employees who have not been designated as emergency employees are permitted to elect to use, to the extent that a

particular employee may have accrued one or more of the types of leave listed below, one of the following options:

(a) To use accrued holiday leave time;

(b) To use accrued compensatory time-off leave;

(c) To use vacation leave;

(d) Take leave without pay; or

(e) If the option is available within the employee's division/department, make up the time in accordance with the written guidelines adopted by the employee's division/department. If a division/department has not adopted such guidelines, the option of making up time is not available to the employee.

(4) Employees who are on prearranged holiday leave, vacation leave, or sick leave will charge leave to the preapproved category of leave regardless of the event involving adverse weather or any other condition of a serious nature.

(H) When emergency closing conditions are not a city-wide event and the operational needs of the division/department permit this action, the city manager, in his or her sole discretion, may authorize division/department heads to temporarily reassign employees within their divisions/departments to alternate work sites for the duration of the emergency closing conditions.

(I) When the emergency closing conditions are a city-wide event and the operational needs of the division/department will allow the opportunity for work to be productively conducted at home, the city manager, in his or her sole discretion, may authorize division/department heads to approve the conduct of compensable city work from home by designated employees for a limited duration of time that is not permitted to exceed the duration of the emergency closing conditions.

(J) This division addresses the issue of accounting for time during emergency closing conditions when employees are not assigned to alternate work sites or allowed to work from home.

(1) In the absence of either a designation as an emergency employee or an assignment to work from an alternate site/home, the employee will not be required to charge the time away from work to any of the employee's accrued leave balances.

(2) An emergency employee required to work during the time period specified in the notice of the closure of city offices/facilities shall be granted compensatory time-off for the employee's work during the emergency

closing conditions (for the purpose of payroll administration, this work shall be deemed to be a special duty assignment); provided, however, the accrual of compensatory time-off pursuant to this section shall be calculated on an hour-for-hour basis, not 1.5 hours for every hour worked, for all hours actually worked during the time period specified in the closure notice authorized by the city manager. This accrued compensatory time is to be used before any vacation or sick leave is used.

(3) If additional employees who were not initially designated as emergency employees are needed for situations such as clean-up and recovery operations during the effective date(s) and time(s) of an emergency closure notice, the city manager may elect to compensate such employees in the same manner as employees who were designated emergency employees in advance of the emergency closing conditions.

(4) Employees who are on prearranged holiday leave, vacation leave, or sick leave will charge leave to the preapproved category of leave regardless of the existence of emergency closing conditions.

(K) Notwithstanding any other provision found herein, this section shall not be interpreted and/or implemented in a manner that creates any violation of or nonconformity with the applicable federal and state wage and hour laws, specifically including without limitation the Fair Labor Standards Act (FLSA). By way of illustration and not limitation, nothing in this section shall be construed in a manner that prevents a non-exempt employee from receiving compensatory time-off at the rate of 1.5 hours for every hour worked over 40 hours in a 7-day workweek. Similarly, no deductions shall be made from an exempt employee's pay that would call into question the employee's status as an exempt employee.

SECTION 10~~24~~. WORKERS' COMPENSATION LEAVE

(Moved entire section from Article IV, Section 8 with item (G) as only modification)

~~The City of Asheboro is subject to the North Carolina Workers' Compensation Act. The availability and the terms and conditions of Workers' Compensation Leave are discussed in Section 8 of Article IV of this Manual.~~

The City of Asheboro is subject to the North Carolina Workers' Compensation Act. Employees are required to report in writing all injuries arising out of and in the course of their employment with the city to their immediate supervisor at the time of the injury in order that appropriate action may be taken at once.

Subject to the provisions of the North Carolina Workers' Compensation Act and all applicable laws, rules, and regulations pertinent to workers' compensation claims, the following City of Asheboro guidelines shall be applicable to all claims submitted by city employees on and after April 11, 2008:

(A) Employees may utilize accrued compensatory time and accrued paid leave during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act. If an employee elects to use accrued compensatory time or accrued paid leave during the 7-day waiting period, all of the available accrued compensatory time shall be used prior to the utilization of any accrued paid leave time. With the commencement of weekly benefits in accordance with the North Carolina Workers' Compensation Act, neither compensatory time nor accrued paid leave time may be used by an employee to supplement the statutorily prescribed weekly benefits. An employee will not be required to reimburse the city for payments made by the city during the 7-day waiting period.

(B) On the eighth day of the authorized absence, the employee will automatically be placed on Workers' Compensation leave. Once the statutorily prescribed weekly benefits and Workers' Compensation leave have begun, qualified employees will be placed on FMLA leave. The FMLA leave and Workers' Compensation leave shall run concurrently with each other.

(C) Timesheets must reflect Workers' Compensation leave on the days in which leave is taken.

(D) Employees will not be required to use accrued compensatory time or accrued paid leave when appointments have been properly made during scheduled work hours as part of the process to resolve a claim filed under the North Carolina Workers' Compensation Act. This use of regular work hours shall be limited in duration to the reasonable period of time needed to satisfy the purpose of the scheduled appointment, including travel time. Employees should try to schedule appointments at a time most convenient for their work unit. The employee is expected to return to work after the appointment has been concluded, unless the authorized health care provider has restricted the employee from doing so.

(E) The city encourages early return to work for employees who suffer work related injuries or illnesses. If the healthcare provider determines that the injured employee cannot return to their job without restrictions, a modified work assignment or reassignment to a different job will be considered. In all cases, division/department heads are expected to consult with the human resources director and to work with employees to identify modified duty opportunities, with the primary focus being the return of the employee to their regular job. Employees who return to a modified duty assignment must perform the work within the restrictions indicated by the healthcare provider. Failure to report to a modified duty assignment may result in disciplinary action. Employees are responsible for providing their division/department head with written notice of any change in restrictions by the healthcare provider. The modified duty assignment will end when the employee reaches maximum medical improvement.

(F) Employees must report to their next scheduled shift once the healthcare provider releases them to work. If the employee reaches maximum medical improvement but cannot return to the original job, the human resources director will consider all other options available under the city's employment policies.

(G) Employees receiving Workers' Compensation benefits will not accrue vacation or sick leave and their local government retirement and 401k benefits are not paid during this period except as applied to Law Enforcement Officers only as outlined in NCGS 128-26.

In compliance with Section 160A-164.1 of the North Carolina General Statutes, the provisions of this Section shall be deemed to be applicable in all respects to city employees that are absent from work due to an adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, Section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002) (to be codified at 42 U.S.C. sec. 233(p)).

SECTION 11 ~~23~~. LEAVE WITHOUT PAY

Leave without pay (LWOP) should only be used for emergency situations. This option is not allowed for vacations. Management may deny taking time off without pay if it causes a hardship for the department. If an employee is ineligible to request leave on the basis of any other provision in the City of Asheboro Employee Policies and Procedures Manual, the employee, with the recommendation of his or her division/department head may be granted a leave of absence without pay ~~for up to one year~~ by the city manager. The decision as to whether to grant the requested leave shall be at the sole discretion of the city manager. Employees are responsible for the full cost of all insurance premiums and do not earn any sick, vacation or holiday accrual credits on the date the authorized leave without pay begins.

~~An employee ceases to earn leave credits, including holiday leave, on the date the authorized leave period begins. The employee will continue to be provided with group hospitalization and life insurance, at no cost, for a period not to exceed 6 months. After this 6-month period expires, group insurance shall be made available to the employee and his or her dependents on a participating basis for the duration of the authorized leave period.~~

ARTICLE ~~VI~~ V: BENEFITS

SECTION 1. PURPOSE

The city recognizes the need to provide certain fringe benefits to city employees in order to recruit and maintain qualified employees and as an incentive for seeking employment with the city.

SECTION 2. ELIGIBILITY

All full-time employees of the city and others as specifically provided herein shall be eligible for employee's benefits as provided for in this Article.

SECTION 3. GROUP HEALTH AND HOSPITALIZATION INSURANCE

(A) For the limited and sole purpose of interpreting and implementing the group health and hospitalization insurance benefits described in this section of Article VI, the following definitions and rules of interpretation shall be applicable exclusively to Article VI, Section 3 of the City of Asheboro Employee Policies and Procedures Manual (hereinafter referred to as the "Manual"):

1) The term "Part-Time Employee (Extended Hours)" means an employee who is reasonably expected by the city to average working twenty-six (26) or more hours per week.

2) The term "Part-Time Employee (Variable/Seasonal Hours)" means an employee who is reasonably expected by the city to average working less than twenty-six (26) or more hours per week during the designated measurement period. This term includes an employee for whom, based on the facts and circumstances known at the time of the employee's hire date, the relevant division/department head has made the determination that, even though the employee is expected to average working more than twenty-six (26) or more hours per week for a limited duration of time, it cannot be determined that the employee is reasonably expected to work, on average, at least twenty-six (26) or more hours per week over the course of the designated measurement period.

3) Aside from elected officials, when evaluating an employee's eligibility for group health and hospitalization insurance benefits, all employees shall be categorized as either a full-time, part-time (extended hours), or part-time (variable/seasonal hours) employee.

4) The term "Part-Time Employee (Variable/Seasonal Hours)" shall include the "Seasonal Recreational Employees" described in Article II, Section 4 of the Manual.

5) In contrast to the above-stated definitions, the term "Full-Time Employee" shall have the same meaning as stated for the term in Article II, Section 2 of the Manual.

6) The term "Ongoing Employee" shall mean any city employee, exclusive of elected officials, who has been employed by the city for at least one (1) complete Standard Measurement Period.

7) The term "Standard Measurement Period" means the 12-month period of time extending from April the 15th of a calendar year to April the 14th of the following calendar year.

8) The term "Administrative Period for an Ongoing Employee" means the 76-day period of time extending from April the 15th of a calendar year to June the 30th of the same calendar year.

9) The term "Stability Period for an Ongoing Employee" means a 12-month period of time extending from July the 1st of a calendar year to June the 30th of the following calendar year. This Stability Period for an Ongoing Employee matches the city's fiscal year and the plan year for the city's group health and hospitalization insurance.

10) The term "Initial Measurement Period for a New Employee" means a 12-month period of time that is measured from the new employee's hire date.

11) The term "Administrative Period for a New Employee" means the period of time utilized by the city to perform the calculations and administrative tasks needed to determine if a new employee is eligible, on the basis of the hours worked during the above-referenced initial measurement period, for coverage under the city's group health and hospitalization insurance. This time period shall extend from the end of the Initial Measurement Period for a New Employee to the end of the first full calendar month immediately following the end of the said initial measurement period.

12) The term "Corresponding Stability Period" means the 12-month period of time that immediately follows the Administrative Period for a New Employee.

(B) Any Full-Time Employee, Part-Time Employee (Extended Hours), and elected official will be provided group health and hospitalization insurance at no cost. This group insurance shall be made available to employees' dependents on a participating basis. Eligibility for group health and hospitalization insurance will be effective the first day of the month following one full month of employment or the taking of office.

(C) Part-Time Employee (Variable/Seasonal Hours) will not be eligible for any group health and hospitalization insurance benefits unless, after utilizing the following evaluation periods and methodologies, the employee is found to have worked an average of twenty-six (26) or more hours per week during the relevant

measurement period. If a Part-Time Employee (Variable/Seasonal Hours) is found to have worked an average of twenty-six (26) or more hours per week during the relevant measurement period, such an employee will be eligible, during the entire duration of the stability period that follows the relevant measurement period, for the same group health and hospitalization insurance benefits provided to a Full-Time Employee or a Part-Time Employee (Extended Hours). The on-going evaluations of a Part-Time Employee (Variable/Seasonal Hours) in terms of eligibility for group health and hospitalization insurance benefits will be conducted as follows:

1) In the case of an Ongoing Employee who is not already eligible for the group health and hospitalization insurance benefit as a Full-Time Employee or a Part-Time Employee (Extended Hours), the city shall use the above-defined Standard Measurement Period as a look-back period prior to the beginning of the city's next plan year and associated open enrollment period in order to determine if any employee not currently eligible for the group health and hospitalization insurance benefit is now eligible for the benefit because of working an average of twenty-six (26) or more hours per week during the Standard Measurement Period. During the Administrative Period for Ongoing Employees, which runs from April the 15th to June the 30th of each year and overlaps with the open enrollment period for insurance, each Part-Time Employee (Variable/Seasonal Hours) will be evaluated in order to determine if the employee worked an average of twenty-six (26) or more hours per week over the course of the immediately preceding Standard Measurement Period. If the employee did average working twenty-six (26) or more hours per week during this look-back period, the unreduced group health and hospitalization insurance benefit will be offered to the employee for the entirety of the ensuing plan year (July 1 to June 30) that matches the 12-month Stability Period for an Ongoing Employee. The group health and hospitalization insurance benefit will not be offered to employees who did not average working twenty-six (26) or more hours per week during the prior measurement or look-back period.

2) A supplemental measurement or look-back period will be utilized for a newly hired Part-Time Employee (Variable/Seasonal Hours) in order to ensure that an otherwise eligible employee does not go too long without coverage if he or she is otherwise eligible for the group health and hospitalization insurance benefit and has not been evaluated under the Standard Measurement Period after twelve (12) months of beginning work because of the date on which the employee was hired. When such an employee is initially hired, he or she will not be eligible for the group health and hospitalization insurance benefit. The city will apply, on the employee's hire date, a 12-month Initial Measurement Period for a New Employee as a look-back period for a new employee whose status is unclear in terms of the number of hours that will be worked per week over the course of the adopted measurement period. At the conclusion of the initial 12-month measurement period, the city will utilize the Administrative Period for a New Employee in order to evaluate whether an average of twenty-six (26) or more hours per week were worked by the new employee over the course of the immediately preceding Initial Measurement Period for a New Employee. If

the employee did average working twenty-six (26) or more hours per week during this initial look-back period, the unreduced group health and hospitalization insurance benefit will be offered to the employee for the entirety of the following 12-month Corresponding Stability Period. The group health and hospitalization insurance benefit will not be offered to employees who did not average working twenty-six (26) or more hours per week during the prior measurement or look-back period. As a matter of clarification, the following illustration and a separate interpretative provision are offered:

(a) Example of the Application of the Preceding Measurement, Administrative, and Stability Periods for a New Employee: If an employee is hired on May 15, 2014, the Initial Measurement Period for a New Employee will run from May 15, 2014, to May 14, 2015. In this case, the Administrative Period for a New Employee would run from May 15, 2015, to June 30, 2015, and the Corresponding Stability Period would run from July 1, 2015, to June 30, 2016.

(b) In the example above, any subsequent coverage would be determined on the basis of the provisions established earlier in this Section for the evaluation of an Ongoing Employee. As soon as the new employee has worked long enough to be evaluated on the basis of the Standard Measurement Period, regardless of whether the employee is still within the previously calculated Corresponding Stability Period, a determination shall be made by utilizing the Standard Measurement Period, Administrative Period for an Ongoing Employee, and the Stability Period for an Ongoing Employee as to whether the employee is eligible for the group health and hospitalization insurance benefit under these criteria. Any such supplemental evaluation shall operate to the advantage of an employee and shall not serve to reduce an employee's eligibility for the group health and hospitalization insurance benefit under a previously calculated stability period.

(A) Other insurance programs which will serve the needs of the employees of the city may be offered through payroll deductions.

(B) Information concerning the cost and benefits of the insurance program shall be available to all employees through the human resources department. Booklets explaining the program will be available to all employees.

SECTION 4. GROUP HEALTH AND HOSPITALIZATION INSURANCE FOR RETIRING EMPLOYEES

Employees who retire under the North Carolina Local Government Employee Retirement System may be entitled to a continuation of Group Health and Hospitalization Insurance at the city's expense under the following circumstances:

1) 30 years of service with the North Carolina Local Governmental Employees' Retirement System and 15 years continuous service with the City of Asheboro.
2) Any other qualification for retirement with the North Carolina Local Governmental Employees' Retirement System and 20 years of service with the City of Asheboro.
3) An employee who qualifies for disability retirement with the North Carolina Local Governmental Employees' Retirement System. (I would consider adding a years of service component here or limiting the paid benefit to a certain number of years.)

The city will provide this employee only coverage for the retiree only until the retiree reaches age 65. If at any time prior to age 65, a covered retiree and/or covered dependent becomes eligible for Medicare, he/she must change his/her medical coverage to the Medicare Supplement Plan if coverage is to continue with the City of Asheboro. If applicable the dependent(s) shall be offered coverage under the COBRA plan.

Retirees not qualifying for health insurance coverage paid for by the City of Asheboro may elect to continue this coverage for themselves and their dependents at their own expense, until the retiree reaches age 65. If at any time prior to age 65, a covered retiree and/or dependent becomes eligible for Medicare, he/she must change his/her medical coverage to the Medicare Supplement Plan if coverage is to continue with the City of Asheboro.

All individuals retiring prior to the effective date of this policy (May 6, 1999) shall not be affected by these guidelines. Benefits bestowed upon those individuals will remain in effect as stated in the Employee Policy which was in effect at the time of their retirement.

Other group benefits may be available to retiring employees at their expense under provisions provided by the group benefits package.

Notwithstanding any other provisions found in the City of Asheboro Employee Policies and Procedures Manual, all employee benefits outlined in these policies and procedures, specifically including but not limited to group health and hospitalization insurance for retiring employees, are contingent on the financial condition of the city and the provision for such funding in each annual budget. This notification is effective March 1, 2016.

SECTION 5. NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

Each full-time employee shall be required to join the Local Governmental Employees' Retirement System (LGERS) as a condition of employment, effective on the date of employment. While no waiting period is established for joining the Local Governmental Employees' Retirement System, this section does not and shall not be construed in any manner to impair or impact to any degree the conditions of probationary employment found in this manual.

SECTION 6. SPECIAL SEPARATION ALLOWANCE FOR LAW ENFORCEMENT OFFICERS

In accordance with N.C. Gen. Stat. § 143-166.42, all eligible sworn law enforcement officers employed by the City of Asheboro shall receive, beginning on the last day of the month in which he/she retires on a basic service retirement, an annual separation allowance. The retiring officer's initial eligibility for the special separation allowance and the formula to be used in calculating the amount of the allowance shall be determined by city staff members in the finance and human resources departments in strict compliance with the statutory provisions found in N.C. Gen. Stat. § 143-166.41(a),(b).

Payment to a retired officer under the provisions of this section shall cease at the first of:

1) The death of the officer;
2) The last day of the month in which the officer attains 62 years of age; or
3) The first day of reemployment by a local government employer in any capacity; provided, however, that a local government employer may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System, and doing so shall not cause payment to cease to those officers under the provisions of this section.

If a retired officer's receipt of the special separation allowance is terminated because of the individual's reemployment with a local government employer in a position or capacity that triggers a cessation of payments under the provisions of the immediately preceding subsection, payment of the special separation allowance cannot be resumed at a later date.

SECTION 7. GROUP LIFE INSURANCE

The city will provide group life insurance for each full-time employee and elected officials based on positions. Employee may elect to insure other members of their family under this plan at their expense.

SECTION 8. YEAR OF SERVICE

Each regular full-time employee shall receive ~~earn a~~ an~~1 step~~ increase in salary upon completing 5 years of service, 10 years of service, 15 years of service, 20 years and 25 years of service with the City of Asheboro. These increases shall be effective ~~upon each employee's anniversary date~~ on the nearest payroll date ~~during the year in~~ to which the qualifying event occurs.

SECTION 9. EMPLOYEE ASSISTANCE PROGRAM

The city has an Employee Assistance Program (EAP) to help employees resolve a wide range of personal problems that have a negative effect on their job performance. This confidential counseling service is available to employees and their family members. City employees are encouraged to use the EAP when they are experiencing problems that impact their ability to be productive at work. Employees may choose to go to the EAP on their own, or they may be encouraged to use the EAP by their supervisor. Referral to or participation in the EAP Program does not pre-empt the utilization of any other provision of the City of Asheboro Employee Policies and Procedures Manual.

The city will not have access to EAP records without written permission from the employee. All individual rights to confidentiality will be assured in the same manner as any other health records. Using the EAP services will not jeopardize an employee's employment status or promotion possibilities. With approval of the supervisor, employees may use accrued leave for a scheduled EAP appointment. The initial EAP visits are provided to the employee without charge. After the initial visits, the EAP may recommend additional assistance, the cost of which will be the responsibility of the employee. These costs may be covered by medical insurance or available through a community-funded or self-help organization.

Notwithstanding any provision to the contrary, the Employee Assistance Program shall be deemed to be supplemental to the city's ~~Policy on~~ Substance Abuse Policy ~~that is~~ found in this manual ~~as a condition of employment.~~ ~~in Article VII.~~ If a conflict arises between the provisions found in the description of the Employee Assistance Program and the adopted ~~Policy on~~ Substance Abuse Policy, the provisions found in the Substance Abuse Policy ~~Article VII of this manual~~ shall be the controlling authority.

ARTICLE ~~VII~~ VI: GENERAL WORKPLACE POLICIES/CONDITIONS OF EMPLOYMENT

SECTION 1: GIFTS AND FAVORS

No official or employee of the city shall accept any valuable gift whether in the form of service, loan, thing, or promise from any person who, to their knowledge, is interested directly or indirectly in any manner whatsoever in doing business with the city which may tend to influence the discharge of duties, or grant any improper favor, service, or thing of value in the performance of their duties.

SECTION 2: OUTSIDE AND DUAL EMPLOYMENT

The work of the city shall have precedence over other occupational interests of employees. All outside employment for salary, wages, or commissions and all self-employment must be reported to the employee's department head. Outside employment is subject to review by the city manager to determine whether or not such employment is in conflict with the interest of the city. Continuation of conflicting outside employment may be grounds for disciplinary action, up to and including dismissal.

Part-time employees of the city may hold another part-time position with the city with the approval of the city manager.

SECTION 3: POLITICAL ACTIVITY RESTRICTED

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the United States of America. However, no employee shall (1) engage in any political or partisan activity while on duty; (2) use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; (3) be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes; (4) coerce or compel contributions for political or partisan purposes by another employee of the city, or (5) use any supplies or equipment of the city for political or partisan purposes.

SECTION 4. VEHICLES OWNED BY THE CITY

Any employee required as part of the essential functions of his or her job to be able to operate a city-owned vehicle must possess a valid driver's license. Use of a city-owned vehicle by an employee is neither a right nor a privilege but a trust conferred to

facilitate necessary performance of duties. City-owned vehicles shall be assigned and used only in the performance of official duty and not for any personal use.

SECTION 5. TELEPHONE AND ADDRESS

All city employees must provide and maintain up-to-date, valid telephone numbers and addresses on file in the human resources department and with their supervisor. All department heads shall have listed telephone numbers. Exceptions in unusual circumstances may be granted by the city manager.

(Following Section relocated to the reorganized Article I)

~~SECTION 6. SUBSTANCE ABUSE POLICY~~

~~The following rules represent the City of Asheboro's policy concerning substance abuse. They will be enforced uniformly for all employees. The purposes of the policy are to:~~

~~1) establish and maintain a safe, healthy working environment for all employees;~~

~~2) comply with State and Federal Department of Transportation regulations in regards to holders of a Commercial Drivers License (CDL);~~

~~3) provide a drug-free workplace for the City of Asheboro;~~

~~4) ensure the reputation of The City of Asheboro and its employees within the community;~~

~~5) reduce accidental injuries, absenteeism, tardiness, and other work-related problems; and~~

~~6) provide the opportunity for rehabilitation assistance to employees who seek such help.~~

~~Employees with substance abuse problems are encouraged to seek help from counselors, from other types of medical professionals, or in treatment facilities. Participation in a treatment or rehabilitation program for substance abuse will not be grounds for dismissal provided the employee voluntarily enters such a program prior to being identified as a substance abuser by means identified in this policy.~~

~~(A) Definitions~~

~~1) Alcohol Test: A test for the presence of alcohol in the body. This presence must be determined by the use of a Breath Alcohol Test or other device approved by United States Department of Transportation.~~

2) Drug Test: A test for the presence of the following drugs and/or drug metabolite(s) in the urine or blood of an employee:

(a) Amphetamines (including Methamphetamine)
(b) Cannabinoids (Marijuana)
(c) Cocaine (including Crack)
(d) Opiates
(e) Phencyclidine (PCP)
(f) Other drugs may also be included as directed by Federal law or expanded city policy.

3) Negative Drug Test: A drug test which does not show the presence of drugs and/or drug metabolite(s) at a level specified to be a positive test.

4) Positive Drug Test: A drug test which does indicate the presence of a drug and/or drug metabolite(s) in the urine or blood at the level specified to be positive by the Substance Abuse and Mental Health Services Administration (SAMHSA). All positive test results will be confirmed using a different technology than the first test, such as the Gas Chromatography Mass Spectrometry (GCMS) process.

5) Negative Alcohol Test: An alcohol test which indicates a breath alcohol concentration of less than 0.02.

6) Positive Alcohol Test: An alcohol test which indicates a breath alcohol concentration of 0.04 or greater.

7) Refusal to Submit: Occurs when an employee:

(a) Fails to provide an adequate amount of urine for a drug test without a valid medical explanation after he/she has received notice of the test.

(b) Fails to provide an adequate amount of breath for an alcohol test without a valid medical explanation after he/she has received notice of the test.

(c) Engages in conduct that clearly indicates that he/she is failing to follow through with the testing process or conduct that interferes with the ability to obtain an adequate specimen.

8) Employees Required to Have Commercial Driver's License (CDL):

(a) Drivers of commercial motor vehicles with a gross vehicle weight rating of 26,001 pounds or more.

(b) Drivers of commercial motor vehicles with a gross combination weight rating of 26,001 pounds or more, including a towed vehicle with a gross vehicle weight rating of 10,000 pounds or more.

(c) Drivers of motor vehicles designed to transport 16 or more passengers, including the driver.

(d) Drivers of motor vehicles of any size transporting hazardous materials in amounts that require placarding.

(e) NOTE: Fire department employees who operate emergency equipment are exempt from the CDL requirement.

9) Safety-Sensitive Function: The following activities constitute safety-sensitive functions as defined by the United States Department of Transportation (this list is not meant to be an exhaustive/exclusive list and other job activities/requirements may also be considered safety sensitive):

(a) Driving a commercial motor vehicle.

(b) Inspecting, servicing, or conditioning any commercial motor vehicle.

(c) All time at a city facility or other public property waiting to operate a commercial motor vehicle.

(d) Performing all other functions in or upon any commercial vehicle except resting in a sleeper birth.

(e) Loading or unloading a vehicle, supervising or assisting in the loading or unloading of a vehicle, attending a vehicle being loaded or unloaded, or remaining in readiness to operate the vehicle.

(f) All time spent performing the driver requirements associated with an accident.

(g) Repairing, obtaining assistance, or remaining in attendance of a disabled commercial motor vehicle.

Policy

1) **Employees Who Are Subject to this Policy.** This policy covers all full-time employees, part-time employees, temporary employees, seasonal employees, employees who are required as part of their job to obtain and maintain a Commercial Driver's License (CDL), and applicants for employment with the City of Asheboro.

2) **Types of Drug and Alcohol Tests Required.**

(a) Pre-Employment Testing: Drug testing must be conducted prior to employment. This testing must be conducted on external applicants as well as **current employees transferring into jobs that require a Commercial Driver's License (CDL).** The tests results must indicate a negative drug test in order to be considered for employment and/or transfer.

(b) Post-Accident Testing (Non-CDL Holder): A drug test will be conducted on **all employees** who have an on the job accident that requires medical treatment other than first aid, or results in lost work. This test is to be conducted at the time of the employee's first visit to the city physician or substitute medical provider and/or by the next work day whichever is less.

(c) Post-Accident Testing (CDL Holder): For the holder of a commercial driver's license (CDL), post-accident testing for drugs and alcohol must be conducted on any surviving driver who was performing safety sensitive functions with respect to the vehicle if:

i. The accident involved a fatality; or
ii. The driver received a citation under state or local law for a moving traffic violation arising from the accident.

Testing for drugs and alcohol for CDL holders should occur within two (2) hours of the accident. If the employee is unable to be tested within two (2) hours, reasons for the delay must be documented. If an alcohol test required by this section is not administered within eight (8) hours of the accident, attempts to conduct the alcohol test shall cease and the reason for the inability to conduct the test shall be documented. If a drug test required by this section is not administered within thirty-two (32) hours of the accident, attempts to conduct the drug test shall cease and the reason for the inability to conduct the test shall be documented.

(d) Random Testing: Such testing must be conducted on a random, unannounced basis throughout the year on all holders of commercial driver's license (CDL). Random testing for drugs and alcohol for all holders of Commercial Driver's License (CDL) shall be at a rate mandated by Department of Transportation regulations. During the first year of the program, a minimum of twenty-five percent (25%) of the CDL holders must be tested for alcohol and fifty percent (50%) percent of the CDL holders must be tested for drugs.

(e) For Cause Testing: This testing is required of any employee who has been arrested or has had his/her driver's license suspended for any alcohol or drug related charge prior to his/her return to work. The employee shall notify his/her supervisor prior to returning to work after said arrest and/or suspension has occurred. Failure to report to his/her department head may result in termination. For Cause Testing may also be required for irrational or unusual behavior, gross negligence, or disregard for safety which results in the damage of property or the lack of well-being or injury of any employee or citizen.

(f) Return-To-Duty-Testing: Must be conducted on an employee seeking reinstatement who has had a positive alcohol test and/or drug test as defined in this policy. An employee who has had a positive alcohol or drug test will not be allowed to return to duty until he or she has been evaluated

by a Substance Abuse Professional (SAP) and until he or she tests negative on a return to duty test.

(g) Follow-up Testing: Must be conducted on an employee once he or she is allowed to return to duty following a positive alcohol and/or drug test. The employee will be subject to a minimum of six (6) follow-up drug and/or alcohol tests within the first twelve (12) months following his/her return to duty. Follow-up testing may be extended for up to sixty (60) months. Follow-up alcohol testing shall be conducted while the employee is performing safety-sensitive functions, immediately before the employee performs safety-sensitive functions, or immediately after the employee has performed safety-sensitive functions. Follow-up drug testing shall be conducted at any time while the employee is at work.

3) **Prohibited Conduct and Consequences.**

(a) No employee shall report for duty or remain on duty while having alcohol and/or drug concentrations in his or her system in amounts that would constitute a positive test. An employee who produces a confirmed positive test result will be removed from duty without pay. The employee must immediately schedule an evaluation with a Substance Abuse Professional (SAP) and must cooperate with any and all recommendations suggested by the SAP for treatment and/or follow-up. Refusal to cooperate will result in termination. The employee must have a negative test result before he or she will be allowed to return to duty.

(b) The City of Asheboro expressly prohibits the possession, sale, use, distribution, dispensation, manufacture, purchase, or storage of illegal drugs/controlled substances or related paraphernalia and/or alcoholic beverages by city employees while at the workplace. By way of illustration, and not limitation, no employee shall be on duty while in the possession of one or more alcoholic beverages and/or controlled substances. Any action taken in violation of this prohibition will result in termination. Notwithstanding the foregoing, this prohibition does not extend to law enforcement officers who are performing their lawful duties and shall not be construed or interpreted in any manner that impairs lawful operations conducted by the Asheboro Police Department. Furthermore, no employee who discovers alcoholic beverages and/or controlled substances in the course of performing his or her work duties and immediately contacts the Asheboro Police Department to take possession of the prohibited item(s) shall be deemed to be in violation of this policy.

(c) No employee required to take a post-accident alcohol test as defined in this policy shall use alcohol for eight hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever comes first. Refusal to cooperate will result in termination.

(d) A refusal by an employee to submit to and fully cooperate with an alcohol and/or drug test required by this policy shall be deemed to be a direct and

~~intentional act of insubordination that will result in the termination of employment.~~

~~(e) Employees are prohibited from reporting for duty or remaining on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform his or her assigned work.~~

~~(f) A second occurrence of a positive drug and/or alcohol test will result in termination.~~

~~(g) An employee who has a confirmed Breath Alcohol Test result of 0.02 – 0.039 shall not be allowed to continue to perform safety-sensitive functions. The employee will be removed from duty without pay for this 24-hour period and will receive a notation in his/her personnel file about the importance of reporting to work without the presence of alcohol in his/her system. The employee will be subject to a return-to-duty alcohol test prior to returning to a safety sensitive position.~~

~~(h) No applicant will be offered employment if a confirmed positive pre-employment drug test result is produced.~~

~~4) **Supplemental Requirements.**~~

~~(a) The Omnibus Transportation Employee Testing Act of 1991 (final rules implemented February 15, 1994) requires, in part, that any commercial motor vehicle operator who is subject to the commercial driver's license (CDL) requirement in the State of North Carolina be tested for alcohol and controlled substances.~~

~~(b) Compliance with the Department of Health and Human Services (DHHS) mandatory guidelines for controlled substances testing shall be maintained by only using a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA).~~

~~(c) Federally mandated alcohol testing must be conducted by a Breath Alcohol Technician (BAT) trained to a level of proficiency that is demonstrated by successful completion of a generally recognized and accepted course of instruction. Alcohol testing shall be conducted using an Evidential Breath Testing (EBT) device.~~

~~(d) As required by the Federal Drug-Free Workplace Act, if an employee is convicted of a violation of a criminal drug statute and the violation occurred while the employee was at work, the employee must notify his department head of the conviction within five (5) days after the conviction. Failure to notify the department head will result in termination.~~

~~(e) All drug test results shall be reviewed and interpreted by a Medical Review Officer, or MRO. The MRO must be a licensed physician with specific training in substance abuse. If the laboratory reports a positive test result to the MRO, the MRO or designee will contact the employee, typically by telephone, and discuss the results with him/her. The MRO will then attempt to determine if there is a verifiable medical explanation for the employee to have the detected drug in his/her system. If there is none, the test result is to be reported as positive. If there is a verifiable medical explanation for the use of the drug, the result is to be reported as negative.~~

~~(f) An employee who does not pass a drug and/or alcohol test and is terminated, or an applicant who does not pass the pre-employment drug test, will not be considered for re-employment for a two-year period following the date of the test and then will be considered only when he/she provides documentation suitable to management that he/she has successfully completed an alcohol and/or drug rehabilitation program and passes a pre-employment drug and/or alcohol test.~~

SECTION ~~7~~ 6. WORKPLACE VIOLENCE

The City of Asheboro has a zero-tolerance policy relating to the communication of threats, harassment whether it be verbal or physical, physical assaults, or any other forms of inappropriate, intimidating, or unreasonably aggressive behavior. This type of behavior is unacceptable and, in terms of implementing the disciplinary actions prescribed ~~by Article X of the~~ in the City of Asheboro Employee Policies and Procedures Manual, shall be deemed to constitute improper personal conduct. Employees found in violation of this policy shall be subject to discipline as provided in the disciplinary action article of ~~Article X of~~ this ~~M~~manual. In addition to any disciplinary action(s) taken pursuant to the city's employee policies and procedures, employees violating this policy may be subject to criminal prosecution.

Furthermore, employees should promptly inform the human resources director of any protective or restraining order that they have obtained that lists the workplace as a protected area. Employees are encouraged to report safety concerns with regard to intimate partner violence. The city treats threats coming from an abusive personal relationship as it does any other form of violence. The city will not retaliate against employees making good-faith reports and is committed to supporting victims of intimate partner violence by providing referrals to the city's Employee Assistance Program (EAP) and any other community resources.

ARTICLE ~~IX~~ VII: SEPARATIONS AND REINSTATEMENTS

SECTION 1: RESIGNATION

Employees are required to complete a Resignation Form with human resources ~~two weeks~~ prior to the effective date of the resignation. ~~Failure to provide sufficient notice will be made part of the employment record, does not reflect positively, and may harm future reemployment possibilities. Once a resignation is accepted by the Human resources department, it may not be withdrawn by the employee. The department head may waive the requirement to work the two week notice after notice is received.~~

Resignation in Good Standing

Resignation in Good Standing occurs when an employee submits and works the required written notice of resignation outlined below. Such notice shall be provided to the immediate Supervisor. An employee who resigns in "Good Standing" may be considered for future employment with the city.

Notice of Separation Requirements

The required written notice is two (2) weeks (10 business days) for all employees except senior management (department/division Heads/city manager/city attorney). The required written notice for senior management is four (4) weeks (20 business days) prior to the effective date of resignation.

Notice requirements are not met if the employee gives a notice and proceeds to take compensatory accrued time, vacation, sick, or holiday leave during that required notice period. In order to be considered as meeting the requirements of the written notice, the employee must actually work 10 business days (non-supervisory) or 20 business days (supervisory).

Resignation Not in Good Standing

A resignation "Not in Good Standing" occurs when:

1. An employee fails to submit and work the required written notice.
2. An employee fails to report to work following a general leave of absence;
3. An employee fails to return all city issued equipment;
4. An employee resigns to avoid announced disciplinary action.

An employee who leaves city employment under items 1-3 above will forfeit all vacation leave accrual payment. An employee who resigns from city employment "Not in Good Standing" is normally ineligible for future employment with the city.

The provisions of the resignation section pertaining to notice requirements and the actions required to resign in good standing may be waived in whole or in part by the

city manager. Such a waiver will only be granted when the city manager determines, in his sole discretion, that such an action is in the best interest of the city.

SECTION 2. REDUCTION IN FORCE

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, the needs of the city and the seniority of the employees to be retained. Employees who are laid off because of a reduction in force shall be given at least two weeks' notice. No regular employee shall be separated 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.

SECTION 3. DISABILITY

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action may be initiated by the employee or the city but in all cases it shall be supported by medical evidence as certified by a competent physician. The city may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the city's service for which the employee may be suited.

SECTION 4. RETIREMENT ~~- GENERALLY~~

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

SECTION 5. DEATH

All compensation due in accordance with this ordinance will be paid to the estate of the deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

SECTION 6. DISMISSAL

An employee may be dismissed on the basis of job performance or on the basis of personal conduct as outlined in the ~~Article XI -~~ disciplinary action article of this manual.

SECTION 7. SEPARATION PROCEDURES

When an employee is to separate from service with the city for any reason other than an involuntary separation, the following procedures will be used to process the separation:

The resigning employee should complete the ~~must immediately complete a~~ Resignation Form with human resources as soon as possible. ~~Once the department head has signed and approved the Resignation Form, it should be forwarded to the human resources department for approval.~~

~~The human resources department will then forward a letter to the resigning employee which explains the separation procedures and the procedure for collection of the final paycheck. The letter will also explain that prior to employee's departure,~~ During the employee's notice period, the employee's immediate supervisor and/or department head will verify, using the proper form, that all city property in the care of the separating employee has been returned in acceptable condition. Such property may include vehicles, tools, keys, uniforms, etc. The employee should schedule a meeting with the finance department ~~An interview will also be set up with the employee~~ to review all payroll related items and retirement account options. On or before the day upon which the employee receives the final paycheck the human resources department will:

(a) Explain the termination of health insurance and COBRA benefits;
(b) Collect the medical benefits identification cards;
(c) Conduct an exit interview; and
(d) Collect "Verification of Return of All Equipment and Supplies" Form.

SECTION 8. REINSTATEMENTS

An employee who is dismissed because of reduction in force may be reinstated within one (1) year of the date of the separation, with the approval of the department head and the city manager. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508. Any employee who is reinstated shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and under supplementary rules and regulations. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstances of each employee's case, to the salary step previously attained by the employee in the salary range for the previous class of work, plus any across the board pay increases.

~~Article VIII: Promotions, Transfers, Demotions~~

(Former Article VIII inserted into the reorganized Article IV)

~~Section 1: Promotions~~

~~It shall be the policy of the city to seek qualified applicants for vacant positions giving first consideration to promoting from within and across departmental lines. In the absence of qualified candidates for promotion, vacancies shall be filled by recruiting from the outside.~~

~~Employees shall be considered for promotion on the basis of job-related experience, skill knowledge and ability; and on a review of the quality of past performance and general suitability for the higher level position. Factors shall not be considered in judging eligibility for promotion that are not job related, such as age, sex, race, color, religion, non-job related handicap, national origin or political affiliation.~~

~~A department head's recommendation to promote an employee shall be reviewed by the human resources department and the city manager.~~

~~Section 2. Transfers~~

~~It is the policy of the city to transfer employees temporarily or permanently from one department to another when doing so will be in the best interest of the city.~~

~~A transfer to an authorized vacancy may be arranged upon mutual agreement of all interested administrative officials and the employee.~~

~~Section 3. Demotions~~

~~Any employee whose work performance is unsatisfactory or as a suitable penalty for misconduct may be demoted by the department head, with the approval of the human resources department and the city manager, provided the employee shows promise of becoming a satisfactory employee in another position.~~

~~Any employee transferred or demoted for cause may appeal the disciplinary action in accordance with the grievance procedure outlined in ARTICLE XI.~~

ARTICLE X VIII: DISCIPLINARY ACTIONS

SECTION 1: POLICY

The city administers a progressive disciplinary procedure by which discipline is administered in proportion to the degree of severity and frequency of unacceptable employee behavior. Progressive disciplinary actions are to be administered consistently and equitably without regard to race, color, sex, national origin, age, disability, or religion. All disciplinary actions are subject to the approval of the city manager.

SECTION 2. PURPOSE

Progressive discipline is intended to allow the employee the opportunity to correct deficiencies in work behavior by clarifying and prescribing to the employee the appropriate behavior.

SECTION 3. CAUSATION

Employees may be disciplined for improper personal conduct or unsatisfactory performance of job duties.

SECTION 4. PROCEDURE

When deemed appropriate by the management team, progressive formal discipline is to be administered and recorded in an employee's personnel jacket as follows:

(1) Written Warning
Documented discussion of specific work-related concerns indicating corrective measures to be followed. The receipt of a written warning must be acknowledged in writing by the employee. If the employee refuses to properly acknowledge the receipt of a written warning, the supervisor issuing the written warning shall note the employee's refusal on the employee disciplinary report and have an additional supervisor sign the disciplinary report as a witness to the fact that the employee refused to sign the disciplinary report.

(2) Written Warning with Condition(s) of Continued Employment
If an employee continues to perform his or her duties in an unsatisfactory manner after the receipt of a written warning about deficiencies in the employees' work performance, or if the employee engages in improper personal conduct that involves a mitigating factor or a combination of mitigating factors deemed by the management team to warrant disciplinary action short of dismissal, the employee may be issued a written warning that contains conditions with which the employee must comply in order to maintain his or her employment with the city. These conditions of employment may include, but are not limited to, performance standards that are designed to establish a defined goal for the employee to attain in order to demonstrate that substantive progress has been made toward the employee working and conducting himself or

herself in a manner that meets the expectations of the City of Asheboro. The performance standards established as part of a specific written warning may remain in effect for up to six (6) calendar months after the employee's receipt of the written warning. The receipt of a written warning must be acknowledged in writing by the employee. If the employee refuses to properly acknowledge the receipt of a written warning, the supervisor issuing the written warning shall note the employee's refusal on the employee disciplinary report and have an additional supervisor sign the disciplinary report as a witness to the fact that the employee refused to sign the disciplinary report.

Dismissal from employment or the issuance of a written warning with conditions of continued employment as a consequence of improper personal conduct does not require prior warning, documented or otherwise.

(3) Pre-Dismissal Hearing

The supervisor recommending dismissal shall discuss the preliminary recommendation with the Human resources department. The supervisor shall schedule and conduct a pre-dismissal conference with the employee. In the conference, the supervisor shall give the employee written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal, to refute information supporting the recommended dismissal action and to offer information or arguments to support his/her position. During this pre-dismissal hearing with the division/department head, no outside parties, specifically including without limitation private legal counsel, may participate in this process that is limited to the city's employee and the employee's supervisor(s). In the event the decision is made to proceed with the dismissal from employment, the employee may have legal counsel appear on his or her behalf during the post-dismissal appeal proceedings that are conducted by the human resources director and the city manager.

(4) Suspension

If the behavioral infraction is extremely serious to the city, fellow employees, or the public, supervisors may suspend an employee without warning.

SECTION 5. DISMISSAL/DEMOTION

An employee may be demoted/dismissed for unsatisfactory performance of duties after the employee has received prior written warning (s) on his/her job performance. An employee may be demoted/dismissed for improper personal conduct without prior warnings (s). Before an employee is demoted/dismissed for either reason, the following shall apply:

1) A written summary of facts and circumstances leading to the decision will be prepared by the supervisor or a higher level administrator. A copy of the report shall be submitted to the human resources department prior to informing the employee of the decision.

2) Documentation of previous disciplinary action taken (such as previous oral and written warnings) and other documents that support the decision shall be attached to the summary.

3) Prior to conducting a pre-dismissal hearing, which is also conducted in advance of taking final action on a contemplated demotion, the division director/department head shall forward the above-referenced summary to the human resources director and the city manager for approval to proceed with a pre-dismissal hearing.

4) Within two (2) business days of the date of the pre-dismissal hearing, the division director/department head that conducted the hearing shall transmit to the employee written notice of the decision made by the division director/department head. If the decision is to demote or dismiss the employee, the division director/department head shall, at a minimum, include the following information in the notice:

   (a) Reason(s) for demotion or dismissal;

   (b) An effective date of the action;

   (c) A numerical list of the specific findings relied upon by the division director/department head in order to reach a decision; and

   (d) The employee's right to appeal the decision through the city's administrative review process.

5) The dismissal/demotion of probationary employees shall be governed by the Probationary Period of Employment section ~~Article III, Section 5 of the City of Asheboro Employee Policies and Procedures~~ of this m~~M~~anual. Furthermore, the Rights of Appeal Section ~~6~~ of this Article shall be deemed to be inapplicable to probationary employees.

SECTION 6. RIGHTS OF APPEAL

In the cases of a suspension, demotion, or dismissal that has been entered by a division/department head, a regular employee has appeal rights. If an appeal is made from the decision of the human resources director, such an appeal is to be made to the city manager in accordance with subsection (B) below. In the case of the suspension, demotion, or dismissal of a regular employee holding the rank of department head or higher, the city manager will specify the appeal procedure that will be available to the employee at the same time the city manager designates the employee who will conduct, on behalf of the manager, the administrative investigation of the circumstances leading to the need to evaluate whether a suspension, demotion, or dismissal is warranted. Otherwise, the appeals process will be conducted as follows:

A. Appeal from a Division Director/Department Head's Decision to the Human Resources Director

A regular employee may appeal his or her suspension, demotion, or dismissal to the human resources director. Any such appeal must be in writing, and the written notice of appeal must be received by the human resources director within twenty (20) workdays following the entry of the personnel action that is under appeal. The human resources director shall review the written reports utilized by the division director/department head to take the personnel action under appeal, and the human resources director may request additional information and documentation prior to the hearing that will be scheduled in order to consider the appeal.

The human resources director shall notify all concerned of a time and date for the post-personnel action appeal hearing that will take place as soon as possible, but not later than twenty-five (25) workdays after the date of the personnel action under review. During the hearing, the human resources director may receive new information, written or oral, from the division director/department head and/or employee so long as the information/documentation is germane to the issue(s) under review. In deciding the issue on appeal, the human resources director may confirm or modify the recommendation of the division director/department head and enter such order as the human resources director may deem appropriate. The human resources director's written decision shall be entered and forwarded to the division director/department head and the employee within thirty (30) workdays of the personnel action from which an appeal has been made.

Either the division director/department head or the employee may appeal the human resources director's decision to the city manager. If an appeal is properly filed, the human resources director will forward his written decision as well as all of the documents that he considered during the appeal process to the city manager for further review.

B. Appeal from the Human Resources Director's Decision to the City Manager

An appeal from the decision of the human resources director pertaining to a regular employee's suspension, demotion, or dismissal must be submitted in writing to the city manager. Any such written notice of appeal must be received by the city manager within thirty-five (35) workdays of the entry of the personnel action under appeal. The city manager will review all of the documentation considered by the human resources director, and the manager may request additional information and documentation prior to the hearing that will be held to consider the appeal.

The city manager will notify all concerned of a time and date for the appeal hearing that will take place as soon as possible, but not later than forty (40) workdays after the entry of the personnel action under appeal. At the hearing, the city manager may receive new information, written or oral, from the parties to the appeal so long as the information/documentation is germane to the issue(s) under review. In deciding the issue on appeal, the city manager may confirm or modify the decision entered by the human resources director and will enter such order as the manager deems appropriate. The decision entered by the city manager shall be final.

The city manager's written decision will be entered and forwarded to the human resources director, the division director/department head, and the employee within forty-five (45) workdays after the personnel action from which an appeal has been made. Any deviation from the above policy and procedure shall be subject to the approval of the city manager.

SECTION 7. ADMINISTRATIVE GUIDELINES

A. Unsatisfactory Performance of Duties

This category covers all types of performance-related inadequacies. This policy does not require that the progressive warnings address the same type of unsatisfactory performance, but it does require that all warnings be related to job performance. Unsatisfactory performance of duties may include, but is not limited to:

1) Inefficiency or incompetence in performing duties;

2) Negligence in performance of duties;

3) Physical or mental incapability for performing duties;

4) Careless or improper use of city property;

5) Failure to maintain satisfactory and harmonious working relationships with fellow employees and the public;

6) Habitual pattern of failure to report for duty at the assigned time and place;

7) Absence without approved leave;

8) Habitual and improper use of sick leave privileges;

9) Failure to obtain or maintain current license or certificate required as a condition for performing the job; and

10) Failure to wear and use appropriate safety equipment or otherwise to abide by safety rules and policies.

B. Improper Personal Conduct

An employee who engages in a single act of improper personal conduct is subject to dismissal from employment with the City of Asheboro regardless of whether the employee has previously received a warning of any kind during his or her career with the city. The following list is illustrative, and is not an exhaustive or exclusive list, of the types of improper personal conduct that will lead to the termination of an individual's employment with the city:

1) Conduct unbecoming a city employee;

2) Conviction of a felony;

3) Committed a criminal act;

4) Misusing city funds;

5) Falsifying information provided to the municipal corporation in order to secure one or more job assignments or position(s);

6) Engaging in any action that would in any way seriously disrupt or disturb the normal operations of the municipal corporation;

7) Willful acts that would endanger the lives or property of others;

8) Willfully damaging city property;

9) Possessing unauthorized weapons, alcoholic beverages, or illegal substances while on the job;

10) Threats, pressure, or physical actions against others, specifically including without limitation uninvited and repeated contact, whether by means of communication devices or by means of physical visits to the grounds or home of the targeted individual, for the purpose of harassing an individual or forcing unwelcomed dialogue/discussion that is not subject to free speech protections afforded by the Constitutions of the United States and the State of North Carolina;

11) Insubordination;

12) Accepting gifts for "favors" or "influence;"

13) Without proper authorization, disseminating or otherwise releasing in any manner information that is lawfully maintained by the city as confidential information;

14) Unauthorized possession of the city's or another employee's property;

15) Leaving the work area repeatedly for excessively long periods without proper authorization;

16) Violation of the city's policies prohibiting sexual harassment, unlawful discrimination, workplace violence, and/or substance abuse;

17) Providing or maintaining false or improper records/documents;

18) Sleeping during work time;

19) Gambling during work time; and

20) Providing an untruthful statement or statements during an administrative investigation conducted by the city and/or otherwise attempting to impede the ability of the city to conduct an accurate and complete administrative investigation.

C. Written Warning

During the period after written warnings have been issued for unsatisfactory performance of duties, management may choose to counsel with the employee concerning his/her employment status before a decision to demote or dismiss is made. Such counseling should involve a candid discussion about the actions that an employee must take in order to correct the unsatisfactory performance. As a part of this counseling, management may request the employee to take up to one (1) day's leave with pay to consider whether or not the employee wishes to continue his/her employment with the city. It should be stressed to the employee that a decision to continue employment with the city will require a commitment to improve performance, and that a lack of improvement will lead to dismissal. Management is expected to use its discretion to determine when this procedure would benefit the employee and the city.

D. Suspension

Investigatory or disciplinary suspension may be used by management in appropriate circumstances. The following general guidelines shall be utilized when deciding whether to place an employee on suspension:

1) If the infraction or behavior is extremely serious or injurious to the city, fellow employees, or the public, a supervisor may suspend an employee without warning. However, before any further formal disciplinary action such as demotion or dismissal is taken against an employee, the employee's division director/department head must consult with the human resources department.

2) An employee who has been suspended for either investigatory or disciplinary reasons may be placed on compulsory leave without pay.

3) Investigatory suspension with or without pay may be appropriate:

   (a) To provide time to investigate, establish facts, and reach a decision concerning an employee's status in those cases where it is determined the employee should not continue to work pending a decision; and

   (b) When management elects to use investigatory suspension in order to avoid undue disruption of work or to protect the safety of persons or property.

4) Investigatory suspension without pay shall not exceed thirty (30) calendar days.

5) Investigatory suspension with pay will be at the request of the division director/department head and must be authorized by the city manager.

6) An employee who has been suspended with or without pay must be furnished a letter with the specific reasons for his/her suspension and notice of right to appeal. A copy of the letter shall be forwarded to the human resources department in advance.

7) Suspension with or without pay must be fully documented.

E. Review of Documentation

1) An employee who objects to material in his or her personnel jacket may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material by filing a grievance and following the grievance procedures specified in this ~~Article XI of the City of Asheboro Employee Policies and Procedures~~ ~~M~~manual.

2) Probationary employees who have been subject to disciplinary action for improper personal conduct, and are ineligible for access to the city's appeal procedures for regular employees, may submit to the human resources director a written request for an informal name-clearing proceeding that will be conducted by the human resources director. The human resources director must receive such a written request within thirty (30) business days of the date of receipt by the probationary employee of the problem causing documentation. In his or her request, the probationary employee must state the basis for his or her belief that the submitted documentation should be amended, supplemented, or removed.

   (a) During the informal hearing of this matter, the human resources director shall review all pertinent written reports and may request additional information and documentation. Also, the human resources director may receive new evidence, written or oral, from the division director/department head and employee so long as the evidence is relevant to whether the problem causing documentation should be removed, amended, or supplemented. In deciding the question presented by the probationary employee, the human resources director may reject the probationary employee's contention or agree to amend, supplement, or remove the documentation previously placed in the employee's personnel jacket.

   (b) If an individual is dissatisfied with the decision rendered by the human resources director, the individual may appeal the human resources director's decision by submitting a written request to the city manager for an informal hearing before the city manager. Such a request must be received by the city manager within fifteen (15) business days of the date on which the individual received the human resource director's written decision.

   (c) The city manager shall review the entirety of the information previously reviewed by the human resources director during his or her consideration of the matter. Additionally, the city manager may receive new evidence, written or oral, from the division director/department head and employee so long as the evidence is relevant to whether the problem causing documentation should be removed, amended, or supplemented. When ruling on the appeal, the city manager may

confirm or modify the decision of the human resources director. The decision rendered by the city manager shall be final. The city manager shall furnish written notice to the employee, the division director/department head, and the human resources director of his final ruling

(d) This name-clearing opportunity is for the limited and sole purpose of providing an employee who has no other grievance or appeal rights with an opportunity to properly request the removal or mitigation of allegedly damaging information previously placed in a personnel jacket. The name-clearing process shall not afford probationary employees access to the city's appeal process specified in ~~Section 6 of~~ this Article or to the city's grievance procedure that is specified in this manual. ~~Article XI.~~ During the name clearing process, the previously suspended, demoted, or dismissed probationary employee does not have the right to appeal his or her suspension, demotion, or dismissal from employment and is expressly prohibited from raising such an appeal.

ARTICLE IX ~~XI~~: GRIEVANCE PROCEDURE

The grievance procedure is designed to facilitate open and meaningful internal communications between employees and the different levels of management about workplace problems or dissatisfactions without fear of reprisal on the part of the city's employees. The other intended benefits of this grievance procedure are to promote a better understanding of employee policies, practices, and procedures; to instill confidence in employees that fair and impartial treatment will be received; and to develop in supervisors a continuing sense of responsibility for maintaining effective working relationships with subordinate employees.

All employees including supervisors and division/department heads, are expected to discuss their problems and misunderstandings with their superiors. Open two-way communication is a proven factor in reducing and resolving grievances. When utilizing this internal forum to better understand and hopefully satisfactorily resolve complaints/dissatisfactions, no outside parties, specifically including without limitation private legal counsel, may participate in this process that is limited to the city's employees and the various levels of the city's management team.

The grievance procedure established in this Article is not the appropriate forum for considering issues concerning an employee's suspension, demotion, or dismissal. An appeal from a suspension, demotion, or dismissal from employment shall be filed and will be heard in accordance with the provisions found in the Rights of Appeal section ~~Article X, Section 6~~ of this ~~M~~manual. All other types of work-related problems, dissatisfactions, and complaints shall be discussed by all parties in a positive and respectful manner in accordance with the following procedures:

~~A.~~ *Informal Discussion with Immediate Supervisor*

An employee who feels he/she has a grievance shall first discuss the problem with the immediate supervisor. The employee must inform the supervisor about the grievance as soon as possible, but not later than five (5) workdays following the incident or action that caused or revealed the problem. It is supervisory responsibility to encourage the subordinate to discuss the problem with the supervisor so as to promote understanding. Most misunderstandings should be clarified and resolved during this free exchange of viewpoints. If the employee still feels the grievance is not resolved, he/she may proceed to the next step of this procedure.

~~B.~~ *Conference Meeting with Division Director/Department Head*

An employee may request a conference meeting with the division director/department head to discuss an unresolved grievance. Such a request must be received by the division director/department head in writing from the employee no later than ten (10) workdays following the event that caused or revealed the grievance.

The division director/department head shall promptly notify the human resources director, the employee and the employee's immediate supervisor of a date and time for the conference meeting, which will be no later than fifteen (15) workdays after the problem causing event. The division director/department head will open the meeting with an informal discussion of the problem and will explore possible solutions with those in attendance. Every effort will be made during this discussion to resolve the grievance to

the satisfaction of all concerned. However, if the grievance cannot be resolved through this discussion, the parties will together prepare a written report of all sides of the issue, including the recommendation of the division director/department head. This report shall be promptly submitted to the human resources director for further consideration through the next step.

C. Conference Meeting with the Human Resources Director

An employee may request a conference meeting with the human resources director to discuss an unresolved grievance. Such a request, along with the written report that is to be submitted by the parties involved, must be received by the human resources director in writing no later than twenty (20) workdays following the event that caused or revealed the grievance. The human resources director shall review all written reports and may request additional information and documentation prior to the conference meeting.

The human resources director shall notify all concerned of a time and date to hold a conference meeting that will take place as soon as possible, but not later than twenty-five (25) workdays after the problem causing event. At the conference meeting, the human resources director may receive new information, written or oral, from the division director/department head and/or employee, which is germane to the issue. In resolving the grievance, the human resources director may confirm or modify the recommendation of the division director/department head and recommend such order, as he or she may deem appropriate in the matter.

If the grievance cannot be resolved at this particular conference meeting, the human resources director will prepare a written report of all sides of the issue, including the recommendation of the division director/department head and the human resources director's recommendation. This report shall be promptly submitted to the city manager for further consideration through the next step.

Notwithstanding any other provision in this section, in the event the grievance is filed by an employee in the human resources department or by a division director/department head, the grievance will be heard directly by the city manager.

D. Conference Meeting with the City Manager

An employee may request a conference meeting with the city manager to discuss an unresolved grievance. Such a request, along with the written report submitted by the human resources director, must be received by the city manager in writing from the employee no later than thirty (30) workdays following the event that caused or revealed the grievance. The city manager shall review all written reports and may request additional information and documentation prior to the conference meeting.

The city manager shall notify all concerned of a time and date to conduct the conference meeting that will take place as soon as possible, but not later than thirty-five (35) workdays after the problem causing event. At the conference meeting, the city manager may receive new information, written or oral, from the division director/department head and/or employee, which is germane to the issue. In resolving the grievance, the city manager may confirm or modify the decision of the human resources director and/or the division director/department head and enter such order as the manager may deem appropriate in the matter. The decision rendered by the city manager shall be final.

The city manager shall furnish written notice to the employee, the division director/department head, and the human resources director of his final decision. This notice shall be made not later than forty (40) workdays from the original date of the event that caused or revealed the problem. Any deviation from the above policy and procedure shall be subject to approval by the city manager.

RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION REQUESTING THE AMENDMENT BY LOCAL ACT OF THE NORTH CAROLINA GENERAL ASSEMBLY OF ARTICLE IX (DISPOSAL OF PROPERTY) OF THE CHARTER OF THE CITY OF ASHEBORO

WHEREAS, the Asheboro City Council and city staff continually review city practices and processes in an effort to identify and implement actions that can improve the quality, efficiency, and legal sustainability of the municipal corporation's operations; and

WHEREAS, this on-going review process is inclusive of the provisions in the Charter of the City of Asheboro (the "Charter"); and

WHEREAS, Article IX of the Charter addresses the disposal of property by authorizing the City Council to sell or lease any real or personal property of the city in accordance with the enabling legislation found in Chapter 160A, Article 12 of the North Carolina General Statutes; and

WHEREAS, the City Council has concluded that the ability to find a proper home for city-owned animals when such animals are no longer able to perform their duties would be enhanced if the City Council had the authority to donate animals retired from city service to the handlers who have developed a bond with the animals; and

WHEREAS, in support of the public safety employees who have made extraordinary sacrifices on behalf of the city, the City Council would like to obtain specific authority to convey, by means of private sale and without strict connection to the fair market value of each item, certain personal uniform and equipment items used by such employees prior to the employees' separation from employment with the city; and

WHEREAS, for the reasons stated in the preceding recitals, the City Council has decided to request the assistance of the local legislative delegation to the North Carolina General Assembly with the introduction and passage of a local act to amend the Charter so as to enable the City Council to pursue, in a legally sustainable manner, the above-stated goals;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that a request is hereby respectfully submitted to the local legislative delegation to the North Carolina General Assembly for the introduction and support of a local act to amend Article IX of the Charter of the City of Asheboro, being Chapter 481 of the 1967 Session Laws, as amended by Chapter 921 of the 1989 Session Laws, by rewriting Article IX of the Charter to provide as follows:

ARTICLE IX. DISPOSAL OF PROPERTY

~~**Sec. 9.3 Use and disposal of real or personal property.** The City Council shall have the power granted by Chapter 160A, Article 12, of the General Statutes to sell or lease any real or personal property.~~

Sec. 9.1 Use and disposal of real or personal property. The City Council shall have the power granted by Chapter 160A, Article 12 of the General Statutes to sell or lease any real or personal property.

Sec. 9.2 Disposal of uniforms and equipment used by public safety employees. In addition to transactions authorized by other Sections of this Article and by Section 20-187.2 of the General Statutes, personal uniform and equipment items, excluding weapons, used by city employees in the police, fire, and fire inspection departments may be sold to these municipal employees upon their separation from employment with the city. Such items may be sold by private sale at prices and under terms and conditions that the City Council may establish by resolution.

Sec. 9.3 Donation of city-owned animals no longer fit for public service. When any dog, horse, or other animal used by the city police department or any other city agency is deemed no longer fit for public service, the City Council may donate the animal to the officer or employee who had normal custody and control of the animal during its service to the city.

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro, North Carolina that city staff members are hereby authorized to undertake all administrative actions deemed necessary to implement the provisions of this Resolution, specifically including without limitation engaging in discussions and correspondence on behalf of the municipal corporation with members of the local delegation and the legislative bill drafting office, to facilitate timely consideration of the proposed charter amendments by the North Carolina General Assembly

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of February, 2016.

_____
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

_____
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina