



# **PERSONNEL POLICY MANUAL**

**CITY OF LEXINGTON**

**May 27, 2024**

## Introduction

This manual is intended to serve as a source of information about your employment with the City of Lexington. The Personnel Policy Manual should answer the most frequently asked questions by employees and serve as a reference and guide. While no set of written policies can include every possible situation, these policies, when used as a whole, provide overall guidance for reasonable, consistent decision-making. The policies may be changed at the discretion of the City Manager. The Human Resource office will inform department heads of all changes to these policies.

Employees have the responsibility to keep themselves informed of all updates and revisions to this manual. It is also the responsibility of the individual employee to comply with this manual.

It is important that you read and comprehend these guidelines and policies. They are not intended as a contract and do not create a contract of employment. If you have any questions about this personnel policy manual, please contact your supervisor, department head or Human Resources. You will be asked to affirm that you have read, understand, agree to abide by and acknowledge receipt of this manual. Please see page 121.

This manual will supersede any existing personnel policies or manual in effect prior to the date of the publication of this manual. These policies apply to all full-time, part-time, probationary and seasonal employees.

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## **SECTION 1: ORGANIZATION AND PURPOSE**

### **1.1 PURPOSE OF PERSONNEL POLICIES AND PROCEDURES**

- A. To establish reasonable rules and expectations of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of the City of Lexington and its employees. THIS MANUAL IS NOT, AND SHALL NOT BE CONSTRUED AS, AN EXPLICIT OR IMPLIED CONTRACT, DOES NOT MODIFY ANY EXISTING AT-WILL EMPLOYMENT STATUS OF ANY CITY EMPLOYEE, AND SHALL NOT CREATE ANY DUE PROCESS REQUIREMENT IN EXCESS OF FEDERAL OR STATE CONSTITUTIONAL OR STATUTORY REQUIREMENTS. THE TERM EMPLOYMENT-AT-WILL MEANS EMPLOYEES CAN TERMINATE OR BE TERMINATED AT WILL. EXCEPTIONS ARE EMPLOYEES HAVING WRITTEN CONTRACTS SIGNED BY THE CITY MANAGER.
- B. To provide equitable conditions of employment for City of Lexington employees;
- C. To establish and maintain uniform standards of employment and compensation; and,
- D. To provide assistance to department directors and supervisors in their administration of personnel matters.
- E. Failure to comply with the provisions of this manual may result in disciplinary action, up to and including termination of employment.

### **1.2 ADOPTION OF PERSONNEL POLICIES**

The personnel policies set forth in this Manual supersede all previous personnel policies and serve as the official personnel policies of the City of Lexington.

This Manual is intended to address most employment situations and actions. However, those situations not specifically covered in this Manual shall be interpreted and acted upon by the City Manager in keeping with the intent of these policies and procedures.

### **1.3 COMPLIANCE**

Department directors shall take necessary and prompt action to ensure compliance with the policies and procedures outlined in this Manual within their respective departments.

### **1.4 AVAILABILITY AND ACKNOWLEDGEMENT OF PERSONNEL POLICIES**

The City Manager is responsible for maintaining a complete and current set of personnel policies and for bringing these policies to the attention of all City employees. In addition, a copy shall be maintained in the office of each department director. Each City employee will be given a copy of the Employee Handbook, which summarizes the policies and procedures found herein. All employees will acknowledge



receipt of the handbook via a signed and dated statement, which will be maintained within the employee's personnel file. This Policy Manual is available for review by any employee or citizen during the City's regular business hours.

## **1.5 EMPLOYEE GUIDING PRINCIPLES**

The City of Lexington expects all employees to hold themselves and their coworkers to the highest ethical standards and to act and make decisions based on public service principles and the organizational values to achieve positive results.

The City of Lexington Employee's Guiding Principles are:

- Be efficient, courteous, and impartial in the performance of my duties, assuring fair and equal treatment of all persons, claims, and transactions coming before me in my official capacity;
- Work in full cooperation with other public employees in promoting the public welfare, recognizing that my private interest must always be subordinate to the public interest;
- Make decisions conscientiously in compliance with public law and policies of the City of Lexington, and the Department in which I perform my public duties;
- Be scrupulously honest in handling public funds and in the conversion of public property, never using any funds or property under my care for private benefit of others or myself;
- Never accept or engage in employment incompatible or in actual or possible conflict with my public duties;
- Refuse to represent private interest before departments of the City government or in the courts in any matter involving the interests of the City as a party or in which my official position is a consideration;
- Disclose all sources of income which may represent a conflict of interest with my official duties and to disclose the nature and extent of any personal interest in a business entity engaging in any transaction with the City in which I may be involved in my official capacity as a public official or employee;
- Refrain from disclosing confidential information concerning the City government;
- Refrain from accepting gifts or favors or promise of future benefit which might compromise, or appear to reasonable people to compromise, the independence of judgment or action as a public employee; and
- Expose corruption wherever discovered.

Keeping in mind that how results are achieved is as important as the results themselves, employees are expected to consider an ethical perspective and to seek advice and guidance whenever there is any doubt about whether actions or decisions are appropriate. Such advice and guidance is available from supervisors, department directors, the City Attorney or City Manager.

## **1.6 CONFLICTS OF INTEREST**

Employees shall comply with the Virginia State and Local government Conflict of Interests Act. The purpose of the Act is to assure the citizens of the Commonwealth of Virginia, including the City of Lexington, that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts. An employee with questions concerning interpretation or the application of the Act may contact the City Council or request, through his/her Department Head, an opinion from the City Manager.

Under the Conflict of Interests Act, soliciting, accepting, offering, or conferring any financial benefit in exchange for a decision opinion, recommendation, vote, or exercise of authority may constitute the crime of bribery. Noncompliance may result in disciplinary action up to and including termination, as well as prosecution.

The City of Lexington supports an environment free from retaliation. Retaliation against any employee who brings forth a good faith concern, asks a clarifying question, or participates in an investigation is prohibited.

## **SECTION 2: EQUAL EMPLOYMENT OPPORTUNITY, RECRUITMENT AND EMPLOYMENT**

### **2.1 EQUAL EMPLOYMENT OPPORTUNITY**

- A. The City of Lexington is committed to providing equal employment opportunity to all City employees and applicants for employment on the basis of individual merit and qualifications, without regard to age, color, disability, genetic information (information about an individual and their family members' genetic tests and information about the manifestation of a disease or disorder), marital status, national origin, political affiliation, race, religion, sex (including gender expression, gender identity, sexual orientation, and pregnancy), veteran status or any other protected category under federal, state and local law.
- B. The City of Lexington is committed to making employment decisions in a manner that furthers the principle of equal employment opportunity, including recruiting, hiring, promotion, performance management, compensation, benefits, transfers, layoff and return from layoff, re-employment, demotions, suspensions, dismissals, training and employee development, social and recreational activities, and other terms, conditions and privileges of employment. All such employment decisions will be made without unlawfully discriminating on any prohibited basis.
- C. The successful achievement of equal opportunity throughout the City can only be achieved with the maximum support and cooperation of all employees. Specific responsibilities are as follows:
  - 1. The City Manager is designated as the Equal Employment Opportunity Officer and is primarily responsible for ensuring that the City department directors are aware of this policy and pertinent Federal, Commonwealth of Virginia and local laws, guidelines, executive orders and regulations directing equal employment opportunity and other anti-discrimination programs.
  - 2. Department directors have a responsibility for the observance of this policy. This responsibility includes supporting programs and practices designed to develop understanding, acceptance, commitment and compliance within the intents and purposes of this policy.
- D. Each new City employee will receive an explanation of the EEOP as part of his/her general employee orientation.
- E. Posters announcing the City of Lexington as an equal employment opportunity employer will be placed on all City bulletin boards.

### **2.2 RECRUITMENT UNDER THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

All recruiting announcements shall contain the following statement: "An Equal Employment Opportunity Employer" And will be neutral in language and tone. The Human Resources Officer will review all announcements prior to dissemination.

## 2.3 RESPONSIBILITIES FOR EQUAL EMPLOYMENT OPPORTUNITY

Every employee is responsible for assisting in the prevention of discrimination as follows:

- A. Employees
  - 1. Refraining from participation in, or encouragement of, actions that could reasonably be perceived as discrimination.
  - 2. Reporting acts of discrimination to a supervisor promptly.
  - 3. Encouraging any employee who confides that he/she is being discriminated against to report the discrimination to a supervisor.
  
- B. Supervisors
  - 1. Monitoring the work environment for discriminating activity.
  - 2. Counseling employees on prohibited behavior and the procedures for reporting and resolving complaints and discrimination.
  - 3. Stopping any observed acts that may be considered a violation of this policy, regardless of whether or not the employees involved are within his/her line of supervision.
  - 4. Taking immediate action to limit contact between employees where there has been a complaint of discrimination that remains under investigation.
  - 5. Assisting any person who comes to him/her with a complaint of discrimination.
  - 6. Supervisors shall inform the Human Resources Office of reported unlawful discrimination, **even if the alleged victim declines to complete a Workplace Discrimination/Harassment Complaint Form.**

## 2.4 REPORTING PROCEDURES

- A. Employees who believe they are being subjected to actions prohibited by this policy are encouraged to speak with the perpetrator of the prohibited behavior, requesting that the actions stop immediately. If the employee is not comfortable taking this step or continues to be subjected to the behavior after making the request, they are encouraged to complete and deliver to the Human Resources Office or the City Manager the Workplace Discrimination Complaint form. The City will make every effort to keep confidential the identity of the complaining employee.
- B. Any supervisor who receives a complaint of or who witnesses an incident of discrimination should encourage the victim to fill out a Workplace Discrimination Complaint Form. Supervisors shall immediately inform the Human Resources Office of reported workplace discrimination, **even if the alleged victim declines to complete a Workplace Discrimination/Harassment Complaint Form.**
- C. If an employee of the Human Resources Office is either the alleged offender or the alleged victim, the Workplace Discrimination/Harassment Complaint Form shall be completed

and forwarded to the City Manager for action consistent with this policy. If the City Manager is the alleged offender, the complaint form shall be completed and forwarded to the Mayor for action consistent with this policy.

## **2.5 DUTY TO INVESTIGATE AND TAKE CORRECTIVE ACTION**

Human Resources will promptly investigate all complaints of unlawful discrimination and the City shall take remedial action to prevent any further discrimination. Remedial measures may take the form of dismissal or other disciplinary action against any employee found to have unlawfully discriminated against the complainant. The City will also take prompt and appropriate action in instances when an employee has been subjected to discrimination by a non-employee.

Failure by an employee to cooperate with a harassment investigation constitutes a violation of this policy and subjects him or her to disciplinary action. Additionally, supervisors may also be disciplined for failure to appropriately communicate observed or reported incidents of unlawful discrimination, regardless of whether the alleged victim completes a Workplace Discrimination Complaint Form.

## **2.6 POLICY REVIEW**

Supervisors will review this policy with their employees within 30 days of hire and on an annual or more frequent basis thereafter. Employees are required to acknowledge in writing that they understand and will abide by the policy.

The City will conduct periodic training sessions as part of its ongoing efforts to prevent employment discrimination.

## **2.7 SPECIAL RULES CONCERNING DISCUSSIONS OF PAY**

The City recognizes that transparency with regard to discussions of salary and wages may promote fairness and equality and will not retaliate against any employee or applicant for inquiring, discussing or disclosing his or her own pay or the pay of another employee or applicant.

While employees are generally free to discuss their own pay or the pay of another, those who have access to the compensation information of other employees or applicants as a part of their essential job functions shall not disclose such information to individuals who do not otherwise have access to it, unless the disclosure is (1) in response to a formal complaint or charge; (2) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the City; (3) consistent with the City's legal duty to furnish information; (4) of information which is otherwise publically available, or (5) in response to FOIA request.

## 2.8 NON-RETALIATION

Employees and/or applicants for employment will not be retaliated against for raising good faith concerns about a violation of the City's policy against discrimination, opposing a discriminatory action, or participating in an investigation of an alleged violation of the nondiscrimination policy. This policy applies to anyone who reports an incident, files a complaint, or cooperates in an inquiry or investigation about an allegation of discrimination, or who participates in the City's complaint resolution or grievance procedure as a complainant, a witness, an investigator or in any other capacity.

Retaliation is defined as an adverse employment action taken against an employee because the employee raised a concern or a complaint or participated in the complaint resolution process. Retaliation may also be any other action that could discourage a reasonable person from raising a concern or complaint or participating in the complaint resolution process. For some individuals, retaliation may include action that adversely affects that person's employment status.

## 2.9 NONDISCRIMINATION ON THE BASIS OF DISABILITIES

### A. Purpose

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

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

### B. Definitions

- **Disability:** A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
- **Major life activities:** Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
- **Major bodily functions:** Physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory

(including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness and specific learning disabilities.

- **Substantially limiting:** The determination of whether impairment substantially limits a major life activity requires an individualized assessment. An impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment such as cancer that is in remission but that may possibly return in a substantially limiting form is also considered a disability.
- **Direct threat:** A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
- **Qualified individual:** An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- **Reasonable accommodation:** Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- **Undue hardship:** An action requiring significant difficulty or expense by the City. In determining whether an accommodation would impose an undue hardship, factors to be considered include:
  - The nature and cost of the accommodation.
  - The overall financial resources of the City or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.
  - The type of operations of the City, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the City.
- **Essential functions of the job:** Those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified. The examples provided above are not meant to be all-inclusive, nor are they the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the Nondiscrimination on The Basis of Disabilities policy.

### C. Procedures

Applicants with a disability who request accommodation that can be reasonably accomplished without creating an undue hardship or causing a direct threat to workplace safety will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.

The City will reasonably accommodate qualified individuals with a disability so they can perform the essential functions of their job unless doing so causes a direct threat to themselves or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation shall create an undue hardship to the City.

Individuals who are currently using illegal drugs are excluded from coverage under the City's ADA policy.

The Human Resources Office is responsible for implementing this policy, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

#### D. Confidentiality

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

#### E. Complaint Procedure

If an applicant or employee feels they have been subject to or has witnessed discriminatory treatment relative to an accommodation request, they should report the situation using the discrimination complaint procedure.

### **2.10 RELIGIOUS ACCOMMODATION**

#### A. Purpose

The City respects the religious beliefs and practices of all employees and will make, on request, accommodations for such observances provided an accommodation is available that does not create an undue hardship on the organization.

#### B. Requesting a Religious Accommodation

An employee whose religious beliefs or practices conflict with his/her job, work schedule, or the City's policy or practice on dress and appearance, or with other aspects of employment may submit a written request for an accommodation to their immediate supervisor. The written request must include the type of religious conflict that exists and the employee's suggested accommodation.



C. Providing Religious Accommodation

The employee's immediate supervisor will evaluate the request, considering whether a work conflict exists due to a sincerely held religious belief or practice and whether an accommodation is available that is reasonable and would not create an undue hardship on City operations. An accommodation may be a change in job, using leave with or without pay, allowing an exception to the dress and appearance code that does not affect safety or uniform requirements, or other aspects of employment. Depending on the type of conflict and suggested accommodation, the supervisor may confer with his/her Department Head or the Human Resource Office prior to making a decision.

The supervisor and employee will discuss the request and decision on an accommodation. If the employee accepts the proposed accommodation, the immediate supervisor will implement the decision. If the employee rejects the proposed accommodation, he/she may appeal following the City's general grievance policy and procedure.

## 2.11 EMPLOYMENT

Authorization from the City Manager is required prior to initiating any recruitment or appointment for employees covered by this policy.

Procedures may be modified by the City Manager when deemed necessary to best serve the interests of the City.

All records relating to employment, recruitment or appointment will be maintained in a central location as designated by the City Manager and in conformance with the Code of Virginia and regulations of the Virginia State Library.

A. Employment Vacancy Notice

1. The Human Resources Office shall determine the advertising requirements necessary to attract qualified applicants to fill each vacancy.
2. When it is determined by the Human Resources Office that a sufficient number of qualified applicants are currently on file from which to select, advertisement of a position vacancy is not required.

B. Employment Applications

1. Persons seeking employment with the City will be referred to the Human Resources Office.
2. The City relies upon the completeness and accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the selection process and during City employment. Therefore, applicants and employees are hereby notified:
  - a. All employment information must be current, accurate and complete.

- b. Any misrepresentations, falsifications or material omissions on the City application may result in the City's exclusion of the individual from further consideration for employment or if employed by the City, termination of employment.
- C. Recruitment and Selection
  - 1. The Human Resources Office has the primary responsibility for recruitment. All selection methods shall be approved in advance by the City Manager.
  - 2. In determining qualified applicants, the City may use, but is not limited to, any one or a combination of the following selection methods: evaluation of training and experience, written and skills tests, performance tests, psychological tests; reference and background checks, post-offer medical examinations, and alcohol and/or drug screening tests. The costs for any tests, medical examinations and alcohol and/or drug screenings are borne by the City.
  - 3. An applicant who refuses to participate in any phase of the selection process is considered to have withdrawn and will not be eligible for further consideration.
  - 4. After department representatives have completed final interviews and given full consideration to the group of qualified candidates, the department director will submit a written recommendation for a selection to the City Manager. The City Manager may conduct additional interviews or act on the recommendation of the department director.
  - 5. The offer of employment and discussion of beginning salary, benefits and starting date shall be approved by the City Manager.
  - 6. Upon completion of the hiring process, all applications, resumes and any related test materials shall be returned to and maintained by the Human Resources Office.

## **2.12 IMMIGRATION LAW COMPLIANCE**

The City complies with the Immigration Reform and Control Act of 1986 and is committed to employing only persons who are authorized to work in the United States.

On the first day of employment with the City, all new hires are required to complete Section 1 of the USCIS Form I-9. Within three days of employment commencing, the employee shall present documentation of his/her identity and eligibility to work in the United States to Human Resources. Also, within three working days, rehires must complete Section 3 of the I-9 if they have not completed one for the City or the state in the past three years, or if their previous I-9 is no longer retained or valid.

Section 3 of the I-9 form shall be re-verified if an employee's employment authorization or documentation of employment authorization has expired.

An employee's failure to complete the I-9 process within the required timeframe may result in termination of employment in accordance with federal regulations.

### **2.13 EMPLOYEE ORIENTATION**

Except in unusual circumstances approved by the Human Resource Officer, new employees shall complete payroll and benefit paperwork on the first day of employment. Supervisors will make arrangements for newly hired employees to attend a benefits orientation in the Human Resources Office on the first day of work.

In addition, new employees will attend a general employee orientation program normally held during the first day of employment. The Human Resource Officer coordinates the general orientation program and notifies new employees and supervisors of the date, time and place of such orientation.

Each department is responsible for conducting on-the-job training for new employees, which covers the work environment, responsibilities and duties, work schedule, safety requirements and application of personnel and departmental policies.

### **2.14 PROBATIONARY PERIOD**

- A. All new employees serve a probationary period following their appointments. The probationary period is one year or until the employee has successfully completed the required training or certification for the position if said training or certification exceeds 12 months. During this time an employee is required to demonstrate, by actual performance, fitness for the duties to which he/she is appointed and general suitability as a public employee.
- B. The Department Head may extend an employee's probationary period, with the City Manager's approval, if they believe the appointee needs more time and/or training.
- C. When deemed necessary by the Department Head and City Manager, a probationary period may be imposed in cases of promotion or re-employment.
- D. Written performance evaluations are conducted at least semiannually for an employee in probationary status.
- E. Before the end of the probationary period, the immediate supervisor shall submit a written performance evaluation for the employee, along with a statement recommending whether they should be retained in the position.
- F. The probationary period does not change the employment-at-will relationship.

### **2.15 ACCESS TO PERSONNEL FILES**

- A. The official personnel file contains personal and job-related information relevant to the individual's employment with the City. The Office of Human Resources will maintain and safeguard the official personnel files for all employees.
- B. The Human Resources Office is responsible for ensuring information is accurate and will

- have a process by which inaccurate information can be corrected.
- C. Only supervisors, Department Heads, City Manager, City Attorney and Human Resources who have a legitimate reason to review information in a file can do so without the consent of the subject employee. This access is not extended to the employee's medical records, unless having access is a specific requirement of the job.
- D. With reasonable notice, employees may review material in their personnel file but only in the presence of a Human Resource staff member.

## **2.16 CITY OF LEXINGTON DIVERSITY PLAN**

It is our goal is to hire and retain a workforce that is representative of the community and reflective of the available labor pool. To achieve this goal, the City is committed to the following actions designed to attract diverse, qualified applicants as follows:

- A. The City shall use non-discriminatory, equitable processes to fill all positions. All persons wishing to apply for a vacant position advertised to the public will have the opportunity to do so.
- B. Recruitment advertising may include a variety of formats and targeted resources specializing in minority recruitment to attract a diverse pool of qualified applicants for all vacancies.
- C. All recruiting announcements shall contain the following statement: “the City of Lexington is an Equal Employment Opportunity Employer.”
- D. Recruitment and selection training for hiring officials will be held periodically.
- E. Internal Communication:
  - 1. Notices of job vacancies will be posted on the Human Resources bulletin board on the second floor of City Hall.
  - 2. The City’s job vacancy announcements will also be available on the City’s website.
- F. External Communication:
  - 1. The City may advertise job vacancies in the local newspaper and other media as necessary.
  - 2. The Human Resources Office will maintain relationships with a variety of educational institutions for purposes of recruitment.
- G. Assignment and Responsibilities for the Diversity Plan:
  - 1. General Responsibility – All employees are expected to contribute to maintaining a respectful workplace.
  - 2. Supervisory Personnel – Supervisors are responsible for supporting a respectful and non-discriminatory environment. Management decisions including those regarding hiring, promotion, working conditions, job assignments, training programs and opportunities for serving on committees and panels shall be based on job-related factors. Supervisors are the primary source of information for

employees under their direct supervision concerning the EOE Policy and Diversity Plan.

H. Non-Retaliation

No employee or applicant for employment shall be retaliated against for raising good faith concerns about the City’s diversity plan.

**2.17 JOB VACANCIES**

The Human Resources Office will publicize job vacancies either by public notice or internally to provide promotional opportunities for City employees. When a position has been advertised internally only and fewer than three employees apply, the Human Resources Office may direct that applicants be sought from the general public.

The City desires to provide career advancement opportunities for its employees. To accomplish this goal, current qualified City employees may be given preference in filling vacant positions, regardless of the way the vacancy is publicized. Any exceptions to this policy must be approved by the City Manager.

**2.18 DRIVERS LICENSES/RECORDS**

Persons appointed to positions that involve operation of a motor vehicle must present a valid state driver’s license at the time of employment. These persons are subject to a Virginia DMV motor vehicle records check, with employment being contingent upon a satisfactory driving record. If the driver’s license is from a state other than Virginia, the individual will be required to furnish a motor vehicle records check from the state in which they’re licensed. The following matrix will be used to determine if an individual’s driving history is satisfactory:

There are three types of violations. Minor violation, major violations, and excused violations. Excused violations will not be included in the decision matrix.

Minor Violations	Major Violations
<ul style="list-style-type: none"> <li>• Moving violations (ex. speeding, running a red light)</li> <li>• Other violations upon review of record</li> </ul>	<ul style="list-style-type: none"> <li>• All felony driver charges</li> <li>• Driving under influence of alcohol or drugs</li> <li>• Reckless driving or excessive speeds (20 mph over limits)</li> <li>• Driving while license suspended or revoked</li> <li>• Hit and run or eluding police</li> <li>• Other misdemeanor charges</li> </ul>
Excused violations	
<ul style="list-style-type: none"> <li>• Fix-it tickets</li> <li>• City or county sticker violations</li> <li>• Driving with expired registration sticker</li> <li>• Driving with expired license</li> <li>• Parking violations</li> </ul>	

The City will look at all infractions from the previous three years using the following steps:

Step 1: Look at the number of minor violations over the last three years and compare to the left vertical column.

Step 2: Look at the number of at fault accidents over the last three years and compare to the top horizontal row.

Step 3: See where the two intersect on the matrix and render a decision.

Number of Minor Violations	Number of at fault Accidents			
	0	1	2	3
0	satisfactory	satisfactory	satisfactory	unsatisfactory
1	satisfactory	satisfactory	unsatisfactory	unsatisfactory
2	satisfactory	unsatisfactory	unsatisfactory	unsatisfactory
3	unsatisfactory	unsatisfactory	unsatisfactory	unsatisfactory
4	unsatisfactory	unsatisfactory	unsatisfactory	unsatisfactory
Any Major Violation	unsatisfactory	unsatisfactory	unsatisfactory	unsatisfactory

Satisfactory—The motor vehicle record generated using the DMV record check website (or motor vehicle record provided by the individual if the license is out of state) is acceptable to drive per the matrix.

Unsatisfactory—The motor vehicle record generated using the DMV record check website (or motor vehicle record provided by the individual if the license is out of state) is not acceptable to drive per the matrix.

An unsatisfactory rating won't necessarily bar someone from being hired. At the City's discretion, Individuals may have the option of completing a Virginia DMV approved driver improvement clinic (at the individual's expense) prior to being hired. A certificate showing completion of the clinic must be provided and will be placed in the employees personnel file. Employees with unsatisfactory driving records at the time of hire will submit to quarterly DMV record checks for the first year of employment. Any additional infractions during that time may include disciplinary action up to and including termination. The City further reserves the right to run a motor vehicle check on any employee in a driving capacity at any time if deemed necessary.

## 2.19 BACKGROUND CHECKS

In the interest of public welfare and safety, the City requires all applicants to submit to background checks including, but not limited to, personal reference checks, education verification, criminal history, and child abuse registry to ensure that the applicant's past conduct is compatible with the nature and requirements of the position under consideration.

The Human Resources Office is responsible for managing the employment background check process.

## **2.20 DRUG TESTING**

In the interest of public safety, all applicants must successfully pass a drug screen prior to employment with the City.

Blood, urine, or other approved sampling methods for drug tests will be administered by certified personnel at an approved testing site. The chain of evidence for such samples shall be carefully followed to ensure that the sample is submitted properly to the drug test contractor.

## **2.21 CRIMINAL CONVICTIONS**

A prior conviction does not automatically exclude an applicant from employment with the City. The nature and the offense of a past conviction will be weighed and considered in relation to the duties of the position sought.

Information related to criminal records is sensitive and confidential and will only be disseminated on a "need to know" basis. Breach of confidentiality related to conviction data may result in disciplinary action up to and including termination of employment.

## **SECTION 3: JOB CLASSIFICATION AND PAY**

### **3.1 THE POSITION CLASSIFICATION PLAN**

A Position Classification Plan has been established and shall be maintained and filed in the Human Resources Office. The purpose of the Position Classification Plan is to analyze all positions in the City and to group them into "grades" according to the types of duties, responsibilities, supervision given and received, and job requirements in relation to similar jobs in the local and regional area.

The Human Resources Office, with the approval of the City Manager, makes all assignments of positions to grades, based on their relative market value.

### **3.2 THE PAY PLAN**

- A. The City Manager, Finance Director/Assistant City Manager and the Human Resources Officer are responsible for developing a Pay Plan consisting of appropriate pay grades for all positions and the assignment of all positions to a pay grade.
- B. The Human Resources Officer is responsible for the administration of the Pay Plan and for recommending to the City Manager application of the plan to situations that are not specifically covered or represent exceptions.

### **3.3 MAINTENANCE OF THE PLAN**

- A. The Plan will be reevaluated periodically by the Human Resources Officer and salary ranges may be adjusted based on competitive market movement and the City's financials.
- B. Position classification studies of individual positions or groups of positions will be conducted periodically, as needed.
- C. When a new class title is established, a description shall be written and incorporated into the existing Plan and added to the schematic list of titles.
- D. All class allocations are subject to the approval of the City Manager.

### **3.4 RECLASSIFICATION PROCEDURE**

- A. When significant changes in position content or prevailing economic conditions warrant a review of a class or classes, the department director may submit a written request (outlining all facts supporting the request) to the Human Resources Office.
- B. Likewise, if a department director has facts which indicate that a position or group of positions is improperly classified; a request for a review may be made to the Human Resources Office. All pertinent information must be submitted as part of the request.

### **3.5 SALARY ADJUSTMENTS FOR RECLASSIFICATIONS**

- A. Downward Reclassification/Reallocation  
Upon downward reclassification/reallocation of a position, an employee will be placed in the new range equal to or closest to their current rate of pay. When the employee's rate



of pay prior to reclassification exceeds the maximum of the new, lower range, the rate of pay shall be frozen until the pay of the lower range matches or exceeds the employee's rate of pay from the time of reclassification/reallocation.

B. Upward Reclassification/Reallocation

Upon upward reclassification/reallocation of a position, an employee will receive the greater amount of either the minimum rate for the new salary range or the next higher rate of pay in the new pay range as compared to the rate of pay in the lower range.

C. When the department director believes that following this policy results in an inequity, the City Manager may authorize an adjustment to correct the inequity based on the circumstances involved.

### **3.6 ASSIGNMENT OF CLASS TO GRADE**

Upon classification, a grade will be assigned to each position. The grade indicates the hiring salary range authorized for each position in the grade.

### **3.7 STARTING SALARY**

Initial employment will typically be within the hiring salary range assigned to the positions in each grade. However, depending on the experience and ability of the applicant, a person may be hired at a higher rate subject to the City Manager's approval.

### **3.8 SALARIES FOR EXISTING EMPLOYEES**

Salaries for existing employees will be based on the established salary range for the assigned position. The appropriate salary for an employee is determined by their qualifications and ability to function in the assigned position and in relation to the salary of other positions with comparable responsibilities.

### **3.9 PAY INCREASES**

Employees will receive pay increases as approved by City Council. Pay increase budgets are based on set financial factors as determined by the City Manager and City Council.

### **3.10 OVERTIME PAY**

A. Non-Exempt Employees

1. Non-Exempt employees who work more than 40 hours in a 7-day workweek, or, in the case of law enforcement officers, more than 80 hours in a 14-day work period, or for Fire Department employees, more than 106 hours in a 14-day work

period; shall be paid one and one-half times their regular hourly rate for each excess hour worked, provided that sufficient departmental overtime funds exist. If overtime funds are exhausted, the Department Head will advise all affected employees prior to any further overtime being worked. After that, until reestablishment of overtime funds and further notice to the employees, overtime hours worked for that department shall be charged to compensatory time as indicated in Section 3.11.

In accordance with the Fair Labor Standards Act, "hours worked" includes:

- (a) all time that an employee is required to be on duty, on the City's premises, or at a prescribed workplace (exclusive of meal periods);
  - (b) all time during which the employee is permitted to work for the City;
  - (c) travel time away from home during normal work hours and during those same hours on Saturday or Sunday (exclusive of meal periods), with the travel time being determined by either the use of a public conveyance or a private automobile, whichever is shorter (travel time being measured from place of work and extending beyond the employee's normal working hours; and
  - (d) time at lectures, meetings, and training programs that the City requires an employee to attend and are directly related to the employee's present job.
2. The workweek applicable for all employees other than sworn Police Officers, Fire Department and Central Dispatch employees and for the determination of overtime hours is defined as 12:01 a.m. Monday through midnight the following Sunday. The work period for sworn Police Officers is 12:01 a.m. Monday through midnight the second Sunday. The work period for the Fire Department is 12:01 a.m. Monday through 12:00 a.m. on the second Sunday. For Central Dispatch the night shift work week starts at 1:00 a.m. on Sunday morning through 1:00 a.m. the following Sunday. The day shift work week starts at 1:00 p.m. on Saturday through the following 1:00 p.m. the following Saturday. The workweek or work period will not be changed unless the change is intended to be permanent or is related to regular changes in shift assignments. Changes in the workweek or work period must be approved by the City Manager.

**B. Exempt Employees**

Employees holding positions classified as exempt from the overtime provisions of the Fair Labor Standards Act are not eligible for overtime pay.

C. Special Circumstances

1. External Grants

(a) When grant money is received at an overtime rate (1.5), the employee shall be paid at the overtime rate. It should be coded to "26-Grant Overtime". "26-Grant Overtime" is not subject to the "worked hours" restrictions. If an employee is an "Exempt" employee, they would be eligible for "26-Grant Overtime".

2. Other Revenue Sources and Reimbursements

(a) When the City of Lexington receives reimbursements from outside sources that includes money at an overtime rate (1.5) and includes FICA, the employee shall be paid at the overtime rate. It should be coded to "Off Duty Overtime". "Off Duty Overtime" would not be subject to the "worked hours" restrictions. If an employee is an "Exempt" employee, they would be eligible for "Off Duty Overtime".

3. Special circumstances affecting overtime compensation which are not explicitly covered in this policy are governed by the Fair Labor Standards Act, as amended, and the U.S. Department of Labor's regulations implementing the Act.

**3.11 COMPENSATORY TIME**

A. With the immediate supervisor's approval, a non-exempt employee may receive compensatory time in lieu of overtime pay based on one and one-half hours for each hour worked in excess of 40 hours per week. The maximum accrual of compensatory time may not exceed 40 hours. The maximum accumulation of compensatory time that may be carried over from one calendar year to the next is 40 hours. Any overtime worked beyond the 40-hour maximum shall be paid as overtime compensation at a rate of one and one-half times the regular hourly rate. Those in the fire department who work 2,756 hours annually may accumulate 56 hours of compensatory time with a maximum annual carryover amount of 56 hours.

B. Supervisors shall approve requests for compensatory time off. Employees are permitted to use accrued compensatory time within a reasonable period after it is requested if to do so does not disrupt departmental operations.

C. Upon promotion from a non-exempt position to an exempt position, all accrued compensatory leave shall be paid at the final rate of pay for the non-exempt position. Upon termination of employment, an employee will be paid for unused compensatory time at a rate not less than the final regular rate received by the employee.

**3.12 TERMINATION PAY**

An employee's official date of termination is his/her last day on the City's payroll. Employees are entitled to payment of unused compensatory time, if applicable, as required in policy 3.11. Employees may also be entitled to payout of unused annual and PTO leave, as outlined in this manual. The Assistant Finance Director shall deduct and withhold from the final paycheck of the employee any amount owed the City in payment for group insurance premiums, outstanding advances, unreturned equipment or uniforms or other financial obligations.

In the event of an employee's death, the final pay due to the employee will be paid to the Administrator or Executor of his/her estate. If there is no Administrator or Executor, payment will be made in accordance with the Code of Virginia § 64.1-123.

### **3.13 PAY AUTHORIZATIONS AND CHANGE NOTICES**

Every appointment, promotion, transfer, termination, and other temporary or indefinite change in an employee's status or in the account from which he/she is paid shall be reported promptly to the Human Resources Office on the prescribed form. Each Department Head is responsible for completing these forms prior to the pay period in which the change becomes effective. Upon approval of the Human Resources Office and the City Manager, the form shall be forwarded to the Assistant Finance Director for processing. A copy of this form will be maintained in the employee's personnel file.

### **3.14 PREPARATION OF PAYROLL**

Payroll is prepared by the Finance Department from approved timesheets and distributed every other Friday. If that Friday falls on an official City holiday, paychecks will be distributed on the last regular workday prior to the holiday. The payroll period consists of the two weeks ending at midnight on the Saturday prior to payday. Checks will be distributed by the employee's supervisor or other appropriate administrative personnel.

The Assistant Finance Director is authorized to make deductions from an employee's gross pay to cover Federal and State income taxes, F.I.C.A. taxes, employee insurance premiums, and Section 125 plan deductions. With the authorization of the employee, the Assistant Finance Director may also make payroll deductions for making contributions to the United Way Fund, ICMA-RC, and certain other authorized deductions. Individual deductions for other than the above will be made only with the approval of the Assistant Finance Director.

### **3.15 DIRECT DEPOSIT/DEBIT CARD POLICY**

All employees hired after January 1, 2010 will be paid by direct deposit at a financial institution of their choice, a debit card account of their choice, or by credit to a debit card chosen by the City.

- A. Electronic deposit of funds may be made to any US financial institution.
- B. All City employees are eligible for direct deposit or debit cards regardless of hire date.
- C. An employee's direct deposit may be made to one or two accounts.

- D. To authorize or change a direct deposit or debit card, employees must complete an Automatic Payroll Deposit Authorization form and attach a voided check for the checking account deposit or routing and account numbers for savings and other accounts. The employee shall return the completed form to the Human Resource Office. It will take one pay cycle to become active.
- E. Employees are responsible for reviewing their pay stubs for accuracy and immediately notifying the HR Officer or Assistant Finance Director of errors.
- F. Employees are responsible for notifying the HR Officer when of any change to their financial institution, selected direct deposit account or debit card that affects their direct deposit transactions.

## **SECTION 4: EMPLOYEE BENEFITS**

### **4.1 GROUP MEDICAL, DENTAL AND VISION INSURANCE**

**A. Eligibility:**

Group medical, vision, and dental coverage are currently available for all employees working 30 hours or more per week and their eligible dependents. Enrollment takes place at new hire orientation and coverage typically begins the first day of the month following the date of hire and thereafter during open enrollment periods. Employees may change coverage only during an established open enrollment period unless a qualifying event occurs such as a marriage or divorce, birth or adoption, death, loss or gain of a spouse's health coverage, or disqualification of a child for dependent coverage.

**B. Enrollment:**

Employees must enroll themselves and/or their dependents within 31 days of eligibility or they may not add coverage until the next open enrollment period unless they experience a qualifying event as defined above.

**C. Cost of Coverage:**

The City of Lexington pays a percentage of the premium for all enrolled employees. Specific information regarding employer/employee cost share amounts can be found in benefits enrollment materials.

**D. Premium Deductions:**

Medical insurance premiums are deducted from pay on a pre-tax basis. Employees who wish to have the insurance premium deducted on a post-tax basis must notify the Human Resource Officer in writing.

**E. When Coverage Begins and Ends:**

Employees who begin work on the first day of the month will have coverage as of that day. Employees who begin work on any day other than the first day of the month will begin coverage the first day of the following month.

Coverage ends the last day of the month the employee is employed with the City or when the employee's regular schedule is reduced to less than 25 hours per week on average.

### **4.2 CONTINUATION OF BENEFITS UNDER CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1986 (COBRA)**

COBRA provides eligible employees and their qualified dependents the opportunity to continue

coverage under the City of Lexington's health, dental and vision insurance plans when a *qualifying event* would normally result in loss of benefits. Enrollment may be continued up to 18, 29 or 36 months depending on the qualifying event under federal law. Employees who elect COBRA will pay 100% of the group premium rate plus a 2% administration fee.

#### **4.3 RETIREES**

Employees who retire under the provisions of VRS (Virginia Retirement System) from the City of Lexington with at least five years of service with the City are eligible to continue their health insurance at their own expense. If at the time of retirement an employee waives coverage, they will no longer be eligible for retiree health insurance from the City of Lexington. The employee, spouse and dependents are eligible for retiree health insurance provided they have been enrolled for one year immediately preceding retirement. If the employee dies, the spouse and dependents are eligible for coverage under COBRA.

#### **4.4 GROUP LIFE INSURANCE**

The City provides group term life insurance coverage for all full-time employees. Coverage for the employee shall be in an amount equal to two times his/her annual salary, rounded to the next thousand. Coverage for full-time employees is fully paid by the City.

#### **4.5 OPTIONAL GROUP LIFE INSURANCE**

The City provides a voluntary, optional term life insurance plan to all full-time employees. Spouse and dependent coverage is also available. The employee pays the full premium cost after taxes for coverage if elected.

#### **4.6 GROUP SHORT-TERM DISABILITY INSURANCE**

The City provides short-term disability benefits for all full-time employees participating in the Virginia Retirement System's Hybrid Retirement Plan. This benefit is provided at no cost to the employee. Benefit enrollment for work-related injuries/illnesses occurs on the first day of employment. There is a one-year waiting period for coverage for non-work-related injuries/illnesses.

The benefit provides income replacement for (i) 60% of pre-disability earnings for the first 60 months of continuous participation in the Hybrid Retirement Plan and (ii) thereafter, a percentage of pre-disability earnings during the periods specified by the Code of Virginia, § 51.1-169.

Accrued leave may not be used in lieu of filing a claim for short-term disability benefits. Accrued leave may be used to meet the short-term disability waiting period and to supplement the short-term disability benefits to receive 100% of the employee's pre-disability income up to the maximum amount defined in the plan.

#### **4.7 GROUP LONG-TERM DISABILITY INSURANCE**

The City provides long-term disability insurance for all full-time employees participating in the Virginia Retirement System's Hybrid Retirement Plan. This benefit is provided at no cost to the employee. Benefit enrollment for work-related injuries/illnesses occurs on the first day of employment. There is a one-year waiting period for coverage for non-work injuries/illnesses. Coverage for the employee is equal to 60% of pre-disability earnings up to the maximum defined in the plan.

#### **4.8 RETIREMENT PLAN**

All full-time employees will be enrolled in the Virginia Retirement System (VRS). Pay Plan employees hired in a VRS covered position prior to July 1, 2010 and vested in VRS by December 31, 2012 are considered participants in Plan 1. Employees hired in a VRS covered position between July 1, 2010 and December 31, 2013 are considered participants in Plan 2. Employees hired into a VRS covered position on and after January 1, 2014 will be covered under the VRS Hybrid Retirement Plan. Law enforcement officers and firefighters covered under enhanced hazardous duty benefits are not eligible to participate in the VRS Hybrid Retirement Plan and shall be participants in Plan 1 or Plan 2, depending on date of hire into a VRS covered position.

Effective July 1, 2012, payment of the 5%-member contribution shall be made by all Plan 1 and Plan 2 participating employees through salary reduction on a pre-tax basis. All full-time participants in the VRS Hybrid Retirement Plan are required to contribute 4% into a defined benefit account with VRS and 1% into a VRS defined contribution account. Hybrid participants can voluntarily contribute up to an additional 4% into the VRS defined contribution account. These contributions shall be made through salary reduction on a pre-tax basis. All sworn Police Department employees will be enrolled in the Law Enforcement Officers Special Benefits Program.

#### **4.9 DEFERRED COMPENSATION PLAN**

The City makes a Deferred Compensation Plan available to all employees (covered by the Pay Plan) who work 25 hours or more per week on average. Participation in this plan is at the employee's own expense.

#### **4.10 VOLUNTARY GROUP LONG TERM CARE INSURANCE**

The City offers Voluntary Group Long Term Care Insurance to all full-time employees. Spousal and dependent coverage is also available. This plan is offered through the Virginia Retirement System. The employee pays the full premium cost for this coverage.

#### **4.11 LEARNING AND EDUCATIONAL DEVELOPMENT**

This training program has been established for City of Lexington employees (up to Department



Head) to enhance their skills and prepare them to assume higher level responsibilities. This policy does not pertain to overnight travel for conferences, seminars, or business trips.

As part of the annual budget process, Department Heads will determine the development needs of their employees to provide for improved performance and develop employee potential. Requests for support for each proposed learning activity must include:

1. Information pertinent to the employee and his/her position.
2. The need for and expected outcomes of the training.
3. The duration of the training.
4. The estimated cost.

The City Manager's approval is required prior to commitment for a proposed learning activity. Employees seeking reimbursement must present supporting financial documentation, proof of completion, and where applicable, transcripts indicating grade(s) earned.

Employees will be reimbursed for all reasonable expenses incurred for participation in completed (pre-approved) work related courses.

Employees may be reimbursed for tuition and books for (pre-approved) work related classroom or correspondence courses which are satisfactorily completed, as evidenced by receipt of a "C" grade or better for undergraduate coursework and a "B" or better for a graduate course. Courses which are graded on a Pass/Fail basis must be completed with a "pass." Whenever the option is offered, employees shall take courses for a grade versus pass/fail.

#### **4.12 WORKERS' COMPENSATION**

The City of Lexington is committed to providing a workplace free of occupational injuries and illnesses. Unfortunately, work-related injuries and illnesses sometimes occur. Workers' Compensation provides benefits for employees in the event of certain occupational illnesses, injuries or death.

##### **A. Reporting**

###### **In case of a life-threatening emergency, employees should first call 911.**

Employees are required to immediately report all workplace injuries, conditions or illnesses to their supervisors whether or not medical treatment is necessary. If the immediate supervisor is not available, the report should be made to the Department Head or department secretary. Late reporting by the employee may result in delayed workers' compensation benefits.

The supervisor, Department Head or department secretary shall immediately complete an accident report and submit it to VML Insurance Programs with a copy to the Human Resource Officer. Delays in reporting can jeopardize the employee's rights under the workers' compensation law and subject the City of Lexington to unnecessary penalties.

The supervisor shall provide the employee with a copy of the completed accident report and a copy of "What Employees Need to Know" (WENK) guide. The WENK is a workers' compensation informational guide, published by VML Insurance Programs.

B. Panel of Physicians

The City of Lexington has an approved Panel of Physicians for treating workers' compensation injuries and illnesses. Immediately upon notification of a work-related injury or illness, the supervisor shall provide the employee with a copy of the Panel of Physicians. The employee must sign and date an acknowledgment of receipt of the Panel. Treatment by a physician or medical facility outside of the panel is at the employee's expense, unless a referral is approved by VML.

In the event of an emergency the employee shall be treated at the closest emergency facility. Once the emergency treatment is complete a Panel physician will be utilized for follow up care. All departments are asked to post a copy of the Panel of Physicians in a conspicuous location.

C. Medical Treatment

Employees may not utilize health insurance for situations believed to be work related, unless the claim is denied by VML Insurance Programs.

All medical bills, reports and other correspondence should be immediately forwarded to VML Insurance Programs.

Only VML Insurance Programs has the authority to authorize treatment, testing, physical therapy, surgery, change in physician, second opinions, etc.

Employees are expected to cooperate with VML Insurance Programs. This includes supplying disability slips, medical information, keeping appointments, etc. Additionally, employees are expected to keep their supervisor, Department Head or department secretary advised of their work status and to cooperate with return to work efforts.

D. Prescriptions

When medication is prescribed, the supervisor will complete and provide the employee with a First Fill Workers' Compensation Prescription Program authorization. The employee shall take the authorization to a participating network pharmacy and will be provided a seven to ten-day supply of medication at no cost. This authorization is valid for one time use only. VML Insurance Programs will authorize any additional medication prescribed beyond the first fill.

Should an employee incur the cost of any medication, a receipt, which includes the employee's name, prescribing physician's name, date of purchase, name of medication

and cost of medication, shall be submitted to VML Insurance Programs for reimbursement consideration.

E. Wage Loss Benefits

Employees are not entitled to lost wage compensation for the first seven days of incapacity resulting from a work-related disability. The Virginia Workers' Compensation Law includes weekends/holidays in this count, and these days do not need to be consecutive.

Employees will use earned sick leave or paid time off (PTO) for up to seven days. If an employee does not have seven days sick leave or PTO, he/she will be allowed to use his/her vacation and or compensatory time. The day after the injury counts as day one of the first seven days. The next six days can be either scheduled work days or days off from work.

Temporary and part-time employees who are not eligible for annual leave and employees who have no earned leave available will not receive pay for the seven-day elimination period.

For compensable absences longer than seven days, employees will receive compensation benefits from VML Insurance Programs in accordance with the provisions of the Virginia Workers' Compensation Act. While temporarily unable to perform any work, employees are entitled to 2/3 of their gross average weekly wage up to a set maximum weekly limit. Employees can use 1.5 hours of sick time or PTO to make up the 1/3 of lost wages each day. Employees who do not have sick time or PTO may use vacation and/or compensatory time.

Employees who are disabled for more than three weeks will receive retroactive payment from VML for the seven-day elimination period. Employees who have utilized paid leave for the elimination period have the option of re-paying the City for the earned leave and having the leave reinstated. They also have the option of signing the check over to the City of Lexington and having their earned leave restored. If the employee chooses to keep the workers' compensation pay their earned leave will not be reinstated.

Work-related disability shall be designated under the Family Medical Leave Act (FMLA) and run concurrently with workers' compensation benefits, if the employee is eligible for FMLA and the disability constitutes a 'serious health condition' under the Act.

Employees receiving workers' compensation benefits that do not have paid leave accrued are responsible for any voluntary deductions from pay. Voluntary deductions include the employee's share of health insurance. Optional life insurance and any other voluntary policies will be billed directly from the insurance carrier. If the employee has no leave they will be put on a Leave without Pay Status with VRS. This means that the employee

does not have to contribute their 5 %. While receiving workers' compensation benefits, the employee is eligible to accrue sick, annual leave time and PTO.

Earned sick, annual leave, PTO and or compensatory leave may be used for disability resulting from a denied workers' compensation claim. Disabilities may be designated as FMLA if the disability constitutes a 'serious health condition' and the employee meets the eligibility requirements of FMLA.

Benefits may not exceed 500 weeks unless the person is totally and permanently disabled.

F. Return to Work - Light/Modified Duty

The City will make every effort to provide light/modified duty for employees with temporary restrictions resulting from a work-related disability. All light/modified assignments will be within the employee's medical capability and adhere to the treating physician's recommendations. The light/modified assignment may or may not be in the same occupation, department, hours, etc., as the employee was performing prior to the work-related injury or illness. The length of light duty will be evaluated on a case by case basis.

#### **4.13 EMPLOYEE ASSISTANCE PROGRAM**

The City sponsored employee assistance program (EAP) is a work-based intervention program designed to identify and assist employees in resolving personal problems that may be adversely affecting their performance at work, such as marital, financial or emotional problems; family issues; or substance or alcohol abuse. The program offers up to four free confidential counseling sessions for the employee, their covered dependents and members of their household. Employees can refer themselves to the EAP. The program may be reached 24 hours a day on weekdays and weekends.

Employees may be referred to the EAP when their job performance is suffering due to personal issues. Depending on the situation, the employee may accept or refuse participation in the EAP. However, there may be situations where continued employment with the City is contingent on the employee calling the EAP for assistance.

Voluntary participation in the EAP will not jeopardize job security or promotional opportunities. However, it does not excuse the employee from following City policies and procedures or from meeting required standards for satisfactory job performance except where specific accommodations are required by law.

All contact between an employee and the EAP is strictly confidential. In cases where an employee's continued employment is contingent on the utilization of EAP services, the counselor will only verify whether the employee has contacted the EAP and if the employee is following through on recommended treatment. Information given to the EAP counselor may be released to the City only if authorized by the employee in writing.

## SECTION 5: PAID LEAVE AND OTHER FORMS OF ABSENCE

Regular attendance at work is a critical component of meeting the service delivery, productivity and efficiency goals of the City. Employees are expected to maintain regular, predictable attendance and to report to work on time.

### 5.1 HOLIDAYS

City Code Sec. 75-4 designates holidays to be observed by the City. Any changes or revisions shall be made by adoption of an amendment to the ordinance by City Council. All full-time employees of the City are entitled to holiday benefits. Part-time employees are entitled to holiday benefits if they work the holiday.

#### A. Procedure

The City observes the following holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Spring Holiday	Friday before Easter
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Thanksgiving Friday	Day after Thanksgiving
Christmas Day	December 25
Day after Christmas	December 26

When a holiday falls on a Saturday, the preceding Friday is observed; when the holiday falls on a Sunday, the following Monday is observed.

Holiday pay is eight hours at a regular time rate and is not considered as "hours worked" for overtime purposes. For Fire Department employees working a 106 hour pay period, holiday pay shall be 10.6 hours at a straight time rate. Part-time employees who work the actual holiday will be paid at a regular rate. Employees on leave without pay status at any time during a pay period will not be paid for the holiday. Exceptions may be granted at the discretion of the City Manager. Employees who work on Independence Day, Thanksgiving Day, and Christmas Day will be paid at their overtime rate regardless of hours worked for that week.

## **5.2 ANNUAL LEAVE – for participants who are in Plan 1 or Plan 2 of the Virginia Retirement System**

### **VRS Plan 1**

An employee is covered under Plan 1 if his/her membership date in VRS is prior to July 1, 2010, they were vested before January 1, 2013, and they have not taken a refund.

### **VRS Plan 2**

An employee is covered under Plan 2 if his/her membership date in VRS is between July 1, 2010 and December 31, 2013, and they have not taken a refund. Additionally, an employee is covered under Plan 2 if his/her membership date was prior to July 1, 2010, but they were not vested before January 1, 2013. An employee of a political subdivision which covers him/her with enhanced hazardous duty benefits or the hazardous duty alternate option under VRS and was hired on or after July 1, 2010, will be in Plan 2, even if his/her membership date is after December 31, 2013.

#### **A. Responsibility**

Department Heads are responsible for familiarizing themselves with this guideline and to ensure adherence by all employees.

The Assistant Finance Director is responsible for the maintenance of accurate accumulation and use records of annual leave for all employees and for the regular distribution of notices to Department Heads of accrued annual leave of employees within that department.

#### **B. Policy**

All full-time employees of the City earn annual leave in accordance with the following schedule. Non-exempt employees may use annual leave in 30 minute increments. Exempt employees may only use annual leave in eight hour increments. To assure that employees use their leave benefits, the City has established a maximum balance of annual leave that may be carried over from one fiscal year to the next. This cap also provides a limit to the City's financial liability for annual leave earned but not taken when an employee leaves the service of the City.

**ANNUAL LEAVE SCHEDULE (VRS PLANS 1 & 2)  
ALL FULL-TIME EMPLOYEES EXCLUDING FIRE DEPARTMENT  
ON AN EXTENDED HOURLY SCHEDULE**

<b>Years of Service</b>	<b>Hours Earned Per Pay Period</b>	<b>Days Earned Per Year</b>	<b>Accumulation Limit</b>
1 – 5	4	13	24 days, 192 hours
5 - 10	5	16.25	30 days, 240 hours
10 - 20	6	19.5	36 days, 288 hours
20 or more	7	22.75	42 days, 336 hours

**ANNUAL LEAVE SCHEDULE (VRS PLANS 1 & 2)  
FIRE DEPARTMENT EMPLOYEES WHO WORK  
2,756 HOURS PER YEAR/106 PER PAY PERIOD**

<b>Years of Service</b>	<b>Hours Earned Per Pay Period</b>	<b>Hours Earned Per Year</b>	<b>Accumulation Limit</b>
1 – 5	5.300	137.80	254.40 hours
5 - 10	6.625	172.25	318.00 hours
10 - 20	7.950	206.70	381.60 hours
20 or more	9.275	241.15	445.20 hours

Fire Department employees in one of these categories who change to a regular schedule job will have their accumulated leave balance adjusted accordingly.

Leave is accumulated at the beginning of each of the 26 pay periods of the year. Employees may not take leave that has not been earned prior to the beginning of the pay period. Eligible employees must be in a paid status for the entire 80 hours in a pay period to accumulate sick or annual leave. Firefighters must be in paid status for 96 hours in a pay period to accumulate sick or annual leave. No employee will be credited with sick or annual leave for overtime or compensatory hours worked while on leave without pay status.

### C. Procedure

1. Employees eligible to earn annual leave will accrue leave each pay period. Full-time employees on vacation will be paid their prevailing wage based on their normal scheduled work week.
2. Department Heads are responsible for planning their employees' vacation schedules.
3. The Finance Department maintains leave records for each employee and will submit periodic reports to operating units to ensure accuracy. Such reports will be made readily available to employees for their information.
4. To prevent the loss of annual leave time, Department Heads shall review accumulated leave balances by June 1 of each year to determine which employees are likely to lose accumulated leave if not taken by the end of the fiscal year. They will make every effort to assist employees in scheduling leave while minimizing the adverse impact on the operations of the department.
5. The maximum accumulation limit will be evaluated at the end of the last pay period in the fiscal year. Any employee who has annual leave in excess of the established limit at such time will lose the leave without any compensation or may request that such excess annual leave be converted to sick leave. The City Manager may, where the employee has tried but been unable to use excess annual leave, grant additional time to use such leave upon recommendation of the Department Head.
6. If an employee has scheduled annual leave during the last pay period of the fiscal year and is unable to take the leave due to emergency calls or other unusual operational requirements of the department, the City will not penalize the employee. On the approval of the Department Head and notice to the City Manager, the employee shall be allowed to take the excess leave during the first two pay periods of the new fiscal year.
7. Full-time employees will be paid for all accrued annual leave up to the maximum accumulation limit upon separation or retirement. In the event of the death of the employee, the employee's estate will be paid for the maximum accumulated annual leave.
8. Annual leave is not considered as "hours worked" for overtime purposes.

## **5.3 SICK LEAVE - for participants who are in Plan 1 or Plan 2 of the Virginia Retirement System**

### A. Responsibility

Department Heads are responsible for familiarizing themselves with this guideline and ensuring adherence by all employees.

The Assistant Finance Director is responsible for the maintenance of accurate accumulation and use records of sick leave for all employees and for the regular distribution of notices to Department Heads of accrued sick leave of employees within



that department.

## B. Policy

Sick leave with pay is granted to City employees for non-work-related illness or injury, medical and dental appointments, or illness of a member of the employee's immediate family which require the employee's presence. Immediate family is defined as the following: Immediate family is defined as the following: birth parents, adoptive parents, foster parents, stepmother, stepfather, wife, husband, children (natural, adopted or step), brother or sister (natural, adopted or step), father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law. Non-exempt employees may use sick time in 30-minute increments. Exempt employees may only use sick time in eight-hour increments.

Sick leave is accrued by all full-time employees at the rate of four hours for each pay period worked. Employees must work one full pay period before accruing leave.

Employees may not take leave that has not been earned prior to the beginning of the pay period. Leave shall be accumulated at the beginning of each of the 26 pay periods of the year.

If not used in the year for which it is granted, sick leave may be accumulated without limit.

## C. Procedure

1. Employees on sick leave are paid their prevailing wage based on their typical scheduled work week. They retain all benefits and seniority while on approved sick leave.
2. It is the responsibility of the employee or someone acting on his/her behalf, to notify the department of his/her inability to report for work by 10:00 a.m. that day or within two hours of the normal reporting time.
3. A sick leave request slip shall be submitted by the employee immediately upon return to work before compensation for such absence is allowed. When necessary for payroll purposes, the immediate supervisor may prepare the sick leave request slip in the absence of the employee. The employee may be required to submit a written statement to the Department Head from his/her physician. The statement shall include:
  - a. In the case of illness of a member of the employee's immediate family (family members residing within the household of the employee), the need for and extent of the presence of the employee;
  - b. In the case of the employee, the expected date on which he/she may return to work and perform regular work duties;
  - c. The approximate date of the employee's medical release by the physician.

4. Compensation for leave under workers' compensation (injury leave) made necessary by a work-related injury shall not be deducted from accumulated sick leave except in accordance with Index No. 4.12, Workers Compensation, of the City's General Procedure Guidelines.
5. When a Department Head, in consultation with the Human Resources Officer, determines that sick leave can no longer be granted to an employee, other appropriate leave may be utilized upon request of the employee.
6. Under no circumstances shall an employee, nor the estate of a deceased employee, be entitled to payment for accumulated sick leave not used upon termination of employment.
7. When in the opinion of a Department Head, in consultation with the Human Resources Officer and confirmed by a physician, an employee has become permanently unfit for, or incapable of, satisfactory performance of his/her duties because of an illness or injury, the following policy applies:
  - a. If the employee is unable to perform the essential functions of the job with or without accommodation, the Department Head will attempt to place him/her in a position within the City's organization in which he/she can perform satisfactorily. This must not involve the displacement of any other employee.
  - b. If the employee is ineligible for FMLA and is completely disabled, or if no position exists in the City organization to which he/she can be transferred and can perform the essential functions of the job, the Department Head, in consultation with the Human Resources Officer, may take the actions to terminate the employee.
8. Sick leave is not considered as "hours worked" for overtime purposes.

#### **5.4 PAID TIME OFF (PTO) For Employees Who Participate in the Hybrid Retirement Plan**

An employee is covered under the VRS Hybrid Retirement Plan if their membership date is on or after January 1, 2014, and they are a general employee of a VRS-participating political subdivision.

This guideline establishes the policies and procedures regarding the accumulation and use of paid time off by City employees. Employees are responsible for managing their own PTO hours to allow for vacation, illness or disability supplement, the care of dependents, appointments, religious observations, emergencies or other needs which require time off from work.

This policy covers all full-time employees of the City of Lexington hired on or after January 1, 2014, who participate in the VRS Hybrid Retirement Plan and who receive mandated short-term and long-term disability benefits. This policy also covers eligible Plan 1 and Plan 2 employees who elect to opt-in to the Hybrid Plan.

##### **A. Responsibility**

Department Heads are responsible for familiarizing themselves with this guideline and to ensure adherence by all employees.

The Assistant Finance Director is responsible for the maintenance of accurate accumulation and use records of PTO for all employees and for the regular distribution of notices to Department Heads of accrued PTO of employees within that department.

**B. Policy**

**1. Enrollment:**

All persons covered by the Hybrid Retirement receive leave benefits in accordance with this PTO plan.

**2. Paid Time Off (PTO) Accruals:**

Full Time employees covered under the PTO plan receive accruals based on their years of service with the City of Lexington. PTO hours are accrued per pay period. An employee is eligible for leave according to the table below:

**PTO ACCRUALS**

<b>Years of Service</b>	<b>Accrual Hours Per Pay Period</b>	<b>Days Earned Per Year</b>	<b>Maximum Accumulation Limit (Hours per Fiscal Year)</b>
0 - 5	8	26	216
5 - 10	8.5	27.62	252
10 - 20	9	29.25	288
20 or more	10	32.50	324

To accrue PTO, an eligible employee must be in a paid status for the entire 80 hours in a pay period.

Employees may not take PTO that has not been earned prior to the beginning of the pay period. Leave accumulates at the beginning of each of the 26 pay periods of the year.

Employees may not carry PTO leave balances forward of more than the applicable maximum accumulation to a new calendar year. If the total PTO leave balance accumulation exceeds the maximum accumulation limit, the employee's PTO leave balance will be reduced to the maximum accumulation limit.

Any scheduled holiday that falls during the employee's PTO leave will not be

charged as PTO but as holiday.

3. Scheduling/Use of PTO Hours

Paid leave may be requested by the employee only if accrued PTO hours are available for use and may be used in 30 minute increments for non-exempt employees. Exempt employees may only use PTO in eight hour increments. Employees are responsible for maintaining PTO leave balances at adequate levels to ensure that leave taken does not exceed existing balances.

PTO must be approved in advance by the employee's supervisor. Scheduled PTO may be used for any approved purpose, and a request to use such leave shall be made by the employee to his/her supervisor no less than three working days in advance. Some departments may require employees to schedule PTO further in advance. The three-day requirement may be waived by the supervisor in cases of illness, emergency situations or other unforeseen circumstances (unscheduled PTO).

Unscheduled PTO will be monitored. In consultation with the Human Resources Officer, the supervisor has the right to request verification of any unscheduled absences by requiring documentation of the need to be out. When an unforeseen need for PTO occurs, employees shall notify the appropriate supervisor by 10:00 AM that day or within two hours of their normal reporting time. In some departments, earlier notice may be requested.

If PTO hours are available for use, the employee is required to use those hours to cover the waiting period before short term disability benefits begin. Accrued PTO may also be used by the employee to make up the difference between 100% of the employee's normal gross wages and the benefit provided under the short-term disability plan.

Employees do not accrue PTO hours for any period of leave-without-pay or any unpaid leave for disciplinary suspension.

4. Termination/Retirement Payment of PTO Hours

Employees that leave the City of Lexington will be paid at their current regular rate of pay for accumulated PTO hours up to the maximum accumulation limit amount. The City of Lexington will deduct all state and federal taxes, as well as any outstanding amounts due for benefits received, rental uniforms, keys or other property not returned by the employees at termination.

Use of PTO hours during a resignation notice period must be approved in advance by the appropriate supervisor.

5. Work Related Injuries/Illnesses

If an employee is absent due to a work-related illness or injury, they are required to use PTO hours for the first seven calendar days of absence, if available. If the employee does not have PTO available, they will be placed in a leave-without-pay status for that period.

6. Short-Term Disability (STD)

As of January 1, 2014, covered employees who participate in the Hybrid Retirement Plan will be covered under a short-term disability plan offered by the City and administered by a third-party administrator. The short-term disability plan provides a weekly benefit of less than 100% of normal weekly pay in accordance with the plan document.

Employees are required to file a claim for benefits with the STD carrier and be approved before any benefit is paid. The amount of the benefit, length of coverage, and the process to file a claim are provided in the STD plan documents.

Accrued PTO must be used by employees during periods of STD to cover the initial waiting period of seven calendar days and may be used to make up the difference between the amount received under the benefit schedule and the employee's normal pay. An employee may not receive more than 100% of the normal base pay amount when combining STD benefits and PTO. STD is directly funded by the City of Lexington, and taxes will be deducted from the amount paid to the employee as required by IRS regulations.

The STD benefit period may last longer than the period established under the Family Medical and Leave Act. Nothing in the PTO or STD plan extends FMLA benefits beyond those provided by law.

7. Long-Term Disability (LTD)

Upon exhausting all STD benefits an employee may file a claim for long-term disability benefits. The premiums for long term disability insurance are paid by the City of Lexington. The claim process is outlined in the insurance company plan document. Approval of LTD benefits rests solely with the insurance company.

9. Paid Time Off (PTO) leave is not considered as "hours worked" for overtime purposes.

## **5.5 ADMINISTRATIVE LEAVE**

Employees placed on administrative leave during internal investigations or other instances may or may not be authorized to receive compensation during the period of absence. In cases where compensation is not approved, vacation, sick leave or PTO may not be used.

Administrative leave may be granted with pay by the City Manager. The leave normally will not exceed three months. Application for administrative leave must be presented to the City Manager in writing.

## **5.6 UNAUTHORIZED ABSENCE**

- A. Any absence from the job during a scheduled work period without prior approval is considered an unauthorized absence. Employees will not be paid for unauthorized absences.
- B. An employee in an unauthorized absence status who fails to contact his/her supervisor for three consecutive workdays is deemed to have abandoned his or her position and voluntarily resigned, unless there are extenuating circumstances which otherwise prevent the employee or their personal representative from notifying the City of the reason for the absence.
- C. When emergency conditions exist during a period other than the normal work period (for example, before or after the normal work shift) and the emergency has been communicated to employees, any employee who leaves the work site or fails to return to the work site without the approval of his or her supervisor or Department Head shall be in an unauthorized absence status.
- D. If an employee fails to report for work at the expiration of an authorized leave and has not requested and received authorization for an extension of leave time, the leave is considered an unauthorized absence.

## **5.7 COURT LEAVE**

Full-time employees called for jury service will be granted leave with full pay for the duration of the period for which called. Any employee who is summoned or subpoenaed to appear in a court of law (except as a defendant in a criminal case) when a case is to be heard shall be granted leave with full pay for the duration of the period for which called. No charge shall be made against the employee's accrued leave. The employee must give reasonable notice of the court-related absence and is required to submit a copy of the official summons for jury duty or witness service to their Department Head prior to the beginning date of such service. An employee appearing in court either as a defendant or plaintiff in a case is not eligible for court leave pay.

Employees may keep juror travel and meal allowance money paid by the courts. If compensated other than for expenses for jury duty or for witness service requiring absence from work, the court compensation must be deposited with the City Treasurer. An employee may opt to keep court compensation and use annual leave or PTO for time spent away from work in jury duty or witness

service. In this event, the employee is entitled to full compensation awarded by the Court.

If released from jury duty during normal working hours and there are more than four hours remaining in the employee work day, employees are required to report to work or use accrued leave for the remainder of the day.

Employees summoned by a court for qualifying for jury duty are entitled to court leave for the actual period of absence, whether or not they are selected to serve. If their presence is required for less than a full work day and there are four hours remaining in the work day, they are required to report to work or use accrued leave for the remainder of the day.

Leave without pay shall be granted to any part-time employee called for service on a jury or any part-time employee who is summoned or subpoenaed to appear in a court of law.

## **5.8 MILITARY LEAVE AND RETURNING VETERANS**

Employees entering active military duty will have his/her job status protected in full compliance with federal and state requirements, including the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

Employees who are members of the National Guard, Reservists, or the Virginia State Defense Force and National Defense Executive Reserve will be granted a maximum of 15 days (150 hours) with pay per Federal Fiscal year (October 1 – September 30) to attend training approved by the Governor, his/her designee, or other appropriate military official. No charge for this training will be made against annual leave or PTO and no loss of pay or seniority will result from the taking of this leave. Once military leave is exhausted, the employee may opt to use his/her accrued leave for other military leave absences.

An employee who is leaving to perform military service must provide advance written notice to his/her immediate supervisor (including the best approximation of the expected dates of the leave). If military orders are not available in advance of the military leave, the employee shall provide his/her immediate supervisor with oral notice as soon as the date of the military leave is known. A copy of the orders or other documentation must be provided to the immediate supervisor as soon as possible, as the orders or documentation become available. If orders are not available, a letter from the commanding officer or other authorized representative is sufficient.

Employees will be granted leave as required to complete the military service for up to five years of cumulative uniformed service-related absences. Some special categories of military service are exempt from this five-year limit.

Employees with leaves of less than 31 days shall report back to work by the beginning of the first regularly scheduled work day after the end of the last calendar day of service, plus the time required returning home safely and having an eight-hour rest period.

Employees with leaves between 31 and 180 days shall apply for re-employment no later than 14 days after completion of uniformed service. Employees with leaves longer than 180 days shall apply for re-employment no later than 90 days after completion of uniformed service.

The reporting or application deadlines will be extended for persons who are hospitalized or convalescing because of an injury or illness incurred or aggravated during the performance of military service.

Returning service members will be re-employed in the job that they would have attained had they not been absent for military service, with the same seniority, status and pay, as well as other rights and benefits determined by seniority (escalator position). The City will make reasonable efforts (such as training or retraining) to enable returning service members to refresh or upgrade their skills to help them qualify for re-employment. However, certain exceptions apply and a service member may be placed in an alternative re-employment position if they cannot qualify for the escalator position.

During a period of military service, employees will be treated as if they are on a furlough or a leave of absence. Consequently, during their period of service they are entitled to participate in any rights and benefits not based on seniority which are available to employees on comparable non-military leaves of absence.

If an employee's health plan coverage would terminate because of an absence due to military service, they have the option to elect to continue the health plan coverage for up to 24 months after the absence begins or for the period of service (plus the time allowed to apply for re-employment), whichever period is shorter. The employee may be required to pay up to 102 percent of the full premium for the coverage. However, if the military service is for 30 or fewer days, the employee will not be required to pay more than the normal employee share of any premium.

## **5.9 FAMILY/MEDICAL LEAVE**

Family/ Medical leave may be granted to employees for a maximum of 12 weeks within the 12-month period, which begins with a qualifying occurrence. To be qualified for Family/Medical Leave, the employee must have been employed by the City for a minimum of 12 months and have worked 1,250 hours during the 12-month period prior to commencement of leave. The 12-month period for FMLA is measured forward from the date the employee first takes FMLA and ends 12 months after that date.

During this period, full time employees will accrue annual and sick leave or paid time off and continue to be enrolled under City sponsored insurance plans with the City continuing to pay the current contribution for the employee and the employee paying in advance his/her regular premium contributions and for any additional insurance coverage that they may elect to have.

Family leave will be granted in the following events:

- A. birth of a child of the employee and to care for such son or daughter;



- B. placement of a son or daughter with the employee for adoption or foster care;
- C. care of a spouse, child, or parent with a serious medical condition;
- D. a serious health condition that makes the employee unable to perform the functions of their position. A “serious health condition” is a physical or mental illness or an injury requiring inpatient hospital care or continuing health care treatments.
- E. any qualifying exigency arising out of the fact that the employee’s spouse, child, or parent is a covered military member on active duty or has been notified of an impending call or order to active duty in support of a contingency operation.

Employees will be granted up to a maximum of 26 weeks within the 12-month period measured forward from the date of the employee’s first FMLA leave usage and ending 12 months after that date, to care for a covered service member with a serious injury or illness if the employee is the spouse, child, parent or next of kin of the service member. An eligible employee is entitled to a combined total of 26 weeks of unpaid leave during a single 12-month period under these circumstances.

For continuing serious health conditions, the employee is entitled to 12 work weeks of leave within the twelve-month period measured forward from the date of the first FMLA leave usage. This leave may be intermittent or on a reduced leave schedule. For a birth or adoption, the leave option expires one year after the event.

The City requires the employee to obtain and provide to the Human Resources Office a physician’s certification of the existence of a serious medical condition of the employee, spouse, parent, or child. All certificates must include the date of the onset of illness or injury, the probable duration, and other appropriate medical factors.

When an employee takes leave to care for a spouse, child, or parent, the certification shall state that the employee is needed to care for the family member and provide an estimate of the amount of time needed for this purpose. When an employee takes leave because of his or her serious health condition, the certificate shall state that the employee is unable to perform the essential functions of his/her position.

When the employee takes intermittent leave or leave on a reduced leave schedule for a serious medical condition, the certificate shall include a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the leave. When the employee takes intermittent leave or leave on a reduced leave schedule to care for a spouse, child, or parent with a serious medical condition, the certificate shall state that the employee’s intermittent leave or leave on a reduced leave schedule is necessary for such care or shall assist in their recovery, and the expected duration and schedule of such leave.

When an employee takes leave for qualifying exigencies while his/her spouse, child, or parent is on active duty or called to active duty status in support of a contingency operation, a "Certification of Qualifying Exigency for Military Family Leave" shall be completed and submitted to the Human Resources Office.

When an employee takes leave to care for an eligible service member, the employee shall complete and submit "Certification for Serious Injury or Illness of Covered Service member" form to Human Resources. Under certain circumstances, second and/or third opinions may be required. If that is the case, they will be funded by the City. The third opinion shall be binding.

If an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the City may require the employee to transfer temporarily to an available alternate position for which the employee is qualified and has equivalent pay and benefits and better accommodates recurring periods of leave than the regular employment position of the employee.

Employees who wish to take family leave are expected to provide at least 30 days' notice of intention when the event is foreseeable such as a birth, adoption, or planned medical treatment. The City may designate leave as FMLA for an employee if notified that the employee has a serious health condition even if the employee has not requested it.

FMLA will be charged to accumulated paid leave balances. After exhausting paid leave, the employee will be placed on leave-without-pay for the remainder of the FMLA. The City may recover health premiums paid on behalf of the employee during leave-without-pay if the employee fails to return to the job unless that failure is attributable to the continuation of the medical condition or other circumstances beyond the employee's control.

At the end of the FMLA, the employee shall resume his/her former position. If the job no longer exists, a position of equivalent pay and benefits and other terms and conditions of employment shall be provided. For certain highly compensated employees as defined by federal law, the City may deny restoration if restoration would cause substantial and grievous economic injury to the City. The City shall notify the employee of the denial of restoration when they determine such injury would occur, and, in cases where leave has commenced, the employee elects not to return to employment after receiving such notice.

If the employee is unable to return to work at the end of FMLA, an assessment will be conducted to determine a potential date for the employee's return to work.

## **5.10 BEREAVEMENT LEAVE**

Absence from work of up to three (3) days (32 hours for employees who work 2,756 hours annually) due to death of an employee's immediate family member, shall be provided as paid bereavement leave to all permanent full-time employees. Immediate family is defined as the following: birth parents, adoptive parents, foster parents, stepmother, stepfather, wife, husband, children (natural, adopted or step), brother or sister (natural, adopted or step), father-in-law, mother-in-law, brother-

in-law, sister-in-law, son-in-law, daughter-in-law. Employees wishing to take time off from work for purposes of bereavement in excess of the three (3) days provided may do so provided they use accrued sick leave, annual leave, or PTO. Bereavement leave will not be considered "hours worked" for purposes of overtime.

### **5.11 LEAVE-WITHOUT-PAY**

Upon recommendation of the Department Head and the approval of the City Manager, leave-without-pay may be granted to an employee for short periods of time not to exceed four weeks.

All annual leave or PTO balances must be depleted before leave-without-pay will be granted. In the case of extended illness, the employee must have exhausted all sick and annual leave balances before leave without pay will be approved.

Except as provided in Section 5.7, 5.8 or 5.9 employees in leave-without-pay status will not accrue benefits nor be eligible for City contributions to group insurance plans, unless otherwise determined by the City Manager. If continued participation in City-sponsored insurance plans is requested and granted, the employee is expected to pay all related costs at least one month in advance.

An employee who fails to report to work without prior authorization or without proper notification will be placed on leave-without-pay status. Upon return to work, the employee may be subject to disciplinary action at the discretion of the supervisor. Absence without proper authorization or notification for three consecutive workdays is considered a voluntary resignation unless there are extenuating circumstances which otherwise prevent the employee or a personal representative of the employee from notifying the City of the reason for the absence.

### **5.12 LEAVE RECORDS**

The Finance Department maintains records pertaining to paid and unpaid leave. Current leave and compensatory time balances are available on E-Suite and will be printed on each employee's biweekly paycheck. Employees may review their leave record at any reasonable time.

### **5.13 COMMUNITY SERVICE VOLUNTEER LEAVE POLICY**

The City of Lexington encourages employees to participate in community service affairs of a charitable or civic nature for the betterment of themselves and the community. This policy permits full-time employees of the City to take time off with pay for volunteer service. Such service may include volunteering for a community service organizations, civic groups or schools.

#### **A. Definitions**

1. Community services organizations are community based or are providing services to the citizens within the community. The types of services provided may include

but are not limited to the following:

- (a) Assistance to physically or mentally challenged persons.
- (b) Relief to victims of disasters.
- (c) Health services, emergency relief, shelter, transportation and preparation or delivery of meals.
- (d) Community services which assist residents, including child and youth development, senior services and housing improvements.

Examples of such organizations include but are not limited to the American Red Cross, Habitat for Humanity, Meals on Wheels, The Community Table, YMCA, Big Brothers Big Sisters, Boy Scouts, Girl Scouts, Hospice, RARA, Toys for Tots, and the December Food Basket Program.

(e) Schools for which this leave may be granted include preschool, elementary, middle or high school. Acceptable types of volunteer service within schools may include:

- Assisting with reading or literacy programs
- Tutoring
- Serving as chaperone for class trips
- Assisting teachers with class activities

(f) Election Day working polls

2. Community is defined as Lexington, Buena Vista and Rockbridge County.

## B. Policy

1. Approval – Employees are required to complete a “Leave Request Form” and receive approval from their supervisor prior to using community service leave. Supervisors may require written verification of hours served from an official of the community service organization or school. Employees should make requests at least two weeks in advance unless there is an emergency which precludes such notice. Approval of Community Service Leave requests is up to the discretion of the supervisor, based upon the impact on departmental operations.
2. Hours – A maximum of 16 hours of paid community service leave per fiscal year is available to current full-time employees on July 1 each year and to new employees upon beginning employment.
3. Duration – Leave not taken under this policy in a calendar year may not be carried forward to the next fiscal year. There will be no payment for unused community service leave upon termination of employment.
4. Employees may not use City time to support programs that:

- (a) Have religious affiliations.
- (b) Primarily benefit a family member.
- (c) Involve coaching athletic teams (except for programs such as the Special Olympics).
- (d) Constitute a conflict of interest with the City.
- (e) Supports a particular political party.

5. Community Service Volunteer leave will be considered as “hours worked” for purposes of overtime.

**SECTION 6: EMPLOYMENT POLICIES**

**6.1 OPEN COMMUNICATIONS**

The City maintains a spirit of open communication through all aspects of its organization. Any employee who has a concern or would like assistance in solving job-related problems, providing information, or clearing up misunderstandings may meet with Human Resources. Of course, employees are encouraged to first discuss concerns with their immediate supervisor and/or Department Head if appropriate. This opportunity shall in no way be a substitute for the Employee Grievance Procedure or for the normal chain of command.

Any discussions held pursuant to this philosophy are confidential unless permission is granted by the employee to discuss the problem with other individuals. In situations where discrimination and harassment issues are discussed, the applicable policies will apply. Reprisals, harassment, or inequitable treatment of any employee availing himself/herself of this opportunity are strictly prohibited.

**6.2 PROMOTIONS**

Promotion is defined as advancement to a higher pay grade granted to an employee in conjunction with increased job duties and responsibilities. The effective date of all promotions is the first day of the pay period.

When employees are promoted one grade, they will receive a 5% increase. When employees are promoted two or more grades, they will receive 5 % for the first grade and 2.5 % for each grade after. An example follows:

<b>Grade</b>	<b>Percentage</b>	<b>Grade</b>	<b>Percentage</b>
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1	5%	6	17.5%
2	7.5	7	20
3	10	8	22.5
4	12.5	9	25
5	15	10	27.5

Employees who are promoted at the same time they would otherwise receive a merit increase, will receive a promotion raise and a merit raise.

When an employee is promoted from a grade position to an executive pay grade position, the salary will be based on experience, education and past performance and the salary shall be determined by the City Manager. The City Manager has the authority to review and consider additional compensation, taking into consideration the employee’s experience, education, and skills related to the new position.

**6.3 TRANSFERS**

- A. Lateral Transfer – Lateral transfers are subject to the approval of the Department Heads involved and the City Manager. Under most circumstances, no pay adjustment will be made at the time of the transfer.
- B. Lower Rated Position – Transfers to lower classifications are subject to the approval of the Department Heads involved and the City Manager. The employee’s salary will decrease by the promotional increase applicable from the lower rated position to the position currently held by the employee wishing to transfer.

**6.4 REDUCTION IN FORCE**

The City Manager or a Department Head with the approval of the City Manager may call for a reduction in force (layoff).

Before implementing a layoff, the City Manager will:

- Determine if there are alternatives, such as a freeze on hiring, promotions, or pay raises, asking employees to take time off, and/or cutting other costs;
- Determine whether the entire workforce of the City or only certain designated work unit(s) are to be affected;
- Designate business functions to be eliminated or reassigned;
- Review vacant positions within the City to identify valid vacancies which may be used as placement options in lieu of reduction in force;
- Determine if the City can offer the option which allows other employees in the same work unit, position class, and performing substantially the same duties to request in writing to be considered for voluntary layoff if no placement options are available for employees initially identified for reduction in force; and

- Conduct a disparate impact analysis of the planned layoff.

In determining which employees will be laid off, the City Manager will consider length of service, performance evaluations, and the specific value of each employee to the City. This review will include all employees assigned to the position class affected by the reduction in force. Upon completing the review, employees will be ranked in the order in which they will be laid off.

The City will make every effort to provide laid off employees at least two weeks' notice prior to the effective date. The notice shall include the reason for the lay-off, the effective date, and any other information deemed necessary by the City Manager.

The laid off employee will receive severance pay that is equivalent to one week's pay for each year of employment with the City, up to a maximum of 12 weeks of pay. The City's contribution to the employee's health insurance premiums will continue during the severance period provided the employee's contributions continue. The employee will be eligible for payout of eligible accrued untaken leave as outlined by policy.

Employees who are laid off will be placed on an eligibility list, in priority order, for a period of up to one year after the lay-off. These employees will be given first opportunity to return to work should an opening become available that is commensurate with his/her skills. The employee shall complete and submit the necessary application form by the posting deadline date to be considered for the opening. The Department Head will determine whether the employee is qualified for the vacant position. The factors considered in the above review will determine the order of names on the eligibility list. If a person on the eligibility list appears qualified for a future opening but says he/she is not interested, and if the position is not a lower class than the one previously held with the City, the person's name shall be removed from the eligibility list.

## **6.5 NOTICE OF RESIGNATION**

Employees are expected to provide written notification to their Department Head of his/her intention to resign employment. The Department Head is responsible for notifying the Human Resources Office.

### **A. Procedure**

1. Resigning employees will submit written notification to their Department Head. The notification shall include the current date and the date the resignation is to become effective.
2. A copy of the resignation notification shall be forwarded to the Human Resource Officer for processing and filing.
3. Employees are asked to provide at least 14 calendar days' notice in advance of the effective date of resignation. In some instances, at the discretion of the Department Head, the employee may be asked to leave immediately (with pay for the notice period). If 14 days' notice is not given, the employee's eligibility for re-employment may be adversely affected.
4. Employees who resign will be paid for all accumulated annual leave and paid time off to which they are entitled. An employee must work an equivalent of 40 hours

during the 14-calendar day period following notice of resignation in order to be eligible for accrued paid annual leave for that pay period.

5. When an employee fails to file a written resignation prior to leaving City employment, the Department Head shall advise him/her by letter through registered mail of:
  - (a) the City's understanding that the employee has voluntarily resigned;
  - (b) the effective date of termination;
6. A copy of the letter together with any documents pertinent thereto, including correspondence from the employee, shall be forwarded to the Human Resource Office for processing and filing.

## **6.6 EXIT SESSION**

Upon submitting their resignation or being separated in any other way from the employ of the City, a full-time employee, except in cases of dismissal, is required to schedule a meeting with the Human Resources Office to discuss exit details. The exit session will be scheduled before the employee's last day of employment with the City.

## **6.7 PERFORMANCE EVALUATIONS**

- A. Performance evaluations will be completed for all full and part-time employees at the end of their probationary period and prior to the end of the City's fiscal year.
- B. Immediate supervisors are responsible for evaluating their direct reports with a secondary review by his/her manager or department head. The supervisor will provide a copy of the form to the employee and schedule time to discuss the evaluation, job performance, and goals for the coming year.
- C. Employees may appeal their evaluation by meeting with their Department Head to discuss the reasons he/she believes the evaluation is inappropriate. The appeal shall be made within five working days following the evaluation interview between the employee and the supervisor. If that meeting does not satisfy the employee, he/she may appeal the evaluation to the City Manager. This appeal shall be made within five working days following the meeting with the Department Head.
- D. All evaluations will be sent to the Human Resources Officer who will review them for consistency, completeness, and accuracy. The forms will be maintained in the employee's personnel file.

## **6.8 WORK HOURS**



- A. Regular work hours for City employees are 8:00 a.m. to 5:00 p.m., Monday through Friday. Department Heads are responsible for designating actual work hours for their employees, subject to the approval of the City Manager. Meal breaks vary from one-half hour to one hour depending on the nature of the job. Schedules may be changed at the discretion of the City Manager for any or all employees.
- B. Department Heads may adjust the scheduling of hours to be worked by non-exempt employees within a 7-day workweek, provided the established workweek is not changed and the total number of hours does not exceed 40 during the 7-day workweek, or 80 during the 14-day work period for law enforcement officers. The “established workweek” refers to the time of day and day of week on which each employee’s workweek begins and ends. To meet the needs of the department, Department Heads may also adjust the schedules of exempt employees and assign specific shifts as required.
- C. Under some circumstances, employees may be called to work at times other than their normal hours. If this occurs, they are expected to report at the designated time. Failure to do so may result in disciplinary action.
- D. The City provides reasonable break time for employees to express breast milk for a nursing child for up to one year after the child’s birth. Supervisors will provide employees up to a half hour break every 4 hours to express milk and are encouraged to consider flexible schedules to accommodate an employee's needs. Within the constraints of its’ premises, the City will make its best efforts to provide a private room or space, other than a bathroom stall, which is near the employee's work area, for nursing mothers to express milk.

## **6.9 USE OF CITY AND PERSONAL VEHICLES FOR CITY BUSINESS**

This guideline establishes the policies and procedures regarding the use of vehicles owned and insured by the City of Lexington and personal vehicles driven by employees while conducting City business. It also addresses motor vehicle records checks of potential new hires and currently employed workers.

Department Heads are responsible for familiarizing themselves with this guideline and to ensure adherence by all employees. It is the responsibility of the Accident Review Committee to review each accident.

### **Policy**

All current and prospective employees who drive or will drive a City of Lexington vehicle as part of their normal duties or who may have need of a City of Lexington vehicle during their employment must have a valid Commonwealth of Virginia driver's license appropriate for the vehicle they will operate.

Employees who operate personal vehicles for City of Lexington business for which mileage is reimbursed or an allowance paid must have a valid Commonwealth of Virginia driver's license. Personally owned motorcycles may not be used for business related matters.

Employees using their personal vehicles for City of Lexington business, including traveling to

seminars, are required to have a minimum of \$25,000 per person, \$50,000 per accident bodily injury liability and \$25,000 property damage liability, as required by the Commonwealth of Virginia on their personal vehicles. The employee may wish to inform their insurance company that they are using their personal vehicle for business purposes.

City of Lexington vehicles may be taken home on a regular basis only with prior authorization from the City Manager, during times of emergencies, when on call, or such other circumstances as deemed necessary by the City. City vehicles, including vehicles used by public safety personnel, are not to be driven by non-employees or used for personal business. The City of Lexington gives permission to have passengers, including non-employees, if during regular daily business, car-pooling to training, meetings, or conferences.

Noncompliance with this Vehicle Use Policy may disqualify an employee from driving privileges and could result in disciplinary action up to and including termination of employment.

### **Vehicle Accident Review Program**

The Accident Review Committee will be comprised of a Sergeant from the Police Department, the Assistant City Manager/Finance Director, and a Superintendent from Public Works. The Accident Review Committee is independent of the Safety Committee. The Accident Review Committee will meet monthly to review each accident. If an accident occurs and based on all the facts, the Committee will determine if it was preventable by answering the question “did the driver fail to do everything he could have done to avoid the accident?” If the Accident Review Committee determines that the accident was non-preventable, no corrective action is required. The Accident Review Committee will have discretion to determine if the accident was valid and to allow for mitigating circumstance (i.e. weather, ice, avoiding hitting a pedestrian, narrow streets, etc.)

### **Vehicle Accident Review Policy Statement**

If an employee of the City of Lexington is driving a City owned motor vehicle and is involved in an accident, that accident will be investigated by the Accident Review Committee and a written report will be prepared. When an accident occurs, the accident shall be reported to the appropriate law enforcement authority as well as the supervisor or Department Head. The supervisor or Department head will report the accident to the Finance Department.

### **First Preventable Accident**

If the Accident Review Committee determines the accident to be preventable, the employee’s Department Head will be notified in writing. The employee will be given a written warning and required to watch a driver improvement video or VML training module from the VML Resource Library.

### **Second Preventable Accident**

If a second preventable accident occurs within a one year period, the employee will be given a written reprimand and must attend a four hour defensive driving course at their own expense, or

complete the VML Driver Safety (DV57) four hour online training module within 90 days of such finding. This course will cover topics such as common driving errors, defensive driving techniques, and awareness of surrounding. The Accident Review Committee will assist the employee in obtaining the required training. Upon completion of the course, the employee shall submit proof of the class to the Accident Review Committee.

### **Third Preventable Accident**

If a third preventable accident occurs within a two-year period, the employee will be subject to further disciplinary action including written reprimand, demotion or termination and may be required to attend an eight hour defensive driving course at their own expense. The employee will have 90 days to complete this course. The Accident Review Committee will assist the employee in obtaining the required training. Upon completion of the course, the employee shall submit proof of the class to the Accident Review Committee.

### **Driving Record, Selection and Driver Training Program**

Prior to an offer of employment with the City of Lexington, management will determine if the potential employee has the appropriate driving license, endorsements and skills needed for the position. This will, in part, be accomplished by obtaining a Motor Vehicle Report from the DMV. Once hired, the Motor Vehicle Report will be obtained annually. A job analysis will be performed to determine which vehicles the employee will be operating. Newly hired employees will be given a road test (if driving other than passenger vehicles) by his/her immediate supervisor to determine if they can operate the vehicle in a safe manner. The employer may accept a CDL in lieu of a road test if the driver is required to successfully complete a road test to obtain a CDL. This record will be maintained at the department level. It is the responsibility of the employee to report to his/her department head any and all accidents, moving violation, charges or DMV medical reviews.

### **Training**

Department Heads will provide driver training on an annual basis for employees who drive City owned vehicles or their personal vehicles for City business. The employee may attend workshops, complete a VML training module or watch a video about driving or driver safety.

The following guidelines apply to the use of City Vehicles and outlines what is considered as non-business use and treated as a taxable fringe benefit. Each Department Head whose department is assigned a vehicle(s) shall be familiar with this policy. The Finance Director is responsible for ensuring city vehicles are utilized in accordance with applicable tax regulations.

#### **A. Personal Use of City vehicles**

City of Lexington vehicles may be taken home on a regular basis with prior authorization from the City Manager during times of emergencies, when on call, or such other circumstances as deemed necessary. City vehicles, including those used by public safety personnel, are not to be driven by non-employees or used for personal business. The City of Lexington allows passengers (including non-employees) if they are car-pooling to training, meetings, or conferences.

Employees are not permitted to operate a City vehicle for other than business use. Any use of a city vehicle for commuting purposes shall meet one of the following IRS exclusions from compensation rules:

(a) *Deminimis* transportation benefits

*A deminimis* transportation use is defined as any local transportation provided to an employee with so little value (considering the frequency of such use) that accounting for it would be unreasonable or administratively impractical.

(b) Working condition benefit

This exclusion applies to the use of a vehicle, so the employee can perform his or her job. It applies to the extent the employee could deduct the cost as a business expense if he/ she had paid for it. Use of the vehicle in traveling to or from approved training is included in this permitted use. A Director may authorize the use of take-home vehicles under this exclusion for employees to respond to severe weather conditions such as snow or ice storms.

B. Qualified Non-Personal Use Vehicles

An employee's use of a qualified non-personal use vehicle is a working condition benefit. A qualified non-personal use vehicle is any vehicle the employee is not likely to use more than minimally for personal purposes because of its design. Qualified non-personal use vehicles include all of the following:

- (a) Clearly marked, through insignia or words, police, fire, and public safety vehicles.
- (b) Unmarked vehicles used by law enforcement officers if the use is officially authorized.
- (c) An ambulance used for its specific purpose.
- (d) Any vehicle designed to carry cargo with a loaded vehicle weight over 14,000 pounds.
- (e) Bucket trucks, dump trucks, garbage truck, flat-bed trucks, and specialized utility repair trucks. Public Works employees are permitted to take home utility repair trucks when they are on-call for utility emergencies.
- (f) A pickup truck with a loaded gross vehicle weight of 14,000 pounds or less is a qualified non-personal use if it has been specially modified so it is not likely to be used more than minimally for personal purposes. For example, a pickup truck qualifies if it is clearly marked with permanently affixed decals or special painting and is equipped with any of the following:
  - (1) A hydraulic lift gate.
  - (2) Permanent tanks or drums.
  - (3) Permanent side boards or panels that materially raise the level of the sides of the truck bed.

- (4) Other heavy equipment (such as an electrical generator, welder, boom, or crane used to tow automobiles and other vehicles).
- (5) It is used primarily to transport a particular type of load (other than over the public highways) in a construction, or other similar operation for which it was specially designed or significantly modified.

C. Fire Volunteers' Use of Vehicles

Volunteers of the Fire Department who are on duty in an on-call capacity or who are providing standby coverage are authorized to use City vehicles in carrying out their assigned responsibilities. In addition, volunteers may use a City vehicle for approved training activities and while providing stand by coverage and required to respond to emergency calls.

D. City Vehicles

Other than City employees and fire volunteers, no one shall be permitted to drive or use City vehicles. Employees shall not consume alcohol while operating City vehicle or vehicle leased by the City. Unauthorized use of a City vehicle will result in disciplinary action against the employee.

## **6.10 OPERATION OF CITY-OWNED MOTOR VEHICLES AND MOTORIZED EQUIPMENT**

- A. All individuals assigned the use of a City-owned vehicle are responsible for complying with the following requirements:
- 1. City owned vehicles assigned to an employee shall only be used by that employee in the performance of the duties of his/her department.
  - 2. Employees are expected to drive safely and take every precaution to prevent accidents.
  - 3. Drivers will be legally licensed by the Commonwealth of Virginia to operate the type of motor vehicle which they are assigned to drive. In addition, they shall maintain the physical fitness standards required to operate the vehicle and obey all traffic laws.
  - 4. Employees are expected to immediately notify their supervisor of any changes to their driving privileges.
  - 5. Employees will comply with all restrictions on their license (i.e., use of corrective lenses, times permitted to drive, etc.). In addition, employees are expected to notify their supervisor of any such restrictions.
  - 6. Drivers of City vehicles that may be taken home will be driven to the employee's place of residence and parked until their next shift. Occasional stops while commuting for personal business are permitted, but discretion should be exercised.
  - 7. Employees may not transport alcoholic beverages in City vehicles unless approved in advance by the City Manager.
  - 8. City vehicles will be left at the employee's place of work when they are on annual leave or otherwise absent from work.
  - 9. Whenever possible, City vehicles will be shared with other employees in need of a vehicle for City business, but the individual assigned to the vehicle will have first priority.

10. It is the responsibility of any operator of light or heavily motorized equipment to immediately report any defect in equipment to their supervisor.
11. Operators of vehicles and other City owned motorized equipment who violate these rules or are involved in an accident shall be the subject of an investigation. If it is determined that the employee is responsible for the violation or accident or somehow contributed to the incident, that employee will be subject to disciplinary action, up to and including termination of employment.

B. The following actions will occur if an employee's driver's license is revoked or suspended:

1. The employee will not be allowed to operate any City-owned vehicle until proof is presented to the Department Head that a valid Virginia license has been reissued to the employee. An employee charged with DUI/DWI or other serious traffic offenses will not be allowed to drive on City business while the charge is pending, unless the facts and circumstances are such that the employee's driving would not create a potential liability for the City.
2. An employee whose essential job functions require regular operation of City-owned vehicles may be assigned to a position for which driving is not required, with a possible cut in pay, if such a position is available and if, in the judgment of the Department Head and City Manager, the transfer will not interfere with City operations.
3. If the employee cannot perform his/her essential job functions and no transfer is available, the employee may be (1) terminated if his/her license is revoked, or (2) placed on leave-without-pay status if his/her license is suspended for the suspension period or terminated if the leave would interfere with City operations.

To determine if the employee can still perform his/her essential job functions with a restricted or suspended driver's license, the Department Head shall, in consultation with the City Manager or designee, review the employee's job description and the potential impact of the employee's being unable to operate City-owned vehicles. An employee who has been convicted of a second or subsequent offense DUI/DWI or who has been determined or adjudicated a habitual offender or other major traffic violation, such as reckless driving, shall not remain employed in a position that requires driving.

4. If the employee can perform his/her essential job functions with a restricted or suspended license, the employee will not be permitted to drive on City business for an appropriate period. The period will be determined by the Department Head in consultation with the City Manager and the City Attorney, based on (i) the circumstances and nature of the license restriction or suspension and (ii) the best interests of the City.
5. The provisions outlined above apply if an employee who, as part of his/her job duties, operates a City-owned vehicle, the operation of which is regulated by the Commercial Vehicle Safety Act of 1986, as amended, has his/her eligibility to operate such vehicles revoked or suspended under Federal law. The requirement for an employee in his/her job description to have a commercial driver's license creates the presumption that he/

she cannot perform his/her essential job functions without a valid commercial driver's license.

## **6.11 RENTAL CARS**

Employees traveling 50 miles or more per day for training or other official City business will be expected to use a rental car. Employees may be permitted to use their personal vehicle if it is a multiple day conference and it is more cost effective to do so. Employees shall use their personal vehicle if the trip is less than 50 total miles. No add on equipment (GPS units, etc) will be paid for by the City. Employees will also decline any elective rental car insurance coverage. Contact the Finance Director and refer to Section 6.13 of this Manual for additional information. The employee shall refrain from any consumption of alcohol while driving the rental car.

## **6.12 CREDIT CARDS**

### **Purpose**

This guideline establishes the policy and procedures for the issuance and use of credit cards for all City departments.

### **Policy**

All requests for the establishment of credit cards shall be initiated by the Department Director and approved in advance by both the Treasurer and the Assistant City Manager/Finance Director. Only City expenditures may be charged to City credit cards; they are **not** to be used to make personal purchases. City credit cards shall only be established when there is a clear justification for their use. The City credit card shall not be used to purchase alcohol. Misuse or lack of timely provision of supporting charge documentation may be grounds for revocation of charge accounts and may subject the employee to further disciplinary action.

### **Responsibilities**

Specific responsibility is assigned to the Finance Director for ensuring adherence to this guideline. The Finance Director and Treasurer are jointly responsible for approving all credit card accounts as well as maximum credit limits prior to activation. The Finance Department is responsible for reconciliation and payment of credit card billings.

Department Directors are responsible for timely provision (as defined below) of supporting documentation for transactions. Department Directors shall be responsible for establishing procedures for the safe-keeping of cards and for collecting cards from employees who terminate their employment with the City.

When the employment of a Director terminates, the Human Resource Department will ensure that any City credit cards are collected or remain in the possession of the City. When cards need to be deactivated due to termination of employment or for other reasons, it shall be the responsibility of the Department Director (or HR in the case of a Director's leaving employment) to notify the Treasurer of the need to deactivate the account.

### **Procedures**

1. Department Directors desiring to open store credit card accounts or bank credit card accounts under the City's approved credit card program must make a request to the Treasurer or Finance Director, giving justification for the need for the card. Lack of planning for non-emergency purchases will not be deemed sufficient justification for issuance of a card. Open credit should be established with a vendor whenever practical, to avoid the need for credit card transactions.
2. Upon approval of both the Treasurer and the Finance Director, the Treasurer shall take the steps necessary to establish a bank credit card in the name of the requesting user. No one other than the Treasurer or their designee is authorized to apply for or to have a bank credit card issued or to have the credit limit increased. For credit cards other than bank cards, once approval is obtained, the authorized user may apply for and obtain a store credit card.
3. Upon receipt of a card, the user shall be authorized to activate the card after notifying either the Treasurer or the Finance Director of the receipt of the card.
4. Monthly billings will be verified for accuracy by the using department and supporting documentation for all charges shall be attached to the bill, in the order of the charges on the bill. Charge documentation must be detailed (for example, meal charges while traveling must reflect individual charge amounts for each item and not just the total expenditure amount). Expense codes shall be noted on the statement and approved by the Department Director or their designee. It is expected that the approved billing and documentation be returned to the Executive Assistant to the City Manager within one week of the bill's distribution. Repeated disregard of this timeframe shall be grounds for cancellation of the card(s).
5. Charging of non-City expenses to an account is grounds for cancellation. Alcohol should not be charged to City cards.
6. Upon receipt of the approved bill, the Finance Department will record the entries to the General Ledger.
7. Upon leaving City employment, employees shall surrender all City charge cards. Department Directors/HR shall ensure compliance with this provision. When credit accounts need to be deactivated, the Treasurer shall be notified of this need.

## **6.13 OUT-OF-TOWN AND OVERNIGHT TRAVEL POLICY**



This guideline establishes the policies and procedures concerning out-of-town, overnight travel for City employees. Except for the purpose of establishing mileage and other reimbursement rates, this procedure is not intended to cover routine business travel during the day that is unrelated to professional development activities.

Specific responsibility is assigned to the Department Head to approve travel requests. The Finance Department is responsible for providing approved cash advances, for issuing registration and other checks, and for making reimbursement upon the travelers return.

### **Policy**

The City of Lexington will reimburse authorized travelers for travel expenses on official business and for career/professional development. The following types of travel will be eligible for reimbursement.

- A. For official City business, (this includes all Boards, Commissions Councils, when the City is the fiscal agent, or others who represent the City of Lexington) expenses will be paid in full upon the Department Head's approval.
- B. If an employee is required by law or certification requirements to attend in-service training programs, expenses will be paid in full upon the Departments Head's approval.
- C. If an employee becomes an association officer, is a member of a conference planning committee, is to make a presentation on a job-related subject or has some similar official role, conference expenses will be paid in full upon Department Head approval and budget availability.
- D. If an employee who has substantial departmental responsibility desires to attend a regional or state-wide professional meeting; or a national conference which is held within the region, expenses will be paid in full for one such meeting per year, provided the expenses are budgeted.
- E. Expenses will be reimbursed for employee training programs if the benefit of the training to the City is demonstrated to the satisfaction of the Department Head.
- F. Other travel may be partially funded with Department Head approval. For example, if an employee wishes to attend a conference in which he/she does not have an established role, the City may approve registration, room and board while the employee pays travel expenses. The degree of City participation in funding such activities will be dependent on the nature of the activity, its importance to the City, and the availability of funds.

### **Procedures**

- A. Travel Requests

All requests for out-of-town travel noted above must be pre-approved by the Department Head. The Department Head may request the employee submit a travel request form. If requested, the form must include the nature of the travel (copies of agenda's are recommended) and location of such. It is not necessary to send a copy of

the completed travel request form to the City Manager for approval.

**B. Travel Expenses**

The employee shall use their City purchase card to cover all related expenses while traveling. Receipts for all purchases made on the purchase card must be submitted to the Department Head upon return. Those who do not have a City purchase card and use cash or their personal credit card shall submit a request for payment form along with all receipts to their Department Head upon return. The Department Head shall submit the approved request for payment form to the Finance Director for processing and payment. Meal costs should be kept as reasonable as is practical. Alcohol should never be purchased using City purchase cards.

**C. Transportation**

The employee will be expected to use a rental car unless the trip is less than 50 total miles. The employee shall use their personal car for trips less than 50 total miles and will be reimbursed the IRS allowable rate. The employee would not be paid for gas.

If an employee uses a City owned vehicle, they should refill the car at Public Works. If the employee needs additional gas while traveling, they should purchase the gas and turn in the receipts with the travel form.

**D. Per Diem Rates**

The following rates will apply to all City paid travel:

<b>Type of Expense</b>	<b>Amount</b>	<b>Receipt Required</b>
Registration/Tuition	Actual Amount	Yes
Lodging	Actual Amount	Yes
Use of Personal Vehicle	IRS Allowable Rate	No
Other Transportation	Actual Amount	Yes
Other Expenses	Actual Amount (itemized)	Yes
Gasoline	Actual Amount (for City owned vehicles only)	Yes
Meals	Employees are required to use good judgment in incurring costs for meals. The City will not pay for any alcohol associated with	Yes

	any meal or travel.]	
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E. Reimbursement

Any itemized accounting of expenses with receipts should be forwarded to Department Head no later than one week after returning to work. Receipts should be attached as noted in the listing above. Upon the Department Head's approval, the form is to be forwarded to the Finance Department for payment.

## 6.14 OUTSIDE EMPLOYMENT

- A. Employees are responsible for notifying their immediate supervisor, Department Head or the City Manager that they are requesting approval of outside/secondary employment. The supervisor, Department Head or City Manager will approve or deny the request and forward the request to the department and Human Resource Office. The Request can be obtained from the Human Resources Officer.
  
- B. Employees wishing to engage in outside employment will comply with the following guidelines and procedures:
  - 1. The following employment opportunities require the written approval of the employee's supervisor and Department head, or, in the case of those employees on the Executive Pay Plan, the City Manager;
    - (a) All outside employment involving the same or similar knowledge/skills as the employee's City position.
    - (b) All outside employment which may ultimately come before the employee or the department in an official capacity.
  
  - 2. Any employee who wishes to engage in outside/secondary employment that falls within one of the above categories must submit a written request for approval on the Outside/Secondary Employment Approval Form to the immediate supervisor for submission to the Department Head. A copy of the Outside/Secondary Employment Approval Form will be maintained in the department and in the Human Resource Office. If an employee on the Executive Pay Plan wishes to engage in outside/secondary employment, they shall submit the form to the City Manager.
  
  - 3. The approving authority may approve the request for a maximum of one year. The employee shall submit a request for approval to continue outside/secondary employment to the supervisor each year.
  
  - 4. If conditions change which require that the City withdraw approval for outside employment, the employee will be given at least two weeks written notice.
  
  - 5. Outside/secondary employment will not be accepted as an excuse for poor performance, absenteeism, tardiness, leaving work early, refusing to travel or work overtime (or different hours), or any other reason deemed appropriate by the Department Head or City Manager.
  
  - 6. If outside/secondary employment interferes with an employee's work requirements it shall be discontinued.
  
  - 7. Employees may not conduct any business relating to their outside employment during paid working time.
  
  - 8. Newly hired employees who already have another job at the time they begin employment with the City must notify their supervisor immediately and obtain approval.
  
  - 9. Working an outside/secondary job while using sick leave is prohibited.

10. Volunteer positions utilizing the same skills as those used during employment with the City shall be considered employment for this policy.
11. No City resources, materials, vehicles, equipment or uniforms shall be used for outside/secondary employment.

### **6.15 PROFESSIONAL APPEARANCE**

Employees on duty are expected to present a clean and well-groomed appearance. Departmental rules and regulations may expand on specific requirements.

Inappropriate attire regardless of department or position includes, but is not limited to the following:

- Clothing which is casual or considered to be unprofessional in a business environment (i.e., sweat pants, running shorts or “work out” clothes).
- Clothing which is in a state of disrepair or is dirty.
- Clothing which exposes excessive cleavage, back, chest, stomach or undergarments or is otherwise revealing.
- Clothing which contains inappropriate verbiage or pictures. This includes images which are political or religious in nature (unless a religious accommodation), sexually provocative, use profanity or demeans or negatively represents any gender, race, color, ethnicity, religion, national origin, disability, sexual orientation, gender identity, or any other category protected by federal, state and local laws.
- Beach-style flip-flops and slippers.

Employees reporting to work in clothes that are deemed inappropriate may be asked to return home to change. Nonexempt employees will not be paid for time missed. Exempt employees must utilize their PTO or annual leave for any time missed. Repeated policy violations of the City’s dress code policy may result in disciplinary action.

### **6.16 NEPOTISM**

This policy establishes the conditions under which members of the same family may be employed by the City of Lexington. The intent of this policy is to reduce the potential for conflicts of interest which may result from the employment of relatives in the same department of the City.

#### **A. Definitions**

1. Public Officials and employees are individuals appointed to a position or hired through competitive processes to serve the City of Lexington.
2. Immediate Family for this policy are defined as a spouse, parent, parent-in-law, child, brother, sister, grandparent, grandchild, brother or sister-in-law, legal guardian and equivalent step-relations, as well as non-related individuals residing in the same household.
3. Indirect supervision includes, but is not limited to, being in a position to effect the terms and conditions of another’s employment, including making decisions about

work assignments, compensation, grievances, and advancement or performance evaluations.

**B. Policy**

1. No Public Official or employee of the City of Lexington may directly or indirectly supervise or otherwise have access, control or influence over work activities or salary decisions for immediate family members.
2. Employees may not be hired, promoted, demoted or transferred to a work assignment that creates a situation in conflict with this policy.
3. With respect to indirect supervision, employees in positions senior to their immediate family members are responsible for recognizing situations in which employment interactions may be in violation of this policy and will recuse themselves from any involvement or decision-making pertaining to their family member.
4. An immediate family member of the City Manager may not be employed by the City in any capacity. In situations where a member of a current employee's immediate family is appointed prior to the City Manager, the employee shall resign his/her position, or shall be released from employment, no later than the date on which the City Manager takes office.
5. When the relationship between employees change such as through marriage, adoption or living arrangements, creating a situation that violates this policy, employees shall notify their supervisor immediately and ensure they comply with the policy within three months.
6. In certain situations, such as public safety emergency response or weather related emergencies, employees that do not normally fall within the supervisory chain of command, including family members, may work together and/or supervise one another for the duration of the emergency.

**6.17 E-MAIL, COMPUTER AND INFORMATION USAGE POLICY**

**A. Computer Records**

All electronic data located on any computer owned by the City or any cloud service maintained by the City, is the property of the City of Lexington. This includes documents, records, databases, files, e-mails, logs, and records of internal and external electronic mail and instant messaging. Electronic files are considered "official records" for the purposes of the Virginia Freedom of Information Act, and they may be subject to public inspection or to accessibility by City officials as may be necessary.

There is no expectation of privacy in the information stored in these electronic files and on City computer systems.

B. General E-Mail Policy

1. Important official communications are often delivered via e-mail. As a result, employees of the City of Lexington with e-mail accounts are expected to check and respond to their e-mail in a timely manner.
2. E-mail users are responsible for mailbox management, including organization and deletion of non-public record e-mails.
3. E-mail users are also expected to comply with normal standards of professional courtesy and conduct, applicable laws, contracts and all City policies.
4. Personal use of City e-mail is acceptable as follows:  
If an employee receives a personal e-mail he/she may briefly read the message just as the employee might receive a personal phone call while on the job. A very brief reply is acceptable. Forwarding of jokes, trivial messages, and chain messages is prohibited.
5. E-mail is not a private and confidential form of communication. Messages can be intercepted by internal or external sources. If an employee desires to transmit confidential communications or sensitive information, they should refrain from using e-mail or the Internet.
6. Employees should use caution and be suspicious of unsolicited messages and notify the Information Technology Department or their supervisor if they have questions or concerns. In addition:
  - (a) Don't open unsolicited attachments or those received from strangers.
  - (b) Don't launch (click on) URLs provided from unsolicited emails.
  - (c) Don't download executable files or open e-mail attachments from unknown sources (\*.exe).
  - (d) Don't forward chain letters.

C. Internet Usage

1. General Principles
  - (a) The Internet is intended to facilitate City-related business communications and research and shall be used in a responsible, efficient, ethical, and legal manner in accordance with the mission of the City. Use of the City computers and the Internet is a privilege and employees are expected to exercise good judgment in its use.
  - (b) Employees shall treat the Internet as a formal communications tool just as they would the telephone, e-mail and written communications.
  - (c) The City technology staff strives to protect the organization's assets through best practices, use of firewalls, spam and content filtering, antivirus, and other systems. It is a violation of this policy for an employee to attempt to alter these systems without prior written permission from a member of the Information Technology Department.

- (d) Internet access on City computers will be logged. If any supervisor suspects excessive or inappropriate use, logs may be reviewed at any time.

2. Inappropriate Use

- (a) Employees are prohibited from using derogatory or offensive language in their communications. This concept extends to e-mail messages, jokes, screen savers, websites visited, and any information accessed by the computer.
- (b) Using the City computer network for non-City of Lexington related business to yield personal financial gain or for any commercial or illegal activity is strictly prohibited.
- (c) Personal use of the internet is acceptable only on an employee's own time; which includes break time, lunchtime, and before or after normal working hours as is acceptable with his/her supervisor.
- (d) Employees should discuss any questions about appropriate Internet use with their supervisors.

3. Prohibited uses include but are not limited to:

- (a) Downloading, accessing, viewing, posting or transmitting information which is abusive, offensive, harassing, threatens violence, or that discriminates based on race, color, religion, sex, national origin, age, disability or any other protected class as defined by federal, state and local laws.
- (b) Accessing, viewing, posting or transmitting sexually explicit material from the Internet. Sexually explicit material includes any description of or any picture, photograph, drawing, motion picture film, digital image or similar visual representation depicting nudity, sexual excitement, or sexual conduct of any kind.
- (c) Operating a business, soliciting money, product advertising, or conducting transactions for personal gain or profit, or gambling.
- (d) Arranging for the sale or purchase of illegal drugs, alcohol or firearms.
- (e) Communicating with elected representatives or public or political organizations to express personal opinions on political issues outside of work-related communications.
- (f) Soliciting for non-City sponsored organizations or functions.
- (g) Violating copyright laws.
- (h) Disclosing confidential information such as criminal records, juvenile records, personnel records, etc.
- (i) Intentionally creating a computer virus.
- (j) Hacking or fraudulent activities.
- (k) Intentional use of another employee's network account.



D. Security Policy

1. General Principles

- (a) Downloading software products from an Internet site is not permitted without the prior approval of the Information Technology Department. Any software that is downloaded must comply with all licensing and copyright laws. The Information Technology Department will maintain and publish a list of approved software for installation and downloading. Furthermore, City employees shall not access, download, scan or install software unrelated to their City tasks.
- (b) Employees may not share their network passwords or otherwise breach the security of the Internet/network accounts. Only Information Technology Department employees or any other employee in the department designated in writing by the Department Head will have access to user passwords.
- (c) Computers or terminals shall not be left unattended in an insecure state.
- (d) All computers, except those with a written exception by the Information Technology Director have a timed locking system installed. Any tampering with this is unacceptable and a violation of this policy.
- (e) All network accounts, except those with a written exception by the Information Technology Department will have a password expiration of 90 days. The list of exceptions will be reviewed on an annual basis.
- (f) City employees may not tamper with anti-virus software installed on any City computer.
- (g) Upon termination of employment, the department will notify the Information Technology Department immediately to ensure that proper user account action is taken. Employee network accounts will be deleted 90 days after the end of employment.
- (h) Contractor accounts will be disabled except when they are needed for access to the City network.

E. Mobile Device Acceptable Use Policy

1. Purpose

A “mobile device” refers to any portable electronic device which allows for the processing, receiving, and sending of data without the need to maintain a wired connection with the internet. Examples include smartphones, tablets, and laptops whether personally owned or the property of the City.

This Acceptable Use Policy (AUP) establishes the rules covering use of mobile computing devices which can be used to transmit or receive public records. This AUP describes the minimum-security policy for employees and or consultant/vendor used mobile devices.

Mobile devices must be appropriately secured to prevent sensitive or confidential data from being lost or compromised, to reduce the risk of spreading viruses, and to mitigate other forms of abuse of the City's computing and information infrastructure. This policy applies to all City employees, including full-time staff, part-time staff, contractors, vendors, freelancers, and other agents who utilize City or personally owned devices to access the City's data and networks.

2. Policy

- (a) Smartphones and Tablet PCs - Approved user owned smartphones and personal tablet PCs may be connected to the City's E-Mail Server through ActiveSync. All other remote connections are prohibited.
- (b) Help and Support - The Information Technology Department does not provide in-depth training on the use of most applications on mobile devices. It is generally the responsibility of the employee and the employee's department to provide the training necessary for the applications the employee needs to perform his/her job duties. The Information Technology Department will assist with issues related to connecting to the City's secure network, e-mail and calendar access, and accessing the City's technology infrastructure.
- (c) Employee Wireless Connectivity - Any connection other than "Guest" must be approved in advance by the Information Technology Department. All devices are subject to the City's Computer Usage Policy.
- (d) Consultants/Vendors – Consultants and Vendors are permitted to connect to the City's "Guest" wireless network without prior approval or notification. Any connection other than "Guest" must be through an approved VPN connection.
- (e) Users should be aware that activity which creates a transaction of information or activity by or with any public officer, agency or employee of an agency, regardless of the physical form or characteristic, is considered a public record to be managed by the City of Lexington. Stated under the Virginia Public Records Management Manual, the Virginia Freedom of Information Act (FOIA) requires that all Virginia approved public records be retained for a specific period as outlined in the Library of Virginia Records Management Locality General Schedule. It is the responsibility of the employee and his/her respective Department to ensure records are managed according to the appropriate retention schedules. The City's appointed Records Official is responsible for Records Retention & Disposition Schedules.
- (f) All mobile devices that have the potential to transmit a public record are subject to regular audit monitoring. These devices shall be approved by the Information Technology Department before the transmittal of public records is approved.
- (g) Employees are prohibited from changing security device settings on City owned mobile devices without prior approval.

### 3. Responsibility

Employees utilizing mobile devices for processing, receiving or sending City data are responsible for being aware of and following this Policy. This AUP also applies to consultants/vendors working with the City and having access to the City's network through the VPN. The Information Technology Department may require written acknowledgement of an employee or consultant's responsibilities before enabling mobile service. Employees should contact their immediate supervisor or Department Head if they have questions about the AUP application or are aware of potential violations of these guidelines. Any employee found to have violated this AUP may be subject to disciplinary action up to and including termination of employment with the City. Consultants/vendors found to have violated this policy may be held liable for breach of security.

### 4. Procedure

#### (a) Requirements – All Mobile Devices

- (1) The physical security of these devices is the responsibility of the employee who owns the device or to whom it has been assigned. Devices shall be kept in the employee's physical presence whenever possible. Whenever a device is being stored, it shall be stored in a secure place, preferably out of sight.
- (2) All smartphones and tablet PCs that fall under the guidelines of this AUP must be password protected. Devices must have an auto-lock policy enabled and be locked when not in use. The use of unprotected devices to access or store confidential or public records is prohibited.
- (3) If the device is lost or stolen, the incident shall be reported immediately to the Information Technology Department via the submittal of an IT Service Desk Ticket.
- (4) The storage, backup, recovery, and removal of public records on the mobile device are the responsibility of the user/owner.
- (5) The sharing of City data to Internet sites such as Dropbox, Box, Google Drive, iCloud, etc. may be used for City business only. Disclosing or sharing confidential data with outsiders without authorization is strictly prohibited.

#### (b) Requirements – Smartphones and Tablet PCs

- (1) Sensitive or confidential documents, if stored on the device, shall be encrypted if possible.
- (2) All public records shall be removed from the mobile device before it is returned, exchanged or disposed. Please note that in

certain situations a device may have its data wiped in order to ensure that the City can protect its interests.

(c) Requirements – City Owned Mobile Devices and Laptops

- (1) City issued mobile devices which are to be used directly with an internet connection (Wi-Fi or cellular) must be secured at all times.
- (2) Public Safety Devices shall be secured with Radio-IP enabled.
- (3) Upon installation, all City issued laptops will be loaded with anti-virus and firewall software. Each device shall be joined to the City's Domain to enable the appropriate security policies.
- (4) All City issued laptops will receive program updates, security patches, and antivirus updates at designated intervals as defined by the Information Technology Department. To receive updates, each device must be connected to the City's network. The Information Technology Department reserves the right to disable computer accounts for any device not connected to the network or updated at the time of the designated interval.

(d) Requirements – Contractor/Vendor Devices

- (1) Contractors and Vendors shall use secure remote access procedures. This will be enforced through the City's Computer Usage Policy as it relates to passwords.
- (2) Mobile devices are required to have operational antivirus software. Only Technology staff may grant exceptions to this.
- (3) A personal firewall must be employed.

5. Support of Mobile Devices

(a) Smartphones and Tablet PCs

- (1) Support for the usage, repairs, functionality, and technical specifications of the personal smartphone or tablet PC is the responsibility of the employee.
- (2) The Information Technology Department will provide support for Exchange ActiveSync on smart phones and tablets.
- (3) Device models and support for Exchange email changes frequently: users are responsible for verifying, with the Information Technology Department prior to purchase, which devices are fully supported. Due to changes in technology integrations, the Information Technology Department reserves the right to change the level of support for device models at any time.

F. E-Mail Management Policy

The following policies govern the retention and management of email messages for all of staff.

1. Responsibilities

The effort to develop and implement an e-mail management program is the responsibility of each employee, working in conjunction with the Information Technology Department. Each Department Head shall ensure that the management of e-mail records incorporates the following elements:

Developing a department-wide program for the management of all e-mail records created, received, maintained, used, or stored.

- (a) Integrating the management of electronic mail records with other public records and information resources management programs.
- (b) Ensuring that adequate training is provided for users of electronic mail systems on record-keeping requirements, the distinction between public records and non-record materials, and moving or copying records for inclusion in record-keeping system.
- (c) Determining the location, manner, and media in which electronic mail records will be maintained to meet operational and archival requirements.

2. Guidelines for the Creation, Use, Preservation, and Disposition of Electronic Mail Records

(a) Electronic Mail Systems

City departments shall manage public records created or received on electronic mail systems in accordance with the provisions of these guidelines and as described in the Library of Virginia (LVA") Public Records Management Manual and Records Retention & Disposition Schedules. Departments shall consider the following criteria when developing procedures for the maintenance of electronic mail records in appropriate recordkeeping systems, regardless of format:

- (1) Because of mailbox size limitation, the City's electronic mail system is not designed to be a record-keeping system. Therefore, every employee shall take the responsibility of maintaining his/her e-mails pursuant to applicable LVA guidelines. Employees should set aside time to clean up mailboxes and archive appropriate folders manually.
- (2) Often e-mail is considered correspondence, which is covered under the LVA General Records Retention & Disposition Schedule 19. For public records that are not classified as correspondence,

employees must review the appropriate retention schedule to determine the applicable retention and disposition period.

### 3. Guidelines for Managing Electronic Mail Records

- (a) There are several acceptable methods of archiving e-mail communications:
  - (1) Creating folders that are stored outside of the mailbox but can be viewed using the e-mail client. If e-mail is stored on a shared drive, proper and regular backup procedures must be in place.
  - (2) Storing, accessing, and managing e-mail messages and other electronic records using an Enterprise Content Management (ECM) system, such as Laserfiche.
  - (3) Printing e-mails along with any transmission and receipt data and maintaining them in a manual filing system.
  
- (b) Record-keeping systems that include electronic mail messages should:
  - (1) Provide for the grouping of related records into classifications according to the nature of the business purposes the records serve;
  - (2) Permit easy and timely retrieval of records;
  - (3) Retain the records in a usable format for their required retention period as specified by a LVA Records Retention & Disposition Schedule;
  - (4) Preserve relevant e-mails, regardless of their retention periods, if litigation has occurred or is reasonably expected to occur;
  - (5) Preserve the transmission and receipt data;
  - (6) Permit transfer of permanent records to the LVA; and protect confidential information in e-mails from disclosure.
  
- (c) Complete e-mail records, whether maintained in electronic or paper format, shall include the following transmission data elements and other metadata for the context of the message to be understood:
  - (1) Names and e-mail address of sender and recipients, including names and addresses of all members of distribution lists;
  - (2) Time and date the e-mail was sent;
  - (3) Subject line that describes the content of the e-mail.
  - (4) Text in the body of the e-mail.
  - (5) Attachments, if applicable.
  
- (d) Some e-mail systems provide calendars and task lists for users. These may meet the definition of a public record and shall be managed in accordance with the provisions of LVA records retention schedules.

#### 4. Judicial Use of Electronic Mail Records

E-mail records are subject to the same legal requirements regarding access as other public records, and requests for e-mail records shall be honored in the same manner as other records. E-mail records, like all other public records, shall remain accessible during their entire retention period in a manner which permits efficient and timely retrieval. Electronic records may be used in federal or state court proceedings if trustworthiness is established by thoroughly documenting the record-keeping system's operation and the controls imposed on it. Departments, working with the Information Technology Department, shall implement the following procedures to enhance the legal admissibility of electronic records:

- (a) Develop a standardized system of document naming and filing, along with planning for indexing and retrieval points, which will assist in maintaining accessibility of all e-mail messages throughout the required retention period.
- (b) Ensure that security procedures prevent unauthorized addition, modification, or deletion of an e-mail record.
- (c) Identify the electronic media on which e-mail records are stored throughout their life cycle, the maximum time span that records remain on each storage medium, and the LVA-approved disposition of all public records.

#### 5. Retention of Electronic Mail Messages

Departments shall establish policies and procedures to ensure that electronic mail messages and any attachments are retained as long as necessary. These procedures should include provisions for:

- (a) Applying Records Retention & Disposition General or Specific Schedules approved by the LVA.
- (b) Transferring archival electronic records and any related documentation and indexes to the LVA.
- (c) Establishing procedures for regular migration (recopying, reformatting, and other necessary maintenance) to ensure the retention and usability of electronic mail records throughout their authorized life cycle.

#### 6. Disposition of Electronic Mail Messages

When destroying e-mails, employees shall ensure that:

- (a) Electronic mail records scheduled for destruction are disposed of in a manner which ensures protection of any sensitive, proprietary, or critical infrastructure information and that all duplicate copies, which may reside on servers or backup tapes, are also destroyed.
- (b) Destruction of e-mails that are records is reported to LVA as necessary.

(c) There is no litigation, audit, investigation, or request for records pursuant to the Virginia Freedom of Information Act pending.

## 6.18 FREEDOM OF INFORMATION ACT

This guideline establishes the policies and procedures concerning responding to requests under the Virginia Freedom of Information Act (FOIA) so that requests may be handled as efficiently as possible, and within the required timeframes. Deadlines shall be strictly observed, subject to court fines if not.

### A. Responsibility

It is the responsibility of all Department Heads to be familiar with and maintain all information contained within this and any other Guideline. Specific responsibility is assigned to the City Clerk and/or the Department Head who are the custodians of the requested records.

### B. Definitions

**Custodial possession:** The control and storage of official records by a City department.

**Electronic records:** Those official records in the custodial possession by a City department that exist solely as electronically-recorded data within a computer or computer system network, including such records that may be kept on physical electronic recording media but which do not exist as paper records.

**Exempt records:** Those official records which are exempt from FOIA such as tax information, medical and mental records, personnel and scholastic records, legal counsel, library records, and security or emergency information such as vulnerability assessments or response plans. Exemptions may be exercised (records may be withheld) for other types of documents and records. For a complete list of exemptions see Virginia Code Title 2.2, Chapter 37.

**FOIA:** Freedom of Information Act

**Oversize records:** Those official paper records in the custodial possession of a City department that cannot be easily reproduced by office photocopiers (usually paper larger than 11" by 17")

**Supervised access:** The means of facilitating access to certain official paper or electronic records in the custodial possession of a City department where, due to the uniqueness, physical or recording media characteristics or other attributes of the record document or media, the requesting party must be assisted by a City employee during an inspection of same. Typically, such official records cannot be easily photocopied, reproduced or printed.



C. Policy

1. Compliance with Virginia Code Title 2, Chapter 37, §2.2-3704: The City of Lexington will comply with the Virginia Freedom of Information Act that states, *“all public records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records.”* Furthermore, *“The custodian of such records shall take all necessary precautions for their preservation and safekeeping.”* Note: The City, in most circumstances, does not have to respond to citizens not of the Commonwealth.
2. Request Requirements: The City of Lexington requires the following information from the requestor of records:
  - (a) Requestor shall identify his/her request under the Virginia Freedom of Information Act or FOIA to be subject to the VA Code
  - (b) Requests must contain:
    - (1) Date of request;
    - (2) Type of request (written, e-mail, verbal/in person, verbal/telephone);
    - (3) Person and department receiving request;
    - (4) Requestor’s name, response mailing address, phone, email;
    - (5) Type of records requested with *“reasonable specificity.”*
3. City Response Requirements: For any request made pursuant to the Virginia Freedom of Information Act, a response is required within five working days. (The workday following receipt of the request is considered the first working day.) Prompt attention is critical. Employees receiving such a request shall:
  - (a) Refer the request immediately to the City Clerk or;
  - (b) Provide one of the following responses, within five working days:
    - (1) Provide all - provide all the items requested immediately, if readily available, or provide the items within five working days of the request, if they can be made available within that time.
    - (2) Provide some - provide some of the items requested and withhold some. Consult with the City Attorney prior to withholding any documents. Upon the Attorney’s approval, respond to the requester in writing, within five working days of the request, citing the Virginia State Code section authorizing the withholding, and enclosing a copy of the Code section (see attached).
    - (3) Withhold all - withhold all the items requested. Consult with the City Attorney prior to withholding any documents. Upon the Attorney’s approval, respond to the requester in writing, within

five working days of the request, citing the Virginia State Code section authorizing the withholding, and enclosing a copy of the Code section

- (4) Invoke seven additional working days - If the request cannot be reasonably met within five working days, respond to the requester in writing within five working days, invoking an additional seven working days to respond to the request, Then respond, within the additional seven working days, as described in 2.a or 2.b above.

#### D. Procedure

1. FOIA Request and Response Form: Each FOIA request must be written on the top half of page one on the attached form, "CITY OF LEXINGTON, VIRGINIA RESPONSE TO REQUEST PURSUANT TO VIRGINIA FREEDOM OF INFORMATION ACT" (Lexington FOIA Form)
  - (a) If the request has arrived in writing (letter or email), transfer the requester's contact information onto the City of Lexington FOIA Form (top half of page one.), and note "See attached" for the "Description of Records..."
  - (b) If the request arrives verbally/in person, write down the information on the top half of page 1 of the City of Lexington FOIA Form, and have the requestor read what is written and acknowledge accuracy by initialing in the box provided.
  - (c) If the request arrives verbally/over the phone, write down the information on the City of Lexington FOIA Form. When the employee has completed the top half of page one, read the entire information back to the requestor and ask him/her to acknowledge that it is correct. If s/he has corrections, make those changes, then read it again and have him/her acknowledge that it is correct. Note the acknowledgment on the form in the box provided.
2. Method: The choice for inspection of records versus receiving copies of records belongs to the requestor. The City may impose labor rates for supervision, as well as accessing or searching for the requested records.
3. Fees: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records" (Virginia Code §2.2-3704(F)).
  - (a) Accordingly, the City has imposed the following reasonable fees:

- (1) Copying at five cents per black and white copy and ten cents per color copy (unless unusual circumstances, all copies will be black and white.)
  - (2) Labor at the hourly rate of the administrative support staff in the responding department.
  - (3) Copying electronic records onto CDs is \$3.00 per CD plus labor, but there is only a labor fee for non-exempt records emailed to the requestor. Electronic records printed and provided in paper form are subject to fees described above. The requestor may choose the medium by which to receive the information.
- (b) *“Always tell requesters in advance whether there will be a charge and a general breakdown of how charges will be calculated”* (Taking the shock out of FOIA charges, Virginia Freedom of Information Advisory Council, June 2014).

#### 4. Collection of Fees

- (a) The City has elected not to charge for filling requests that have an actual cost of less than \$50.
- (b) If the estimated cost is \$50-\$199.99, the City will bill the requestor with a due date of 30 days. The requested materials may be provided to the requestor without advance payment.
- (c) If the estimated cost is over \$200, employees shall not process the request until the estimated cost is paid in advance. If the actual cost exceeds the estimate, the City shall bill the balance to the requestor with a 30-day due date. If the actual cost is lower than the estimate, the difference will be refunded to the requestor.
- (d) If the requestor has an open balance on any billings for FOIA requests that are 30 days old or older, the requestor must pay the open balance before a new request can be processed.

#### 5. Exceptions

- (a) The City is not required to create records which do not already exist.
- (b) The City is not required to abstract or summarize records.
- (c) The City is no longer the custodian of records that have been sent to The Library of Virginia for permanent archiving.
- (d) The City may require supervised inspection if oversize records are not reproducible on a standard copier.
- (e) The City and the requestor of records can negotiate a different timeframe with reduced costs, as mutually agreed prior to the five-day timetable, or prior to the seven-day extension.
- (f) The City *“may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary*

*volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by [Virginia Code Chapter 37]...will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records" (Code of Virginia §2.2-3704 C).*

6. Recommendations
  - (a) Place commonly requested non-exempt documents on the City Website and direct requestors to the Website.
  - (b) Have available copies of routinely requested non-exempt records.

### **6.19 INCLEMENT WEATHER**

The purpose of this policy is to clarify the options available to employees when confronted with hazardous road conditions due to snow or ice.

- A. Extremely severe weather conditions may call for the City Manager to issue a blanket order for employees not to report to work, with any exceptions being noted in the directive. In the absence of such an order, the following procedures apply. A Department Head has the discretion to refuse application of these procedures, particularly the one hour "grace period" provision, if it is abused by an employee.

While an employee's personal decision to stay home in hazardous conditions is a reasonable choice for many administrative, clerical, and other employees, it is important that taxpayers pay only for work they receive and that equitable treatment is provided to those who worked those who decided to take annual leave, and all others.

Employees who are planning to be late or are unable to report to work because of the conditions shall immediately inform their supervisor via phone and/or e-mail or within two hours of their normal start time.

- B. Essential personnel in Public Works and Public Safety, as designated by the Public Works Director, Fire Chief and Police Chief, are expected to report to work at their normal starting time or as soon thereafter as possible. Essential personnel are those whose absence from the job would jeopardize the safety and well-being of the City's citizens. This designation will be made prior to the winter season each year.

Other employees who report to work on time or who manage to arrive within one hour of their normal reporting time will be credited with a full day's work for payroll purposes.

Where practical, employees will be given the option of making up the time missed by working extra hours rather than using annual leave, PTO or leave without pay. Nonexempt

employees are expected to make up the hours in the same workweek as the hours missed. Exempt employees may make up the hours by the end of the next two-week period. These options are also applicable if hazardous road conditions develop during the day, threatening the employee's ability to return home safely.

When City facilities are closed to the public, employees are still expected to report and engage in productive work unless they choose to take annual leave, PTO or leave without pay. Employees may be temporarily assigned to other departments if there is no productive work available in their specific area.

## **6.20 EMPLOYEE PARKING**

The City shall designate approved parking areas for employees at all City facilities.

## **6.21 TOBACCO & E-CIGARETTE USAGE**

The City of Lexington has a vital interest in maintaining a safe and healthy environment for its employees, volunteers, and contractors. To further that interest, the City has instituted a tobacco and smoke-free workplace. The policy establishes that the City is a tobacco and smoke-free workplace and identifies the disciplinary actions an employee may face for failing to comply with this policy.

This policy applies to all City employees and facilities, as defined below:

### **A. Definitions**

**City Buildings and Facilities** – Buildings and enclosed facilities and areas owned, leased, or operated by the City.

**City Equipment** – Any and all equipment owned, leased, or operated by the City.

**City Personnel** – All employees, volunteers, and contractors, who either are paid by or perform services for the City.

**City Vehicle** – Any motorized vehicle, including a car, van, light duty truck, dump truck, street sweeper, refuse packer, or fire engine owned, leased, or operated by the City.

**Electronic Cigarette** – An electronic device that delivers vapor for inhalation, including hookah pens, vape pipes, and electronic hookahs. This does not include any product approved by the United States Food and Drug Administration for sale as a drug or medical device.

**Smoke or Smoking** – The lighting and/or carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind.

**Smokeless Tobacco** - Either (i) a loose or flat, compressed cake form of tobacco that may be chewed or held in the mouth, or (ii) a shredded, powdered, or pulverized form of tobacco that may be inhaled through the nostrils, chewed, or held in the mouth.

**Tobacco Products** – All substances containing tobacco leaf or derived from tobacco, including cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, kreteks, smokeless tobacco, or any other preparation of tobacco.

**Vape or Vaping** – Using an electronic cigarette in the following ways: (1) through inhalation or exhalation of vapor from an electronic cigarette; or (2) by holding or otherwise activating an electronic cigarette such that any vapor is emitted from it.

B. Policy

1. City employees are prohibited from smoking, vaping, or using tobacco products in City buildings or facilities, and in or around City vehicles and City equipment. This prohibition applies to all workplace areas, including all offices, cubicles, common work areas, elevators, hallways, parking structures, restrooms, dining areas, employee lounges, conference and meeting rooms, stairwells, and waiting areas.
2. This prohibition extends to all outdoor areas within 25 feet of entrances, exits, air intakes, or operable windows of all City vehicles, buildings and facilities.
3. City employees are permitted to smoke, vape, or use tobacco products only in designated areas outside of City buildings and facilities, as established by City department directors or designees.
4. City employees are prohibited from smoking, vaping, or using tobacco products, while performing services for the City at City parks.
5. City employees are prohibited from smoking, vaping, or using tobacco products while wearing a City-issued or City-required uniform on paid breaks at City parks.

## 6.22 RESTRICTIONS ON CERTAIN POLITICAL ACTIVITIES BY CITY EMPLOYEES

This guideline establishes procedures for political activity for City of Lexington employees.

A. Definitions

1. **Political Activities** - For the purpose of this policy, the term “political activities” includes, but is not limited to: voting, registering to vote; soliciting votes or endorsements on behalf of a political candidate or political campaign; expressing opinions, privately or publicly, on political subjects and candidates; displaying a political picture, sign, sticker, badge or button; participating in the activities of, or contributing financially to, a political party, candidate or campaign or an organization that supports a political candidate or campaign; attending or participating in a political convention, caucus, rally, or other political gathering; initiating, circulating or signing a political petition; engaging in fund-raising activities for any political party, candidate or campaign; acting as a recorder,

watcher, challenger or similar officer at the polls on behalf of a political party, candidate or campaign; or becoming a political candidate.

2. **Political Organization** - For purposes of this policy, a “political organization” shall be defined as “any group, formal or informal, which endorses candidates for elective office at any level of government-national, state or local.” This provision does not prohibit the endorsement of candidates for office by organizations that include city employees, but such an endorsement is a “political activity.”

B. Policy

1. The components of this section are designed to promote public trust and confidence in City government by ensuring that it is free of the actual or apparent influence of partisan politics and that employment and advancement in the City are based on meritorious performance rather than political service or affiliation. In addition, it protects every employee’s right to vote and to keep this right free from interference, solicitation or dictation by any fellow employee, supervisor or officer.
2. Overt campaigning or the public display of campaign materials or posting of political posters or signs is prohibited in or on City buildings or City vehicles.
3. Employees may be candidates for political office but, in order to protect the efficiency, integrity, discipline, and morale of officers and employees, any employee elected to City Council must resign, or be released, from employment with the City prior to taking office.
4. City of Lexington employees may participate in political activities while they are off duty, out of uniform and not on the premises of their employment with the City.
5. An employee may register and vote while dressed in City uniforms or clothing.
6. City employees will not work for a person or political party at the polls on Election Day.
7. City employees shall not engage in political activity during work hours. Work hours do not include lunch periods, work breaks, or any other periods in which employees are not on duty.
8. City employees are prohibited from suggesting or implying that the City has officially endorsed a political party, candidate or campaign.
9. City employees shall not engage in political activities while performing official duties for the City or use any City property or equipment to engage in political activity.
10. City employees shall not be coerced to support a political activity or candidate, whether funds or time are involved.
11. City employees may not use the prestige of his/her position on behalf of any political organization or party, nor should they use his/her official authority to coerce or attempt to coerce a subordinate employee to pay, lend or contribute anything of value to a political party, candidate or campaign, or to discriminate against any employee or applicant for employment based on political affiliations or political activities.
12. City employees shall not be coerced to support a political activity or candidate,

- whether funds or time are involved.
13. City employees are prohibited from discriminating in the provision of City services or responding to requests for services, based on the political affiliations or political activities of the person or organization for which such services are provided or requested.

## **6.23 SOCIAL MEDIA & PUBLIC SPEECH**

The City respects and honors the First Amendment rights of its employees to speak out as citizens on matters of public concern and to post personal comments on the Internet (e.g., an employee's own website, blog, Facebook, Twitter or similar social networking site). The following types of expression are protected:

- A. Matters of public concern are those matters of interest to the community, whether for social, political or other reasons.
- B. Examples of local issues of general or public concern include the budget, spending priorities, any question scheduled for a public hearing, illegal discrimination, official corruption, official impropriety, malfeasance on the part of government officials, misuse of public funds, waste of public funds, fraud, abuse or gross mismanagement, inefficiency in managing and operating government agencies, violation of law, local elections, or public safety.
- C. Examples of state or national issues of general or public concern include election campaigns, elected officials, legislation, national security, budgets, foreign policy, or any topic of broad public interest or debate.
- D. Employees have a statutory right to participate in political activities while they are off duty, out of uniform and not on the premises of their employment with the locality. Virginia Code § 15.2-1512.2.
- E. Employees have a statutory right to communicate opinions on matters of public concern directly to state or local elected officials regardless of the impact on the workplace. Virginia Code § 15.2-1512.4.

Not all speech or expressive activities are protected. A City employee whose public statements or Internet postings interfere with the City's ability to provide effective and efficient services to the public may be disciplined for such comments or postings. Examples of public speech or online postings for which an employee may be disciplined include, but are not limited to, expressions that:

- Impair discipline or harmony among co-workers.
- Interfere with the employee's job performance.
- Interfere with the operation of the City's business.
- Disclose confidential or sensitive governmental information.
- Create a detrimental impact on working relationships that require personal loyalty and confidence.

Examples of topics that are not protected as matters of public concern include personal grievances such as disciplinary action, work schedule, morale, and complaints about supervisors



or co-workers that do not involve actual wrongdoing, illegal discrimination, corruption, or waste. These comments may subject an employee to disciplinary action if they constitute insubordination or if they otherwise violate general rules of conduct.

If an employee's speech or online activity indicates that he or she works for the City of Lexington, then his or her speech not only impacts their personal image, but also the City's. In such cases, the employee should make it clear that they are expressing views that are their own, and not those of the City of Lexington. Personal views or online postings sites shall never be attributed to the City and shall not appear to be endorsed by or originated from the City of Lexington. The City Council and City Manager have an important interest in determining who may "speak" and what is "spoken" on behalf of the City of Lexington on social media sites. Therefore, the City Manager shall approve the use of all social media outlets by the City and its departments.

The City complies with all applicable federal, state and local laws as they relate to the employer/employee relationship, and nothing contained herein shall be construed to violate any of the rights or responsibilities contained in such laws.

#### **6.24 ARREST, CHARGE & CONVICTION REPORTING POLICY**

Employees are required to notify their supervisor and the Human Resources Office in writing within five calendar days if they are arrested, charged or convicted of criminal misconduct involving theft, violence, sexual misconduct, embezzlement, perjury, alcohol or drug related offenses, serious traffic offenses (including, but not limited to DUI, suspended operator's license, reckless driving, hit and run) or any other offense that would affect or impair the employee's ability to perform his or her job. It is the employee's responsibility to contact the Human Resources Office to resolve any questions as to whether an arrest, charge or conviction must be reported.

Arrests, charges and convictions disclosed as required by this policy will not affect employment if they are determined to be unrelated to the employee's job duties. In making the determination of job-relatedness, consideration will be given to the severity of the crime(s), the honesty of the employee in disclosing information about the crime, the employee's work history, and the other factors described in City Code §2-307 (e). However, convictions for the crimes set out in Virginia Code § 63.2-1719 and 63.2-1726 shall generally preclude employment with the City and charges for such crimes may require a current employee be suspended with or without pay pending trial.

Once the employee has reported the charge (or it has otherwise come to the Human Resources Office's attention), the Human Resources Officer will review the charge or conviction record and prepare a draft recommendation. Legal advice will be requested from the City Attorney when there is a question about the charge or conviction record. The final decision regarding the employee's continued employment will be made by the City Manager. The supervisor will be notified about the charge or conviction and will be involved in discussions concerning the charge or conviction record.

## 6.25 CITY-ISSUED WIRELESS VOICE/DATA COMMUNICATION DEVICES

**Purchase Authorization:** The City Manager will authorize the purchase and issuance of wireless voice/data communication devices to City employees based upon recommendations from Department Heads.

### **Department Heads are responsible for:**

- Preparing recommendations for the assignment of City-issued wireless voice/data communication devices to department employees.
- Periodically reviewing the assignment of City-issued wireless voice/data communication devices to department staff.
- Reviewing monthly City-issued wireless voice/data communication device charges to ensure compliance with this policy.
- Revoking the use of a City issued wireless voice/data communication device at any time if use is no longer required for performing job duties, or if there is a pattern of misuse.

### **City-issued wireless voice/data communication devices may be issued when:**

- An employee has regular occasion to be in contact with the office for job-related purposes.
- The level of employee safety can be increased.
- An employee has a significant role during disaster or emergency situations.

### **Purchases of City-issued wireless voice/data communication devices:**

All cell phone service will be consolidated into a single cell phone provider.

### **City-issued wireless voice/data communication devices Usage:**

- Employees assigned a City-issued wireless voice/data communication device are expected to have it with them during normal business hours.
- In a disaster or emergency, employees who are assigned a City-issued wireless voice/data communication device are expected to answer all calls regardless of the time of day.
- City-issued wireless voice/data communication devices may be reassigned by the City Manager and Department Heads to expedite the City's response and coordinate the deployment and operations of essential staff and services in an emergency or disaster.
- Employees assigned a City-issued wireless voice/data communication device shall not use the device for personal use. This includes sending and receiving texts, data, e-mails, games, pictures, music, etc.
- Except for the Police and Fire Departments, employees are prohibited from receiving or initiating a City-issued wireless voice/data communication device call when operating a City vehicle.
- When attending meetings or other official events, mobile communication devices shall be to be set to the device's silent alarm or vibration feature to avoid causing any disruption.
- Employees may carry and use personal wireless voice/data communication devices while at work on a limited basis. If employee use of a personal wireless voice/data

communication device causes disruptions or loss in productivity, they may be subject to disciplinary action.

- The City of Lexington is not liable for the loss of personal wireless voice/data communication device.
- Employees in possession of the City of Lexington equipment such as cell phones are expected to protect the equipment from loss, damage or theft. Upon resignation or termination of employment, or at any time upon request, the employee may be asked to produce the wireless voice/data communication device for return or inspection.

Employees are expected to follow all applicable state or federal laws or regulations regarding the use of wireless voice/data communication device at all times.

Employees charged with traffic violations resulting from the use of their phone while driving shall be solely responsible for all liabilities that result from such actions.

## **6.26 SOLICITATION AND DISTRIBUTION**

This policy outlines City of Lexington's restrictions for distributing materials and soliciting funds, donations and signatures in activities or groups. This applies to all employees as well as external visitors, vendors and customers that may be on City premises during working hours.

### **Definitions**

*Solicitation* is any form of requesting money, support or participation for products, groups, organizations or causes which are unrelated to City operations. These shall include but are not limited to:

- Seeking funds or donations for a nonprofit organization.
- Asking for signatures for a petition.
- Selling merchandise or services.
- Requesting support for a political candidate.
- Engaging in religious proselytism (the act of attempting to convert people to another religion or opinion).
- Distribution refers to disseminating literature or material for commercial or political purposes.

This policy does not refer to any kind of work-related matters. Employees are free to discuss and request assistance or participation in work-related projects at any time. Discussions which fall under the purview of laws protecting unionizing shall also be excluded from this policy.

## **Employees**

Employees of the City may engage in solicitation and distribution under certain conditions. They may solicit:

- Participation (active or monetary) in organizing events for another employee. Those events include adoption/birth of a child, promotion, retirement, death, mourning and more.
- Support for a cause, charity or fundraising event sponsored, funded, organized or authorized by the City.
- Joining a group of employees for an authorized non-business purpose (recreation, volunteering etc.)
- Participation in employment related activities or groups as protected by law.

Employees may not perform these actions during working hours or in the City's workplace as defined in this policy. An employee bulletin board will be provided which may be used for posting notices regarding events and organizations. Employees may not use the City's e-mail or other electronic systems for solicitation or distribution unless it is in connection with a City sponsored event or activity and is approved in advance by the City Manager and/or the Human Resources Office.

Furthermore, the City prohibits soliciting and distributing which hinders productivity or is disruptive, offensive or obscene. For example:

- Selling goods for personal profit.
- Requesting support or funding for political campaigns.
- Unauthorized posting of non-work-related material on City bulletin boards.
- Solicitation or distribution of non-business literature towards customers, business partners and vendors.
- Proselytizing others to groups or initiatives which violate the City's nondiscrimination and equal opportunity policies.

Employees have the right to refuse assistance or participation in any kind of activity or organization and may not be forced to support fundraising events, collections, purchasing of merchandise or other activities.

## **6.27 WORK FROM HOME POLICY**

Occasionally, a City employee may request to work from home. The City may temporarily approve the request in collaboration with the department head, human resources director and City manager using the procedure below.

**Procedure:**

1. The employee will submit a request in writing to their department head stating the reason they would like to work from home and what the expected duration will be.

2. The department head will meet with the employee to determine if their work can be completed outside of their normal workspace. Employees who are in front-line customer service positions, emergency services positions, and public works positions will most likely not qualify to work from home under any circumstances. Lack of child care is not an acceptable reason to request to work from home. If your request is approved you will be required to secure arrangements for the care of your child(ren) during work hours.

3. The department head will work with the human resources office, and City manager's office as needed to determine if the request will be granted and what the conditions of the approval will be. The approval to work from home will be valid for no more than 5 working days at a time. A review will be conducted at the end of that time to determine if the privilege of working from home should be extended.

4. If approved, the employee will establish an appropriate work environment within his or her home for work purposes. The City will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

5. The work environment must be a safe, quiet place free of distractions. All IT Security and confidentiality procedures must be maintained including locking down and/or shutting down your computer when not sitting at it.

6. Working at home carries the same expectations as working in the office regarding productivity and time spent on working. If issues with computer access or internet connection occur that prevents working, employee may be asked to return to the office to work or asked to use their own paid time off.

7. The City will determine the equipment needs for each employee on a case-by-case basis. IT Equipment supplied by the City should be utilized consistent with Section 6.17 of the city personnel policy manual, entitled "Email, computer, and information usage policy."

8. Consistent with the City's expectations of information security for employees working at the office, employees working from home will be expected to ensure the protection of sensitive City information accessible from their home office.

9. At the discretion of their department head, employees may be required to submit daily productivity reports to ensure essential tasks are being completed. If a department head determines essential tasks aren't being completed or work performed isn't of sufficient quality, the employee may be required to return to regular, in-office work.

Abuse of this policy will result in disciplinary action up to and including termination.

## SECTION 7: DISCIPLINE

### 7.1 DISCIPLINARY ACTIONS

This section does not apply to the City of Lexington Police Department. Please refer to the Police Department's policy for clarification.

The City considers work rules necessary to ensure that employees are treated fairly, work effectively, and in a safe manner. These rules apply to all employees except as outlined above.

Violations of these rules may call for disciplinary action. The action may include an oral reprimand, written reprimand, suspension, reduction in pay and demotion, withholding of a performance pay increase, disciplinary probation, or termination of employment. Termination of employment with the City shall be upon the recommendation of the Department Head after review with the Human Resources Office and approval of the City Manager.

The types of misconduct identified in this section serve as examples of conduct which may lead to disciplinary action. These examples do not constitute a complete list of all types of conduct which may result in disciplinary action. Discipline may begin at any step depending on the seriousness of the offense. Also, offenses do not have to be of the same nature to constitute a violation serious enough to move on to the next step of the disciplinary action sequence.

- A. In the interest of a safe, pleasant, and effective work environment, violations of any of the following rules, while not all inclusive, may result in immediate discharge without warning:
1. Malicious or willful destruction or damage to City property or supplies or the property of another employee, a citizen, or any other person;
  2. Dishonesty of any kind;
  3. Use of a City credit card for other than business expenses and/or misstatement of expenses on expense accounts;
  4. Theft or inappropriate removal from City premises of property which belongs to or is in the possession of the City, another employee or organization, a citizen, or any other person;
  5. Obtaining employment based on false or misleading information;
  6. Refusing to cooperate with or providing false information during an investigation;
  7. Bringing or possessing firearms or illegal weapons in City facilities or in City vehicles without the proper authorization;
  8. Absence from work without notification and/or authorization for more than three days, unless there are extenuating circumstances;
  9. Possession or use of alcoholic beverages or illegal drugs during duty hours (including lunch/dinner breaks) or reporting for duty under the influence of

alcohol or drugs; this includes testing positive for illegal drugs or having a blood alcohol content of 0.04 or more on any required drug/alcohol test administered during an employee's scheduled work day;

10. The unlawful manufacture or distribution of a controlled substance on City premises or while conducting City business off City premises or the illegal possession, distribution, or sale of prescription drugs;
11. Insubordination, including improper conduct toward a supervisor or refusal to perform tasks assigned by a supervisor in an appropriate manner;
12. Release of confidential information about the City, its employees, or its citizens;
13. Threats or acts of violence in the workplace.

B. Violations of the following rules, while not all inclusive, may, depending on the seriousness of the offense and all pertinent facts and circumstances, result in disciplinary action, including an oral or written warning, suspension, or termination of employment:

1. Unsatisfactory job performance;
2. Non-compliance or disregard of any established safety rule;
3. Frequent or excessive tardiness or absence from work;
4. Leaving City premises or one's job during working hours without notifying the employee's supervisor and obtaining his/her permission;
5. Use of tobacco products, e-cigarettes or smoking in restricted areas or where "No Smoking" signs are posted;
6. Failure to disclose criminal charges and/or convictions;
7. Harassment and discrimination based on race, color, religion or belief, national, social or ethnic origin, sex (including pregnancy), age, physical, mental or sensory disability, sexual orientation, gender identity and/or expression, marital, civil union or domestic partnership status, past or present military service, family medical history or genetic information, family or parental status, or any other status protected by federal, state and local laws or regulations;
8. Failure to abide by set standards for lunch and break periods, and working unauthorized overtime;
9. Failure to successfully comply with a directed referral to the Employee Assistance Program ("EAP") or to complete a mandated EAP treatment plan;
10. Use of abusive or vulgar language;
11. Violation of the City's ethics standards;
12. Unauthorized use of City credit cards or City equipment, including abuse of City vehicle privileges;
13. Sleeping while on duty;
14. Abuse of leave;
15. Inappropriate grooming/dress;
16. Misuse of one's position with the City for personal gain; and
17. Working under the influence of alcohol or illegal drugs or over the counter medications.

C. The use of telephones, computers and related devices and peripheral equipment

belonging to the City is prohibited for personal use except as defined in the E-mail, Computer and Information Usage policy (6.17), and all use is prohibited for any political purposes as that term is defined by Virginia Code §15.2-1512.2.

## **7.2 SUSPENSIONS**

Suspensions are temporary separations from City service for disciplinary purposes when the case is not sufficiently serious to merit dismissal or the evidence is not yet complete. Department Heads may suspend an employee without pay for a period not to exceed 30 days within any one calendar year. Upon Department Head recommendation, the City Manager may approve a suspension greater than 30 days. An employee on suspension does not accrue annual, sick leave or PTO during the suspension period.

## **7.3 GRIEVANCE PROCEDURE**

- A. The City of Lexington desires to resolve employee complaints and grievances in a fair and equitable manner. Employees whose grievances result from work situations deserve and have the right to submit their concerns for orderly resolution with complete freedom from discrimination, coercion, recrimination, restraint, or reprisal.
- B. The provisions of this procedure applies to all City employees, except those on initial and disciplinary probation, the City Manager, the City Attorney, and the City Clerk. Also excluded from this procedure are sworn police officers whose grievances are subject to their own policies and procedures.
- C. A grievance is defined as a complaint or dispute of an employee relating to his/her employment, including but not limited to: (a) disciplinary actions including dismissals (for example, those resulting from formal discipline or unsatisfactory job performance), disciplinary demotions, and suspensions; (b) the application of Human Resources policies, procedures, rules, and regulations including those referred to in item (c) of the following paragraph; (c) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex or any other protected class under federal, state and local laws; and (d) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly or has reported an incidence of fraud, abuse or gross mismanagement.

The City Manager has the right to manage the affairs and operations of government. Accordingly, the following complaints are non-grievable: (a) the establishment and revision of wages or salaries, position classifications, or general benefits; (b) any work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content; (c) the contents of ordinances, statutes, or established Human Resources policies, procedures, rules, and regulations; (d) failure to promote except where the employee can show established



promotional policies or procedures were not followed or applied fairly; (e) the methods, means, and Human Resources by which work activities are to be carried on; (f) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, lay-off, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (g) the hiring, promotion, transfer, assignment, and retention of employees within the City government; (h) the relief of employees from duties in emergencies; and (i) negotiations of wages, salaries, or fringe benefits.

In any grievance brought under the exception to subparagraph 7.3(4)(f), the action of the City shall be upheld upon a showing by the City that: (i) there was a valid business reason for the action, and (ii) the employee was notified of such reason in writing prior to the effective date of the action.

- D. All grievable disputes, as defined in the preceding paragraphs, will be administered in the specified manner and processed within the stated time limits. It is intended that speedy attention to employee grievances be promoted, consistent with the ability of the parties to prepare for a fair consideration of the issues of concern. Any grievance shall be considered settled at the completion of any step if all parties are satisfied. The amicable resolution of grievable disputes is encouraged.

Except for the final management step, the only persons who may normally be present in the management step meetings are the grievant, the appropriate local government official at the level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while providing testimony. The grievant at every step of the procedure has the right to present witnesses and evidence to support his/her complaint. At the final management step, the grievant, at his/her option, may have a representative of his/her choice present. If the grievant is represented by legal counsel, the City Manager has the option of being represented by counsel.

**STEP 1:**

If after discussing the employee's complaint with the employee and supervisor, the response is not acceptable to the employee, they may file, within five working days from receipt of the immediate supervisor's response, a written grievance with their immediate supervisor with a copy of the grievance forwarded to the respective Department Head and to the Human Resources Office. The written grievance must be filed on a completed Grievance Form and must specify the relief requested. The written grievance shall contain a full and complete explanation of the employee's complaint.

After receiving the determination of grievability from the City Manager, the Department Head will meet face to face with the grievant within two working days.

**Determination of Grievability:**

When a Department Head receives a grievance in writing as outlined in Section 7.3.D Step 1 of these rules, he/she shall forward a copy of the grievance to the City Manager along

with a request that the City Manager decide whether the matter is grievable. In addition, the grievant may request from the City Manager a determination of grievability. The City Manager shall decide, within ten calendar days of the request, whether the matter is grievable. A copy of the decision will be sent to the grievant, the Department Head, and the Human Resources Office.

The decision of the City Manager concerning the issue of grievability may be appealed to the Circuit Court of Rockbridge for a hearing on whether the grievance qualifies for a panel hearing. The decision of the Court is final and may not be appealed.

Proceedings for review of the decision of the City Manager on the issue of grievability are instituted by filing a notice of appeal with the City Manager within 10 calendar days after the date of the decision and by giving a copy of the filing to all parties. Within 10 calendar days thereafter, the City Manager shall transmit to the Clerk of the Circuit Court a copy of his/her decision, a copy of the notice of appeal, and the exhibits, with copies to the grievant. A list of the evidence furnished to the Court shall also be furnished to the grievant. The failure of the City Manager to transmit the record shall not prejudice the rights of the grievant. The Court, on motion of the grievant, may issue an order requiring the City Manager to transmit the record on or before a certain date. Within 30 days of receipt by the Clerk of these records, the Court, sitting without a jury, will hear the appeal on the record transmitted by the City Manager and any additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court, in its discretion, may receive such other evidence as the ends of justice may require. The Court may affirm the decision of the City Manager or reverse or modify the decision. The decision of the Court shall be rendered no later than the 15<sup>th</sup> calendar day from the date of conclusion of the hearing.

After the employee has received the determination of grievability from the Circuit Court, the Department Head will meet face to face with them within two working days to discuss. A written reply by the Department Head will be forwarded to the grievant within three working days following the meeting.

An employee who has filed a grievance concerning a termination and received a final determination that the termination is grievable, may waive the requirement for meeting with the Department Head and schedule a meeting with the City Manager. This face-to-face meeting will be scheduled to occur within five days from the employee's receipt of the determination of grievability. Such waiver shall be in writing.

**STEP 2:**

If the Department Head's reply from Step 1 is not acceptable to the grievant, he/she may request in writing, within three working days from receipt of the reply, a meeting with the City Manager for further consideration of the grievance. This face-to-face meeting shall be scheduled to occur within five working days from receipt of this request.

The City Manager will hear both sides of the dispute, investigate the cause for the dispute, and provide a written reply to the grievant within ten working days of the meeting.

**STEP 3:**

If the reply from Step 2 is not acceptable to the grievant, he/she may submit their grievance for a hearing before an administrative hearing officer. The request for a hearing shall be made on the Grievance Hearing Request Form. Requests for a hearing must be received by the City Manager within five working days after the receipt of the second step reply.

Use of Administrative Hearing Officer – The final step in the grievance procedure is a hearing before an administrative hearing officer, who shall be appointed as provided for by Virginia Code § 15.2-1507(A) (10)(a)(3).

E. The following rules shall govern hearings:

1. The administrative hearing officer has the responsibility to interpret the application of appropriate City policies and procedures in the grievance case. They do not have the authority to formulate or to change City policies or procedures.
2. The administrative hearing officer does not have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing. At the request of either party, the hearing shall be private.
3. The City Manager will provide the administrative hearing officer with copies of the grievance record prior to the hearing and provide the grievant with a list of documents furnished to the administrative hearing officer. The grievant and his/her attorney, at least ten calendar days prior to the scheduled hearing, will be allowed, in a manner consistent with general law of the Commonwealth of Virginia, access to and copies of all relevant files the City intends to use in the grievance proceeding. All records provided to the administrative hearing officer shall be returned to the City Manager after he/she has rendered his/her decision.
4. The administrative hearing officer has the authority to determine the admissibility of evidence without regard to the burden of proof or the order of presentation of evidence, so long as full and equal opportunity is afforded to all parties for presentation of their evidence.
5. All evidence shall be presented in the presence of the administrative hearing officer and the parties, except by consent of the parties.
6. The grievant shall furnish to the City copies of all documents, exhibits, and a list of witnesses that he/she intends to use at the hearing seven calendar days in advance of the hearing. Three calendar days after receiving these items from the grievant, the City shall do the same.
7. The decision of the administrative hearing officer, acting within the scope of his/her authority, is final, subject to existing policies, procedures, and law.
8. Hearings are not intended to be conducted like proceedings in courts. Rules of evidence do not necessarily apply.
9. The administrative hearing officer shall render his/her decision by filing it in writing with the City Manager, with a copy to the grievant, his/her supervisor and

the Human Resources Office, not later than 15 working days after the completion of the hearing.

10. A record of the hearing shall be made by tape or digital recording.
  11. At the beginning of the hearing, the administrative hearing officer may ask for statements clarifying the issues involved.
  12. Exhibits, when offered by the grievant or the City, may be received in evidence by the administrative hearing officer, and, when so received, shall be marked and made part of the record.
  13. First the grievant and then the City present their claims and proofs and witnesses who shall submit to questions or other examination. The administrative hearing officer, at his/her discretion, may vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.
  14. The parties shall produce any additional evidence the administrative hearing officer may deem necessary for an understanding and determination of the dispute. The administrative hearing officer will be the judge of relevancy and materiality of the evidence offered.
  15. The administrative hearing officer shall inquire specifically of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the administrative hearing officer will declare the hearing closed.
  16. The decision of the administrative hearing officer is final and binding in all its determinations and shall be consistent with provisions of law and written policies.
  17. The hearings may be reopened by the administrative hearing officer or under application of a party for good cause shown at any time before the decision is made.
  18. In the hearing, the grievant has the burden of proving, by a preponderance of the evidence, that they are entitled to the requested relief.
- F. Conduct of Hearing – The administrative hearing officer sets the time for the hearing, which shall be held as soon as practicable but no more than 10 working days after he/she has been selected and shall notify the grievant in writing of the date and time of the hearing. The grievant may have a representative or legal counsel present at the hearing at his/her expense.
- G. Either the grievant or the City Manager may petition the Circuit Court of Rockbridge County for an order requiring implementation of the administrative hearing officer's decision.
- H. Non-compliance with Procedural Requirements: If, after the initial filing of a written grievance, either the grievant or the City fails to comply, without just cause, with all substantial procedural requirements of the grievance procedure, a decision in favor of the other party on any grievable issue shall result. Such a decision will not occur if the party not in compliance corrects the noncompliance within five working days of receipt of a written notification from the other party of the procedural violation. Such written notification by the grievant shall be made to the City Manager who may require a clear written explanation of the basis for the just cause extension or exceptions.

- I. For instances not covered by these rules in subsection 7.3, general law of the state shall apply, as appropriate.

## SECTION 8: SAFETY PROGRAM

### 8.1 POLICY STATEMENT

The City of Lexington Safety Program was established with the goal of reducing on-the-job accidents and injuries. The objectives of this program are to:

- A. Provide a physically safe environment in which City employees can work;
- B. Increase each employee's level of awareness concerning safety;
- C. Record and monitor the City's accident record for developing accident prevention programs; and,
- D. Reduce insurance costs through accident reduction and prevention.

### 8.2 SAFETY COMMITTEE

The Safety Committee will be appointed by the City Manager, whose function is to develop and oversee the Safety Program and to advise the City Manager on all City policies and procedures relating to safety. The Committee will consist of employee representatives and will be chaired by the Human Resources Office.

### 8.3 WORKING CONDITIONS

- A. Department Heads – Department Heads are responsible for providing safe and suitable working conditions and for making recommendations to the Safety Committee for the alleviation of unsafe or unsuitable conditions not within their means of correction. Additionally, Department Heads will be held responsible for offering and providing the hepatitis vaccination series to all employees with an inherent risk of exposure to blood borne pathogens. Any applicable employee that declines the vaccination series must sign a waiver indicating the declination.
- B. All Employees – It is the responsibility of each City employee to bring to the attention of his/her supervisor any unsafe working condition or practice and to practice safe working habits.

### 8.4 SAFETY EQUIPMENT

The City supplies safety equipment or clothing which is deemed necessary to perform safely the duties and responsibilities of the City.

Supervisors are responsible for deciding when and where any apparel or equipment must be used. Examples of protective apparel and the guidelines for their use are as follows:

- A. *Hard hats* – working in trenches or areas where equipment is at or above head level or in areas where overhead construction or maintenance is being performed.

- B. *Safety glasses/goggles or full-face shield* – mowing grass, welding, using a jack hammer, operating a weed eater, or in any other instance in which objects could fly in eyes.
- C. *Ear muffs or plugs* – when on the firing line at the firing range, when using a jackhammer or weed eater, or in other situations where noise is excessive.
- D. *Painting masks* – when performing any large-scale spray painting.
- E. *Work gloves* – when handling sharp or heavy objects.
- F. *Reflective vests* – on fixed traffic direction posts, while flagging traffic, while working in the streets, and when working in street medians.
- G. *Respirators* - spraying pesticides and other chemicals, sanding wallboard and similar dust producing surfaces, operating rock drill, sawing pipe, working with certain chemical products, or in any other instance in which foreign substances could be inhaled.
- H. *Steel-toed safety shoes* – each fiscal year, the City shall provide steel-toed safety shoes, at a cost not to exceed that contained in the annual budget, for positions deemed appropriate by the Department Head.

The budgeted cost is the cost allocated by a department each year for one pair of safety shoes per employee. All costs incurred above and beyond the budgeted cost are the responsibility of the employee.

It is mandatory for all employees in designated positions wear steel-toed safety shoes at all times while on the job as deemed appropriate by the supervisor.

## **8.5 ACCIDENT REPORTING**

**In case of a life-threatening emergency, employees should first call 911.**

Any employee injured on the job must immediately report the injury to his/her supervisor. Please see Policy 4.12 Workers' Compensation.

## **8.6 USE OF SAFETY BELTS**

The City requires the use of safety belts for all occupants in departmental vehicles and any personal vehicle on City business whenever the vehicle is in motion.

Department Heads are responsible for ensuring that properly-working safety belts are installed in each vehicle assigned to their department. Public Works shall assist the Department Heads and other employees by installing safety belts as needed and by checking their functioning during regular vehicle maintenance programs.

Exceptions to the safety belt policy will be made for (1) sworn law enforcement officers when they are transporting prisoners or when circumstances will render the wearing of a safety belt impractical; (2) meter readers when they are having to get in and out of a vehicle several times in one block.

Employees who fail to wear a safety belt as outlined above will be subject to the following:

First Offense:.....Written Reprimand

Second Offense:.....One day suspension without pay

Third Offense: .....Two-day suspension without pay

Fourth Offense & each offense thereafter: ... Five-day suspension without pay

## **8.7 DISTRACTED DRIVING PREVENTION POLICY (Use of Mobile Devices in Vehicle Operations)**

### **A. Purpose**

The purpose of this Policy is to establish procedures for City employees regarding the use of wireless voice/data communication devices (department or privately owned) when operating department or personal vehicles on City business.

### **B. Policy Statement**

Employees are responsible for operating department-owned or personally owned vehicles in the furtherance of City business safely in all driving conditions and circumstances.

This policy prohibits certain uses of wireless voice/data communication devices and reflects best practices gathered from law enforcement agencies from around the country. The provisions of this policy do not include the use of a vehicle two-way radio to communicate via a hand-held microphone.

#### **1. Limitations on Work Use of Wireless Voice/Data Communication Devices While Driving on City Business.**

The use of wireless voice/data communication devices while the vehicle is in motion is prohibited unless utilized in a hands-free manner such as Bluetooth or speaker.

#### **2. Prohibition on Personal Use of Handheld Electronic Mobile Devices While Driving on City Business.**

Employees may not use wireless voice/data communication devices for non-work related personal use while they are driving on City business.

#### **3. Violations of Distracted Driving Prevention Policy**

Employees charged with traffic violations resulting from the use of wireless voice/data communication devices while driving, regardless of whether it is in the furtherance of City business, are solely responsible for all liabilities which result from such actions.



C. Definitions

Distracted Driving – For the purposes of this policy distracted driving means any driving activity a person engages in while using a wireless voice/data communication device when operating a motor vehicle on City business.

Wireless Voice/Data Communication Device – A wireless voice/data communication device is any device capable of transmitting and receiving voice or data communications without plugging into a wired land-based phone network. For this policy, such equipment includes, but is not limited to, the following:

- Cellular telephones
- Certain real-time navigational systems
- Smartphones and devices for voice and/or data

Text Messaging/Texting – For the purpose of this policy, the term “text messaging” or “texting” means reading from or manually entering or transmitting data into any handheld or other electronic device, including, but not limited to, sending Short Message Service (SMS) text messages or Multimedia Message Service (MMS) text messages. Text messaging/texting also include sending or receiving mail, instant messages, obtaining visually assisted navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

Use – The term “Use” means talking on or listening to a wireless telephone or engaging the wireless device for text messaging/texting, email or other similar forms of manual data entry or transmission. “Use” also includes taking photographs, accessing the Internet, reading messages or data files, and any other utilization of the device.

1. Responsibilities

It is the responsibility of each employee to be familiar with and adhere to established City policies as well as state and local laws that deal with computers, telephones and other wireless/voice data devices or inattention while driving, including this policy on Prevention of Distracted Driving.

**8.8 SELF-INSPECTION SAFETY PROGRAM**

A. Purpose

Hazard prevention and control may be the most cost-effective aspect of the City’s safety program. Some hazards will be physical while others will be procedural.

B. General Policy Statement

To create a safe and healthy workplace, the City of Lexington has established a policy to conduct regularly scheduled self-inspections of the City’s premises, job sites, and

procedures by which all work is completed. All necessary steps will be taken to assure the safety of employees, the public, and any contractors.

C. Responsibilities

1. Management Responsibilities

- (a) Management will conduct or support self-inspection training for all supervisors and employees that may have a part in this activity.
- (b) Management will monitor the implementation of the Self-Inspection Program to evaluate the overall effectiveness.
- (c) The safety committee has developmental and audit duties to be certain the policy is written, firmly established and maintained.
- (d) The safety committee is responsible for delegating activities to committee members or other supervisors to complete the self-inspections.

2. Employee Responsibilities

- (a) To make the Self-Inspection Program as productive as possible, all employees are expected to cooperate by answering any safety or work procedural questions asked by inspectors.
- (b) Employees are encouraged to volunteer ideas about how facilities, equipment or work procedures can be changed or improved to make the work environment safer.
- (c) Employees shall report all hazardous conditions, dangerous work procedures and near misses (an unplanned event that could have caused injury or damage) to their immediate supervisors in a timely manner.

D. Self-Inspections

The Safety Committee will establish the types of inspections to be conducted and determine frequency of completion. Once an initial inspection is completed, the frequency of further inspections will be determined. This will be based on the number and severity of hazards identified. Along with management, the committee will decide which self-inspections safety committee members are to conduct and which are to be delegated to supervisors, equipment operators or specially trained engineers or maintenance personnel. Non-safety committee members will complete all self-inspections required to be conducted more often than monthly.

E. Inspection Procedures

Previous inspection reports and any incident investigation reports will be reviewed prior to initiating an inspection to determine what items have been corrected, modified, completed, etc. A copy of the completed inspection form(s) will be forwarded to the designated inspection program coordinator with recommendations for corrective action if deficiencies are noted. Department heads will take immediate corrective action to eliminate or minimize hazards. Management will initiate permanent corrective action where possible.

1. Observations of work practices and procedures will be conducted in addition to the established checklists. Comments will be offered on the inspection form and reported to the appropriate supervisor(s). This component of the inspection process will be kept professional and positive, not punitive. These inspections will accompany/be conducted independently of the checklist portion of the inspection process. Observation inspections will be conducted quarterly.
2. Forms to guide investigators will be produced and modified as needed. Other forms will be generated and used as deemed necessary and may need to be specifically designed for some departments. Some forms will require descriptive observations made about how employees perform specific tasks, to determine work methods and actions that may contribute to hazards.
3. Training on how to conduct effective self-inspections will be coordinated by the Safety Committee. Classroom training may be followed by site inspections with instruction from an experienced inspector who is able to answer questions relating to the inspection process and the inspection forms themselves.
4. All items noted as needing improvement, modification, or action will be communicated to the appropriate manager or supervisor for the department(s) affected. Response to the deficiency will depend on the action as indicated by the nature of the shortfall. A response from the manager/supervisor will be sent to the Safety Committee indicating action(s) taken.
5. The Safety Committee will review and act on if necessary, all lack of progress in addressing self-inspection items noted for improvement.

## **8.9 EVALUATING EMPLOYEE SAFETY**

Compliance with safety rules and regulations will be considered in annual performance evaluations. Refusal to abide by safety rules, such as wearing hard hats, safety shoes, or safety belts, may result in disciplinary action including, if appropriate, suspension or dismissal from employment.

## SECTION 9: ETHICS

### 9.1 CONDUCT

City employees are expected to discharge their duties conscientiously and to conduct themselves in a manner, both on and off the job, which will reflect favorably upon the City government as follows:

- A. Employees shall refrain from any use of his/her official position for private gain for himself/herself or other persons.
- B. Employees will exercise care in their personal financial activities to avoid any appearance of acting based on information obtained while performing his/her City activities.
- C. Employees shall not use their position to coerce, or give the appearance of coercing, another person to provide any financial benefit to the employee or to other persons.
- D. Employees will avoid any action that might result in giving preferential treatment to any organization or person; losing his/her independence or impartiality of action; or affecting adversely the confidence of the public in the integrity of the City government.
- E. An employee who witnesses another employee engaging in an unlawful act on the job shall report the act to his/her supervisor without threat of reprisal.
- F. Employees will treat confidential matters seriously, using discretion at all times, and being sensitive to and respectful of the needs of the parties involved.

The above rules shall supplement and, if in conflict with, be subordinate to general law of the Commonwealth of Virginia.

### 9.2 GIFTS AND GRATUITIES

All employees are required to comply with the State and Local Government Conflict of Interests Act, Chapter 31 of Title 2.2 of the Code of Virginia, as amended, which prohibits City employees from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised. Further, employees shall provide a record of all gifts, favors or benefits, which might give rise to the appearance of compromised judgment.

## SECTION 10: WORKPLACE HARASSMENT

### 10.1 POLICY STATEMENT

Actions or statements constituting sexual or any other workplace harassment are detrimental to both the well-being of the victim and the efficient administration of the City. Therefore, sexual or any other workplace harassment will not be tolerated.

### 10.2 DEFINITION OF WORKPLACE HARASSMENT AND SEXUAL HARASSMENT

A. Workplace harassment is defined as any unwelcome verbal, written or physical conduct that either speaks ill of or shows hostility or aversion towards a person on the basis of age, color, disability, genetic information (information about an individual and their family members' genetic tests and information about the manifestation of a disease or disorder), marital status, national origin, political affiliation, race, religion, sex (including gender expression, gender identity, sexual orientation, and pregnancy) or veteran status, and which results in one of the following: (1) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (2) has the purpose of interfering with an employee's work performance; or (3) affects an employee's employment opportunities or compensation.

Workplace harassment does not include disagreements between employees unless one of the elements in the definition of "workplace harassment" is present. The City will investigate all complaints of harassment whether the offender is an employee or a person not employed by the City.

B. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and verbal, written or physical conduct of an unwelcome or hostile sexual nature between co-workers, between a supervisor and employee, or between members of the public and employees.

Sexual harassment in the workplace exists when:

1. Submitting to conduct described in this definition is made implicitly or explicitly a condition of an employee's City job;
2. The victim's decision to reject or accept sexual advances is later used as the basis for a City employment decision, such as a promotion, raise, or assignment; or
3. Sexually harassing conduct has the purpose or effect of unreasonably interfering with the victim's work by creating an intimidating, hostile, or offensive City working environment.

Examples of misconduct prohibited under this policy include, but are not limited to, the following:

- Unwanted touching and sexual advances.
- Sexual comments of a provocative or suggestive nature.

- Jokes or innuendoes of a sexual nature intended for and directed to another employee.
- Sexually explicit objects, books, magazines, or photographs left where other employees will find them.
- Unwelcome and sexually demeaning comments, ridicule, offensive language, propositions or other similar actions of a sexual nature.
- Unwanted and unsolicited off-duty telephone calls, electronic mail, and other communications of a sexual nature.
- Signed or anonymous notes or drawings of a sexual nature placed in desks or on bulletin boards.
- Deliberately singling out an employee in front of co-workers and subjecting him/her to demeaning or derogatory remarks of a sexual nature.
- Demanding sexual favors in exchange for continued employment.
- Jokes, demeaning comments, or written communications (including electronic) that are demeaning to an individual's age, color, disability, genetic information, marital status, national origin, political affiliation, race, religion, sex (including gender expression, gender identity, sexual orientation, and pregnancy) or veteran status.
- Displaying websites, books, magazines, photographs or other objects that are demeaning to an individual's age, color, disability, genetic information, marital status, national origin, political affiliation, race, religion, sex (including gender expression, gender identity, sexual orientation, and pregnancy) or veteran status.

### **10.3 RESPONSIBILITIES**

#### **A. Employees:**

1. Refraining from participation in, or encouragement of, actions that could reasonably be perceived as harassment.
2. Reporting acts of harassment to a supervisor promptly.
3. Encouraging any employee who confides that he/she is being harassed to report the harassment to a supervisor.

#### **B. Supervisors:**

1. Monitoring the work environment for harassing activity.
2. Counseling employees on what is prohibited behavior and on the procedures for reporting and resolving complaints and harassment.
3. Stopping any observed acts that may be considered a violation of this policy regardless of whether the involved employees are within his/her line of supervision.
4. Taking immediate action to limit contact between two employees where there has been a complaint of harassment that remains under investigation.
5. Assisting any person who comes to him/her with a complaint of harassment.
6. Informing the Human Resources Office of reported unlawful harassment, even if the alleged victim declines to complete a Workplace Discrimination/Harassment Complaint Form.

#### **10.4 REPORTING PROCEDURES**

- A. City employees who believe they are being subjected to actions prohibited by this policy are encouraged to speak with the perpetrator of the prohibited behavior and request that the actions stop immediately. If the employee is not comfortable taking this step or continues to be subjected to the behavior after making the request, they are expected to complete and deliver a Workplace Discrimination/Harassment Complaint form to Human Resources or the City Manager. The employee may also verbally inform any supervisor, Department Head, Human Resources or the City Manager. The City will strive to keep confidential the identity of the complaining employee.
- B. Supervisors who receive a complaint of harassment or who witness an incident of harassment are expected to advise the victim to fill out a Workplace Harassment Complaint Form. Supervisors must immediately inform the Human Resources Office of reported workplace harassment, even if the alleged victim declines to complete a Workplace Discrimination/Harassment Complaint Form.
- C. If an employee of the Human Resources Office is either (a) the alleged harasser or (b) the alleged victim, the Workplace Harassment Complaint Form shall be completed and forwarded to the City Manager for action consistent with this policy. If the City Manager is the alleged harasser, then the complaint form shall be completed and forwarded to the Mayor for action consistent with this policy.

#### **10.5 DUTY TO INVESTIGATE AND TAKE CORRECTIVE ACTION**

- A. Human Resources will promptly investigate all complaints of unlawful harassment and the City will take remedial action to prevent any further harassment. Remedial measures may take the form of dismissal or other disciplinary action against any employee found to have unlawfully harassed the complainant. The City will also take prompt and appropriate action in instances when an employee has been subjected to sexual harassment by a non-employee.
- B. Failure to cooperate with a harassment investigation constitutes a violation of this policy and will result in disciplinary action.

#### **10.6 POLICY REVIEW**

- A. Supervisors are required to review this policy with employees within thirty days of hire and on an annual or more frequent basis thereafter. Employees shall sign a form indicating that they understand and will abide by the policy.
- B. The City will conduct periodic seminars or training sessions as part of its ongoing efforts to prevent sexual harassment.

#### **10.7 NON-RETALIATION**

No employee or applicant for employment will be retaliated against for raising good faith concerns about a violation of the workplace harassment policy or participating in an investigation of an alleged violation of the policy. This non-retaliation policy applies to anyone who reports an incident, files a complaint, or cooperates in an inquiry or investigation about an allegation of harassment, or who participates in the City's complaint resolution or grievance procedure as a complainant, a witness, an investigator or in any other capacity.

## **SECTION 11: DRUG FREE WORKPLACE**

### **11.1 POLICY STATEMENT**

The unlawful manufacture, distribution, possession, purchase, sale, or use of a controlled substance is prohibited in the workplace. The workplace consists of any City-owned, controlled or leased equipment, property or vehicle, or the site at which City work is performed. This policy also applies to off-site lunch periods or breaks when an employee is scheduled to return to work and any time that an employee is acting in his/her capacity as a City employee.

Any employee, contract employee, officer, or official who is found to have violated this policy as the result of a drug or alcohol test or other act of possession or distribution is subject to disciplinary action and/or will be required to satisfactorily participate in a drug abuse assistance or rehabilitation program, based on the severity of the violation.

The Federal Transit Administration and the Federal Highway Administration require specific drug and alcohol testing policies and procedures. These policies and procedures are reflected in departmental policies of Public Works.

### **11.2 RESPONSIBILITIES**

#### **A. Employees:**

1. Employees will notify their supervisor in writing within five calendar days if convicted, or a guilty plea or determination by the court that evidence exists on which a conviction could be obtained, of violating:

(a) A criminal drug law or ordinance based on conduct occurring in or away from the workplace; or

(b) An alcohol law or ordinance violation(s) occurring in the workplace, or a law or ordinance that governs driving while intoxicated, based on conduct occurring in or away from the workplace.

2. Before beginning a work shift, employees will report to their supervisor the use of prescription or over-the-counter drugs that may cause impairment. It is the employee's responsibility to determine from their physician, practitioner, or pharmacist whether job performance would be impaired.

3. Employees shall report any conduct of other employees that appear in violation of this policy to their supervisors.

#### **B. Management**

1. Supervisors have a responsibility to immediately report violations, as well as any reasonable evidence to suspect that an employee is manufacturing,



distributing, dispensing, in the possession of or is under the influence of alcohol or a controlled substance to the Human Resources Office. The Department Head and the Human Resources Office will work in concert with the City Attorney to investigate the violation, obtain the facts, and advise and recommend appropriate action to the City Manager.

2. Department Heads and supervisors shall assist in ensuring that the workplace is free of controlled substances.

3. A copy of this policy will be posted on the main bulletin board in each City Department.

### **11.3 SCREENING**

A drug/alcohol test is required for all candidates selected to work for the City of Lexington. The test will be completed after a conditional offer of employment has been made and prior to the employee reporting for work with the City.

#### **A. Employee Screening**

1. Screening of existing employees may take place under several different conditions. When screening does occur, the employee's supervisor will transport the employee to the selected testing facility after notifying the Human Resources Office. If the Human Resources Office is unavailable, the Department Head must clear the screening with the City Attorney or the City Manager.

(a) Reasonable Suspicion: An employee will be required to submit to a urine, blood or breath test for chemical analysis to determine the presence, if any, of drug(s) or alcohol in the employee's system when the employee's supervisor has a reasonable suspicion that the employee is under the influence of drug(s) or alcohol. "Reasonable suspicion" is defined as the presence or occurrence of specific objective facts or events and reasonable inferences drawn from those facts or events in light of experience that the employee is, at the time of the suspicion, under the influence of drug or alcohol. Such behavior must typically be witnessed by at least two supervisors/ managers.

1. Examples of reasonable suspicion include, but are not limited to, the following:

- a. Physical signs and symptoms consistent with prohibited substance use or alcohol use;
- b. Evidence of illegal alcohol or drug use, possession, sale, or delivery;
- c. Altercations (either physical or verbal) with others, or erratic or violent behavior;

d. Other unusual acts or unusual behavior which may suggest drug or alcohol use.

(b) Post-Accident: Following any on-duty accident which causes either property damage or personal injury.

2. Any employee who is relieved of duty due to a positive test for alcohol/drug use will be immediately disqualified from driving and, if necessary, taken off the road. Every attempt will be made to locate a family member or friend to transport the employee. If this is unsuccessful, a supervisor may drive the employee home, or a taxi may be called at the City's expense.

3. Nothing herein prohibits management from temporarily reassigning an employee, or from placing him or her in an approved leave status, pending the results of a drug test when such action is deemed to be in the best interest of the City. Such action will not be considered disciplinary in nature, nor will any presumption of guilt arise from this action. However, when the results of the confirmatory test are negative, the employee will have his/her leave reinstated or be compensated for hours spent in a leave without pay status.

**B. Discipline**

1. Employees performing work while impaired by alcohol and/or drugs are subject to disciplinary action as follows:

<b>Level of Impairment</b>	<b>Action to be Taken</b>
<0.02	No disciplinary action
>0.02 but <0.04	Remainder of day suspension and EAP referral
	A second offense within 24 months will result in a suspension of five days and EAP referral. Employees testing at this level must retest at a level of 0.00 prior to returning to work.
>0.04	Termination of employment and referral to EAP

A positive urine or other drug test is sufficient to support a finding of "use" for employees for the substances listed below. Disciplinary action for drug use will be determined by the Department Head, in consultation with the City Manager and the City Attorney, based on (i) the potential threat or danger created by the drug use, (ii) the nature of the work performed, or the position held, (iii) the employee's work history and (iv) the best interests of the City. An employee with a positive drug test has

the burden of demonstrating why termination of their employment is not in the best interests of the City.

C. Refusal to Test

1. Applicants who refuse to participate in or complete a drug or alcohol test required by this policy are not eligible for employment with the City. Failure to remain at the testing site and provide a specimen once the test is underway is considered a refusal to participate
2. Employees who refuse to participate in or complete a drug or alcohol screening test required by this policy will be subject to disciplinary action, up to and including termination of employment.
3. The following actions constitute a refusal to be tested by an existing employee:
  - (a) Failure to remain at the testing site until the testing process is complete;
  - (b) Failure to provide a urine or breath specimen for any drug or alcohol test required by this policy;
  - (c) Tampering with, adulterating, or substituting a specimen;
  - (d) Failure to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
  - (e) Failure or decline to take a second test as directed;
  - (f) Failure to undergo a medical examination or evaluation, as directed by the Medical Review Officer as part of the verification process;
  - (g) Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process) or verbal or written refusal to provide a required urine specimen;
  - (h) Providing false information in connection with a drug test, or if verified to have falsified test results through adulteration or substitution of a urine specimen;
  - (i) Failure or refusal to sign the applicable testing or consent forms as requested by the City and/or the collector;
  - (j) Failure to remain at the scene of an accident, without a justifiable explanation, prior to the determination if a drug and/or alcohol test is necessary.

D. Post-Testing Procedures

1. Employee Requested Testing

Any employee who questions the results of a required drug test under this policy may request that the split sample be tested. This test must be conducted at a different Department of Health & Human Services certified laboratory than the first testing and will be conducted on the split sample that was provided by the employee at the time of the original sample. The employee is responsible for all

costs of such testing unless the result of the split sample test invalidates the result of the original test. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will be accepted only if the delay was due to documentable facts that were beyond the control of the employee.

2. Information Disclosure

An applicant's or employee's executed consent form, test results, treatment information, and any other documentation generated as a result of this policy will be confidentially maintained by the Human Resources Office. Such information may only be released upon written authorization of the applicant or employee involved, to City personnel on a need-to-know basis, or as otherwise required or permitted by law.

## SECTION 12: WORKPLACE VIOLENCE

### 12.1 POLICY STATEMENT

Any acts of workplace violence are prohibited. The City will educate employees in recognition and reporting procedures, prevention strategies and emergency actions. In addition, we will investigate acts of violence and take immediate action to resolve issues. If violence by a third party is committed against a City employee, the City will support that employee in pursuing criminal charges, seeking medical attention and any other actions necessary to resolve the issue.

### 12.2 PREVENTION

The City is committed to the prevention of workplace violence. To that end, training is available to assist employees and supervisors in the recognition, prevention and resolution of potentially volatile situations.

### 12.3 EMERGENCY PROCEDURES

***In cases of life threatening emergencies, call 911.***

Departments will develop specific emergency procedures for responding to incidents of violence. Individuals calling the Police Department should dial 911 to access the E-911 system. Potentially dangerous situations should be reported to a supervisor or Department Head. Any established protocol within departments should be utilized in communicating emergencies.

### 12.4 DUTY TO INVESTIGATE

Any employee who recognizes a potential threat should report the incident or situation to his/her supervisor immediately. Any reported possibility of violence will be investigated with action taken to resolve or diffuse the situation.

### 12.5 WEAPONS IN THE WORKPLACE

The City prohibits the possession or use of dangerous weapons on City property regardless of any license or permit that an individual may have which would otherwise authorize them to carry said weapons. The exception is that per the Code of Virginia Section 15.2-915 an employee may have a lawfully owned firearm and ammunition in their locked private motor vehicle parked on City property. Employees in law enforcement positions who are authorized to carry a service firearm are exempt from this policy.

#### A. Definitions

“City property” is defined as all City-owned or leased buildings and surrounding areas such as sidewalks, walkways, parks, recreational facilities, driveways and parking lots under the City’s ownership or control. This policy applies to all company-owned or leased vehicles and all vehicles that come onto City property, except for City law enforcement vehicles.

“Dangerous weapons” include firearms, explosives, knives and other weapons that might be considered dangerous or that could cause harm.

## B. Searches of Personal Property

The City reserves the right at any time and at its discretion to search all City-owned or leased vehicles and all vehicles, packages, containers, briefcases, purses, lockers, desks, enclosures and persons entering its property, for determining whether any weapon is being, or has been, brought onto its property or premises in violation of this policy.

Individuals refusing to allow an inspection shall not be detained or forced to submit to the inspection.

## C. Discipline

Employees who violate any portion of this policy are subject to disciplinary action up to and including termination of employment.

Violations by a contractor or subcontractor's employee of any portion of this policy constitutes serious misconduct and will mandate the contractor or subcontractor's employee to immediate removal from the City's premises and barring future access to any City property.

## SECTION 13: ENVIRONMENTAL MANAGEMENT

### 13.1 ENVIRONMENTAL POLICY

The City of Lexington is committed to the protection of the environment while providing the highest level of municipal services to the community.

#### A. Regulatory Compliance

1. The City of Lexington will comply with applicable federal, state and local environmental, health and safety rules and regulations.
2. The City of Lexington will regularly monitor changes in environmental, health and safety regulations and modify procedures and practices to maintain compliance.

#### B. Pollution Prevention

1. The City of Lexington will continually identify pollution prevention innovations and apply those that make good economic and environmental sense.
2. The City of Lexington will reduce the use and generation of hazardous wastes wherever possible.
3. The City of Lexington will reduce the use of energy and the generation of non-hazardous solid wastes.

#### C. Continuous Monitoring and Improvement

The City of Lexington will regularly monitor and measure areas of significant adverse environmental impact.

#### D. Communication with Employees and the Public

The City of Lexington will make all employees aware of the importance of workplace environmental practices and procedures.

This Environmental Policy reflects the commitment of the City of Lexington government to maintaining Lexington as a healthy and safe place to live, work, and visit.

## PERSONNEL POLICIES RECEIPT ACKNOWLEDGMENT

**To be signed by the employee to indicate he/she will abide by the Personnel Policy Manual and understands its effect:**

I understand it is my responsibility to read, familiarize myself with the policies, and understand the matters set forth in this Personnel Policy Manual.

I acknowledge that the current version of the Personnel Policy Manual has been made available to me, either digitally or in hard copy.

This Manual supersedes all prior policies as to subjects addressed in the manual and all representations, oral or written. In the event of a contradiction between this Manual and the representation of a supervisor, the terms of this manual will govern.

I understand that my employment with the City of Lexington is "at-will". I understand that no statement contained in the Manual creates any guarantee of continued employment or creates any obligation, contractual or otherwise, on the part of the City of Lexington.

I understand and acknowledge that the City of Lexington has the right, without prior notice, to modify, amend, or terminate policies, practices, benefit plans, and other institutional programs within the limits and requirements imposed by law.

[Signature]: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Date: \_\_\_\_\_



## Appendix A: Definitions

Administrative Leave – Leave approved with pay by the City Manager and not covered by any other leave provision.

Allocation – The assignment of a position to its appropriate class in relation to duties performed.

Anniversary Date – The date that an employee commenced work in his/her position.

Applicant – An individual who indicates a specific interest in a current job vacancy for which the City is hiring; meets the minimum qualifications of the job; and, provides all required information on an application form.

Appointment – The offer to and acceptance of by a person of a position.

Authorized Absence – An absence approved by the employee's supervisor after proper notification (reason for absence and estimated length of absence) is given to the supervisor.

Break in Service – Any separation from the service of the City of Lexington whether by resignation, retirement, layoff, dismissal, disability, retirement or absent without leave when the employee is subsequently re-employed. An authorized leave without pay does not constitute a "break in service."

Classification (Class) – A position or group of positions which are sufficiently alike in duties performed, degree of supervision, required minimum requirements of education, experience or skill and other such characteristics to be equitably assigned the same class title, same or similar qualification requirements, the same skill level, the same test of fitness and the same salary range.

Class Series – A number of positions involving the same character of work, but different as to the level of difficulty and responsibility.

Class Description – A formal written description of the class that defines the general character and scope of the duties and responsibilities of positions in the class.

Compensation Plan – The official schedule of pay approved by the City of Lexington assigning one or more rates of pay to each class title, arranged schematically by classification series.

Constitutional Officer – Those persons identified as City officials who are elected in accordance with Article VII, Section 4 of the Constitution of Virginia, including the Treasurer and Commissioner of the Revenue.

Continuous Service – The total length of time an employee has been employed with the City. Continuous service is defined as beginning with the date of employment and continues until the employee's retirement or other separation from the City.

Demotion – Movement from one class of position to another of a lower salary range in which the employee meets the minimum qualification requirements.

Dependent – A family member who is claimed as a dependent on the employee's Federal Income Tax Return.

Discipline – Action taken against an employee ranging from verbal reprimand to dismissal depending on the severity of the employee's unsatisfactory work performance or misconduct.

Dismissal – An involuntary separation of an individual's employment initiated by the City.

Employee – An individual who, in consideration of wages or salary for the benefit and under the control of the City and is compensated through the City payroll. “Employee” does not include:

1. Members of City Council;
2. Constitutional Officers;
3. Members of boards, commissions and authorities;
4. Independent contractors.

Essential Personnel – Employees who hold certain positions, which provide necessary health, safety and emergency City services regardless of adverse conditions.

Full-Time Appointment – Appointment to a regular full-time position indicates that the employee is to work for the City on a full-time at-will continuous basis, without a specific time limitation and requiring a regularly scheduled work period. Full-time employees work 40 hours or more per week on average.

Incumbent – An employee occupying a position in the City service.

Layoff – A temporary or indefinite reduction in the workforce due to economic conditions, technological changes, lack of work or other appropriate reasons, initiated by the City and usually through no fault of the employee.

Maternity Leave – Pregnancy, childbirth or related medical conditions associated with birth shall be treated as any other temporary disability with respect to sick leave, annual leave, compensatory time and leave without pay.

Non-essential Employee – An employee who is not required to work during adverse conditions. Adverse conditions are declared and defined by the City Manager.

Part-Time Appointment – An appointment to a part-time position that is routinely scheduled to work for the City on an at-will continuous basis, without regard to a specific time limitation. Part-time employees work less than 30 hours per week on average.

Part-Time Seasonal/Temporary Appointment – An employee that is routinely scheduled to work for the City for a period of less than one year. Part-time seasonal/temporary employees work less than 30 hours per week on average and are not eligible to receive fringe benefits other than those mandated by law.

Performance Evaluation – A systematic review of employees in the effective accomplishment of their assigned duties and responsibilities. A recommendation for a salary increase may or may not be included in the evaluation.

Personnel File – Official file of information pertaining to each employee.

Position Classification Plan – The official system of grouping similar positions into appropriate classes based upon the respective duties, typical tasks and qualifications.

Probationary Period – The introductory period of employment beginning on the first day of work and generally extending for 12 months from date of hire

Promotion – Movement from one class of position to another of a higher salary range for which the employee meets the minimum qualification requirements.

Qualifications – The minimum education, experience and any special job-related requirements, which must be fulfilled by a person prior to appointment or promotion.

Reclassification – A change in the classification of a position or group of positions.

Re-Employment – When an employee's services are terminated and that employee is subsequently employed again with the City.

Regular Employee – The status of a classified employee who has successfully completed the initial probationary period. Regular employees work 40 hours per week for not less than 52 weeks per year. Annual leave, sick leave, paid time off (PTO) and holidays counts as time worked.

Reinstatement – The time an employee returns to work from an authorized leave of absence or goes from a non-pay status into a paid status. Reinstatement means that the employee is treated as if on leave without pay for the time he/she was away from the City.

Resignation – Voluntary separation initiated by an employee.

Safety-Sensitive Position – Positions that require possession of a CDL class driver's license as a condition of employment are considered safety-sensitive.

Salary Range – The rate of pay assigned to class titles.

Secondary (Outside) Employment – Employment in any capacity other than the employee's primary City job.

Supervisor – An employee who has the responsibility for directing and evaluating the work of other employees.

Suspension – A forced leave of absence without pay for disciplinary purposes.

Transfer – Movement of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range or between positions of the same class.

Unauthorized Absence – Any absence from the job during a scheduled work period, without approval from the employee's immediate supervisor or when an employee does not follow the proper request or verification procedure for an absence.

Vacancy – A position which has been newly established, or which has been rendered vacant by resignation, retirement or other removal of the previous incumbent.

Workday – Scheduled number of hours an employee is required to work per day.

Workplace – Any City owned or leased property (including parking lots), any site where official duties (including business-related activities for or on behalf of the City) are being performed by a City employee during regular work hours or while operating a motor vehicle or machine leased or owned by the City.

Workweek - The workweek applicable for all employees other than sworn Police Officers, Fire Department and Central Dispatch employees and for the determination of overtime hours is defined as 12:01 a.m. Monday through midnight the following Sunday. The work period for sworn Police Officers is 12:01 a.m. Sunday through midnight the second Saturday. The work period for the Fire Department is 12:01 a.m. Monday through 12:00 a.m. on the second Sunday.