



AGENDA

**Henderson City Council Work Session
Monday, 27 October 2014 Immediately Following Regular Session
R. G. (Chick) Young, Jr. Council Chambers, Municipal Building
134 Rose Avenue
Henderson, North Carolina**

Mayor and City Council Members

Mayor James D. O'Geary, Presiding

Councilmember James C. Kearney, Sr.
Councilmember Sara M. Coffey
Councilmember Michael C. Inscoc
Councilmember D. Michael Rainey

Councilmember Brenda Peace-Jenkins
Councilmember Garry D. Daeke
Councilmember Fearldine A. Simmons
Councilmember George M. Daye

City Officials

A. Ray Griffin, Jr., City Manager
D. Rix Edwards, City Attorney
Esther J. McCrackin, City Clerk

I. CALL TO ORDER

II. ROLL CALL

III. ADJUSTMENTS TO AND/OR APPROVAL OF THE AGENDA

IV. REGULAR WORK SESSION

- a)* Consideration of Approval of Resolution 14-24, Adopting the Proposed Employee Personnel Manual. (CAF 14-72) [See Notebook Tab 12]
 - Resolution 14-24
- b)* Consideration of Approval of Ordinance 14-41, Amending Section 7-64.0 of the City Code Relative to Declaration as to Certain Intersections and Section 7-49, Declaration as to Certain Streets. (CAF 14-92) [See Notebook Tab 13]
 - Ordinance 14-41
- c)* Consideration of Approval of Resolution 14-82, Adopting 2015 Council Meeting Schedule. (CAF 14-113) [See Notebook Tab 14]
 - Resolution 14-113

- d)* Consideration of Approval of Resolution 14-81, Authorizing the Implementation of an “Adopt a Park” Policy for the Henderson-Vance Recreation and Parks Department. (*CAF 14-112*) [*See Notebook Tab 15*]
 - Resolution 14-81
- e)* Consideration of Approval of Ordinance 14-52, Verifying the Ethics Policies for the City of Henderson’s Elected Officials. (*CAF 14-09*) [*See Notebook Tab 16*]
 - Ordinance 14-52
- f)* Youth Protection Ordinance. [*See Notebook Tab 17*]
- g)* Installation of Water Spray Park. (*CM 14-28-B*) [*See Notebook Tab 18*]
- h)* Chavasse Avenue and Beckford Drive Widening Projects Update. (*CM 14-34*) [*See Notebook Tab 19*]
- i)* LED Street Light Change Out. (*CM 14-35*) [*See Notebook Tab 20*]
- j)* Update on NCDOT’s Request for Temporary (60-90 days) and long term (5-10 months) Ramp Closures in Conjunction with Improvements to I-85 (I-0914BA). (*CM 14-36*) [*See Notebook Tab 21*]

V. ADJOURNMENT

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 October 14 Work Session

22 October 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: **CAF: 14-72**
Consideration of Approval of R 14-24, Adopting the Proposed Employee Personnel Manual

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- KSO 6: Develop and Maintain a Qualified Municipal Workforce – To provide a supportive and competitive workforce climate that facilitates and maintains a strong workforce capability and capacity and adequate staffing levels.

Recommendation:

- Approval of R 14-24, Adopting the Proposed Employee Personnel Manual

Executive Summary:

The most recent comprehensive Personnel Policy Manual was adopted during the 1998 period. Over the past 5 years, the Leadership Team and Human Resources have recommended changes to the Personnel Policies on an as needed ad hoc basis. With ever changing employment regulations; the City was in serious need of a relevant, current Personnel Policy Manual to provide information to employees that is in compliance with State statutes and local ordinances.

As part of the Pay Class Study, MAPS (Management and Personnel Services Group) was asked to provide a basic Personnel Policy Manual. The Leadership Team reviewed and made recommended changes to some of the proposed content. The City Manager and the Human Resources Director reviewed the entire proposed policy and proposed changes. Additional policies were added (ie. ethics, travel, use of technology, etc.) in an attempt to clarify and provide additional guidance for employees. The proposed Personnel Manual will be a great tool to assist management and the employees.

Enclosure:

1. Resolution 14-24

RESOLUTION
14—24

ADOPTING THE CITY OF HENDERSON PERSONNEL POLICY MANUAL

WHEREAS, the Henderson City Council (Council) conducted its Annual Planning Retreat in 2014, and during said Retreat identified eight Key Strategic Objectives (KSO) and Goals; *and*

WHEREAS, this Resolution addresses one of these Key Strategic Objectives as follows: KSO 6: Develop and Maintain a Qualified Municipal Workforce – To provide a supportive and competitive workforce climate that facilitates and maintains a strong workforce capability and capacity and adequate staffing levels; *and*

WHEREAS, the Henderson City Council wishes to provide personnel policies which are in alignment with the State of North Carolina’s personnel policies; *and*

WHEREAS, the current Personnel Policies may be inconsistent with current State and Local personnel policies.

NOW, THEREFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY ADOPT the proposed Personnel Policy Manual, being more fully articulated in *Attachment A* to this Resolution.

BE IT FURTHER RESOLVED BY THE HENDERSON CITY COUNCIL that the afore-referenced Personnel Policy Manual shall be effective on the adoption date of this Resolution.

The foregoing Resolution 14-24, upon motion of Council Member ** and second by Council Member **, and having been submitted to a roll call vote received the following votes and was ***** on this the *** day of **** 2013: YES: . NO: . ABSTAIN: . ABSENT: .

James D. O’Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 44, pp. **, CAF 14-72*



*Resolution 14-24
Attachment A*

PERSONNEL POLICY

City of Henderson, North Carolina

Effective Date
10 November 2014

Governing Body

James D. O'Geary
Mayor

Sara M. Coffey
Councilmember
Garry D. Daeke
Councilmember
George M. Daye
Councilmember
Michael C. Inscoe
Councilmember

James C. Kearney, Sr.
Councilmember
Brenda G. Peace-Jenkins
Councilmember
D. Michael Rainey
Mayor Pro Tempore
Fearldine A. Simmons
Councilmember

City Officials

A. Ray Griffin, Jr.

City Manager

John H. Zollicoffer, Jr.
City Attorney
Cathy M. Brown
Human Resources Director

Esther J. McCrackin
City Clerk
Frank Frazier
Assistant City Manager

Consultant

Rebecca Veazey
The MAPS Group, Inc.

**PERSONNEL POLICY
CITY OF HENDERSON**

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

It is the purpose of this policy and the rules and regulations set forth herein to establish a fair and uniform system of personnel administration for all employees of the City under the supervision of the City Manager. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

This policy shall be distributed and made available to all department directors and employees.

Section 2. "At Will" Employment

The City of Henderson is an "at will" employer. Nothing in this policy creates an employment contract or term between the City and its employees. No person has the authority to grant any employee any contractual rights of employment.

All City positions, benefits and funding for increases in pay, such as cost of living adjustments are subject to budget review and approval each year by the City Council.

Section 3: Not a Binding Contract

None of the benefits or policies set forth herein are intended, because of their publication herein to confer any rights or privileges upon employees or to entitle them to be or remain employed by the City. The contents of this document and the policies and procedures herein are presented as a matter of information. They are not conditions of employment.

These personnel policies are not a binding contract, but merely a set of guidelines for the implementation of personnel practices sanctioned by the City. The City explicitly reserves the right to modify any of the provisions of these policies at any time, and without any notice to employees. Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by the employee or by the City of Henderson, with or without cause and with or without advance notice.

Section 4. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same pay range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, gender, national origin, marital status, political affiliation, non-disqualifying disability, age, or genetic information.

Section 5. Responsibilities in the Administration of the Personnel Program

Responsibilities of the City Council

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

Responsibilities of the City Manager

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

The City Manager shall supervise or participate in:

- a) recommending rules and revisions to the personnel system to the City Council for consideration;
- b) making changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) preparing and recommending necessary revisions to the pay plan;
- d) determining which employees shall be subject to the overtime provisions of Fair Labor Standards Act (FLSA);
- e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, pay, any changes in class title and status, and such data as may be desirable or useful;
- f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- g) developing and implementing such administrative procedures as are necessary to implement these policies provided the administrative procedures are not in conflict with these policies;
- h) performing such other duties as may be required by law or assigned by the City Council not inconsistent with this Policy; and
- i) appointing an employee to the role of Human Resources Director.

Responsibilities of the Human Resources Director

The City Manager shall appoint a Human Resources Director or perform this role him/herself. The responsibilities of the Human Resources Director are to make recommendations to the City Manager on the following:

- a) rules and revisions to the personnel system for the City Manager's consideration;
- b) changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) necessary revisions to the pay plan;
- d) which employees shall be subject to the overtime provisions of FLSA;
- e) maintenance of a roster of all persons in the municipal service;
- f) establishment and maintenance of a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of

position, pay range, any changes in class title and status, position number and other such data as may be desirable or useful;

- g) development and administration of such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- h) development and/or coordination of training and educational programs for City employees;
- i) development and recommendation of such administrative procedures as are necessary to implement these policies provided the administrative procedures are not in conflict with these policies;
- j) periodic evaluations of the operation and effect of the personnel provisions of this Policy; and
- k) such other duties as may be assigned by the City Manager not inconsistent with this Policy.

Responsibilities of Department Heads and Supervisors:

Department Heads and Supervisors shall meet their responsibilities as directed by the City Manager, being guided by this Policy, City Ordinances and State Statutes. The City will require all supervisors to meet their responsibilities by:

- a) dealing with all employees in a fair and equitable manner and upholding the principles of equal employment opportunities;
- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) making objective evaluations of individual work performance and discussing these evaluations with each employee so as to bring about needed improvements;
- d) keeping employees informed of their role in accomplishing the work of their unit and of conditions or changes affecting their work;
- e) making every effort to resolve employee problems and grievances and advising employees of their rights and privileges;
- f) cooperating and coordinating with other staff members in work flow and distribution of information;
- g) making proper documentation and maintaining current files.

Section 6. Application of Policies, Plan, Rules, and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all City employees. The City Attorney, City Manager, Mayor, members of the City Council and advisory boards and commissions will be exempted except in sections where they are specifically included. An employee violating any of the provisions of this Policy shall be subject to appropriate

disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 7. Departmental Rules and Regulations

Because of the particular personnel and operational requirements of the various departments of the City, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to review and approval by the Human Resources Director and City Manager, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. Current copies of each departmental policy shall be kept on file in the Human Resources Department.

Section 8. Definitions

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

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

Part-time employee. An employee who is regularly scheduled twenty-eight (28) hours a week or less for a period not to exceed thirty-five (35) weeks in a calendar year or nineteen (19) hours a week annually.

Generally, unless there is an unusual need, the City will not use this category of employment and will limit less than full-time employees to less than 28 hours per week and/or less than three months of employment with a maximum cap of 1000 hours per year.

Regular employee. An employee appointed to a full or part-time position who has successfully completed the designated probationary period.

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

Temporary employee. An employee, not in a permanent position, for which either the average work week required by the City over the course of a year is less than 20 hours, or continuous employment required by the City is less than 12 months.

Seasonal employee. An employee not in a permanent position for which employment required by the City is less than 6 months.

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

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

It is the policy of the City to maintain temporary employees at 28 or fewer hours per week for less than three consecutive months of employment.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose

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

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b) class titles descriptive of the work of the class;
- c) written specifications for each class of positions; and
- d) an allocation list showing the class title of each position in the classified service.

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;
- c) in determining compensation to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

The Human Resources Director, with the consent of the City Manager, shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Director shall periodically review portions of the classification plan and recommend appropriate changes to the City Manager.

Section 5. Authorization of New Positions and the Position Classification Plan

Only the City Council has the authority to increase or decrease the number of funded positions. New positions or reductions-in-force shall be recommended by the City Manager and approved by the City Council.

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

Section 6. Request for Reclassification

When a Department Head, the Human Resources Director or an employee considers a position to be improperly classified he/she shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the Human Resources Director. Upon receipt of such request, the Human Resources Director shall study the request, determine the merit of the reclassification, and recommend to the City Manager and City Council a revision to the classification and pay plan where necessary. The classification shall be authorized to be up or down; up to a maximum of two (2) levels.

Section 7. Pay Plan Implementation

See Article III: Section 10

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic pay schedule and the "Assignment of Classes to Grades" adopted by the City Council. The pay schedule consists of a minimum or beginning rate, midpoint, and maximum rate of pay for all classes of positions, and a designation of the standard hours in the work week for each position. The pay schedule consists of hiring (or beginning rate), minimum (normally probation completion), midpoint and maximum rates of pay for all classes of positions.

Section 2. Administration and Maintenance

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

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, each budget year the Human Resources Director shall make comparative studies of all factors affecting the level of pay ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the City Manager such changes in pay ranges as appear to be pertinent. Such changes shall be made in the pay ranges such that the minimum, midpoint, and maximum rates change according to the market subject to approval by the City Council.

Periodically, the City Manager shall recommend that individual pay ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned pay grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the City Council.

Section 3. Starting Pay

All persons employed in positions established in the position classification plan shall be employed at the minimum pay rate for the classification in which they are employed; however, exceptionally well qualified applicants may be employed above the minimum rate of the established pay range upon recommendation of the department head and Human Resources Director and approval of the City Manager.

Section 4. Trainee Designation and Provisions

Outside applicants or in-house applicants (City employees) who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the City Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the department head.

"Trainee" pay shall be no more than two pay grades below the minimum pay rate established for the position for which the person is being trained. A new employee designated as "trainee" shall

be regarded as being in a probationary period; however, probationary periods shall be no less than six months and trainee periods may extend up to eighteen (18) months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

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

Section 5. Probationary Pay Increases

Subject to the availability of funds, employees hired or promoted into the minimum rate of the pay range shall receive a pay increase within the pay range up to 5% upon successful completion of the probationary period or upon six months of satisfactory service if the employee is not on probation.

Employees serving a twelve-month probationary period will be considered for this increase after six months of employment; employees with a twelve-month probationary period who receive an increase at the six month review will not be eligible for an increase at the end of the twelve-month probationary period. Employees hired or promoted at or above 5% of the minimum of the pay range are not eligible for a probationary increase.

Section 6. Performance Pay

Upward movement within the established pay range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the City Manager.

Section 7. Performance Pay Bonus

An employee who is at the maximum amount of the pay range for his/her position classification is eligible to be considered for a performance pay bonus at his/her regular performance evaluation time. Performance pay bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are within the pay range. Performance pay bonuses shall be awarded in lump sum payments and do not become part of base pay.

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

Promotions. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, his or her pay shall normally be advanced to the hiring rate of the new position, or to a pay which provides an increase of at least 5% over the his or her pay before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the City Manager may set the pay at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the City, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event,

however, shall the new pay exceed the maximum rate of the new pay range. In setting the promotion pay, the City shall consider internal comparisons with other employees in the same or similar jobs.

Demotions. Demotion is the movement of an employee from one position to a position in a class assigned to a lower pay range. When an employee is demoted to a position for which qualified, the pay shall be set at the rate in the lower pay range which provides a level of pay commensurate with his or her qualifications to perform the job and consistent with the placement of other employees within the same classification in that pay range. If the current pay is within the new range, the employee's pay may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the pay shall be decreased at least 5%. The pay of demoted employees may be no greater than the maximum of the new range.

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

Reclassifications. An employee whose position is reclassified to a class having a higher pay range shall receive a pay increase of 5% or an increase to the hiring rate of the new pay range, whichever is higher. If the employee has completed probation, the his or her pay shall be advanced to at least the probation completion amount in the new range.

If the position is reclassified to a lower pay range, the employee's pay shall remain the same. If the employee's pay is above the maximum established for the new range, the pay of the employee shall be maintained at the current level until the range is increased above the employee's pay.

Section 9. Pay Effect of Pay Range Revisions

When an individual class of positions is assigned to a higher pay range, employees in that class shall normally receive a pay increase of 5%, or to the hiring rate of the new range, whichever is higher. If the employee has successfully completed probation, his or her pay shall be advanced at least to the probation completion amount in the new range. When a class of positions is assigned to a lower pay range, the compensation of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum rate established for the class, the pay of said employee shall be maintained at that level until such time as the employee's pay range is increased above the – his or her current pay.

Section 10. Transition to a New Pay Plan

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

- 1) No employee shall receive a pay reduction as a result of the transition to a new pay plan.
- 2) All employees being paid at a rate lower than the hiring rate established for their respective classes shall have their compensation raised at least to the new hiring rate for their classes.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate within the pay schedule
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall have their pay maintained at that pay level with no increases until such time

as the employees' pay range is increased above the employees' current pay.

Section 11. Effective Date of Pay Changes

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

Section 12. Fair Labor Standards Act and Overtime Pay Provisions

Employees of the City can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the City and determined by the department head. Overtime work should normally be approved in advance by the department head, City Manager or other designee.

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

Non-Exempt Employees

Non-exempt employees, as determined by the City Manager in accordance with FLSA standards, will be paid at a straight time rate for hours up to the FLSA established limit for their position as defined under Work Periods. Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work at any time that they are not scheduled to work, unless they receive prior approval from their department head or supervisor, except in cases of emergency.

Hours worked beyond the FLSA established limit as previously defined will be compensated in either compensatory time or pay at the appropriate overtime rate, as determined by the City Manager. In determining eligibility for overtime in a defined work period, only hours actually worked shall be considered. In no event will vacation leave, sick leave, taking of accrued compensatory time or holidays be included in the computation of hours worked for FLSA purposes.

Work Periods

In compliance with FLSA, the City has established regular work periods for its City's workforce as follows:

- a. General employees-40 hours within a 7 day work period;
- b. Law enforcement employees-85.5 hours within a 14-day work period or 171 hours in a 28-day work period. The City Manager shall determine which schedule best meets the needs of the City;
- c. Firefighter employees-up to 212 hours in a 28-day work period. The City of Henderson has opted to utilize the FLSA exemption for firefighters' schedule providing for a 24.25 hour schedule and deducting meal times, 1 hour for lunch and 1 hour for supper and 8 hours sleep time. Interrupted time as proscribed by FLSA

standards shall be counted for the purposes of hours included for overtime computation purposes provided such total time worked exceeds 212 hours within a 28-day work period. New hires in the Fire Department will be required to acknowledge in writing this exemption as a condition of employment prior to commencing work.

Avoiding Overtime/Compensatory Time

Whenever practicable, Department Directors will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime or awarding compensatory time. When time off within the work period cannot be granted, overtime worked will be compensated as compensatory time, or paid as overtime if approved by the City Manager at a time-and-one-half rate in accordance with FLSA regulations.

Overtime and Compensatory Time Authorizations During Emergencies

In emergency situations, where employees are required to work long and continuous hours, the City Manager may approve compensation at time-and-one half (1½) for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Limited Compensatory Time Accrual

Non-exempt employee may not accrue more than 40 hours of compensatory time without the express prior written permission of the City Manager. Under no circumstances shall a non-exempt employee accrue more than 100 hours of compensatory time unless same has been accrued during an emergency and approved in advance by the City Manager, It shall be the responsibility of the Department Director and employee's supervisor to ensure this limitation is honored at all times.

Compensatory Time Paid-Out Under Certain Circumstances

Employees may be paid for existing compensatory leave balances under the following circumstances:

1. Promotion of Non-Exempt to Exempt Status: If an employee is promoted from a non-exempt status to an exempt status, the Human Resources Director shall authorize compensation at the non-exempt rate of pay for any and all accrued compensatory time accrued to the employee prior to his/her assuming the exempt position.
2. Separation From Employment: Non-exempt employees separating from employment shall be paid for their compensatory time balances at his/her prevailing hourly rate of pay.

Exempt Employees

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative or Professional staff) are paid on a salary basis and will not receive pay for hours worked in excess of their normal work periods. These employees may be granted occasional compensatory leave by their supervisor where the convenience of the department allows and in accordance with procedures established by the City Manager. Such compensatory time shall never be hour for hour and is never guaranteed to be either given or allowed to be taken. Payment for compensatory time for exempt employees is prohibited by the City.

In declared disaster or emergency situations requiring long and continuous hours of work, exempt employees may be compensated at a rate of up to time-and-one half and/or be granted time off with pay for rest and recuperation to ensure safe working conditions for the duration of the emergency period, when authorized by the City Manager or City Council.

Section 13. Call-back Pay

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

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hours of wages or compensatory time for being called back to work outside of normal working hours. Hours actually worked while on call-back include commuting time to and from work at their normal rate of pay and are added to the regular total of hours worked for the week. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled in advance).

Section 14. Payroll Deductions

Deductions shall be made from each employee's pay as required by law. Additional deductions may be made for insurance or for other reasons as authorized by the City Manager considering the capability of the payroll system, associated increase in workload, and appropriateness of the deduction.

Section 15. Hourly Rate of Pay

Employees working in a part-time or temporary capacity will normally work at an established rate for the position which considers previous relevant experience, knowledge and skill.

Section 16. Longevity Pay

Each year the City Council may elect to provide a lump sum payment to employees in recognition of their service to the City. Longevity pay is discretionary and is subject to the availability of funds, budgetary constraints and the approval of the City Council.

<u>Years of Service</u>	<u>Longevity Amount</u>
Less than 1 year	\$25
1 to 5	\$100
5 to 10	\$250
10 to 15	\$500
15 to 20	\$750
20 to 30	\$950
more than 30	\$1,300

If approved and budgeted, longevity pay will normally be issued in November on the regular pay period coinciding with Thanksgiving. Appropriate federal state, retirement, etc. deductions will be made.

Section 17. Pay for Interim Assignments in a Higher Level Classification

An employee who is formally designated, for a period of at least one month, by the City Manager to

perform the duties of a job that is assigned to a higher pay grade than that of the employee's regular classification shall normally receive an increase for the duration of the interim assignment. The employee shall receive a pay adjustment to the minimum level of the job in which the employee is acting or an increase of 5%, whichever is greater. Criteria involved in determining the amount of the compensation will include:

- a) the difference between the existing job and that being filled on a temporary basis, and
- b) the degree to which the employee is expected to fulfill all the duties of the temporary assignment.

The pay increase shall be temporary and upon completion of the assignment, the employee shall go back to the pay he or she would have had if not assigned in the interim role, taking into account any increase the employee would have received if not placed in the interim role.

The City Manager may also adjust the salary of employees who are assigned special on-going additional responsibilities outside of their regular job classification.

Section 18. Certification Increases

The City Manager will create a schedule of pay increases to reward employees for attaining and maintaining certifications that increase the employee's value to the City. Employees are encouraged to participate in approved Career Development Plans to achieve this goal.

Section 19. Education Increases

A current employee may apply for an Educational Pay increment at any time after the education requirements have been earned from an accredited college or university. It shall be the employee's responsibility to insure that his college or institution sends a certified copy of his/her transcript to the Human Resources Department for verification of educational credits.

An employee, who earns an Associate of Arts/Science Degree or attain sixty (60) semester hours, will receive a three percent (3%) pay increase. An employee who earns a Baccalaureate Degree (BA/BS) will receive a six percent (6%) pay increase. For advanced degrees ie (Masters, Ph.D), an employee may be eligible to earn a one-time bonus equal to three percent (3%) of his/her annual salary. The bonus amount is not to be added to the employees' annual salary.

If an Education Pay Increment has already been awarded to an employee for earning an Associate Degree, only a three (3%) percent additional increment will be awarded for the attainment of a Bachelor's Degree. Once an increment has been awarded for a degree, subsequent degrees of the same type will not qualify for additional increments. Double degrees or majors will qualify for only one increment.

The granting of an Educational Pay Increment will not affect the employee's eligibility for future salary increases based on current City policies. Educational Pay Increments will be incorporated into base salary; however, in no case may an educational pay increment be awarded when doing so would raise the employee's salary level above the maximum amount established for the particular pay grade.

A current employee's approved educational pay increment will be awarded during the pay period following its approval.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the City to foster, maintain and promote equal employment opportunity. The City shall select employees on the basis of their qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, gender race, color, religion, national origin, disability, political affiliation, marital status, veteran status, or genetic information. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of essential duties with or without reasonable accommodation.

It is a violation of City policy to retaliate in any way against an employee who assists, participates in, or supports this policy or anyone making a bona-fide complaint under this policy or who participates or assists in any EEOC, OSHA or other internal or external processes protected by law.

Section 2. Implementation of Equal Employment Opportunity Policy

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

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, the Human Resources Office shall publicize these opportunities for employment, including applicable pay information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous City sites. Individuals shall be recruited from a geographic area as broad as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for City employment. In rare situations because of emergency conditions, high turnover, etc., the City may hire or promote without advertising jobs upon approval of the City Manager.

Job Advertisements. Jobs will be advertised in local area newspapers, professional publications, websites, and other relevant publications, as needed, in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the City shall be given the opportunity to file an application for employment for positions which are being recruited. The City accepts applications and resumes only for advertised positions. Applications will be received by the Human Resources Director who will ensure applicants given additional consideration meet minimum qualifications.

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

Selection. Department heads, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related. All selection devices administered by the City shall be valid measures of job performance.

References and Background Investigations. Before any commitment is made to an applicant the City will conduct reference checks regarding the employee's qualifications and work performance. In addition, physical examinations, drug screening, credit history and criminal background investigations may be performed. All reference and background investigations will be clearly related to the applicants' ability to perform. Credit history will only be obtained where clearly job related. Conviction of a crime is not automatically disqualifying. The City will consider the severity of the crime, degree to which the crime is job related to the job for which the applicant is being considered, and length of time since the conviction to determine the degree to which there is a business necessity for choosing not to hire the applicant.

Appointment. Before any hiring offer is made to an applicant either internal or external, the department head shall make recommendations to the Human Resources Director including the position to be filled, the compensation level, and the reasons for selecting the candidate over other candidates. The Human Resources Director and department head shall recommend approval of appointments and the starting pay for all applicants to the City Manager. The City Manager shall approve appointments and the starting pay for all applicants.

Section 4. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. All employees shall serve a six-month probationary period, except public safety employees (law enforcement officers and firefighter employees) and department heads shall serve a twelve-month probationary period. Employees hired as "trainees" shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months.

An important purpose of the probationary period is to provide an opportunity for the appointee to adjust to the new job. Likewise it serves as a trial period during which the employee demonstrates his or her ability to perform the work, to demonstrate good work habits and to work well with the public and coworkers. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. With approval of the City Manager probationary periods may be extended for a maximum of six additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy for disciplinary

action. A probationary employee dismissed during the probationary period is not eligible for terminal pay for accrued annual leave.

A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits.

Section 5. Promotion

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

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

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

Section 6. Demotion

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

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a demotion. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same pay range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. A department head wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Director to the City Manager with the consent of the receiving department head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this Policy. Notwithstanding the employee's right to file a grievance, the City reserves the right to transfer

employees either temporarily or permanently when doing so will serve the City's best interest.

An employee who has successfully completed a probationary period may be transferred into the Same classification without serving another probationary period.

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ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

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

Section 2. Special Requirements

The City is committed to providing excellent service to the citizens and communities it service. In order to accomplish this goal; some departments may have unique requirements which are necessary such as uniformed dress; scheduling and training requirements, etc. Therefore, employees assigned to the department must agree to these special requirements which may be outlined in the department handbook and/or reviewed at the time of an offer of employment.

Section 3. Political Activity

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

- a) Engage in any political or partisan activity while on duty;
- b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- d) Coerce or compel contributions from another employee of the City for political or partisan purposes;
- e) Use any supplies or equipment of the City for political or partisan purposes; or
- f) Be a candidate for nomination or election to office under the City Charter;

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

Section 4. Outside Employment

The work of the City shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in writing in advance to the employee's supervisor, who in turn will report it to the department head. The department head will review such employment for possible conflict of interest and then submit a record of the employment to the City Manager and Human Resources Director for review and approval. Conflicting and/or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in

the employee's personnel file.

Examples of conflicts of interest in outside employment include *but are not limited to*:

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's City duties.

An employee who sustains an injury or illness in connection with outside employment and is receiving worker's compensation from that employer shall not be entitled to receive City worker's compensation benefits or accrued City sick leave.

Section 5. Dual Employment

The City prohibits any employee from holding more than one position with the City if the combined positions will result in the employee working more than 40 hours per week in any week of the year unless approved in advance by the City Manager. The City will consult FLSA regulations in all dual employment cases to ensure that the regulations are followed.

Section 6. Employment of Relatives

The City prohibits the hiring and employment of immediate family in full or part-time positions within the same work unit if such employment would result in one family member supervising another or if one member will occupy a position of influence over another member's employment or any condition of employment. Examples of potential influence include but are not limited to hiring, promotions, pay administration, finance administration, general administration and disciplinary action.

For the purposes of this Article, immediate family shall be defined as spouse, child, parent, sibling, grandparent, grandchild, aunt and uncle to include in-law, step and half relationships. The definition for this Article also includes individuals living in the same household who share a relationship comparable to immediate family members.

The City also prohibits the employment of any person into a position who is an immediate family member of individuals holding the following positions: Mayor, City Council Member, City Manager, Finance Director, Human Resources Director, City Clerk, or City Attorney. Otherwise, the City will consider employing family members or related persons in the service of the City, provided that such employment does not:

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

This section shall not apply retroactively to anyone employed when the provision was adopted by the City.

Section 7. Harassment and Violence Prohibited

The City prohibits harassment in any form that is based on gender, race, color, religion, national origin, age, disability, veteran status or genetic information. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive as to create a hostile work environment.

It is the policy of the City to promote a productive work environment and not to tolerate verbal or physical conduct by any employee that harasses, disrupts or interferes with another's work performance or that creates an intimidating, offensive or hostile environment.

Employees are prohibited from activities and behavior which are offensive in nature to co-worker such as foul language and gestures, inappropriate touching, jokes, etc., in the workplace. City employees are expected to be professional at all times. Demeaning, insulting, intimidating, and communications in person or in written and/or graphic form including electronic communications (cyberbullying) is not acceptable behavior.

The City is committed to provide a safe workplace for all employees. It is the policy of the City to prohibit any acts or threats of violence by any City employee against any other employee in or about City facilities or at any time while on the job throughout the City or away from the City while on job related duties. Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated.

A particular form of harassment, sexual harassment, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when

- 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual's body and offensive sexual language.

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

Employees who are found to be engaged in harassment are subject to disciplinary action up to and

including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees.

Section 8. Expectation of Ethical Conduct

The proper operation of City government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made following the proper channels of the governmental structure; that public office to not be used for personal gain; and that the public have confidence in the integrity of its government.

No official or employee of the City shall disclose confidential or privileged information concerning the property or affairs of the City, use any privileged information to advance financial or other private interests of themselves or others. Nor shall any employee solicit or accept any gift, favor, or thing of value (over \$25) that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

Ethics and Integrity Policy

- A. Ethical Behavior Foundation: The City Council established the framework for ethical behavior for its officers and employees via *Core Value 4* as follows: "We value the public trust and will perform our duties and responsibilities with the highest levels of integrity, honesty, trustworthiness and professionalism."

In order to best serve the citizens and customers of the City of Henderson, the elected and appointed officials, and employees of the City must act individually and collectively to create a City government that is responsible, fair, honest and open. City employees and officials are expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees.

The purpose of this Code of Ethics is to establish policy and guidelines, reflecting expected values and behaviors for elected and appointed City officials, employees and contract employees.

- B. Definitions: The following definitions are provided to help one better understand this policy's intent.
 - 1. *Conflict of Interest*: A conflict of interest is a set of circumstances that creates a risk that professional judgment or actions regarding a primary interest (the interest and core values of the City) will be unduly influenced by a secondary interest (one's potential for self-gain and/or advancement to the detriment of the City's interest).
 - 2. *Core Values*: A set of values established by the City Council as part of its annual Strategic Planning Process which sets forth the core values, or principles and standards, which shall be used to guide the governance, management and operations of the City.
 - 3. *Ethics*: The discipline of knowing what is good and bad, and understanding the

one's moral duty and obligation to do the right thing.

4. *Integrity*: Doing the right thing in all situations even if no one is watching.
 5. *Trustworthy*: Deserving of trust or confidence; dependable; reliable; honest.
 6. *Values*: Principles and standards considered worthwhile and/or desirable.
- C. Ethical Behavior as an Expectation: All officers and employees of the City are expected to conduct themselves to the highest levels of integrity and ethical behavior in all of their work and dealings with citizens, customers, businesses, vendors, strategic partners, etc. To that end, officers and employees are expected to act with integrity and should scrupulously avoid any conflict between the interests of the City of Henderson and their personal and/or professional actions. Characteristics and behaviors consistent with this standard include the following:
1. Adhering to a code of sound values.
 2. Behaving consistently and with respect toward everyone with whom the officer/employee interacts.
 3. Exhibiting trustworthiness.
 4. Living as if on duty as officers and employees of the City regardless of circumstances.
 5. Using best independent judgment to pursue the common good, presenting opinions to all in a reasonable, forthright and consistent manner.
 6. Preserving integrity and not being affected by improper and/or undue influence (*political, economic, personal, or otherwise*) from others.
 7. Keeping an open mind and being able to consider the opinions of others.
 8. Treating fellow officers and employees and the public with respect and honoring the opinions of others, even when the officer/employee disagrees with those opinions.
 9. Officers and employees would avoid impropriety in the exercise of their official duties, and therefore their actions should be above reproach.
 10. Any employee with questions about ethical behavior and or issues involving integrity and/or conflicts of interest, either real or perceived, are directed to speak with the City Manager, Human Resources Director or City Attorney.
 11. Acting at all times in the best interests of the City and the community which we serve.
 12. Demonstrating excellence, integrity and responsibility in one's work.

- D. Awareness of and Respect for Council-Manager Form of Government: All officers and employees shall understand and conduct themselves according to Henderson's form of government which is the Council-Manager plan as authorized by NC General Statutes and the City Charter.
- E. Gifts and Favors: No officer and/or employee, or member of his/her immediate family, shall knowingly, directly or indirectly, accept and/or solicit any gift exceeding \$25.00 whether in the form of money, services, loan, travel, entertainment, hospitality, meals, items, goods, materials or promise, or any other form which may tend to influence him/her in the discharge of duties.

This section is not intended to prevent the official/employee from accepting the offer and receipt of the following:

1. *Honoraria or expenses* to include meals, travel and lodging for participating at meetings, seminars, conferences, grant openings or anniversary celebrations of businesses, or other similar activities where the official/employee is either a speaker, participant or invited in his/her official capacity. Examples include but are not limited to serving as a presenter or speaker at a function, teaching and/or monitoring a class related to his/her departmental operations or municipal operations and/or governance.
2. *Advertising items or souvenirs* of nominal value, such as is available at and distributed by vendors at professional conferences, etc.
3. *Customary gifts and/or favors* received by an official/employee from his/her friends, relatives or employer where it is clear it is the personal relationship of the donor and officer/employee which is the motivating factor for the gift or favor.

Any such allowable gifts and/or favors as previously articulated given to an officer/employee from a business, contractor, subcontractor and/or supplier currently doing business directly or indirectly with the City shall be reported to the City Manager within five (5) business days of receipt, except as provided in Parts E2 and E3 of this policy.

Section 9. Professional Conduct and Appearance

City employees are expected to provide professional and courteous service, accurate information, fair treatment and prompt, efficient service as part of the City's customer service excellence program. Part of professionalism includes respectful behavior with co-workers and citizens and using appropriate language and wearing business appropriate attire.

The City has a dress and appearance policy which provides guidelines for appropriate attire. In general, clothing should be neat, clean and pressed. Clothing with words, terms or pictures that may be offensive, promotes alcoholic beverages, tobacco or controlled substances, depicts violence, is of a sexual or political nature, or clothing that is revealing by being too short, having necklines too low, or being transparent, are inappropriate in the workplace.

Section 10. Performance Evaluation

Supervisors and/or department heads shall normally conduct performance evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the Human Resources Director with the approval of the City Manager.

Section 11. Safety and Risk Management

Safety is the responsibility of both the City; it's Directors, Supervisors and employees. It is the policy of the City to establish a safe work environment for employees. The City shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department heads and supervisors are responsible for insuring safe work procedures, including the use of all required personal protective equipment and providing necessary safety training programs.

Section 12. Use of City Property, Technology Resources and Equipment

City equipment, materials, tools and supplies shall not be available for personal use and are not to be removed from City property except in the conduct of official City business, unless approved by the City Manager. All City property issued to the employee shall be returned to the employee's supervisor upon termination of employment prior to the issuance of the final pay check.

The use of all City technology resources, including systems and resources, owned, leased, used, managed or operated by the City must be consistent with City policies, applicable laws and job responsibilities. City technology resources include, but are not limited to, pagers, radios, all computer systems and their attached peripherals, phones (including cellular phones), fax machines, voice mail systems, electronic messaging systems, network resources and Internet resources.

Technology Use Policy

A. Purpose

This Policy covers the use of all City technology resources, including equipment, systems and resources, owned, leased, used, managed or operated by the City. City technology resources include, but are not limited to, pagers, radios, all computer systems and their attached peripherals, phones (including cellular phones), fax machines, voice mail systems, electronic messaging systems, network resources and Internet resources. This Policy applies to any user of City technology resources and applies at all times and all places, whether the user is on or off the job. This Policy is designed to assure that use of technology resources is consistent with City policies, applicable laws and job responsibilities.

All City technology resources are the property of the City and are provided to enable employees and officials to provide services in a timely, efficient and effective manner. Any activity, use or action that is inconsistent with this Policy is prohibited. Because technology resources are

constantly evolving, the City requires all employees and officials to use a common sense approach to the rules set forth in this Policy, complying with the letter and spirit of this Policy.

This Policy delineates acceptable uses of City technology resources and specifies certain prohibited uses. It also serves as notice to employees and officials that there is no expectation of personal privacy in the use of City technology resources. This Policy is intended to illustrate the range of acceptable, unacceptable and prohibited uses of City technology resources and is not exhaustive.

This Policy may not be waived or modified except as set forth in Policy. No supervisor of the City may, by word or action, waive any provision of this Policy.

B. Definitions

Electronic Messaging: The distribution of messages, documents, files, software, or images by electronic means (including e-mail, text messages, tweets, voice mail messages, etc.).

Employee: All City employees, including temporary and part-time employees. Volunteers and persons working for a temporary employment service (“temps”) are also subject to this Policy.

Internet: A worldwide network of computer servers connected electronically that allows access to the public.

Network: A system by which many computers are connected together. The City has a network that allows access to authorized areas on a central storage device and to access printers and shared drives.

New Media: Internet and mobile-based video, audio, text or multimedia communications, services, tools, or applications that facilitate dynamic, multi-directional information sharing; includes but is not limited to Blogs, microblogs, text messaging, and social networking and news sites.

Official(s): All City elected/appointed City Council members and appointed board/commission, committee and task force members.

PC: Personal Computer.

Technology Resources: All technology resources, including equipment, systems, data, software and other resources owned, leased, used, managed, operated or produced by the City. The term includes, but is not limited to, pagers, radios, all computer systems and their attached peripherals, phones (including cellular phones), fax machines, voice mail systems, electronic messaging systems, network resources and Internet resources.

C. City Technology Resource Access and Monitoring

All technology resources and all information and records transmitted by, received on, captured by, or stored on technology resources are the property of the City and are subject to being accessed, entered, reviewed, inspected, logged, copied and monitored (collectively “access and monitor”) by the City Manager and the Manager’s designee(s). Department Directors are hereby designated as City Manager designees for matters involving their employees. The City reserves the right to

access and monitor all network and Internet activity and all information and records existing, appearing, residing or stored on all technology resources without notice. Access and monitoring might be undertaken for any reason including to locate work related records or information, monitor workflow and productivity, and to monitor employee performance and conduct, including, but not limited to, investigating impropriety, suspected violation of City policies and procedures, illegal activity and breaches of City security systems.. Employees and officials shall have no expectation of privacy or confidentiality when using City technology resources, even if the technology resource is protected with user ID or password.

The use of personal web-based e-mail accounts on technology resources is prohibited. However, if web-based email accounts are accessed on City technology resources, then they are subject to this Policy, including access and monitoring.

The failure of the City to access and monitor technology resources in any situation or at any time is not a waiver of the City's right to access and monitor use.

D. Appropriate Use of Technology Resources

1. In General

Employees and officials are representing the City any time they use City technology resources and should use good judgment when using all technology resources. Employees and officials are expected to use City technology resources responsibly and professionally and with respect to others. Unless otherwise authorized in the performance of a particular job duty, City technology resource prohibited uses include, but are not limited to:

- Uses that violate or infringe on the rights of others, including the right to privacy, and uses that defame others;
- Visiting internet sites and sending or storing records, images and data that compromise the integrity of the City and its business or reflects negatively on the City in any way. This prohibition includes visiting sites or sending or storing records, images and data that contain material inappropriate for a workplace. Material that is inappropriate for the workplace includes, but is not limited to, material that is abusive of another, obscene, pornographic, or that offensively addresses another's age, gender, race, ethnicity, sexual orientation, religious beliefs, national origin or disability;
- Uses that violate City policy or procedures, including the City's harassment policies; and
- Uses that constitute illegal activities or encourage illegal activities.

Each Internet capable workstation will be configured to allow the screening and review of sites visited on the Internet.

If an employee uses City technology resources in a manner that violates this Policy or other City Policies, then appropriate disciplinary action up to and including dismissal may be taken.

2. Personal Use of City Technology Resources

Limited personal use of City technology resources is allowed with the following restrictions and is subject to all the rules in this Policy, including access and monitoring.

- a. There must be no cost to the City.
- b. Personal telephone calls on non-cellular phones or personal use of e-mail and Internet on an occasional basis may be permitted provided the use is consistent with this Policy, does not distract from or interfere with an employee's or official's obligation to carry out City duties in a timely and effective manner, does not interfere with other employees or officials performing their duties, and does not undermine the use of City technology resources for official purposes.
- c. Some technology resources, such as cellular phones, are billed from the first minute of use (both local and long distance) and may not be used for personal use except in an emergency. In the event of emergency, the employee or official must immediately notify their supervisor and reimburse any charges to the City.
- d. Personal use of the City's 800 Megahertz radio system is prohibited.
- e. City technology resources may not be used to operate a personal business, for political activity or for solicitation of any kind.
- f. No unauthorized individual is allowed to use City technology resources at any time (including family members and friends).
- g. Employees and officials should ensure that personal use of technology resources does not express or imply sponsorship or endorsement by the City.
- h. Employees and officials should not use City employee address lists for personal purposes.
- i. Consistent with state law, employees and officials may use City electronic message lists of individual subscribers only: (i) for the purpose for which it was subscribed to; (ii) to notify subscribers of an emergency to the public health or public safety; or (iii) in case of deletion of that list, to notify subscribers of the existence of any similar lists to subscribe to.

Employees may use personally owned technology equipment such as cell phones, smart phones, etc., while on the job provided such use is limited and does not attach to any City network or phone connection, does not distract from or interfere with an employee's obligation to carry out City duties in a timely and effective manner, does not interfere with other employees or officials performing their duties, does not undermine the use of any City technology resources, and provided that such use does not otherwise violate City policies and procedures.

3. City Technology Resource Security

Employees and officials are required to follow the security steps listed below.

a. User ID and Password

Anyone who uses City technology resources must have a user ID and password whenever required. These are never to be shared with others, and employees and officials may only use their

personal user ID and password; working under someone else's user ID and password is prohibited. Anyone using City technology resources is responsible for all actions taken while using the personal user ID and password. Department directors or their approved designees must request a user ID and password for new employees and officials prior to their first day of work.

User IDs and passwords are designed to protect City technology resources and shall not give employees and officials any expectation of privacy in records or information protected by user IDs and passwords.

b. Employee and Official Access to Files

Employees and officials shall not modify or delete files or data created by other employees and officials without their prior consent. Examination of confidential and protected information is also prohibited.

c. PC Security

Employees and officials must not leave PCs unattended without first logging off or locking the PC. Employees and officials are required to log off and shut down PCs at the end of the work day.

Employees and officials may not install or upgrade any software from any source either external or internal without the prior approval of the Technology Services Department. This includes shareware, freeware, personal software, browser "plug-ins" or other Internet-distributed programs. Employees and officials may not make any copies of City-owned software without the permission of the Technology Services Department since it may violate the software copyright.

4. Internet Specific Restrictions

Internet access is provided to further the mission of the City. All employees and officials are responsible for using Internet resources in an effective, ethical and lawful manner. The following restrictions apply to all employees and officials using City technology resources unless prior approval is given by the Technology Services Department.

a. The use of any Internet based instant messaging systems is prohibited.

b. The use of Internet "chat rooms" or "news groups" is prohibited.

c. A City provided e-mail system is the only e-mail software allowed to be used on City equipment. The use of Internet based e-mail systems is prohibited (i.e., Hotmail, Yahoo Mail, Netscape Mail, etc.).

d. Employees should limit use of Web sites that allow continuous flow of information (i.e., news sites, stock quotes, photographs, or sports scores). This uses a significant amount of capacity and affects access time for others. If employees or officials visit a site where continuous updates are given, they should exit the site immediately after use.

5. Use of City Representations in Personal Pictures

The City prohibits employees from posting pictures of City uniforms, seals, vehicles or other City representations in personal pictures on social media or other related sites.

Section 13. Substance Abuse Policy

The City is committed to a drug-free workplace to maintain a safe and healthy working environment for employees and a productive, effective work force for the City's citizens. The City prohibits employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances. A separate Substance Abuse Policy will be maintained by the City and provided to all employees. Therefore, the City has adopted a policy that prohibits the following behaviors by employees:

Substance Abuse Policy and Procedure

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

Any violations of this policy will subject the employee to disciplinary action, up to and including dismissal.

Purpose

The purpose of the drug and alcohol policy is to:

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

Scope of Drug and Alcohol Testing

All regular employees, regardless of position, and Limited Service employees who drive a City vehicle in the course of their employment with the City of Henderson, are subject to the following types of tests:

- pre-employment
- reasonable suspicion
- return to duty
- follow-up
- post-accident

In addition to the above tests, employees who possess a Commercial Driver's License (CDL) and are covered under the US Department of Transportation drug testing regulations are subject to random drug tests.

Conditions for Testing

Pre-employment Testing

After an offer of employment has been made to the final candidate, the Human Resources Director directs the applicant to the drug testing collection site and receives notification of the test result. Applicants are not eligible to begin work until the Human Resources department receives the negative test result.

Reasonable Suspicion

The City of Henderson may require that an employee undergo drug and alcohol testing when, in the opinion of the Human Resources Director or the department head and/or the supervisor of the affected employee, there is a reasonable suspicion that the employee may be under the influence of alcohol or controlled substances. The determination to test for reasonable suspicion must be based on the following:

- first hand observations seen or heard by supervisors or department heads
- specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee
- observations made just before, during or just after the performance of job duties
- Citation or arrest for a drug-related offense if the employee is in a safety-sensitive position or when it is in combination with other factors considered in reasonable suspicion testing.

A reasonable suspicion alcohol test should be done within 2 hours of the observed behaviors. If a test cannot be done within 8 hours, it should not be done. A reasonable suspicion controlled substance test should be done no later than 32 hours from the observed behavior and appearance or as soon as possible if reasonable suspicion testing results from a drug-related offense. If a reasonable suspicion test cannot be conducted within the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Human Resources Director.

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

Return to Duty Testing

Return to duty testing is required for any employee who has violated this policy and is returning to work on the recommendation of the substance abuse professional. Return-to-duty testing must be conducted prior to the employee returning to work.

Follow-Up Testing

Follow-up testing is conducted once an employee who has violated this policy successfully returns to work. Follow-up tests will be conducted on an unannounced basis up to 6 times during the twelve months following return to duty.

Random Testing

Unannounced random testing will be completed for the designated percentage of employees only as required under the federal drug testing regulations. The City of Henderson contracts with a third party administrator to generate the random test list and the Human Resources Department coordinates the random tests.

Upon receipt of notice to appear for a random drug or alcohol test, employees must proceed to the designated test site to complete the screening. Failure to proceed immediately to the test site may be considered a refusal to test, and may result in the loss of CDL under DMV guidelines and disciplinary action under City of Henderson policy.

Post-Accident Testing

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

- A fatality occurs as the result of the accident.
- If the driver was cited for a moving traffic violation and any individual involved in the accident requires medical treatment away from the scene.
- If the driver was cited for a moving traffic violation and a vehicle involved in the accident was disabled to the extent that it must be towed.

Post-accident alcohol testing should be done within 2 hours of the accident. If the test cannot be performed within 8 hours, it should not be done. Post-accident drug testing must be performed within 32 hours of the accident, or it should not be done. If the tests cannot be performed in the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Human Resources Director.

An employee who refuses to be tested or avoids meeting the specified time limits will be considered as having a positive test result.

Positive Test Results

Alcohol Tests

A breath alcohol level of 0.04 on a breathalyzer administered by a certified Breath Alcohol Technician is considered a positive alcohol test. A positive test result will result in disciplinary action up to and including dismissal.

A breath alcohol level of 0.02 or greater requires a confirmation test. Confirmation tests are completed no sooner than 15 minutes after the initial screening test, but no later than 30 minutes of that test. If the screening and confirmation tests are not the same, the confirmation test is deemed to be the final result. If the BAT reading is between 0.02 and 0.039 the employee must be removed from the work place for a 24-hour period.

Drug Tests

Drug tests are performed for the following types of drugs:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines

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

Every urine specimen undergoes an initial screen followed by a confirmation test for all positive screen results. Any confirmed positive test result is reviewed and interpreted by a Medical Review Officer (MRO). The MRO will contact the employee to ensure no factors exist that may have influenced the outcome of the testing process prior to transmission of the results to the City. The MRO is responsible for confirming test results. A confirmed positive test result will subject the employee to disciplinary action, up to and including dismissal.

Refusal to test

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

Voluntary Referrals for Assistance

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

Mandatory Referrals for Assistance

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

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

Alcohol and Drug-Related Offense Convictions

An employee convicted of a drug or alcohol-related offense must report this conviction to the supervisor within 5 days of the date of conviction. Any drug or alcohol-related conviction which could directly or indirectly affect the employee's credibility or ability to effectively carry out the duties and responsibilities of his/her position will be reviewed by the City Manager and may result in disciplinary action up to and including dismissal.

Training

Supervisors will be trained to recognize behaviors that may indicate drug and alcohol abuse and how to take appropriate referral action. In addition, employees will be provided with information regarding the effects of alcohol and controlled substances on the body including the impact on

work performance and resources for assistance.

Employees covered under the federal drug testing regulations will be required to participate in training as required under the federal guidelines.

Section 14. Smoke Free Workplace

It is the policy of the City to prohibit smoking in all City-owned and leased buildings, facilities and premises, including the entrances and exits from such and in all vehicles and equipment owned and/or operated by the City.

Section 15. Travel and Expense Reimbursement Policy

Meetings, Training and Travel Policy

- A. Purpose of Policy:** This policy is established to help ensure that public funds are expended for travel only when it serves a public purpose. It is the intent of this policy to establish a reference regarding the payment or reimbursement of travel expenses pertaining to official travel and subsistence for the City of Henderson. Article V, Section 2(1) of the Constitution of the State of North Carolina requires that funds generated by taxation be spent for a public purpose only.
- B. Application of Policy:** This policy shall be applied to all elected and appointed officials, employees, and non-City employees serving in a volunteer capacity such as a Recreation Chaperon, coaches, boards and committees' members, etc. Anyone traveling on behalf of the City is personally responsible for all expenses incurred for his/her guests.
- C. Prudent Use of Public Funds:** Anyone traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Excess costs, indirect routes, employee imposed delays, first-class air and/or train travel, or luxury accommodations and services unnecessary or unjustified in the performance of official business are not acceptable under this standard. To maximize benefits received from public funds expended for travel, employees and officials traveling on behalf of the City are encouraged to travel together, whenever possible, to minimize travel costs. Anyone traveling on behalf of the City is responsible for unauthorized costs and any additional expenses incurred for personal preference or convenience. Generally, non-employees traveling with employees will not be reimbursed for travel expenses unless they are on official City business. Willful violations of this policy may result in disciplinary or criminal action and may constitute grounds for dismissal.
- D. Prior Approval Required:** No one may make advance registrations for any conference/meeting, etc., transportation tickets and/or hotel reservations without first having received approval of his/her Department Director, Finance Director and City Manager, as appropriate. Individuals making such reservations are subject to having to bear the burden of the full costs of such registrations, including any subsequent cancellations of same. The City of Henderson will not be responsible for reimbursing registrations and/or other expenses for travel, training, etc., if such are made prior to receiving approval as noted herein.

- E. City Owned, Personal and/or Rental Vehicles:** Anyone traveling on behalf of the City must use City owned vehicles if available and/or appropriate. Under no circumstances are non-City employees or elected officials authorized to drive or operate City vehicles. Use of personal vehicles must be approved in advance as part of the travel authorization process. Individuals approved to use their personal vehicles will be reimbursed at the Federal Allowable Rate (FAR) per mile driven. If travel is such that a rental vehicle is appropriate, such must first be authorized in advance via the travel authorization process and always be at the economy rate.
- F. Lodging:** When travel requires overnight accommodations, one must substantiate such overnight accommodations are required and necessary and must be approved in advance as part of the travel authorization process. Whenever practical, one must obtain accommodations at the government rate, even if such requires staying at a hotel other than the conference hotel. If one wishes to stay at a conference hotel or other hotel not providing a reasonable government rate, such may be approved in advance by the City Manager provided the traveler reimburses the City for the difference in the best available government rate at a nearby hotel vs. the rate paid at the chosen hotel. Baring prior approval by the City Manager, no reimbursements above the government rate will be approved.
- G. Meals:** Meal expenses will be reimbursed, or paid, up to the guidelines provided in the following table. If an employee chooses to skip a meal or dine at a lower cost and instead spend the extra money saved on earlier meals for dinner that is acceptable as long as the daily total is not exceeded. Gratuities may not exceed 15% of the pre-tax meal cost.

<u>Meal</u>	<u>Inside N.C. (excluding gratuity)</u>	<u>Outside N.C. (excluding gratuity)</u>	<u>Time Frames (meals authorized if travel falls within these time parameters)</u>
<u>Breakfast</u>	<u>\$10.00</u>	<u>\$13.00</u>	<u>Travel begins prior to 7 am</u>
<u>Lunch</u>	<u>\$15.00</u>	<u>\$18.00</u>	<u>Between noon and 1:30 pm</u>
<u>Dinner</u>	<u>\$25.00</u>	<u>\$30.00</u>	<u>Travel occurring after 6:30 pm</u>
<u>Daily Total</u>	<u>\$50.00</u>	<u>\$61.00</u>	
<u>The foregoing meal reimbursements are not a per diem. Meals will be reimbursed, or paid, based upon actual expenses up to the limits provided herein. Detailed receipts, and not just a credit card receipt, must be provided as noted in Section H of this Policy.</u>			
If a meal is included as part of a convention/conference/meeting/training, etc., registration fee, no additional reimbursement for said meal is allowed.			

- H. AT2 Travel Reconciliation Report, complete with detailed receipts for all expenses must be submitted not later than five (5) business days upon return from travel. Legitimate expenses as articulated on the T1 Travel Authorization Form and reconciled on the T2 Travel Reconciliation Form, and other such expenses as deemed appropriate by the Finance Director and/or City Manager will be reimbursed in a timely manner. Below is a partial list of legitimate expenses:

Registration

Lodging

Mileage for use of personal vehicle

Economy airfare

Train fare

Meals

Reasonable ground transportation such as taxi, subway, parking

Service gratuities not exceeding 15%

Phone calls and hotel business center expenses directly related to City business

- I. Reimbursement shall be provided to the individual traveling on behalf of the City only if said expenses are reasonable in nature, City related and detailed receipts are attached to the T2 Travel Reconciliation. Credit card receipts without the accompanying detail expense slip are not acceptable forms of receipts.

Under no circumstances are the following expenses to be charged to the City's credit card, direct bill account, etc., and/or claimed for reimbursement upon return from travel:

personal items, personal services, newspapers, magazines, etc., in-room movies and/or games, internet service solely for personal use, room-service, tour and/or theatre tickets and expenses, alcoholic beverages, service gratuities in excess of fifteen percent (15%), valet parking where free parking is provided, sports center/resort fees, fines for parking tickets, moving violations, or vehicle towing charges will not be reimbursed under any circumstance, social events at conferences such as golf games, tours, penalties, personal phone calls, etc.

- J. Procedures: The City Manager is authorized to promulgate administrative procedures and processes as appropriate to operationalize and enforce the City's travel policies.
- K. Travel Restrictions: Anyone willfully violating this policy and/or the Travel Policy Administrative Processes and Procedures may be denied travel privileges in the future, and/or subject to disciplinary action as deemed appropriate by the City Manager.
- L. Accurate Information: Anyone knowingly submitting a falsified reimbursement form may be subject to disciplinary action, up to and including termination as well as criminal prosecution. An authorizing party who approves a falsified reimbursement form which they know to be false will be subject to disciplinary action, up to and including termination as well as criminal prosecution. North Carolina G.S. s159-181 (a) states that any officer or employee of a local government or public authority who submits a written claim or approves a claim for funds that he/she knows to be false is guilty of a misdemeanor.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

All full and part-time employees of the City are eligible for employee benefits as provided for in this Article which are subject to change at the City's discretion and annual budget appropriations. Temporary employees are eligible only for legally mandated benefits such as workers' compensation and FICA.

Section 2. Employee Group Health, Dental, Vision and Disability Insurances

The City provides group health, dental, disability and vision insurance programs for eligible employees and their families as specified under the terms of the group insurance contract.

The City pays the entire cost of health insurance for eligible employees. The City will comply with the Affordable Care Act by providing health insurance for all eligible employees. expected to work 30 or more hours per week for the established stability period. Eligible employees may, if they so desire, purchase available group health, dental and/or vision coverage through the City for qualified dependents within the stipulations of the insurance contract. Employees will pay the amount stipulated by the City for their qualified dependents.

Information concerning cost and benefits shall be available to all employees in the Human Resources office.

Section 3. Other Optional Insurance Plans

The City may make other insurance plans available to employees upon authorization of the City Manager and/or City Council. For information about optional group benefit programs, employees may contact the Human Resources office.

Section 4. Retirement

All full-time employees shall participate in the North Carolina Local Government Employees' Retirement System (NCLGRS). Employees vest in the benefit after five (5) years of service. Employees contribute six percent of wages each payroll with an actuarial match by the City as determined by the North Carolina Local Governmental Employee's Retirement System.

Retiree Health Benefits

The City provides paid retiree health insurance to eligible employees who retire through the NC Local Government Employees Retirement System.

Eligible retirees must enroll in health insurance upon retirement to maintain eligibility. Any gap in coverage disqualifies the retiree from this benefit.

Any retiree who accepts employment that provides paid health insurance will no longer be eligible for paid retiree health insurance but is eligible to purchase this benefit.

The City allows retirees participating in this benefit to purchase dependent health insurance following procedures established by the City Manager for this purpose. All retirees participating in

retiree health insurance will be converted to a Medicare Supplemental Insurance Plan whenever they become eligible and must submit all required applications in order to retain this benefit.

Employee's prior continuous full-time service as an employee of another agency that participates in the North Carolina Retirement System shall be considered continuous full-time employment with the City of Henderson towards eligibility for this benefit; a) if they have worked for the City of Henderson for ten (10) years continuous full-time service; and b) there was no break in service between employment with the other member organization(s) and employment with the City of Henderson.

Levels of Benefits:

- a). Employees retired on or before January 31, 2009 will continue to receive full retiree health insurance and will be moved to a Medicare Supplemental policy when eligible.
- b). Employees hired on or before January 31, 2009:
 - 1) Employees with at least 20 years of continuous full-time employment with the City of Henderson as of January 31, 2009 who retire under the NCLGERS will receive paid retiree health insurance for the life of the retiree.
 - 2) Employees with at least 15 years of continuous full-time employment with the City of Henderson as of January 31, 2009 who retire under the NCLGERS will receive paid retiree health insurance for a maximum of ten years. This group of employees may continue to receive health insurance after the 10 year maximum if the employee pays one half of the health insurance premiums the City pays for active City employees.
 - 3) Employees with less than 15 years of continuous service with the City of Henderson as of January 31, 2009 who retire under the NCLGERS may participate in retiree health insurance benefits by paying 50% of the cost of the insurance as determined by the City.
- c) Employees hired after January 31, 2009

Employees hired after January 31, 2009 are eligible to participate in the City's health insurance plan, if available, upon their retirement provided a) they retire with fifteen (15) or more years of continuous fulltime employment with the City and they pay 100% of the monthly health insurance premiums established by the City; and b) they retire with the NC Local Government Employees Retirement System. Additional guidance is available in the Administrative Procedures for Human Resources

Section 5. Supplemental Retirement Benefits

The City provides supplemental retirement benefits for its full -time employees. As prescribed by North Carolina State Law, the City will contribute a percentage of pay to the State 401-K plan for each sworn law enforcement officer (currently 5%) beginning after 30 days of employment.

All full-time employees may make voluntary contributions to the 401-K plan up to the limits established by law and the 401-K provider. The City currently does not match employee

contributions.

Section 6. Social Security and Medicare (FICA)

The City, to the extent of its lawful authority and power, has extended Social Security benefits to its eligible employees.

Section 7. Worker's Compensation

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

Responsibility for claiming compensation under the Worker's Compensation Act belongs to the injured employee, and such claims must be filed with the North Carolina Industrial Commission within two years from date of injury. The department head and the Payroll Specialist will assist the employee in filing the claim.

Pursuant to a declaration invoking Section 304 of the Homeland Security Act, this provision will also apply to reactions to small pox vaccinations administered to City employees under the Homeland Security Act. Such reactions shall be treated the same as any other worker's compensation claim. State guidelines may require vaccination of employees working in certain departments; as such reactions shall be treated the same as any other claim.

Section 8. Unemployment Compensation

Local governments are covered by unemployment insurance. City employees who are terminated due to a reduction in force or released from City service may apply for benefits through the local Division of Employment Security office. It is the policy of the City to defend itself against paying unemployment compensation for employees who have been separated from the City for cause or who have resigned.

Section 9. Law Enforcement Separation Allowance

Every sworn law enforcement officer, as defined by N.C. Gen. Statute 128-21(11b) or N.C. Gen. Statute 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Statute 143-166.42, in the amount specified in N.C. Gen. Statute 143-166.41(a).

Currently the law enforcement separation allowance is *"equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service"*. The City will pay this benefit on a bi-weekly basis with each payroll.

Eligibility and continuation of these benefits are subject to the following conditions:

- a) The officer shall have completed 30 or more year of creditable service, or have attained 55 years of age and completed five or more years of creditable service (as defined in General Statute 143-166.42); and

- b) The officer shall not have attained 62 years of age;
- c) The officer shall have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Statute 143-166.41(a)(3) and 143-166.41(b).
- d) The law enforcement officer, after separation from City employment, notifies the City of any new employment involving local law enforcement duties. Such notification shall include the nature and extent of the employment, and any change of employment status.

Payment of separation allowance benefits to a retired officer shall cease at the first of:

- a) The death of the officer;
- b) The last day of the month in which the officer attains 62 years of age; or
- c) The first day of re-employment in any position in any local government in North Carolina.

The City may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System and doing so shall not cause payment to cease to those officers under these benefits.

Should the separation allowance for law enforcement officers, now required by law, be rescinded, this separation allowance shall be rescinded at the same time.

Section 10. Credit Union Membership

Employees of the City of Henderson are eligible for membership in the North Carolina Local Government Federal Credit Union.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the City is to provide vacation leave, sick leave, and holiday leave to all full-time employees.. Employees shall accrue leave with each payroll.

Section 2. Holidays

The City will follow the holiday schedule as published by the State of North Carolina for State employees. This schedule will be published by the Human Resources Department and distributed to employees by December 1 of each year for the following year. Generally, these holidays are:

New Year's Day
Martin Luther King, Jr's Birthday
Good Friday
Memorial Day
Independence Day (4th of July)
Labor Day
Veterans Day (November 11th)
Thanksgiving (Thanksgiving Day and the Friday following)
Christmas and Christmas Eve

In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s), or have been given approved paid leave in advance of the holiday by his/her supervisor.. The City will pay each employee 8 hours for holiday pay. The holiday is considered to begin at midnight and run for 24 hours.

Section 3. Holidays: Effect on Other Types of Leave

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

Section 4. Holidays: Compensation When Work is Required or Regularly Scheduled Off for Shift Personnel

Non-Exempt employees required to perform work on regularly scheduled holidays shall be paid at 1.5 times their regular rate for hours actually worked on the holiday in addition to any holiday pay to which they are entitled.

If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee will receive the hours for paid holiday leave. Whether holiday time is provided in time or pay for shift employees is determined by the City. Employees shall receive holiday compensation in hours off or pay.

Section 5. Vacation Leave

Vacation is a privilege granted to employees by the City. Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. Vacation should be requested in advance in methods determined by the Department Director and approved by the employee's supervisor.

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

Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment unless approved by the City Manager. A probationary employee who is dismissed during the probationary period will not be eligible for terminal pay for any accumulated vacation leave.

Section 7. Vacation Leave: Accrual Rate

Each full-time employee of the City will accrue vacation on the following schedule.

Years of Service	Days Accrued Per Year
0 - 2	10
2 - 5	12
5 - 10	15
10 - 15	15
15 - 20	18
20 plus	20

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until the pay period containing December 31st of each fiscal year. During the pay period containing December 31st, any employee with a balance exceeding 30 days shall have the excess accumulation transferred to sick leave so that only a balance of 30 days is carried forward to January 1st. Employee with more than 30 days of accrued annual leave as of the implementation of this policy will have until December 31, 2015 to use said excess time in order to comply to avoid having the excess leave transferred to their sick leave balance.

Regardless of accumulated balance if an employee separates from service, the payment for accumulated vacation leave shall not exceed 30 days except as noted in the previous paragraph. Employees are not eligible to receive pay for vacation time not taken.

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

Section 9. Vacation Leave: Manner of Taking

Employees may be granted the use of accrued vacation leave upon request in advance at those

times designated by the Department Director which will least obstruct normal operations of the City. Department Director are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery.

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed the maximum accumulation rate per Section 8 of this Article, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation, thirty days for department heads.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the City Manager when deemed to be in the best interest of the City.

Employees who are involuntarily separated shall receive payment for accumulated vacation leave not to exceed the maximum accumulation rate. At the discretion of the City Manager, employees dismissed for serious violations of personal or criminal conduct may be determined ineligible to receive vacation pay.

Section 11. Vacation Leave: Payment upon Death

The Estate of an employee who dies while employed by the City shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

Section 12. Sick Leave

Sick Leave with pay is a privilege granted to employees by the City Council, not a right, and may be used only for the purposes described in this Policy. Abuse of sick leave privileges will subject the employee to disciplinary action.

Sick leave will accrue during the probationary period but may not be used except with the approval of the City Manager when inability to use sick leave would be considered an unusual hardship. Sick Leave may be used for the following reasons: sickness, non-job related bodily injury, the first seven days of Worker's Compensation Leave, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave also may be used when an employee must care for a member of his or her immediate family who is ill. For the purposes of this benefit, immediate family is defined as spouse, child, parents of employee or spouse, grandparent, grandchild, brother or sister, or someone living in the home or in-law or step relations of same. Sick leave may not be used to care for a healthy child.

Notification of the desire to take sick leave must be submitted to the employee's supervisor prior to the leave unless a medical emergency makes it impossible to do so, or according to departmental procedures.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year for all full-time employees. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Governmental Employees Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City, except as stated above for retirement or upon reinstatement with one year of separation.

Section 14. Transfer of Sick Leave from Previous Employer

The City will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the North Carolina State or Local Government Retirement Systems and the employee did not withdraw accumulated retirement contributions from that employer when leaving employment.

The sick leave will be treated as though it were earned with the City of Henderson and may be used as any other accrued sick leave by the employee. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon successful completion of the employee's probationary period as defined in Article IV.

Section 15. Sick Leave: Medical Certification

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

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

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

Section 16. Funeral Leave

An employee may have up to one day at full pay granted in case of death in the immediate family. For the purposes of this benefit, immediate family is defined as spouse, child, parents of employee or spouse, grandparent, grandchild, brother or sister, or someone living in the home or in-law or step relations of same. Additional time or time to attend funerals of other family

members may be charged to vacation leave, compensatory time or leave without pay.

Section 17. Family and Medical Leave

The City will grant up to 12 weeks of family and medical leave per rolling twelve month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid (coordinated with the City's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Earned compensatory time may also be used during FMLA leave. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the City's Leave without Pay policy.

To qualify for FMLA coverage, the employee must have worked for the employer 12 months or 52 weeks; these do not have to be consecutive. However, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA time begins.

Family and medical leave can be used for the following reasons:

- 1) the birth of a child and in order to care for that child;
- 2) the placement of a child for adoption or foster care;
- 3) to care for a spouse, child, or parent with a serious health condition;
- 4) the serious health condition of the employee; or
- 5) military exigency

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring intermittent or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity for more than three days would be considered a serious health condition.

If a husband and wife both work for the City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation, accrued compensatory time and leave without pay for the remainder of the 12-week period.

“Military Exigency” is a qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military service member (reserve or national guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

- 1) deployment of service member with seven or fewer days’ notice;
- 2) military ceremonies and events such as family-assistance or informational programs related to the family member’s active duty or call to active duty;
- 3) urgent, immediate childcare or arranging for alternative childcare for the children of service members;
- 4) attending school or daycare meetings relating to the child of service member;

- 5) making financial or legal arrangements related to a family member's active duty status or call to active duty;
- 6) taking up to five days leave to spend with a covered military member who is on shorter temporary rest and recuperation leave during deployment;
- 7) attending counseling provided by someone other than a health provider for oneself, the covered military member, or the child of the military member, the need for which arises from the active duty service or call to active duty status or the covered military member; or
- 8) post-deployment activities for a period of ninety days after the termination of the service member's active duty status.

Military Caregiver Leave: An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of FMLA leave in a single 12 month period. During a single 12 month period, the employee is eligible for a total of 26 weeks of all types of FMLA Leave combined.

The request for the use of leave must be made in writing by the employee and approved by the department head or City Manager.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Section 19. Family Medical Leave – Certification

In order to qualify for leave under this law, the City requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the department head and filed with the Human Resources **Director**.

The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he/she has requested additional time in writing under the City's Leave without Pay policy.

Section 20. Family Medical Leave: Retention and Continuation of Benefits

When an employee is on leave under FMLA, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons

other than a continued serious health condition, the City will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit by the first of each month.

After using all paid leave for which the employee qualifies, the employee on FMLA may use Leave without Pay for the remainder of the FMLA 12/26 week entitlement. An employee ceases to earn holiday or leave credits on the date leave begins.

Section 21. Leave Without Pay

A full-time employee may be granted a leave of absence without pay for a period of up to twelve months by the City Manager. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, continuation of education, special work that will permit the City to benefit by the experience gained or the work performed, or for other reasons deemed justified by the City Manager.

The employee shall apply in writing to the City Manager for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

If the employee decides not to return to work, the department head shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

An employee shall retain all unused vacation and sick leave while on Leave without Pay. An employee ceases to earn holiday or leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the City's group insurance plans at his or her own expense, subject to any regulation adopted by the City and the regulations of the insurance carrier. If the Leave without Pay is for a circumstance that coincides with FMLA or USERRA then the provisions of those policies will apply.

Section 22. Worker's Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Worker's Compensation Act may elect to use accrued sick leave, vacation, or compensatory time only during the first waiting period of seven days. The employee will not be required to reimburse the City for this paid leave in the event the absence extends beyond twenty-one days and the first seven days is paid by worker's compensation. If the employee elects to use accrued sick leave, vacation, or compensatory time for the initial waiting period, he/she will be placed on leave without pay at the end of the seven days; part-time and temporary employees as well as full-time employees who do not elect to use paid leave for the initial waiting period will be placed on leave without pay effective with the date of injury. Once the waiting period is over, workers' compensation covers two thirds of regular pay.

Any worker's compensation disability that qualifies under the requirements of FMLA shall run concurrently with FMLA. An employee on worker's compensation leave without pay will be

permitted to continue to be eligible for benefits under the City's group insurance plans during the period of worker's compensation leave that is concurrent with FMLA.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit. Any amounts owed are due and payable by the first of the month.

An employee shall retain all unused vacation and sick leave while on Worker's Compensation Leave without Pay. An employee ceases to earn holiday or leave credits on the date Worker's Compensation Leave without Pay begins. After the period of FMLA eligibility ends, the employee may continue to be eligible for benefits under the City's group insurance plans at his or her own expense subject to the regulations of the insurance carrier.

Section 23. Military and other USERRA Leave

The City will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and other related federal regulations.

For the purposes of USERRA covered employees are the following:

1. Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard)
2. Army National Guard and Air National Guard
3. FEMA's Disaster Assistance Teams
4. Commissioned Corps of the Public Health Service
5. Military Service Academies
6. Reserve Officer's Training Corps (ROTC)

Employee taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than 30 days may elect to continue the City's health care for up to 24 months but will be responsible for paying the insurance premiums up to 102% of the premium costs. Employees whose USERRA duty is less than 31 days will have their health insurance coverage paid as if they were at work with the City.

Military Training

In addition to complying with the requirements of USERRA, the City provides additional benefits for military training. Full-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted fifteen calendar days per year for military leave with pay. If the compensation received while on military leave is less than the pay that would have been earned during this same period as a City employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's pay at the normal level during this period.

If such duty is required beyond the fifteen calendar days, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While on military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense for a period of 24 months.

Part-time and temporary employees will be granted time off without pay to meet their military reserve or National Guard training obligations.

Section 24. Reinstatement Following Military and other USERRA Service

An employee who volunteers or is called to active duty with the United States military forces, and who returns to work in less than five years will be returned to the same or like position he or she occupied prior to the active duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD214" with an honorable discharge must be submitted with the notification of intent to return to work.

Time limits for employees to reapply for return to work after release from military service are:

- 1) Less than 31 days absence - employee must report to employer by the next business day.
- 2) 31 days-180 days absence - notification to the supervisor must be submitted within 14 days.
- 3) More than 180 days absence - notification to the supervisor must be submitted within 90 days.

All reporting deadlines are extended for two years if the employee is injured during USERRA service.

Section 25. Civil Leave

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

Section 26. Parental School Leave

A City employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three following conditions:

- 1) The leave must be taken at a time mutually agreed upon by the employee and the City;

- 2) The City may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- 3) The City may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time) taken by a full-time employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the City.

Section 27. Voluntary Shared Leave

The City Manager has the authority to create administrative procedures whereby employees may donate vacation to other employees who have major illnesses or need leave to care for family members with major illnesses.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

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

Three consecutive days of absence without contacting the immediate supervisor or department head may be considered to be a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

Section 3. Reduction in Force

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

Section 4. Disability

The City will comply with the Americans with Disabilities Act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the City. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The City may require an examination, at the City's expense, performed by a physician of the City's choice.

Employees who meet the requirements of the North Carolina Local Governmental Employees Retirement System may qualify for a disability retirement. Information about this option is available from the Human Resources Director or the Retirement System.

Section 5. Voluntary Retirement

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

Section 6. Death

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

Section 7. Dismissal

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

Section 8. Reinstatement

An employee who is separated because of a reduction in force or who resigns while in good standing may be reinstated within one year of the date of separation, upon recommendation of the department head, and upon approval of the City Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave provided he or she left their accrued sick leave intact with the City.

Section 9. Rehiring

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

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. The Human Resources Director will be available to assist all parties with the procedures in taking or responding to disciplinary actions. All cases of disciplinary suspension, demotion, or dismissal must be approved by the City Manager prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the department head or City Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of City property or equipment;
- 3) Physical or mental incapacity to perform duties after reasonable accommodation;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Improper use of leave privileges;
- 7) Failure to report for duty at the assigned time and place;
- 8) Failure to complete work within time frames established in work plan or work standards;
- 9) Failure to meet work standards over a period of time; or
- 10) Failure to follow the chain of command to address work-related issues.
- 11) Failure to maintain certifications required by the job.

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

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor.

An employee whose job performance is unsatisfactory over a period of time should normally

receive at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the City Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

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

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for non-exempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status. Under FLSA suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job, but shows promise and commitment to performing successfully in a lower level job. If no other options are available, dismissal is appropriate.

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed. Dismissals are appropriate when the employee has shown he/she is unwilling or unable to perform work in a manner that meets the work and conduct standards of the City.

Section 4. Disciplinary Action for Detrimental Personal Conduct

Normally, the Department Head or City Manager would place the employee on non-disciplinary suspension prior to making a disciplinary determination to allow time to gather facts regarding the detrimental personal conduct and make a determination regarding the severity of the conduct.

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

- 1) avoid undue disruption of work;
- 2) to protect the safety of persons or property; or
- 3) for other serious reasons.

In exigent circumstances, a department head or designated supervisor may, with or without prior approval, suspend employees for the remainder of the work day. In such cases, the department head shall immediately notify the City Manager.

Section 5. Detrimental Personal Conduct Defined

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

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

- 1) Fraud or theft;
- 2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of City funds or personal use of equipment or supplies;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;
- 8) Brutality in the performance of duties;
- 9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- 10) Engaging in incompatible employment or serving a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this Policy;
- 13) Harassment of an employee and/or the public on the basis of sex or any other protected class status; or
- 14) Harassment of an employee or the public with threatening or obscene language and/or gestures or any incidence of workplace violence
- 15) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work.

Section 6. Pre-Dismissal Conference

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of

duties, the department head or City Manager (in the case of disciplinary action of a department head) will conduct a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to department head. The department head will consider the employee's response, if any, to the proposed dismissal, and will, within three working days following the pre-dismissal conference, notify the employee in writing of the final decision after obtaining approval of the decision from the City Manager. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 7. Non-Disciplinary Suspension

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

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

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

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair. The Human Resources Director will be available to assist all parties with the procedures during the grievance process.

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

Section 2. Grievance Defined

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

Section 3. Purposes of the Grievance Procedure

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

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- 3) Promoting better understanding of policies, practices, and procedures which affect employees;
- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees;
- 6) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
- 7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the City or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Grievance Procedure

When an employee has a grievance, the following successive steps are to be taken. unless ? The number of calendar days indicated for each step should be considered the maximum, , and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension or demotion must be approved by the department head or City Manager and rescinding a dismissal must be approved by the City Manager before the decision becomes effective.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective department head or the Human Resources **Director** as a resource to help resolve the grievance.

In some instances, if both parties agree, and with the approval of the City Manager, the parties may request mediation assistance from a neutral party to assist in identifying mutually agreeable solutions or understandings. Mediation may be used at any step in the process if agreed to by the parties and with the approval of the City Manager.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

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

Step 2. If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate department head within ten calendar days after receipt of the response from Step 1. The department head shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the City Manager within ten calendar days after receipt of the response from Step2. The City Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The City Manager's decision shall be the final decision. The City Manager will notify the City Council of any impending legal action.

Department Heads. In the case of department heads or other employees where the City Manager has been significantly involved in determining disciplinary action, including dismissal, the City may wish to obtain a neutral outside party to either:

- 1) provide mediation between the grieving department head and the City Manager (see definition of mediation in "informal resolution" above); or

- 2) consider an appeal and make recommendations back to the City Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation.

The City Manager's decision shall be the final decision. The City Manager will notify the City Council of any impending legal action.

Section 5. Role of the Human Resources Director

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

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

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

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, gender, race, color, national origin, religion, creed, political affiliation, non-job related disability, or genetic information), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to go directly to the Human Resources Director or to appeal directly to the City Manager.

Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

ARTICLE XI. RECORDS AND REPORTS

Section 1. Public Information

In compliance with North Carolina GS 160A-168, the following information with respect to each City employee is a matter of public record:

- 1) name;
- 2) age;
- 3) date of original employment or appointment to the service;
- 4) the terms of any contract by which the employee is employed whether written or oral, past and current , to the extent that the City has the written contract or a record of the oral contract in its possession;
- 5) current position title;
- 6) current pay;
- 7) date and amount of each increase or decrease in pay with the City;
- 8) date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the City;
- 9) date and general description of the reasons for each promotion with the City;
- 10) date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the City. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the City setting forth the specific acts or omissions that are the basis of the dismissal; and
- 11) the office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City may adopt. An individual examining a personnel record may copy the information. The cost of photocopying may be assessed to the individual who requests the copies.

For the purposes of this subsection, the term "pay" includes pay, benefits, incentives, bonuses, deferred and all other forms of compensation paid by the City.

A record will be maintained of all disclosures of personnel records, except for authorized personnel processing personnel actions or supervisors in the line of authority of the employee. Upon request the records of disclosure will be made available to the employee to whom it pertains.

Section 2. Access to Confidential Records

All information contained in a City employee's personnel file, other than the information mentioned

above is confidential and shall be open to inspection only in the following instances:

- 1) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the City Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

- 7) The City Manager, with the concurrence of the City Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a City employee, and the reasons for that action. Before releasing that information, the City Manager shall determine in writing that the release is essential to maintaining the level and quality of City services. The written determination shall be retained in the City Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Section 3. Personnel Actions

The Human Resources Director, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the City Manager, normally in the Human Resources Office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement, letters of recommendation, and other personnel-related documents.

Section 4. Records of Former Employees

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

Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. In accordance with established grievance procedures, the employee may seek to have a record of upheld grievances relating to personnel records placed in the file and/or may seek removal of material in the file contingent upon approval of the North Carolina Department of Cultural Resources.

Section 6. Penalties for Permitting Access to Confidential Records

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

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

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

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with NC General Statute 121.5, without the consent of the North Carolina Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in NC General Statute 132.3.

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

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

Section 2. Separability

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

Section 3. Amendments

This policy may be amended by action of the City Council and by resolution appropriately approved. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.

Notice of any amendment to the policy or any portion thereof, shall be provided to employees. Adopted amendments should be posted on bulletin boards in employee work locations and/or in employee newsletters.

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 October 14 Work Session

15 October 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: CAF: 14-92

Consideration of Approval of Ordinance 14-41, Amending Section 7-64.0 of the City Code Relative to Declaration as to Certain Intersections and Section 7-49, Declaration as to Certain Streets.

Ladies and Gentlemen:

Recommendation:

- Approval of Ordinance 14-41, Amending Section 7-64.0 of the City Code Relative to Declaration as to Certain Intersections and Section 7-49, Declaration as to Certain Streets.

Executive Summary

During the Work Session on 25 August 2014 CM 14-27 was presented to Council relative to various traffic changes that were being studied and brought back to Council for further consideration. Those changes were as follows:

1. Chestnut and Young Street – A traffic accident at this intersection during the summer caused major damage to existing traffic signals and an estimate to replace the signals was \$22,445. Stop signs were installed at each corner of Young Street and this appears to be working well without any incidents. The City has obtained a cost of \$3,000 to perform a signal warrant study of this intersection which will be performed by VHB Consultants, Raleigh, North Carolina. The estimated time to complete the study is three (3) weeks. The revised ordinance change will then be brought back to Council for consideration.
2. Intersection of South Park and Beckford Drive – Council asked staff to discuss with the NC DOT any traffic changes that could be considered since the opening of the Vance County Farmers Market and patrons are attempting to

make left turn movements into the installed pork chop intersection which was designed to alleviate left turn movements in and out of the intersection. The District NCDOT office has consulted with the Division traffic Engineer and recommends that state ordinances be written to prohibit left hand movement from and to South Park Drive. NCDOT will install the appropriate signage to reflect the new ordinance(s) once they are approved by the State Traffic Engineer. They have also asked the City's support in having the City Police enforce the new ordinances once in place. Staff has also spoken with Vance County personnel to make sure any signs for the Farmer's Market are placed at the intersection of North Park Drive instead of South Park.

3. Oak Street change from one-way to two-way – The Fire Department asked the Engineering Department to review changing the existing one-way portion of Oak Street from Pine Street to Deer Crossing Court back to a two-way pattern. A favorable response was received from Vance County School System and a copy of its letter of support is attached. There will need to be some restriping and signage removed to facilitate this change but this will help the Fire Department in rotating the routing of the fire trucks which will help to provide longer tire life. This will also help with entering the property since Vance County, (or the City) no longer owns the Armory property. To facilitate this action, an amendment to Section 7-49 of the City Code is recommended.
4. Relative to handicap parking in the downtown area, staff has met with the citizen who initially requested this and discussed specifics where the handicap parking is desired, but further discussion is needed prior to making a recommendation to Council.

Enclosures:

1. Ordinance 14-41
2. CM 14-27
3. Vance County School Letter of Support

ORDINANCE 14-41

AMENDING SECTION 7-64.0 OF THE CITY CODE RELATIVE TO DECLARATION AS TO CERTAIN INTERSECTIONS AND SECTION 7- 49, DECLARATION AS TO CERTAIN STREETS.

The City Council of the City of Henderson, North Carolina doth ordain:

Section 1. That the following be added to Section 7-64.0 of the City Code (Declaration as to certain intersections):

“Young Street” stop before entering Chestnut Street.

“North Park Drive” stop before entering Parkview Drive East

“North Park Drive” stop before entering Beckford Drive

“South Park Drive” stop before entering Parkview Drive East

“South Park Drive” stop before entering Beckford Drive

Section 2. That the following be deleted from the Schedule of Streets set forth in Section 7-49.0 of the City Code (Declaration as to certain streets):

“Oak Street between Pine Street and Deer Crossing Court traffic to move in a southerly direction.”

The foregoing Ordinance 14-41, upon motion of Council member _____ and seconded by Council Member _____, and having been submitted to a roll call vote and received the following votes and was **APPROVED/DISAPPROVED** on this the ____ day of _____, 2011: YES: . NO: . ABSTAIN: . ABSENT: .

James D. O’Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney
*Reference: Minute Book 42, p. **.*

STATE OF NORTH CAROLINA, CITY OF HENDERSON

I, Esther J. McCrackin, the duly appointed, qualified City Clerk of the City of Henderson, do hereby certify the foregoing Ordinance is a true and exact copy of *Ordinance 14-41* Amending Section 7-64.0 of the City Code Relative to Declaration as to Certain Intersections and Section 7-49.0 Declaration as to Certain Streets, adopted by the Henderson, City Council in Regular Session on ** ** 20** (*See Minute Book 44, p. ***). This Ordinance is recorded in *Ordinance Book # 9*, pp. **.

Witness my hand and corporate seal of the City, this ** day of ** 20**.

Esther J. McCrackin
City Clerk
City of Henderson, North Carolina

19 August 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: CM 14-27:

Consideration of:

- 1) Possible Addition of Handicap Parking Spaces in the Downtown Area;**
- 2) Conversion of Stop Lights at Chestnut Street and Young Street to Stop Signs**
- 3) Modifying Oak Street from One Way to Two Way Traffic Pattern.**

Ladies and Gentlemen:

City staff received a request from a citizen who currently resides in an apartment in the downtown area of Garnett for a handicap parking space either on Garnett Street or in the William Street Parking Lot. Currently the citizens use the parking lot on William Street just off of Montgomery Street; however, currently there are no handicap parking spaces in this lot. Due to other apartment units in the downtown area and availability to customers which patronize stores downtown, it is felt that this may need to be discussed for the downtown as a whole, rather than considering one request at a time. Either way, the appropriate Ordinance can be drafted if so desired.

Another item that the staff is reviewing is the replacement of the traffic signal equipment at Young Street and Chestnut Street. As you are probably aware, there was a traffic accident at this location approximately a month ago in which several vehicles were involved that broke one pole and therefore bringing down several of the existing signals. City crews were dispatched after the accident and stop signs were placed on Young Street with Chestnut being the through street. An estimate of approximately \$22,500 was received to replace the signalization equipment. Removal of the signals would cost much less. It appears that there is insufficient liability coverage on the motorist(s) responsible for the accident.

City staff is proposing to possibly eliminate the traffic signals at this intersection due to differences in traffic volumes or turning movements which may no longer warrant traffic signals at this intersection. Several other traffic signals were removed along Chestnut Street around 2004-2005 after it was determined by a traffic engineering study that the signals were no longer warranted. Therefore, it is recommended that a study be performed and a recommendation brought back to Council for further consideration.

The Fire Department has requested that Oak Street be modified from its existing One Way Pattern (From Pine Street to Deer Court Crossing) to two way traffic. This has been discussed with the Vance County School Superintendent and a favorable response was received relative to the flow of traffic with the schools. Additional information is being reviewed and a recommendation will be brought back to Council for consideration at a future time.

VANCE COUNTY SCHOOLS

OFFICE OF THE SUPERINTENDENT

October 23, 2014

Daniel E. Wilkerson
Fire Chief – City of Henderson
211 Dabney Drive
Henderson, NC 27536

Dear Chief Wilkerson:

It is my understanding that you are requesting Oak Street be changed to a two-way street. I fully support this request. The current one-way traffic flow hinders the fire department's access to the rear of the fire station. The fire department serves the needs of our citizens, and it is important that nothing prevents them from doing their job. The two-way street will also allow parents easier access to E. M. Rollins Elementary School.

Thank you for all you do for the community and students of Vance County.

Yours truly,



Ronald E. Gregory
Superintendent of Schools

1724 GRAHAM AVENUE POST OFFICE BOX 7001 HENDERSON, N. C. 27536-7001 TELEPHONE 252-492-2127

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 Oct 14 Work Session

29 September 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: CAF: 14-113
Consideration of Approval of Resolution 14-82, Adopting the 2015 City Council Meeting Schedule.

Ladies and Gentlemen:

Recommendation:

- Approval of Resolution 14-82, Adopting the 2015 City Council Meeting Schedule.

Executive Summary

As part of the annual meeting planning efforts, a schedule for all regular council meetings and work sessions has been prepared for Council's consideration. The second meeting in May is recommended for cancellation since it conflicts with the Memorial Day holiday, as well as the first meeting in October which conflicts with the Annual NCLM Conference. It is also recommended that the second meeting in December be cancelled due to its close proximity to the Christmas holidays.

The Strategic Planning Retreat is recommended to follow the same format as last year with part one to be held on the evening of January 28th followed by an all-day retreat on January 29, 2014. The location will be determined and announced prior to these meetings.

The budget work sessions will be scheduled at a later date and special meetings will be noticed as needed during the year.

Enclosures:

1. Resolution 14-82

RESOLUTION 14-82

APPROVING 2015 CITY COUNCIL MEETING SCHEDULE

WHEREAS, regular council meetings for 2015 have been scheduled as required by Section 12 of Part 1, The Charter, of the Code of Ordinances of the City of Henderson, North Carolina (Supplement 21 (June 21, 2014)) for its Council meetings ; *and*

WHEREAS, the second meeting in May 2015 and the first meeting in October are recommended for cancellation as they conflict, respectively with Memorial Day holiday and attendance of the City personnel and Council at the North Carolina League of Municipalities Annual Conference; *and*

WHEREAS, the second meeting in December 2015 is recommended to be cancelled as it adversely impacts the Christmas season holiday; *and*

WHEREAS, the Strategic Planning Retreat is recommended to follow the same format as last year with part one to be held on the evening of January 28 2015 and part two to be held on January 29 2015; *and*

WHEREAS, special meetings will be noticed as needed during the year.

NOW, THEREFORE, BE IT RESOLVED, by the Henderson City Council that the Official 2015 Henderson City Council Meeting Schedule, as set forth in **Attachment A** to this Resolution, be approved by Council and filed with the City Clerk.

The foregoing Resolution 14-82, upon motion of Council Member _____ and second by Council Member _____, and having been submitted to a roll call vote received the following votes and was _____ on this the __th day of _____ 2014:
YES: . NO: . ABSTAIN: . ABSENT: .

James D. O'Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

D. Rix Edwards, City Attorney

*Reference: Minute Book 44, pp. ***; CAF 14-113*

*City Council Meetings are held in the City Council Chambers at the
City Municipal Building, 134 Rose Avenue, Henderson NC*

City Council Meeting	2015 Schedule		Special Notes
Regular Meeting	Jan. 12, 2015	6:00 PM	
Short Business Meeting	Jan. 26, 2015	6:00 PM	
Workshop Session	Jan. 26, 2015	Immediately Following Short Business Meeting	
Strategic Planning Retreat	28 Jan 2015	6:00 PM	Location to be Announced at future meeting
Strategic Planning Retreat	29 Jan 2015	8:00 AM	Location to be Announced at future meeting
Regular Meeting	Feb. 09, 2015	6:00 PM	
Short Business Meeting	Feb. 23, 2015	6:00 PM	
Workshop Session	Feb. 23, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Mar. 09, 2015	6:00 PM	
Short Business Meeting	Mar. 23, 2015	6:00 PM	
Workshop Session	Mar. 23, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Apr. 13, 2015	6:00 PM	
Short Business Meeting	Apr. 27, 2015	6:00 PM	
Workshop Session	Apr. 27, 2015	Immediately Following Short Business Meeting	
Regular Meeting	May 11, 2015	6:00 PM	
Short Business Meeting	May 25 2015	*****Cancelled due to Holiday*****	Memorial Day May 25
Workshop Session	May 25, 2015	*****Cancelled due to Holiday*****	Memorial Day May 25
Regular Meeting	Jun. 08, 2015	6:00 PM	
Short Business Meeting	Jun. 22, 2015	6:00 PM	
Workshop Session	Jun. 22, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Jul. 13, 2015	6:00 PM	
Short Business Meeting	Jul. 27, 2015	6:00 PM	
Workshop Session	Jul. 27, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Aug. 10, 2015	6:00 PM	
Short Business Meeting	Aug. 24, 2015	6:00 PM	
Workshop Session	Aug. 24, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Sep. 14, 2015	6:00 PM	
Short Business Meeting	Sep. 28, 2015	6:00 PM	
Workshop Session	Sep. 28, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Oct. 12, 2015	***Cancelled due to NCLM Annual Conference***	NCLM Conf. Oct 11-13 Winston-Salem
Short Business Meeting	Oct. 26, 2015	6:00 PM	
Workshop Session	Oct. 26, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Nov. 09, 2015	6:00 PM	
Short Business Meeting	Nov. 23, 2015	6:00 PM	
Workshop Session	Nov. 23, 2015	Immediately Following Short Business Meeting	
Regular Meeting	Dec. 14, 2015	6:00 PM	
Short Business Meeting	Dec. 28, 2015	*****Cancelled due to Holiday*****	Christmas Holidays
Workshop Session	Dec. 28, 2015	*****Cancelled due to Holiday*****	Christmas Holidays

Please note that the City Council may schedule special meetings in addition to the ones listed above and/or cancel meetings as circumstances warrant.

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 Oct. 14 Work Session

26 September, 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

**RE: CAF: 14-112:
Consideration of Approval of Resolution 14-81 Authorizing the Implementation of an "Adopt a Park" Policy for the Henderson-Vance Recreation and Parks Department**

Ladies and Gentlemen:

Council Goals Addressed By This Item:

- KSO 7: To Expand Leisure and Cultural Services, Programs and Facilities

Recommendation:

- Consideration of approval of Resolution 14-81 Authorizing the Implementation of an "Adopt a Park" Policy for the Henderson-Vance Recreation and Parks Department

Executive Summary

The "Adopt a Park" Policy Plan has been received by the Henderson/Vance Recreation Commission. This policy plan will allow the Henderson/Vance Recreation and Parks Department the ability to partner with civic clubs, churches, businesses and interested individuals to adopt a park or certain aspects of a park. This will assist the Henderson/Vance Recreation and Parks Department with inspections, maintenance and upkeep of the adopted park.

Enclosures:

1. Resolution 14-81

RESOLUTION 14-81

ESTABLISHMENT OF AN ADOPT-A-PARK PROGRAM

WHEREAS, the Henderson City Council conducted its Annual Planning Retreat in 2014 and identified eight Key Strategic Objectives (KSO) and Goals; *and*

WHEREAS, this Resolution addresses one **KSO 7**: To Expand Leisure and Cultural Services, Programs, and Facilities; *and*

WHEREAS, the Henderson-Vance Recreation and Parks Department (HVRPD), a department of the City of Henderson (City), is responsible for the operation and maintenance of parks under the purview of the City and the County of Vance, North Carolina (County); *and*

WHEREAS, individuals and organizations have expressed interest in assisting HVRPD in park maintenance and improvements; *and*

WHEREAS, the HVRPD has determined volunteer services would permit more efficient and effective park maintenance and assist in the development and implementation of improvements; *and*

WHEREAS, the HVRPD has the resources to develop and administer a volunteer program; *and*

WHEREAS, the HVRPD recommends establishment of a volunteer program to assist the department in park maintenance and improvements, such program to be named “The HVRPD Adopt-a-Park Program”.

NOW THEREFORE BE IT RESOLVED, BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY establish the HVRPD Adopt-a-Park Program (Program), to be implemented by the City Mayor once policies and procedures regarding the purpose and scope of and responsibilities under the Program are developed by the HVRPD, reviewed by the City Attorney and approved by the City Manager.

The foregoing Resolution 14-81, upon motion by Council Member ** and second by Council Member **, and having been submitted to a roll call vote received the following votes and was *** on this the *** day of *****, 2014: YES: NO: ABSTAIN: ABSENT:

James D. O’Geary, Mayor

Attest:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

D. Rix Edwards, City Attorney



*Henderson-Vance
Recreation & Parks
Department*

ADOPT A PARK PROGRAM

POLICY

AND

APPLICATION

PACKET

This Application packet includes guidelines and forms for your records. You will find these forms helpful during your adoption period. Thank you so much for your commitment; Henderson/Vance Recreation and Parks looks forward to assisting and working with your organization.

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Philosophy

This program presents a great opportunity for interaction between HVRPD and the rest of the communities in Vance County and the City of Henderson.

HVRPD wishes to encourage a cooperative effort to enhance and improve areas throughout the community. This is a very positive approach to beautification in the parks. Recreation and Parks can supply knowledge and experience and the possibly the flexibility of financially helping the neighborhoods enhance their parks. This program will have long-term effects and participants will be encouraged to plan accordingly.

This policy focuses on the Adopt a Park program of the Henderson/Vance Recreation and Parks Department.

The Henderson/Vance offers a variety of volunteer opportunities:

- Athletic Coaching, Coaching Assistants
- Henderson Rec. Players
- Sponsorships of Athletic Teams
- Sponsorships of Special Olympics
- Sponsorships of Henderson Rec. Players
- Special event volunteers

Scout Projects: The HVRPD offers opportunities for Scouts to complete their projects for scouting awards.

Corporate and Service Club Volunteers: Corporations and Service Clubs can give back to the community through giving time. Time can be just as valuable as dollars. We can accommodate groups of all sizes and tailor a volunteer project to your needs. Please contact us directly to discuss opportunities.

Adopt-a Park Guidelines

Responsibilities of Agency:

- Conduct at least 3 seasonal cleanups per year for each of your chosen sites
- Arrange cleanup after special events
- Complete Event Notification Form a Liability form preceding each cleanup
- Complete Clean up Reporting form following each cleanup

Report major maintenance problems to respective division

- Large trash items
- Toxic or hazardous materials
- Large Sharp metal objects
- Medical waste
- Dead animals

Monitor and report vandalism to the HVRPD

Recommendations:

- Keep trail surface free of sticks, rocks, and other debris
- Prune small limbs from the trail corridor
- Clean/remove debris from drainage ditches
- Collect any litter
- Clear debris from benches, bridges, stairs, and other surfaces
- Report major maintenance problems such as: trees across trail, erosion problems, suspicious or illegal activities, vandalism, and safety issues to the HVRPD.
- Stay within right of way boundaries

Limitations:

- Use of power tools such as chainsaws are not permitted unless approved by the HVPRD
- Organizations must not alter the existing trail route unless approved by the HVPRD

Responsibilities of the Recreation and Parks Department

- Provide supplies and materials for cleanups
- Provide required forms
- Supply recognition signs for adoption sites
- Provide technical help or a tailored maintenance plan, upon request only

Program Safety Guidelines

- Volunteers under 18 years of age may participate with proper supervision by an adult and parental/guardian signature.
- Cleanups should only be done during daylight hours.
- Wear light-colored clothing that covers arms and legs, in addition wear rubber boots or waders, gloves, hat and safety glasses.
- Wear clothing that will not impair vision or movement during cleanup activities.
- Work in small groups. Do not work alone!
- Stay clear of any construction.
- Do not work in inclement weather.
- During warm months, drink plenty of fluids, take breaks and avoid overexertion.
- During cold weather months, dress warmly with layered clothing.
- Be alert for snakes, stinging insects, and poisonous plants.
- Carpool to the site to reduce the number of vehicles.
- Use proper bending and lifting techniques.
- Be aware of wet rocks, hills, and slopes. Watch your steps!
- Do not use or possess illegal drugs or alcohol during cleanup.
- Do not pick up what appears to be hazardous material (notify your respective coordinator if you encounter hazardous objects or holes, guy wires and other hidden obstacles in the ground.)
- Do not attempt to squeeze bags to make room for more trash; injuries from broken or jagged objects can result from this practice.

In case of Emergency:

- Have an adequate first aid kit available.
- Select an emergency room/hospital and know the route from the work area to the designated treatment facility.
- If possible, have one member bring a cell phone for emergencies.

Bag Pickup Procedure:

- Notify the designated coordinator with location of bags from clean ups.
- Group the trash bags together and where practical place them at least 8 feet from the side of the road to make the job of collecting bags easier and safer.

Contact Information

➤ Name of Organization: _____

Primary Contact Information

➤ Name: _____

➤ Mailing Address: _____

➤ Phone Number: _____

➤ Email: _____

Secondary Contact Information

➤ Name: _____

➤ Mailing Address: _____

➤ Phone Number: _____

➤ Email: _____

Adoption Site Descriptions

➤ Name of Site: _____

➤ Location/Address: _____

I agree to provide services to maintain _____ (name of adopted location) in Vance County/City of Henderson as part of the Adopt-A Park program. If I represent a group or organization, I state that I duly authorize to enter this agreement by said group or organization. The terms of this agreement shall be in effect for two years, from _____ until _____.

I and all members of my group/organization hereby release the HVRPD , its officers, employees, and agents from all claims, demands, and actions which we may have against the HVRPD for any property damage, personal injury, or death by or arising out of our participation in the Adopt-A Park program.

I acknowledge the risks associated with cleanup and maintenance activities, including but not limited to: the risk of injury from equipment, chemicals, exposure to the elements, street, strain,, and the acts of omissions of other persons, and I expressly agree to defend, indemnity and hold harmless from and against any claims, demands, and actions on account of or resulting from my organization's participation in the program.

Name of Represented Organization/Group

Print Name of HVRPD Representative

Print Name of Organization/Group Representative

Signature of HVRPD Representative

Signature of Representative

Date

Date

This form must be submitted at least three business days prior to a cleanup

This form is to inform our staff of your cleanup date and to provide a date and location for garbage collection and disposal. Please complete and return prior to cleanup.

Name of Organization_____

Name of Group Representative_____

Cleanup Date and Time_____

Number of Participants_____(Adults)_____(Youth-18 or under)

If you will be coming to our office to pick up bags, please give us the date you plan to arrive so material will be ready for pickup_____

Location of Collected Garbage

Properly secure and completely tie all bags. Group the bags together, and if safe and practical, place them at least 8 feet from the road. Indicate below the location that you have chosen to place your bags.

Form must be submitted within two weeks of cleanup date

Date of Cleanup _____
Name of Group/Organization _____
Name of Representative _____
Name of Cleanup Site _____
Debris removed _____

List type removed, such as tire, paper, plastic, etc.

Number of bags collected _____
Please indicate the actual amount of time spent doing the cleanup (i.e. 1.5 Hrs.)
Actual number of Participants _____

Area assessment: Rating Scale – 1-10 (1 needs immediate attention – 10 excellent)
Please explain in the Improvements/comments box if anything looked unnatural or out of the ordinary during your visual inspection. Write “n/a” if the category does not apply to your adopted site.

Categories	1-10	Improvements/Comments
General Items (Benches, tables,, signage, graffiti)		
Playground equipment, basketball courts		
Shelters/Rooms, (restrooms, sidewalks, roofing, etc.)		
Environmental (creeks, creek banks, poisonous plants, bees/hornets, insects, wildlife, etc.		
Additional Warning/caution signs needed?		
Trail markings, signage, etc. (Trails only)		

For all cleanups always be aware of your surroundings. Please report any unknown substances or possible hazardous materials to 911. Give a brief description of the problem and include the following: nearest physical address to the problem (street name). Do Not attempt to clean unknown substances; they can be hazardous to your health.

Please complete and return to: HVRPD, 307 Carey Chapel Road, Henderson, NC 27537

Attachment D: Sign Release Form

Each volunteer organization/group is entitled to a HVRPD Adopt-A Park sign along a street that crosses the stream or other designated location. Sign will not be installed until two cleanups have been completed and all necessary documents are returned.

Please include only the name of your group or organization. Phrases such as “In Memory of” or “in Honor of” will not be allowed on the Adopt-A Park signs. The HVRPD must approve all signs.

Desired Verbiage on Sign:

Please complete and return to HVRPD at:

Henderson/Vance Recreation and Parks Department
307 Carey Chapel Road
Henderson, NC 27537

City Council Action Form

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 Oct 14 Work Session

23 October 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: CAF: 14-09

Consideration of Approval of Ordinance 14-52, Verifying the Ethics Policies for the City of Henderson's Elected Officials

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- CV 4: Ethical Behavior - We value the public trust and will perform our duties and responsibilities with the highest levels of integrity, honesty, trustworthiness and professionalism.

Recommendation:

- Approval of Ordinance 14-52, Verifying the Ethics Policies for the City of Henderson's Elected Officials

Executive Summary:

The State of North Carolina now requires local elected officials to take mandatory ethics training as well as adopt an ethics policy. The attached ordinance is an attempt to incorporate the requirements of State Statutes as well as borrowing from other cities' ethics and conflicts of interest policies. The Ordinance is provided in draft form for Council's review and comments and adjustments as it deems appropriate.

Ethics and conflicts of interests policy development for employees is provided in the revisions to the City's Personnel Policy and will be presented in that format.

Enclosures

1. Ordinance 14-52

CAF 14-09: 27 October 2014 Work Session

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ORDINANCE 14-52

VERIFYING THE ETHICS POLICIES FOR THE CITY OF HENDERSON'S ELECTED OFFICIALS

WHEREAS, the North Carolina General Assembly, through the enactment of General Statutes, has established certain standards and criteria relative to conflicts of interest and other ethical matters;

WHEREAS, the City Council of the City of Henderson desires to reiterate and verify said standards and to remind all public officials of the City of Henderson of their obligations concerning the same and further to reassure the general public that the City of Henderson will maintain good and open government untainted by the appearance of undue influence over decision makings and in compliance with the open meetings law.

NOW THEREFORE, the City of Henderson doth ordain that Section 2-14 of the City Code be amended to read as follows:

Section 1. That Section 2-14 of the City Code be amended to read as follows:

“Sec. 2-14. Ethics.

(a) The City of Henderson hereby commits on behalf of its public officials to comply with the standards set forth in the following General Statutes (as the same may be hereafter amended) and in any other statutes or ethics which may be applicable to actions of the City Council and City Government:

(b) **General Principles**

- (1) The City of Henderson operates pursuant to the Council-Manager form of government as set forth in North Carolina General Statute 160A-147 and the Henderson City Charter. The stability and proper operation of democratic representative government depends upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- (2) Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- (3) The Mayor and Council members must be able to act in a manner that maintains their integrity and independence, yet be responsive to the interests and needs of those they represent.

- (4) The Mayor and Council members must remain aware of the multiple functions they serve as elected officials:
- a. Advocates who strive to advance the legitimate needs of the citizens they serve, and who appear before them.
 - b. Legislators, who balance the public interest and private rights in considering and enacting ordinances and resolutions.
 - c. Decision-makers, who arrive at fair and administrative determinations.
 - d. The Mayor and Council must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
 - e. The Mayor and Council must be aware of their obligation to conform their behavior to standards of ethical conduct that warrants the trust of their constituents. To this end, the Mayor and Council must determine what conduct is appropriate in the performance of these obligations, and in carrying out the business of the City of Henderson.

(c) **Code of Ethics**

The purpose of a Code of Ethics is to establish guidelines for ethical standards of conduct for the Mayor and Council members, and to help determine what conduct is appropriate. It should not be considered a substitute for the law.

- (1) **Definition.** As used in this policy, the following terms shall have the meanings indicated unless the context clearly requires otherwise:
- a. **Business Entity** means any business, proprietorship, firm, partnership, person in a representative or fiduciary capacity, association, venture, trust or corporation which is organized for financial gain or for-profit.
 - b. **Council or Council member** means the Mayor, Mayor-Pro Tem, Vice-Mayor and members of the Henderson City Council.
 - c. **Immediate household** means the elected Council member, his/her spouse (or significant other) and all dependent children of the Council member.
 - d. **Interest** means direct or indirect pecuniary or material benefit accruing to a Council member as a result of a contract or transaction which is or may be the subject of an official act or action by or with the City of Henderson.

The fact that an interest, as defined herein, exists with respect to a particular matter does not necessarily mean that a conflict exists or that a Council member may not participate or vote in the consideration of that specific matter. The following descriptions are provided for purposes of heightening awareness of potential conflicts and encouraging consultation and disclosure. For the purpose of this policy, Council members shall be deemed to have an interest in the affairs of:

1. Any person in his or her immediate household, including family members;
2. Any business entity in which the elected City official is an officer, partner, or director;
3. Any business entity in which excess of ten (10) percent of the stock of, or legal or beneficial ownership of, is controlled or owned by the Council member, provided that such interest shall not disqualify that business entity from contracting with the City, except as provided in North Carolina General Statute 14-234;

4. Interest of employer

a. A Council member who is an employee of an entity involved in a contract or undertaking with the City, or which seeks the benefit of an official action of the City, may have an interest if the Council member's participation in or vote on the matter would affect or have the potential to affect the Council member financially or result in the award or deprivation of a material benefit. The existence of an employee-employee relationship does not automatically create a conflict of interest in the matter under consideration.

b. The definition of employer shall include contractual and professional relationships where the Council member is employed or engaged in connection with the matter before the Council, or is generally employed or engaged by the business entity that has the matter before Council.

Official Act of Action means any legislative, administrative, appointive or discretionary act of any Council member.

- (2) **Duty to Know the Law.** Council members should obey all laws applicable to their official actions as members of the Council. However, the law does not address every situation where ethics and ethical conduct are important. Council members should be guided by the spirit as well as the letter of the law in whatever they do.

a. Council members should endeavor to keep up-to-date, through the City Attorney and other sources, about new or ongoing legal or ethical issues they may face in their official positions. This educational function is in addition to the day-to-day legal advice the Council may receive concerning specific situations that arise.

b. Council members should endeavor to keep up-to-date, through the City Attorney and other sources, about the most pertinent constitutional, statutory, and other legal requirements with which they must be familiar in order to meet their legal responsibilities.

c. Council members shall receive ethics training as required by North Carolina General Statute 160A-86.

d. Consistent with North Carolina General Statute 160A-75, a Council member shall be mindful of when he or she has an interest in a matter that may affect his or her ability to vote or participate in the consideration of the matter before Council.

e. Consistent with North Carolina General Statute 14-234, a Council member shall be mindful of when he or she may become involved in the making or administration of a contract.

f. Consistent with North Carolina General Statute 160a-388(e1), applicable to quasi-judicial land use matters, Council members shall refrain from engaging in conduct that will or may affect the member's ability to give fair consideration to the matter, and shall make decisions on the basis of information in the record before Council.

(3) **Respect for Office, Council, Public:** Council members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- a. Adhering to a code of sound values
- b. Behaving consistently and with respect toward everyone with whom they interact
- c. Exhibiting trustworthiness
- d. Living as if on duty as elected officials regardless of the circumstances
- e. Using best independent judgment to pursue the common good, presenting opinions to all in a reasonable, forthright, consistent manner
- f. Preserving integrity and not being affected by improper influence
- g. Keeping an open mind and being able to consider the opinions and ideas of others

h. Treating other Council members and the public with respect and honoring the opinions of others, even when the Council member disagrees with those opinions.

i. Not reaching firm conclusions on issues until all interested parties have had an opportunity to express their position.

j. Showing respect for their offices and not acting in ways that reflect badly on those offices

k. Recognizing that Council members are part of a larger group and acting accordingly

l. Recognizing that individual board members are not generally allowed to act on behalf of the Council, but may only do so if specifically authorized by Council and that the Council may only take official action as a body.

m. At the same time, Council members should be able to assert policy positions and opinions without fear of reprisal from fellow Council members or citizens. Council members should not question the ethics of another Council member merely because they disagree with that Council member on a question of policy.

(4) **Avoid Appearance of Impropriety.**

a. Council members should avoid impropriety in the exercise of their official duties. Actions as Council members should be above reproach. Although opinions may vary about what behavior is inappropriate, this Council will consider impropriety in terms of whether a reasonable person who is aware of all the relevant facts and circumstances surrounding the Council member's action would conclude that the action was inappropriate.

b. If a Council member believes that his or her actions, while legal and ethical, may be misunderstood, the Council member should seek the advice of the City Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

(5) **Respect for Process.**

a. Council members should faithfully perform the duties of their offices.

b. Council members should faithfully attend and prepare for meetings.

c. Council members should carefully analyze all substantial information properly submitted to them.

d. Council members should expect full and complete information and appropriate analysis from the City staff.

e. Council members should be willing to bear their fair share of the Council's workload.

f. No Council Member shall be excused from voting except upon matters involving the consideration of his/her own financial interest or official conduct or on matters on which the Council member is prohibited from voting under North Carolina General Statute 14-234, 160A-381(d) or 160A-388(e1). In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

(6) **Openness in Council Processes.** Council members should conduct the affairs of the Council in an open and public manner. They should remember when they meet that they are conducting the public's business.

a. Council members should comply with all applicable laws governing open meetings and public records, and observe due process, recognizing that doing so is an important way to be worthy of the public's trust.

b. In order to ensure compliance with the spirit and letter of the law concerning openness, Council members should stress transparency and candor be maintained at all times in the governmental unit including but not limited to the following: 1) City policy should prohibit unwarranted delay in fulfilling public records requests; and 2) Any closed sessions held by Council should have proper legal justification and should not stray from the purpose(s) for which they are called.

(7) **Awareness of Council-Manager Form of Government.** Except for minor requests Council members should deal with City staff only through the City Manager or his/her designee. Council members should not direct the City Manager as to City personnel matters. Council may expect regular reports from the City Manager as to operational matters affecting the City.

The Mayor, Council members and City Manager should be familiar with the Roles, Responsibilities and Expectations established each year during the strategic planning session and in the laws relating to Council-Manager forms of Municipal Government.

(8) **Managing Conflicts of Interest.**

a. If a Council member believes a matter on the Council's meeting agenda may affect his or her ability to participate or vote on the matter, he or she shall consult with the City Attorney prior to the meeting if possible.

b. In all other cases, when a Council member believes that he or she may have an interest in a matter of City business, he or she should consult with the City Attorney.

In cases where a Council member has business before the Council or has some other reason to appear before Council as an advocate for or against some action by the Council, he or she should consult with the City Attorney prior to the Council meeting as to the procedure for being excused from Council and making such appearance before Council.

(9) **Applicable Statutes.** Applicable statutes include (but are not limited to) the following (as the same may be hereafter amended):

a. **“G.S. § 160A-75. Voting**

No [City Council] member shall be excused from voting except upon matters involving the consideration of his own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. § 14-234, 160A-381(d), or 160A-388(e1). In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

...”

b. **“G.S. § 160A-381(d). [Votes Affecting Zoning Maps or Zoning Text Amendments]**

A city council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of appointed boards [the Planning Board] providing advice to the city council shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.”

(Therefore, the following will be written above that portion of any agenda of a City Council meeting or of a Planning Board meeting in which a vote is to be taken concerning any zoning map or text amendment:

“No member shall vote regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. If any member of this body knows of any such disqualifying impact, they should declare the same before discussions proceed on the respective matter and said

member shall refrain from voting on the matter where any such impact is present.”)

c. **“G.S. § 160A-388(e1). [Voting by Board of Adjustment]**

A member of the board or any other body exercising quasi-judicial functions shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.”

(Therefore, the following will be written above that portion of any agenda of a Board of Adjustment meeting in which a vote is to be taken on any zoning or quasi-judicial matter:

“No member shall participate or vote regarding any zoning or quasi-judicial matter that would violate any affected person’s constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If any member of this body knows of any such impermissible conflict, they should declare the same before discussions proceed on the respective matter. Moreover, any ex parte communications (occurring outside of the public hearing herein conducted) by any member should be disclosed at this time.”)

d. **“G.S. § 14-234. Public officers or employees benefiting from public contracts; exceptions.**

(a)(1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.

(2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

(3) No public officer or employee may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.

(a1) For purposes of this section:

- (1) As used in this section, the term “public officer” means an individual who is elected or appointed to serve or represent a public agency, other than an employee or independent contract of a public agency.
- (2) A public officer or employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract.
- (3) A public officer or employee is involved in making a contract if he or she participates in the development of specifications or terms or in the preparation or award of the contract. A public officer is also involved in making a contract if the board, commission, or other body of which he or she is a member takes actions on the contract, whether or not the public officer actually participates in that action, unless the contract is approved under an exception to this section under which the public office is allowed to benefit and is prohibited from voting.
- (4) A public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or other interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract.
- (5) A public officer or employee is not involved in making or administering a contract solely because of the performance of ministerial duties related to the contract.

(b) Subdivision (a)(1) of this section does not apply to any of the following:

- (1) Any contract between a public agency and a bank, banking institution, savings and loan association, or with a public utility regulated under the provisions of Chapter 62 of the General Statutes.
- (2) An interest in property conveyed by an officer or employee of a public agency under a judgment, including a consent judgment, entered by a superior court judge in a condemnation proceeding initiated by the public agency.
- (3) Any employment relationship between a public agency and the spouse of a public officer of the agency.
- (4) Remuneration from a public agency for services, facilities, or supplies furnished directly to needy individuals by a public officer or employee of the agency under any program of direct public assistance being rendered under the laws of this State or the United States to needy persons administered in whole or in part by the agency if: (i) the programs of public assistance to needy person are open to general participation on a nondiscriminatory basis to the practitioners of any given profession, professions or occupation; (ii) neither the agency nor any of its employees or agents, have control over who, among licensed or qualified providers, shall be selected by the beneficiaries of the assistance; (iii) the remuneration for the services, facilities or supplies are in the same amount as would be paid to any other provider; and (iv) although the public officer or employee may participate in

making determinations of eligibility of needy persons to receive the assistance, he or she takes no part in approving his or her own bill or claim for remuneration.

(b1) No public officer who will derive a direct benefit from a contract entered into under subsection (b) of this section may deliberate or vote on the contract or attempt to influence any other person who is involved in making or administering the contract.”

...”

e. **“G.S. § 14-234.1. Misuse of confidential information.**

(a) It is unlawful for any officer or employee of the State or an officer or an employee of any of its political subdivisions, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information which was made known to him in his official capacity and which has not been made public, to commit any of the following acts:

- (1) Acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or official action; or
- (2) Intentionally aid another to do any of the above acts.

(b) Violation of this section is a Class 1 misdemeanor.”

f. **“G.S. § 133-32. Gifts and favors regulated [with “governmental agency” being specifically defined in G.S. § 133-23 to include “municipal corporation”].**

(a) It shall be unlawful for any contractor, subcontractor, or supplier who:

- (1) Has a contract with a governmental agency; or
- (2) Has performed under such a contract within the past year; or
- (3) Anticipates bidding on such a contract in the future to make gifts; or

to give favors to any officer or employee of a governmental agency who is charged with the duty of:

- (1) Preparing plans, specifications, or estimates for public contract; or
- (2) Awarding or administering public contracts; or
- (3) Inspecting or supervising construction.

It shall also be unlawful for any officer or employee of a governmental agency who is charged with the duty of:

- (1) Preparing plans, specifications, or estimates for public contract; or
- (2) Awarding or administering public contracts; or
- (3) Inspecting or supervising construction.

It shall be unlawful for any officer or employee of a governmental agency who is charged with the duty of:

- (1) Preparing plans, specifications, or estimates for public contracts; or
- (2) Awarding or administering public contracts; or
- (3) Inspecting or supervising construction willfully to receive or accept any such gift or favor.

(b) A violation of subsection (a) shall be a Class 1 misdemeanor.

(c) Gifts or favors made unlawful by this section shall not be allowed as a deduction for North Carolina tax purposes by any contractor, subcontractor or supplier or officers or employees thereof.

(d) This section is not intended to prevent the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting. This section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the donee to the agency head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.”

g. **“§ 160A-168. Privacy of employee personnel records.**

(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files of employees, former employees, or applicants for employment maintained by a city are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the city with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, "employee" includes former employees of the city.

(b) The following information with respect to each city employee is a matter of public record:

- (1) Name.
- (2) Age.

- (3) Date of original employment or appointment to the service.
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or a record of the oral contract in its possession.
- (5) Current position.
- (6) Title.
- (7) Current salary.
- (8) Date and amount of each increase or decrease in salary with that municipality.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that municipality.
- (10) Date and general description of the reasons for each promotion with that municipality.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The city council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the city council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in a city employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

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

(4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

(5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

(6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

(7) The city manager, with concurrence of the council, or, in cities not having a manager, the council may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action. Before releasing the information, the manager or council shall determine in writing that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written determination shall be retained in the office of the manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file.

(c1) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

(1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the city's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.

(2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

(3) Information that might identify an undercover law enforcement officer or a law enforcement informer.

(4) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel

decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(c2) The city council may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the city as long as each personnel file examined is retained.

(c3) Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees.

(d) The city council of a city that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not more than five hundred dollars (\$500.00).

(f) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars (\$500.00).”

h. “G.S. § 160A-169. City employee political activity.

(a) Purpose. The purpose of this section is to ensure that city employees are not subjected to political or partisan coercion while performing their job duties, to ensure that employees are not restricted from political activities while off duty, and to ensure that public funds are not used for political or partisan activities.

It is not the purpose of this section to allow infringement upon the rights of employees to engage in free speech and free association. Every city employee has a civic responsibility to support good government by every available means and in every

appropriate manner. Employees shall not be restricted from affiliating with civic organizations of a partisan or political nature, nor shall employees, while off duty, be restricted from attending political meetings, or advocating and supporting the principles or policies of civic or political organizations, or supporting partisan or nonpartisan candidates of their choice in accordance with the Constitution and laws of the State and the Constitution and laws of the United States of America.

(b) Definitions. For the purposes of this section:

- (1) "City employee" or "employee" means any person employed by a city or any department or program thereof that is supported, in whole or in part, by city funds;
- (2) "On duty" means that time period when an employee is engaged in the duties of his or her employment; and
- (3) "Workplace" means any place where an employee engages in his or her job duties.

(c) No employee while on duty or in the workplace may:

- (1) Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for political office; or
- (2) Coerce, solicit, or compel contributions for political or partisan purposes by another employee.

(d) No employee may be required as a duty or condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes.

(e) No employee may use city funds, supplies, or equipment for partisan purposes, or for political purposes except where such political uses are otherwise permitted by law.

(f) To the extent that this section conflicts with the provisions of any local act, city charter, local ordinance, resolution, or policy, this section prevails to the extent of the conflict."

(10) **Confidential Information.** Consistent with North Carolina General Statute 14-234.a, no Council member may, without prior formal authorization of the full Council, disclose any confidential information concerning any other official or employee, or any other person, or any property or governmental affairs of the City. Whether or not it shall involve disclosure, no Council member may use or permit the use of any such confidential information to advance the financial or personal interest of him/herself or any other person.

(11) **Censure Procedures.** If a majority of the Council has reason to believe that one of its members has violated a provision of this Code of Ethics, Council may cause an investigation into the matter to determine whether probable cause exists to initiate censure proceedings against the member. To the extent permitted by law, all information compiled, including the grounds for any finding of probable cause, shall be shared with the affected member when it is received. The North Carolina Public Records Statutes shall be applicable to any such proceedings. In connection with any such official action, the affected Council Member shall have notice and an opportunity to be heard. If upon

investigation the Council concludes that a violation of a criminal law may have occurred, Council shall direct the City Attorney to refer the matter to an appropriate law enforcement agency or official.”

Section 2. The foregoing Ordinance shall be in full force and effect from and after the date of its passage.

The foregoing Ordinance 14—52, upon motion of Council Member ** and second by Council Member **, and having been submitted to a roll call vote received the following votes and was ***** on this the *** day of ***** 2014: YES: . NO: . ABSTAIN: . ABSENT: .

James D. O’Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

*Reference: Minute Book 44, pp. **: CAF 14-09*



HENDERSON POLICE DEPARTMENT

Marcus Barrow
Chief of Police



200 Breckenridge Street
Henderson, NC 27536
Phone: 252-438-4141
Fax: 252-438-7311

INTER-OFFICE MEMORANDUM

TO: Mr. Ray Griffin, Jr., City Manager

FROM: Marcus W. Barrow, Chief of Police 

DATE: 10/6/2014

SUBJECT: REPORT ON YOUTH PROTECTION ORDINANCE

Please find attached with this memo a report for the review of the City Council regarding the Henderson Police Department's activity and use of the City's Youth Protection Ordinance (Henderson City Code Section 10-51).

The Police Department has been extremely careful in its use of this ordinance so as to protect the civil rights of minors as well as to prevent enforcement of this ordinance as being seen as a general "curfew" which is much more restrictive in nature. The wording of this ordinance leaves several sections open for interpretation. We have worked to train officers to use one on one communication with persons of all ages in order to make communities safer. We use this Ordinance as a tool to deal with juveniles and to work with parents and guardians to keep minors under the age of 16 safe and out of problem areas voluntarily whenever possible.

Also included with the report is a copy of the agency's Youth Protection Ordinance informational pamphlet. Officers provide these at public events, during informational displays, in the Police Department front lobby and officers have them to pass out when needed to explain to citizens how the Ordinance works and what our enforcement authority under the Ordinance consists of. We also regularly provide these at Community Watch meetings so that members of watches (who are familiar with the ages of children in communities) can notify the Police Department if minors are seen in violation of the Ordinance.

If any additional information is needed by the Council please let me know. Thank you.

CC: Captain S.T. Vaughn
CALEA Files

An Internationally Accredited Law Enforcement Agency

**HENDERSON POLICE DEPARTMENT
YOUTH PROTECTION ORDINANCE REPORT TO
THE HENDERSON CITY COUNCIL
COUNCIL WORK SESSION MONDAY OCTOBER 27, 2014**

MARCUS W. BARROW, CHIEF OF POLICE

Ordinance History

The Youth Protection Ordinance went into effect on April 2, 2007 to address problems such as vandalism, larcenies, break-ins, making loud noises, and trespassing committed by youths less than 16 years of age and without adult supervision, and to hold parents accountable for the children's actions, and to protect the youth from improper influences and undesirable activities that occur after certain hours of the night. Those protected under the ordinance are from age 15 and below. The restricted time covered under this ordinance is Sunday through Thursday nights from 10:00 p.m. until 5:00 a.m., and on Friday and Saturday nights from 11:00 p.m. to 5:00 a.m.

Upon encountering an individual during covered times who appears to be subject to the provisions of the ordinance, an officer gathers identifying information from the individual including: name, age, originating location, destination, and whereabouts of parent or legal person in charge. If violation of the ordinance is discovered through these encounters, the violation is documented by use of a departmental incident report.

HPD Agency Juvenile Training

As part of the Police Department's Juvenile Minority Sensitivity Training (JMST) conducted annually under the State's Mandatory In-Service Training, officers of the Henderson Police Department not only review changes made to juvenile laws and techniques used to better understand juvenile behavior, but review the department's guidelines on juvenile enforcement and the City's Youth Protection Ordinance.

Investigators also work cases referred to by the Vance County Department of Social Services and these investigations are ongoing. Officers work very closely with Jennifer Short, the director of the Juvenile Court Counseling Office in Vance County and Ellis Bagby, the Office's intake officer. It is also mandatory for Officers of the Henderson Police Department to receive Crisis Intervention Training (CIT) as a part of the Career Development Program.

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Juvenile Activity 2013-2014

Between 10/01/2013 and 09/28/2014 there have been **227** incidents reported where either the victim of a crime or the suspect in a crime were Juveniles (under the age of 16). Of those incidents:

- There were **only 13 juvenile contacts (5%)** where a juvenile was a suspect in an offense or an incident that occurred during the hours covered by the Youth Protection Ordinance.
- In cases where Juveniles were identified as victims, the juveniles were generally in the company of a family member or at or near their home or were the victims of crimes against family or missing/runaways.
- **There were four (4) incidents where juveniles were identified and returned to the custody of their parents or guardians for violation of the Juvenile Protection Ordinance in which no other juvenile status offenses or violations occurred.**
- The majority of other Juvenile Contacts during the hours of the Juvenile Protection ordinances, where Juveniles were not victims, were Involuntary Commitment services. *In October of 2013 alone there were five (5) separate juveniles served Involuntary Commitment papers and monitored by the Police Department at MPMC in a one-week period.*
- The primary times for incidents involving Juveniles to be reported are from **3:30 PM to 7:00 PM.**

Summary

The officers of the Henderson Police Department do use the Youth Protection Ordinance as a tool through which to engage young people in the community that are out at night (asking about ages, etc.). When officers find that juveniles affected by the ordinance are in violation of it they do take action. Generally, once a juvenile has been contacted about the ordinance then repeat contacts are not generally noted. Officers are trained to be extremely aware that under the law a juvenile has the same civil rights protection under the NC and United States Constitution as an adult (as determined by the US Supreme Court in 1967).

Officers engaging in a consensual conversation with a juvenile must be able to articulate probable cause for detaining the juvenile under the Ordinance (or any other criminal law or juvenile offense). As an agency we have also worked to provide information on the Ordinance to the public and to educate them as to the difference between the Youth Protection Ordinance and a "curfew". Since the Youth Protection Ordinance outlines in detail the exceptions to the ordinance and the ability for juveniles to be away from their primary residence with parents, guardians, family members, etc. the term "curfew" is not an accurate description.

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Citizens have also expressed concerns to officers that groups of young people are out after the hours of the ordinance. In many of these cases officers have found that the persons involved are either over the age of 16 or that any persons under the age of 16 are being accompanied by an older family member within the guidelines of the Ordinance. Other calls received have been investigated and the juveniles were found to be outside but at the residence at which they live or with adults which is also outside of the guidelines of the Ordinance.

Our review shows that the primary time that juveniles are found to be either victimized outside of the home or engaged in activities that would be considered criminal if they were adults is from the time that schools let out for the day and the early evening. Other juveniles contacted after the hours of the Ordinance were found to be engaged in activity that was either criminal or a juvenile status offense (such as "Undisciplined Juvenile") for which officers referred the juvenile to the Juvenile Court Counselor or obtained a Juvenile Petition.

Enforcement For Violations

If the Minor is a first offender, he/she will be issued a written warning and taken to the residence of his/her Parent or Guardian if they reside within Vance County. If the Minor resides outside of Vance County, his/her Parents will be called to request the Minor be picked up at the Henderson Police Station. This written warning will be recorded in the police department computer system with a copy of this report maintained in the confidential juvenile records of the Henderson Police Department.

If said Minor is found to be in violation of this section for the second time within any 24 month period, the Minor and his Parent(s) will be required to perform 12 total hours of Community Service by reporting to Youth Services for determining when and where the Community Service will be performed. Such service shall be performed by the Minor and his/her Parent(s) within 30 calendar days of the date of the violation. In addition, the Parents and the Minor will be required to enroll in (and pay for) parenting classes at the Vance County Extension Office (referred to as the Vance County Parenting Task Force). A certificate of completion of both the Community Service and the parenting classes will be required. Failure to timely comply with any portion of this sub-section is unlawful and shall result in the issuance of a summons for the Parents to appear in Court.

If said Minor is found to be in violation of this section for the third time within any 24 month period, the Minor will interview with a juvenile court counselor, take a tour of the Vance County Jail, and without expense to the City take a class (approved by the chief of police or his designee) on problem solving, leadership and/or anger management. All of this shall be accomplished within a period of 30 calendar days of the date of the violation, and shall be evidenced by written documentation of compliance. Failure to comply with any portion of this subsection shall result in the issuance of a juvenile petition and appearance in juvenile court.

If said Minor is found to be in violation of this section for the fourth (and each and every subsequent) time within any 24 month period, the Minor's parents will be required to pay to the Finance Director or his/her designee the sum of \$100.00 in reimbursement of the City's past and existing expenses in enforcing this Ordinance relative to said Minor. Failure to pay this charge within two (2) weeks will result in the issuance of a juvenile petition and appearance in juvenile court.

Nothing herein shall be construed to prevent any Minor from being charged or issued appropriate citations or petitions whenever there are aggravating circumstances or evidence that a crime (other than a mere violation of this section) has been committed.

Penalties

A Minor who violates any provision of this section which provides for the issuance of a juvenile petition or appearance in juvenile court is subject to being adjudicated delinquent. The Court may, in its discretion, impose any dispositional alternatives that are provided in the State Juvenile Code for any Minor who is delinquent.

Unless another remedy is otherwise specifically provided herein, any person other than a Minor who violates any provision of this section shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$100.00 and imprisonment in the discretion of the Court in accordance with G.S. §14-4."

Henderson Police Department Mission Statement

Through a partnership between police and community, we are dedicated to providing residents and visitors to the City of Henderson with a safe environment an exemplary police service. We are dedicated to providing a quality work atmosphere and developing our members through effective, timely training and progressive leadership. Through positive interaction with our neighbors, we will work to protect people and property in our community.

Henderson Police Department

200 Breckenridge Street
Henderson, NC 27536

Phone: (252)438-4141
Fax: (252)438-7311

Henderson Police Department

Youth Protection Ordinance



Building Better Communities
One Child At A Time

Youth Protection Ordinance Purpose

The purpose of this Youth Protection Ordinance is to protect juveniles from victimization and exposure to unlawful activity by establishing an ordinance for the protection of minors under the age of 16 years in the City of Henderson. The Youth Protection Ordinance is intended to promote health, safety and welfare of both minors and adults by creating an environment providing better protection and security for all concerned. A further purpose of this ordinance is to protect minors from improper influences and undesirable activity that occurs after the hours set forth in the ordinance.

Youth Protection
Ordinance Effective
April 1, 2007

Section 10-51

Restricted Hours

The time of night referred to in this article is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings time, generally observed at the hour by the public in the city. Restricted hours mean:

- On any Sunday, Monday, Tuesday, Wednesday or Thursday, 10:00 p.m. until 5:00 a.m. of the following day; and
- On any Friday or Saturday, 11:00 p.m. until 5:00 a.m. of the following day.

Exceptions

A Minor who is in a public place or Establishment during the Restricted Hours shall not be in violation of this section if the Minor is:

Accompanied by his Parent or Guardian.

Accompanied by an adult 18 years of age or older specifically authorized by the Parent or Guardian of such Minor to take the Parent's or Guardian's place in accompanying the Minor for a designated period of time and purpose within a specified area.

On a specific designated errand, using a direct route, at the direction of the Minor's Parent or Guardian prior to the hour of 12:00 midnight.

In a motor vehicle with Parental consent engaged in interstate travel through the City or originating or terminating in the City Limits.

Traveling in a motor vehicle with a Parent or Guardian, or traveling in a motor vehicle with an adult 18 years of age or older authorized by the Parent or Guardian of such Minor to take the Parent's or Guardian's place in accompanying the Minor for a designated period of time and purpose within a specified area.

Engaged in a lawful employment activity, or using a direct route to or from a place of employment.

Reacting or responding to an Emergency.

Attending or traveling (accompanied or traveling in accordance with the other exceptions herein) to or from, by direct route, an official school, religious, or recreational activity that is supervised by adults and sponsored by a public or private school, the city or other governmental entity, a civic organization, a recognized public entertainment establishment, or another similar entity that accepts responsibility for the Minor.

Exercising First Amendment rights protected by the United States Constitution.

Married or emancipated.

When authorized, by special permit from the chief of police or his designee.

When authorized, by regulation issued by the chief of police or his designee.

Who does this ordinance affect ?

Responsibility of Minor - It is unlawful for any Minor to be in or upon, or remain in or upon, an Establishment or a public place within the City Limits during the Restricted Hours as defined herein.

Responsibility of Adults - It is unlawful for any Parent, Guardian or other person charged with the care and custody of any Minor to knowingly allow or permit (including by insufficient control) such Minor to be in or upon, or remain in or upon, an Establishment or public place within the City Limits during the Restricted Hours as defined herein. The term "knowingly" includes knowledge that a Parent should reasonably be expected to have concerning the whereabouts of a Minor in that Parent's legal custody. This requirement is intended to hold a neglectful or careless Parent (or person acting in the place of a Parent) up to a reasonable community standard of parental responsibility through an objective test. It shall,

therefore, be no defense that a Parent was completely indifferent to the activities or conduct or whereabouts of such Minor.

Responsibility of Business Establishments - It is unlawful for any person operating an Establishment within the City Limits to knowingly allow or permit any Minor to be in or upon, or to remain in or upon any such Establishment within the Restricted Hours (as defined herein) in violation of this section. The term "knowingly" includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an Establishment. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's or employee's position should have known that the patron was a Minor in violation of this section. It shall be a defense that the owner, operator, or employee of an Establishment promptly notified the police department that the Minor was present on the premises of the Establishment during the Restricted Hours and refused to leave.

City Council Memo

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 Oct 14 Work Session

10 October 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr. City Manager

RE: **CM: 14-28-B**

Subject: Installation of Water Spray Park

Ladies and Gentlemen:

At Council's request the Henderson/Vance Recreation and Parks Commission discussed the possibility of establishing a Water Spray Park. The commissioners expressed many concerns as follows.

- 1) Their main topic of concern was the location of a Water Spray Park. The consensus was that if a Water Spray Park is established that it should be constructed at the Aycock Recreational Complex as it would ease the supervision of this facility versus a stand-alone facility located somewhere within the city. They felt it would be the logical choice due to the proximity of the Pool and the fact that there are Certified Pool Operators already located at the Aycock Recreation Center which would help with operating and maintenance cost. Another concern in this regard was the fact that the facility would be more open to vandalism if placed somewhere other than the Aycock Center.
- 2) This item is not a high priority in the Comprehensive Master Plan that was just completed and that other facilities are more urgently needed.
- 3) There was also a consensus however, that if the funds were available to build a Water Spray Park, the Commission would not be opposed to doing so, keeping in mind that we need to build one large enough to meet the patrons expectations and make it a viable expense.

City Council Memo

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 Oct 14 Work Session

30 September 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

**RE: CM: 14-34:
Chavasse Avenue and Beckford Drive Widening Projects Update**

Ladies and Gentlemen

Chavasse Avenue:

The executed and recorded Right-of-Ways were sent to NCDOT on 29 July 2014. There was a modification to the plans by the State which now require one right-of-way to be re-signed and recorded due to the amount of the permanent easement being increased. The other three easements only involve temporary construction easement increases or revisions so these approvals can be obtained by letter.

It was anticipated that the project be bid in October/November, 2014, however recent discussions with the NCDOT personnel indicate that due to not wanting to start a project heading into the winter, it would be best that the bidding would take place in early spring of 2015, subject to funding approval by the NCDOT and the City.

Beckford Drive Widening:

As directed by the City Council to proceed with the condemnation process, staff has been working with Poyner and Spruill Attorney Jep Rose in providing the documentation required for the condemnation process. The notice of the condemnation was received by the property owner on 25 June 2014 and other items including a metes and bounds description was completed at a later date. Mr. Rose has spoken with the landowner's attorney regarding concerns of the property owner and resolution of the right of way agreement is forthcoming.

Staff has also been working on renewing various permits which had expired due to the length of time that has elapsed since the original plans were designed and permitted.

City Council Memo

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 Oct 14 Work Session

8 October 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: CM: 14-35

Subject: LED Street Light Change Out

Ladies and Gentlemen

Contractors for Duke Energy-Progress are scheduled to start converting all of the mercury vapor streetlights as well as all other lights that have been in place for 20 years or more to LED fixtures on Monday, 13 October 2014. There will be several bucket trucks working throughout the area and there could be some mixture of lights (old versus new) left in an area if they are less than 20 years old.

There is a \$50 charge to change each light that has been in place for less than 20 years, but this is an option for the City to consider. There will be approximately 220 remaining fixtures that are not planned to be replaced at this time. Further analysis can be performed to see how long it would take to recoup the charge and the immediate budgetary impact. It is estimated that approximately 1,780 to 1,800 fixtures will be changed out now and it is not known exactly how long it will take to complete this work.

City Council Memo

Office of City Manager
P. O. Box 1434
Henderson, NC 27536
252.430.5701



Agenda Item: _____

Council Meeting: 27 Oct 14 Work Session

21 October 2014

TO: The Honorable Mayor James D. O'Geary and Members of City Council

FR: A. Ray Griffin, Jr., City Manager

RE: **CM: 14-36**

Update of NCDOT's request for temporary (60-90 days) and long term (5-10 month) ramp closures in Conjunction with Improvements to I-85 (I-0914BA)

Ladies and Gentlemen:

Council Retreat Goals Addressed By This Item:

- KSO 5: Provide Reliable, Dependable Infrastructure.

Executive Summary:

The North Carolina Department of Transportation (NCDOT) is completing the plans and design for major improvements to the north and south bound lanes of I-85, starting from just east of Andrews Avenue, for a distance of approximately ten (10) miles. Included in this project will be replacement of the bridge at Andrews Avenue and I-85, as well as other bridge rehabilitation work at Parham Road, Spring Valley and Satterwhite Point Road.

Several meetings have been held to discuss potential impacts to the Henderson area and a meeting was held on 28 August 2014 and 14 October 2014 with City of Henderson personnel as well as Jordan McMillan and Vance County personnel, to discuss the project. But particularly to discuss a limited number of potential closing of the ramps on the I-0914BA project for the entire phase of construction rather than maintaining exit ramp access via crossover alignments. If ramp access is maintained during the construction period each ramp closure will only last 60 to 90 days to construct the ramp itself. According to NCDOT, closure of multiple ramps would reduce the number of conflict points merging with I-85 traffic and the amount of work the contractor would need to do to maintain the ramps could potentially prolong the construction of the project and would require additional lane closures on I-85 to construct multiple temporary crossover alignments for each on/off ramp.

Both the City and County relayed multiple safety concerns and we believe that many of these concerns can be adequately addressed during the construction period. However, it is felt that the long term ramp closures of all ramps would have a negative impact on the local businesses which rely heavily on I-85 exits to maintain viability. But the following long term closures would improve safety and traffic movements in the project corridor; long term closure of on and off ramps to US 1 during Phase 2 (Jan 2015-Nov 2015), long term closure of Hwy 158 north bound on-ramp during phase 3 (Jan 2016 to Nov 2016) north bound traffic would be routed back to Ruin Creek Road during this closure period, long term closure of Hwy 39 north bound on ramp during phase 3 north bound traffic would be routed to Parham Road via Beckford Drive, long term closure(5 month periods each) of North bound on ramps from Parham Road and Satterwhite Point Road during phase 3.

Resolution 14-73 was approved by City Council and a letter was sent to NCDOT relaying Council's concerns to insure that NCDOT and its designers adequately address safety concerns as well as minimize any negative effects it may have on its citizens and the local economy.

City Staff felt the last meeting with NCDOT produced the following improvements:

1. Closure of the north bound on-ramp to I-85 from Hwy 158 during Phase 2. The closure will eliminate congestion of traffic with respect to cars merging in off Hwy 158 and cars exiting at Parham Road in the same small stretch of I-85.
2. Closure of north bound on-ramp to I-85 from Hwy 39 during Phase 2. The left turn movement onto I-85 off Hwy 39 could potentially cause congestion since this bridge is schedule to be replaced during this phase of construction.
3. Sequential closures of 5 months each for north bound on ramps to I-85 at Parham Road and Satterwhite Point Road.
4. Closure of south bound on ramp to I-85 from Parham Road from the bridge is not required since the existing on ramp from Warrenton Road will improve traffic flow with one on-ramp during construction and reduce congestion.

Staff also requested that the following additional measures be implemented for safety on I-85 and on Henderson's streets via detours:

1. Chief Barrow requested additional signage and message boards be installed in the traffic zone to address emergencies ahead and to request motorists to move their cars off I-85 and out of the construction corridor. Cars parked on the shoulder will produce on looker delays and potential traffic incidents in the work zone.
2. City Engineer Thomas Requested that NCDOT reverse flow on Hwy 158 north bound on ramp to a south bound off-ramp during phase 3 to permit south bound traffic the opportunity to exit into this commercial corridor of Henderson.
3. City Engineer Thomas requested NCDOT also add protected lefts on the intersection of Beckford Drive-Graham Avenue and Dabney Drive.

Enclosure:

1. Resolution 14-73
2. Traffic Patterns during each phase and ramp closure

RESOLUTION 14-73

RELAYING CONCERNS RELATIVE TO THE CLOSING OF RAMPS IN CONJUNCTION WITH IMPROVEMENTS TO I-85 (I-0914BA)

WHEREAS, the Henderson City Council (Council) conducted its Annual Planning Retreat in February 2014 and during said Retreat identified eight Key Strategic Objectives (KSO) and Goals; *and*

WHEREAS, this Resolution addresses **KSO 5: Provide Reliable, Dependable Infrastructure**; *and*

WHEREAS, the North Carolina Department of Transportation (NCDOT) is completing planning and design for major improvement to the north and south bound lanes of I-85 from just west of Andrews Avenue and extending approximately ten (10) miles including bridge improvements; *and*

WHEREAS, NCDOT staff and its Engineers have asked the City for input relative to closing of ramps during the entire construction phase rather than maintaining access via crossover alignments; *and*

WHEREAS, NCDOT has stated that the closure of multiple ramps could reduce the number of conflict points merging with I-85 traffic; *and*

WHEREAS, the City has expressed concern about the impacts to the local economy as well as potential impacts to businesses which rely heavily on traffic entering and exiting I-85 interchanges with Andrews Avenue, Parham Road as well as others; *and*

WHEREAS, it is the desire of the City Council that during the construction of the I-85 improvements the project be designed in a manner that provides safety to the traveling public as well as have minimum negative impact on the economy and businesses of the City of Henderson as surrounding area.

NOW, THEREFORE BE IT RESOLVED BY THE HENDERSON CITY COUNCIL THAT IT DOES HEREBY NOT SUPPORT the closing of ramps over the entire construction phase of I-85 improvements which would have negative impacts on the businesses and the City of Henderson as well as the surrounding area.

The foregoing Resolution 14-73, upon motion of Council Member Kearney and second by Council Member Peace-Jenkins, and having been submitted to a roll call vote received the following votes and was APPROVED on this the 8th day of September 2014: YES: Rainey, Peace-Jenkins, Daye, Kearney and Coffey. NO: None. ABSTAIN: None. ABSENT: Inscoc, Daeke and Simmons.

James D. O'Geary, Mayor

ATTEST:

Esther J. McCrackin, City Clerk

Approved to Legal Form:

John H. Zollicoffer, Jr., City Attorney

Reference: Minute Book 43, p 316, CAF 14-102



