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**Title:** Title 3 HUMAN RESOURCES - For the purpose of rewriting and revising certain sections of Title 3, Human Resources; to simplify and reorganize that Title for ease of use, to clarify processes, to remove obsolete language, to include substantive changes; and matters generally relating to Title 3.

**Sponsors:** Michael J. Pantelides

**Indexes:** Civil Service Board, Rules and City Government Committee

**Code sections:**

**Attachments:** 1. O-31-15 Title 3.pdf, 2. O-31-15 Staff Report.pdf, 3. O-31-15 Fiscal Impact.pdf, 4. O-31-15 Rules Proposed Amendments.pdf, 5. O-31-15 Signed.pdf

Date	Ver.	Action By	Action	Result
7/27/2015	1	City Council	adopt on second reader	Pass
7/27/2015	1	City Council	consider	Pass
7/27/2015	1	City Council	amendment(s) approved	Pass
7/27/2015	1	City Council	amendment(s) approved	Pass
7/27/2015	1	City Council	adopt as amended	Pass
7/27/2015	1	City Council	amended	Pass
7/27/2015	1	City Council	adopt on third reader	Pass
7/22/2015	1	Rules and City Government Committee	recommend with amendments	Pass
7/13/2015	1	City Council		
6/15/2015	1	City Council	adopt on first reader	Pass
6/15/2015	1	City Council	refer to Annapolis Education Commission	
6/15/2015	1	City Council	refer to Annapolis Education Commission	

**Title 3 HUMAN RESOURCES** - For the purpose of rewriting and revising certain sections of Title 3, Human Resources; to simplify and reorganize that Title for ease of use, to clarify processes, to remove obsolete language, to include substantive changes; and matters generally relating to Title 3.

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance 31-15**

**Sponsored by: Mayor Pantelides**

**Referred to**

Rules and City Government  
Civil Service Board

**AN ORDINANCE** concerning

**Title 3 HUMAN RESOURCES**

**FOR** the purpose of rewriting and revising certain sections of Title 3, Human Resources; to simplify and reorganize that Title for ease of use, to clarify processes, to remove obsolete language, to include substantive changes; and matters generally relating to Title 3.

**BY** repealing the following portions of the Code of the City of Annapolis, 2014 Edition  
Section 3.08.060  
Section 3.16.160

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2014 Edition

Section 3.04.010  
Section 3.04.020  
Section 3.08.010  
Section 3.08.020  
Section 3.08.030  
Section 3.08.040  
Section 3.08.050  
Section 3.08.070  
Section 3.10.010  
Section 3.10.020  
Section 3.10.030  
Section 3.12.010  
Section 3.12.020  
Section 3.12.030  
Section 3.12.040  
Section 3.12.050  
Section 3.12.070  
Section 3.16.010  
Section 3.16.020  
Section 3.16.030  
Section 3.16.035  
Section 3.16.040  
Section 3.16.050  
Section 3.16.060  
Section 3.16.070  
Section 3.16.090  
Section 3.16.120  
Section 3.16.130  
Section 3.16.140  
Section 3.16.150  
Section 3.20.010  
Section 3.20.020

Section 3.20.030  
Section 3.20.060  
Section 3.20.070  
Section 3.20.080  
Section 3.20.090  
Section 3.20.100  
Section 3.20.110  
Section 3.20.120  
Section 3.20.130  
Section 3.20.140  
Section 3.24.010  
Section 3.24.020  
Section 3.24.030  
Section 3.24.040  
Section 3.24.060  
Chapter 3.28  
Section 3.32.020  
Section 3.32.050  
Section 3.40.010  
Section 3.40.020  
Section 3.40.030  
Section 3.40.040

**SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

**Title 3 - HUMAN RESOURCES**

**Chapter 3.04 - GENERAL PROVISIONS**

**Section: 3.04.010 - Definitions.**

For the purposes of this title, the following words and phrases have the meanings indicated:

"Anniversary date," also known as "review date" or "increment date," means that date on which aN permanent employee is eligible to receive an in-grade pay increase, normally twelve months from the date of hire and each twelve months thereafter. This date may only be changed by awarding an in-grade pay increase later than the date it is due.

"Appointing authority" means:

1. The Mayor, for ~~the director of each department and~~ positions assigned to the office of the Mayor.

2. ~~AND THE CITY MANAGER, WITH THE APPROVAL OF THE MAYOR,~~ FOR THE DIRECTOR OF EACH DEPARTMENT.

23. The director of each department, for positions assigned to that department.

"Appointment list" means a list containing the names of qualified applicants for a particular position WHICH MAY BE ranked on the basis of one or more of the following: applicant's qualifications, competitive examination score(S) and personal interview.

"Civil Service" means the system which includes the regulations and procedures prescribed in and promulgated under the authority of this chapter, the Civil Service Board, the job descriptions, the pay plan and all of the employees who are included in the system.

"Classification" means the process of reviewing the duties and responsibilities of a position or positions and incorporating these duties and responsibilities into a job description.

~~“DEMOTION” MEANS THE VOLUNTARY OR INVOLUNTARY MOVEMENT OF AN EMPLOYEE FROM A PAY GRADE TO A LOWER PAY GRADE. DEMOTION MAY BE VOLUNTARY OR INVOLUNTARY.~~

"Employee" means the person employed to perform the work of a position.

~~“EXEMPT SERVICE” MEANS POSITIONS WHICH ARE APPOINTED BY THE MAYOR, CITY MANAGER OR A DEPARTMENT DIRECTOR DESIGNATED BY THE CITY COUNCIL WHICH ARE SPECIFICALLY NOT INCLUDED IN THE CIVIL SERVICE OR OTHER EXCLUDED SERVICE. SEE 3.08 FOR A LIST.~~

"Job description" means a written explanation of one position or of several very similar positions which always includes a title, a general definition of responsibilities, a list of typical duties and the minimum required qualifications.

"Other excluded service" includes ~~members of boards, commissions and committees; consultants and~~ other persons rendering temporary service under contract; and positions involving seasonal or part-time employment except those specifically placed in the civil service system by the City Council ~~upon recommendation of the Civil Service Board~~ OR THOSE CLASSIFIED DESIGNATED AS EXEMPT SERVICE BY THE CITY COUNCIL. Any positions not included in the civil service or the exempt service are considered to be "other excluded service."

"Pay plan" means the written chart which places every job description in a pay grade. Each pay grade consists of a maximum and minimum level and intermediate levels of pay.

"Permanent status" means the status given to a civil service employee who has successfully completed the **INITIAL** probationary period, **OR ANY EXTENSION OF AN INITIAL PROBATIONARY PERIOD.**

"Position" means a group of duties and responsibilities assigned to ~~one~~**AN** employee. A position can be vacant or occupied.

"Probationary status" means the status given to a new, **A TRANSFERRED** or a promoted civil service employee for the designated period during which the employee must initially demonstrate an ability to perform the duties of the position to which appointed.

"Promotion" means the movement of a civil service employee from one pay grade to a higher pay grade.

"Reclassification" means the process of reviewing the duties and responsibilities of an existing position or positions in order to revise the job description to which the position or positions are assigned; or moving a job description from one pay grade to another pay grade.

"Transfer" means the movement of a civil service employee from one position to another in the same pay grade.

**3.04.020 - Exempt and civil service-~~Charter unaffected~~OR OTHER EXCLUDED SERVICE.**

All positions are included in ~~either~~ the exempt service, ~~or~~ the civil service, ~~OR OTHER EXCLUDED SERVICE.~~ (Nothing in this title shall contravene or supersede the Charter WITH RESPECT TO SUCH POSITIONS).

**Chapter 3.08 - EXEMPT SERVICE**

**Sections: 3.08.010 - Positions included.**

The exempt service includes:

1. All the elected officials;
2. All department directors;
3. City Manager;
4. Communications Officer;
5. City Attorney;
6. Assistant City Attorney;

- 7. Community Relations Specialist;
- 8. Human Services Officer and Ombudsman;
- 9. Administrative Assistant;
- 10. Assistant City Manager;
- 11. Public Information Officer and Quartermaster
- 12. Executive Office Associate;
- 13. Recruitment/Employee Relations Administrator;
- 14. Deputy Fire Chiefs; and
- 15. Police Major and Captains.

**3.08.020 - Terms and conditions of employment.**

Members of the exempt service as set forth in Section 3.08.010 are entitled to each employment benefit that is provided to employees in the civil service, except as provided in this chapter.

**3.08.030 - Salary.**

A. 1. For purposes of setting annual salaries, the following positions in the exempt service are assigned grades in the City's pay plan as indicated:

Position	Grade
Executive Office Associate	A10
Recruitment/Employee Relations Administrator	A15
Communications Officer	A18
Deputy Fire Chief	F18
Human Resources Director	A20
Director of Transportation	A20
Director of Neighborhood and Environmental Programs	A20
Director of Recreation and Parks	A20
City Attorney	A20
Assistant City Attorney	A18
Director of Finance	A20
Director of Planning and zZoning	A20
Human Services Officer and Ombudsman	A18
Community Relations Specialist	A12
Administrative Assistant	A8
Assistant City Manager	A14
Public Information Officer and Quartermaster	A12
Fire Chief	F20

Police Chief	P20
Police Major	P18
Police Captain	P17
Director of Public Works	A20

2. The salary of the Mayor for the term of office commencing on the first Monday in December, 2013, shall be an annual salary of ninety-eight thousand dollars and an entitlement to the benefits afforded to the City's exempt service employees.
  
3. The salary of each Alderman and Alderwoman for the term of office commencing on the first Monday in December, 2013, shall be an annual salary of thirteen thousand five hundred dollars. Each Alderman and Alderwoman shall be afforded an annual allowance of one thousand five hundred dollars for expenses related to executing the duties associated with their office; such expenses shall include the cost of cell phones, postage, correspondence, office supplies, and education and training. Aldermen and Alderwomen shall participate in the Maryland State Retirement and Pension System.
  
4. The salary of the City Manager shall be:
  - i. Salary and Performance Reviews. A base salary for the City Manager ranging from one hundred twenty thousand dollars to one hundred eighty thousand dollars per year, with incremental increases based upon annual performance reviews conducted by the Mayor. The initial base salary shall be fixed within the provided range based upon the City Manager's education and employment experience. The annual performance review shall be based upon criteria established in advance by the Mayor in consultation with the Director of Human Resources. The base salary and increments shall be subject to cost of living increases (COLAS) every two years, based upon COLAS awarded to other City exempt service employees during the two-year period. The City Manager's compensation shall be subject to reduction to the same extent as other City exempt service employees, including reductions based upon furloughs or similar actions.
  
  - ii. Benefits. The City Manager is entitled to receive the same benefits as other City exempt service employees, such as **INCLUDING BUT NOT LIMITED TO** inclusion in the City's health care and retirement plans, in which the City and the employee contribute in the same proportion as other City exempt service employees.
  
  - iii. Allowances. The City shall provide the City Manager with a City vehicle, or additional compensation to reimburse the use of a personally-owned vehicle.
  
  - iv. Severance Pay. Three months' severance pay of salary ~~only for~~ IF a City Manager ~~who~~ has been removed from the position without cause, ~~BUT and~~ THERE SHALL BE no severance PAY if the removal is for cause. Grounds for removal that constitute cause shall be 1) conviction of a felony

or a crime of moral turpitude; or 2) malfeasance or misfeasance in office.

B. Salary raises for the list of positions included in the table in Section 3.08.030 A.1:

1. Shall be justified by A PERFORMANCE EVALUATION ~~either satisfactory or above satisfactory performance reviews~~ by the CITY MANAGER OR THE Mayor, WHICHEVER IS THE APPOINTING AUTHORITY, THAT EXCEEDS THE MINIMUM REQUIREMENTS FOR ~~SATISFACTORY PERFORMANCE~~ THE POSITION and shall be entirely at the CITY MANAGER OR ~~THE~~ Mayor's discretion, with the exception of those positions listed in Subsection (B)(2) of this Section;
2. ~~For positions listed in subsection (b)(2) salary raises s~~Shall be JUSTIFIED BY A PERFORMANCE EVALUATION BY THE DEPARTMENT DIRECTOR THAT EXCEEDS THE MINIMUM REQUIREMENTS FOR ~~SATISFACTORY PERFORMANCE~~ THE POSITION at the discretion of ~~the Department Director~~ for the following positions:
  - i. Deputy Fire Chiefs,
  - ii. Police Captains,
  - iii. Police Major,
  - iv. Recruitment/Employee Relations Administrator,
  - v. Assistant City Attorney,
  - vi. ~~Executive Office Associate,~~
  - vii. ~~Communications Officer,~~
  - viii. ~~Human Services Officer and Ombudsman,~~
  - ix. ~~Community Relations Specialist,~~
  - x. ~~Administrative Assistant,~~
  - xi. ~~Assistant City Manager,~~
  - ~~xiii~~ vi. Public Information Officer and Quartermaster.
3. Shall not be awarded to an individual more frequently than once a **PER** year;
4. Shall not be for an amount exceeding one pay step in the grade range for the position as set in Subsection (A)(1) of this Section;
5. Shall not cause an individual's salary to exceed the maximum salary of the assigned grade.

C. Longevity salary increases awarded to civil service employees shall not be a benefit of the exempt

service.

- D. A City employee appointed to a position specified in Subsection (A)(1) of this Section shall be assigned to a salary in the new pay grade which is at a minimum five percent higher than the employee's salary prior to promotion or shall be assigned to the minimum of the new grade, whichever is higher. In no case shall the new salary exceed the maximum salary of the new grade.
- E. For positions other than those specified in Subsection (B)(2) of this Section, the Mayor OR CITY MANAGER, WHICHEVER IS THE APPOINTING AUTHORITY, may make an initial appointment at a salary greater than the first step of the assigned grade. The appointment and initial salary is subject to confirmation by the City Council. For those positions specified in Subsection (B)(2) of this Section, appointments made by Department Director do not require City Council approval and initial appointments may be made at a salary greater than the first step of the assigned grade subject to the availability of funding AND THE APPROVAL OF THE HUMAN RESOURCES DIRECTOR.
- F. The Mayor shall ANNUALLY report to the City Council on an annual basis the salaries of all positions listed in Subsection A of this Section, and all increases in salary awarded since the prior report.

**3.08.040 - Leaves.**

- A. With the exception of those positions specified in Section 3.08.020(B)(2), leave shall be subject to approval by the Mayor OR CITY MANAGER WHICHEVER IS THE APPOINTING AUTHORITY.
- B. Sick leave shall be taken on the basis of reasonable but for the purposes of calculating the credit to which a retiree may be entitled for unused sick leave accumulations shall be determined in the same manner as for employees in the civil service.
- C. An employee described in Section 3.08.0120 who has one year or more of continuous service with the City shall be entitled to annual leave as follows:

Years of Continuous Service	Days of Annual Leave
1. 1	10
2. 2, 3, 4, 5, 6	15
3. 7, 8, 9, 10, 11, 12	20
4. 13, 14, 15, 16, 17, 18	25
5. 19, 20, 21, 22, 23, 24	30
6. 25 or more	35

TEN DAYS OF ANNUAL LEAVE SHALL BE CREDITED ON THE DATE OF HIRE ON A PRORATED BASIS. ~~THEREAFTER~~, ~~A~~ annual leave shall be credited on the annual anniversary of continuous service AT THE BEGINNING OF THE CALENDAR YEAR. Accumulation of annual leave shall not exceed twice the accumulation authorized for employees in the civil service WITH REGARD TO LEAVE CARRYOVER 60 DAYS.

D. Department directors shall not be entitled to personal leave. ~~to which civil service employees may otherwise be entitled.~~

### **3.08.050 - Severance pay.**

When a member of the exempt service is removed from office in accord with Section 3.16.140 of this title, that employee shall receive a severance payment equivalent to one-eighth of the salary of the employee at the time of removal.

### **~~3.08.060 - Entry by incumbent department heads.~~**

~~A department director who was an incumbent as of November 1, 1983 may apply to the Mayor for approval to withdraw from the civil service and enter the exempt service. The transfer shall become effective on the first day of the pay period following approval by the Mayor.~~

### **3.08.070 - Job descriptions.**

A. All exempt service job descriptions, with the exception of the City Manager ~~AND~~ Department Directors, ~~and contractual employees~~, shall be approved by the Director of Human Resources and City Manager.

B. The job descriptions for the City Manager and Department Directors shall be reviewed by the Director of Human Resources and City Manager ~~AND~~ then submitted to the City Council for approval.

C. The job descriptions for contractual employees shall be prepared by the ~~HIRING DEPARTMENT AND~~ Department of Human Resources ~~AND~~ then approved by the Director of Human Resources and City Manager.

## **Chapter 3.10 - OTHER EXCLUDED SERVICE**

### **Section 3.10.010**

#### **~~3.10.010 - Making fFalse sStatements.~~**

A. All individuals applying for compensated ~~CIVIL, EXEMPT OR~~ other excluded service positions ~~must~~ SHALL sign and submit to the Human Resources Director a completed City of Annapolis employment application or form that contains language identifying the right of the City or appointing authority to dismiss the applicant/appointee from employment service with the City.

B. All individuals being proposed for non-compensated Other Excluded Service appointments to boards, commissions, and committees must sign and submit to the City a form from the Human Resources Director that contains language identifying the right of the City or appointing authority to dismiss the applicant/appointee from employment service with the City.

**3.10.020 – Consequences for making false statements.**

~~B.A.~~ ~~Once~~ If an individual is found BY THE APPOINTING AUTHORITY to have made a KNOWINGLY false statement while applying for a ~~compensated other excluded service~~ position, that individual shall no longer be considered for employment with the City of Annapolis. If it is determined that an employee made a KNOWINGLY false statement in that individual's employment application, then disciplinary action shall be taken by the appropriate supervisor consistent with Section 7-5D, Code of Conduct, Group III Offense, of the City of Annapolis Rules and Regulations.

~~B.~~ Once an individual is found to have made a false statement while being considered for an appointment, the City Council shall no longer consider that individual for appointment to any board, commission or committee. Following appointment, if an individual is found to have made a false statement in the resume submitted for consideration by the City Council, then the City Council may terminate that individual's appointment with a simple majority vote of the members present. The motion to terminate may be made by any council member present.

**3.10.0320 - Effective date.**

The requirements set forth in Sections 3.10.010 and 3.10.020 apply to all applications and resumes that are submitted to any City employee on or after the effective date of those sections.

**3.10.030 - BENEFITS AND PRIVILEGES.**

POSITIONS DEFINED AS “OTHER EXCLUDED SERVICE” INCLUDE CONTRACTUAL EMPLOYEES, SEASONAL OR TEMPORARY EMPLOYEES, AND ALL EMPLOYEES WHO ARE PART TIME. BENEFITS AND PRIVILEGES OF THE CIVIL SERVICE SHALL NOT APPLY TO MEMBERS OF “OTHER EXCLUDED SERVICE” EXCEPT TO THE EXTENT ENUMERATED IN AN EMPLOYMENT AGREEMENT THAT HAS BEEN APPROVED BY THE CITY COUNCIL.

**Chapter 3.12 - CIVIL SERVICE ADMINISTRATION**

**Sections 3.12.010 - Scope of civil service.**

The civil service system includes all positions except those placed in the exempt service ~~AND MEMBERS OF OR~~ “OTHER EXCLUDED SERVICE.”

**3.12.020 - City Council-Duties.**

The City Council shall:

A. In conjunction with the adoption of the annual operating budget and whenever deemed necessary, consider the recommendations of the Civil Service Board ~~on requests for the creation of new positions; the abolishment of positions and the classification and reclassification of existing positions;~~

- B. Adopt, by resolution, a pay plan and subsequent revisions after consideration of the recommendations of the Civil Service Board.

### 3.12.030 - Human Resources Director-Duties.

The Human Resources Director shall be responsible for:

- A. ~~Forwarding requests for promotions to the Civil Service Board and the administration of the approved change or changes~~ADMINISTERING PERSONNEL ACTIONS;
- B. ~~Maintenance of the~~ MAINTAINING necessary PERSONNEL records for all employees and of the proceedings of the Civil Service Board;
- C. Supervising the soliciting, examining and selecting of applicants for all vacant positions;
- D. Disseminating information regarding actions of the Civil Service Board;
- E. Adopting and promulgating rules and regulations governing personnel matters, not in conflict with the Charter, this code or any ordinance, to implement the provisions of this title. The rules and regulations shall become effective not less than forty-five days following its promulgation and transmission to the City Council by the Human Resources Director, unless an objection to the rules or regulations, or any portion, is registered by the City Council by a resolution adopted prior to the effective date of the rules or regulations. In addition to the foregoing, the City Council may adopt by resolution any rule or regulation recommended by the Human Resources Director for expedited implementation. If so adopted, each such rule or regulation shall become effective upon the approval of the resolution.

### 3.12.040 - Civil Service Board-Appointment.

A Civil Service Board consisting of five residents of the City shall be appointed by the Mayor and confirmed by the City Council. The members shall serve for terms of three years, commencing on August 1st of the year in which the appointment is made, or until their successors are ~~appointed and~~ duly qualified AND APPOINTED. The Civil Service Board shall elect a chair from its membership, who shall serve for a term of two years. Any member of such board is eligible to succeed himself or herself, either as chair or as a board member. A vacancy shall be filled in the same manner as an original appointment for the unexpired portion of the term.

### 3.12.050 - Civil Service Board-Duties.

The Civil Service Board shall be responsible for:

- A. APPROVING THE ~~Classifying~~classification and ~~establishing~~establishment of minimum qualifications for all civil service positions UPON THE RECOMMENDATION OF THE HUMAN RESOURCES DIRECTOR. ANY NEW OR RECLASSIFIED POSITION THAT WILL RESULT IN A FINANCIAL

IMPACT TO THE BUDGET SHALL BE SUBJECT TO FUNDING APPROVAL THROUGH THE ANNUAL BUDGET PROCESS OR THE BUDGET TRANSFER PROCESS DEFINED IN SECTION 6.16.020 OF THE CITY CODE;

- B. Making recommendations to the City Council as provided in this chapter;
- C. Making recommendations to the appointing authorities and City Council designed to promote the morale and training of the civil service employees;
- D. Hearing and deciding all appeals from civil service employees as provided by Chapter 3.16 of this Code, intolerable working conditions and other such areas as enumerated in the civil service rules; RULES AND REGULATIONS OF THE PERSONNEL SYSTEM.
- E. ~~Approving job descriptions for all civil service positions after City Manager and Director of Human Resources review. Any approved job description with financial implications shall be subject to funding approval through the budget transfer process defined in Section 6.16.020 of the City Code.~~

**REVISOR'S NOTE- 3.12.060 - Classification.**

There are no changes to this Section.

**3.12.070 - Pay plan.**

- A. The Human Resources Director is responsible for the preparation and maintenance of a pay plan. Each job description in the civil service system shall be placed in a pay grade which offers a range of pay commensurate with the duties and responsibilities enumerated in the job description. The pay plan shall become effective upon the date specified in the resolution of the City Council adopting the pay plan.
- B. Revisions in the pay plan requested by appointing authorities shall be submitted to the Human Resources Director. The Human Resources Director may also initiate such revisions in the pay plan for any civil service employee as is deemed necessary. The Human Resources Director shall forward pay plan revisions to the City Council with recommendations.
- C. IN-GRADE PAY INCREASES FOR CIVIL SERVICE EMPLOYEES SHALL BE HANDLED AS FOLLOWS GOVERNED BY THE FOLLOWING:
  - 1. A civil service employee ~~below the supervisory level~~ shall not be granted an in-grade pay increase without the favorable recommendation of the ~~supervisory~~ EMPLOYEE'S SUPERVISOR AND APPOINTING authority ~~concerned~~. At least twelve months shall elapse between each in-grade pay increase granted to any one civil service employee. No employee shall be paid a salary less than the minimum nor more than the maximum limits prescribed by the pay grade to which the employee's position has been assigned.
  - 2. An in-grade pay increase may be awarded only to a civil service employee who exceeds the recommended minimum standards of the position the employee occupies. A recommendation for an

-grade pay increase shall be based on a review of the employee's performance since the last in-grade pay increase. In no case shall an in-grade increase be awarded without regard to an employee's performance.

3. Except as changed in accordance with Section 3.04.010, an employee's anniversary date shall be:

- a. The employee's date of hire if the employee became a member of the civil service system after May 1, 1980; or
- b. The employee's review date as of March 1, 1980, if the employee became a member of the civil service system on or before March 1, 1980.

D. Once a pay plan has been adopted, the City Council shall not increase or decrease the pay of an individual employee but shall change rates of pay only by the passage of a resolution revising the pay plan.

### **Chapter 3.16 - APPOINTMENT, STATUS AND SEPARATION**

#### **Section 3.16.010 - Prohibited discrimination.**

- A. Civil service employees shall be selected without regard to political considerations.
- B. There shall be no discrimination against any person seeking employment or employed in the civil service because of any consideration of political or religious affiliation or belief, race, COLOR, sex, AGE, FAMILY STATUS, NATIONAL ORIGIN, marital status, DISABILITY, VETERAN STATUS, GENETIC INFORMATION, SEXUAL ORIENTATION, OR GENDER IDENTITY; ~~to the extent practicable, physical or mental handicap.~~

#### **3.16.020 - Vacancies.**

Vacancies in civil service positions shall be filled by promotion or transfer by the appointing authority if the authority finds a qualified and interested permanent status employee within the civil service system. Whenever an existing contractual position is classified into the civil service, any qualified and interested incumbent contractual employee occupying that position for at least twelve consecutive months immediately preceding the date of classification shall be entitled, in the process of filling the newly classified position, to the same preference given permanent status civil service employees ~~in the preceding sentence~~. Promotions and transfers shall be on a competitive basis upon consideration of applicants' qualifications, competitive examination scores (if one is given), records of performance, and seniority.

#### **3.16.030 - Appointments.**

- A. The appointment to fill a vacancy shall be based on merit determined by procedures established by ~~civil service r~~Rules and ~~r~~Regulations OF THE PERSONNEL SYSTEM.
- B. Policies and procedures for administering appointment lists shall be enumerated in the ~~civil service r~~ Rules AND REGULATIONS OF THE PERSONNEL SYSTEM concerning the duration, cancellation,

replacement, and consolidation of such lists, and the removal or suspension of the names of eligible applicants.

C. Applicants ~~FOR THE VACANCY FOR WHICH THEY ARE APPLYING A VACANT POSITION~~ who APPLY AND qualify for employment or reemployment shall be placed on ~~the appropriate~~ AN appointment list. When an appointment is to be made to fill a vacancy, the Human Resources Director shall ~~determine the person or persons ranked highest on the appointment list and~~ certify the list to the appointing authority. The decision of the appointing authority as to the employment of any applicant shall be final.

### 3.16.035 - Supervision of relatives.

A. For purposes of this Section, "relative" shall mean a member of an employee's household, a member of an employee's immediate family and an employee's father, mother, spouse, son, daughter, brother, sister, uncle, aunt, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, grandparents, ~~and~~ grandchildren, AND STEPGRANDCHILDREN.

B. An employee shall not:

1. Evaluate the job performance of his or her relative; or

2. Make any recommendation OR DECISION OR IN ANY OTHER MATTER INFLUENCE OR ATTEMPT TO INFLUENCE ~~related to~~ the HIRING, TERMINATION, ASSIGNMENT OF WORK, WORKING CONDITIONS, discipline, promotion or pay of his or her relative.

C. Any evaluation or ~~recommendation~~ EMPLOYMENT ACTION ~~precluded~~ PROSCRIBED by this Section shall be made by the recused employee's supervisor or in the case of a recused department director, by the ~~Mayor or the Mayor's designee~~ CITY MANAGER.

### 3.16.040 - Pay after promotion or transfer.

A promoted or transferred employee shall receive a rate of pay equal to or higher than that which the employee received in the former position. ~~In-grade salary increase credit shall not be affected.~~ A promoted or transferred employee shall remain eligible for an in-grade pay increase twelve months following the employee's last in-grade pay increase.

### 3.16.050 - Promotions within Police and Fire Departments.

In addition to any other requirements of this title pertaining to promotions, all sworn members of the Police and Fire Departments shall be required to take examinations for promotion to a higher rank. The content of such examinations, as well as all procedures for administering and evaluating the examinations, and any other requirements for promotion within the Police and Fire Departments, eligibility for promotion, or criteria for promotion, shall be established and revised, from time to time, by the Human Resources Director, after obtaining the recommendation of the respective chief of the department., ~~and the approval of the Civil Service Board.~~ All requirements and procedures for promotion within the Police and Fire Departments shall be in writing and made available to all members of those departments.

### 3.16.060 - Disability examinations.

- A. The Human Resources Director, in addition to all other duties, may refer to a private health care provider for examinations; all applicants for employment and any employee when requested to do so by the employee's appointing authority, or their duly authorized agents. The Human Resources Director shall request that the health care provider report the findings to the Human Resources Director upon completion of the examination, and the Human Resources Director shall make recommendations to the appropriate appointing authority based upon the health care provider's report as to employment of the applicant, retention or any other findings regarding the employee.
- B. The case of any employee on sick leave, or absent due to injury or illness, for thirty or more work days during any twelve consecutive month period, may be referred to a health care provider by the Human Resources Director for an examination ~~pursuant to the preceding subsection~~. Upon receipt of the health care provider's report, the Human Resources Director shall recommend to the employee's appointing authority based upon the health care provider's report:
1. That the employee be returned to work in the same or in some other available capacity or position; or
  2. That the employee be continued on sick leave, if available, or leave of absence without pay; or
  3. That the employee be dismissed pursuant to Section 3.16.120 by reason of incapacity in performance of duties.
- C. The case of an employee continued on sick leave or leave of absence without pay may be reevaluated under this chapter not more than once every thirty days thereafter until the employee either returns to ~~work~~ FULL DUTY or is dismissed by reason of incapacity.
- D. An employee on sick leave, or absent due to injury or illness, who fails or refuses to appear at a physical examination scheduled pursuant to this section or who fails or refuses to return to work after being directed to do so based upon a physician report indicating that the employee is able to return to work, shall be subject to discipline pursuant to Section 3.16.120.
- E. The Human Resources Director shall recommend to the City Council regulations consistent with the provisions of this chapter for publication in the City ~~personnel system rules and regulations~~ RULES AND REGULATIONS OF THE PERSONNEL SYSTEM.

### 3.16.070 - Probationary status.

- A. EXCEPT AS SET FORTH IN AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT, ~~Ex~~ employees appointed from appointment lists or by promotion shall be subject to a twelve-month minimum probationary period. Under no circumstances shall an employee serve in a probationary status beyond eighteen months EXCEPT AS PROVIDED IN THE RULES AND REGULATIONS OF THE PERSONNEL SYSTEM.
- B. If the work of a probationary employee is found to be below standards satisfactory to the appointing authority, the appointing authority may dismiss, demote or transfer the probationary employee at any time during the probationary period. These actions by the appointing authority shall not be subject to review or

appeal.

C. Upon promotion, a promoted employee who previously held permanent civil service status shall retain all permanent status rights and privileges during the probationary period.

D. ~~Notwithstanding the provisions of Subsection A of this Section, the probationary periods for employees covered by collective bargaining agreements may differ as specifically set out in these agreements.~~

**REVISOR'S NOTE- 3.16.080 - Permanent status.**

There are no changes to this Section.

**3.16.090 - Resignation.**

A permanent status employee ~~may resign by filing~~ **WHO INTENDS TO RESIGN SHALL FILE** a written notice of resignation with the appointing authority. Whenever possible, an employee shall give notice of resignation at least two weeks in advance. A resignation shall be deemed effective and final upon its receipt by the appointing authority and may not thereafter be withdrawn without the express, written approval of the appointing authority.

**REVISOR'S NOTE- 3.16.100 - Tenure.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.16.110 - Layoff.**

There are no changes to this Section.

**3.16.120 - Discipline.**

A. A permanent status employee may be disciplined when, in the judgment of the appointing authority, the employee's work or misconduct so warrants. The procedures set forth in Sections 3.16.120 and 3.16.150 shall apply whenever disciplinary action is taken against a permanent status employee except cases governed by the ~~Law e~~Enforcement ~~o~~Officer's ~~b~~Bill of ~~r~~Rights AS MAY BE AMENDED FROM TIME TO TIME, and cases in which an employee elects to pursue a grievance procedure under a collective bargaining agreement.

B. The following constitute grounds for discipline:

1. ~~Incompetency~~INCOMPETENCE, incapacity or inefficiency in performance of duties;
2. Violation of law, RULES AND REGULATIONS OF THE PERSONNEL SYSTEM, DEPARTMENTAL ~~official~~ rules, regulations, ~~or~~ orders, ~~city or departmental~~ policies, or failure to obey any lawful or reasonable direction ~~when the action amounts to insubordination or serious breach in discipline;~~
3. Conviction of a felony or of any ~~infamous or disgraceful~~ offense THAT NEGATIVELY IMPACTS THE EMPLOYEE'S JOB POSITION;
4. Willful or repeated negligence in performing duties;

5. Conduct unbecoming of an employee of the City;
  6. ~~Sustained~~ Conduct detrimental to the efficiency and morale of the service;
  7. Misuse of public funds OR PROPERTY;
  8. **KNOWINGLY** ~~f~~Falsifying reports or records;
  9. Intoxication, **ILLEGAL DRUG USE, OR POSSESSION OF DRUGS OR ALCOHOL** while on duty;
  10. Violation of the provisions of Chapter 2.08 and Section 3.24.020(C);
  11. Excessive absenteeism.
- C. Upon a finding by the appointing authority that an employee's conduct is prohibited or subject to discipline, the appointing authority may impose reasonable discipline including, but not limited to reprimand, suspension, demotion, transfer or dismissal.
- D. When the appointing authority takes disciplinary action pursuant to this chapter, the appointing authority shall file with the employee and the Human Resources Director a written notification containing a statement of the reasons for the action.
- E. In cases involving a proposed suspension or dismissal, the appointing authority may place the employee on administrative leave, with or without pay, pending disposition of the proposed disciplinary action. If the appointing authority places the employee on administrative leave pursuant to this subsection, the appointing authority shall specify the terms of such leave in the notice of the disciplinary action provided under Section 3.16.120(D).

~~If an employee is placed on administrative leave without pay under the preceding subsection, the employee may file with the appointing authority and Human Resources Department a written request to be heard informally by the appointing authority in response to the reason for the action. Such a request shall be filed not later than five working days following the date of the notice of disciplinary action under Section 3.16.120(D). The employee's right to a hearing by the appointing authority on the issue of being placed on leave without pay shall be waived if not timely filed.~~

~~Within ten working days after a timely request, the appointing authority shall conduct an informal hearing at which the employee shall be given an opportunity to respond to the reasons for the leave without pay decision.~~

~~Within ten working days after a hearing conducted under this section, the appointing authority shall file with the employee and the Human Resources Director a written reply to the employee's response. The reply may rescind, modify or affirm the leave without pay decision. A request to be heard filed under this section shall not stay the leave without pay decision.~~

- F. Prior to the imposition of discipline consisting of suspension without pay, demotion or dismissal, the employee may file with the appointing authority and Human Resources Department a written request to be

heard informally by the appointing authority in response to the reason for the action. Such a request shall be filed not later than five working days following the date of the notice of disciplinary action under Section 3.16.120(D). The employee's right to a hearing by the appointing authority shall be waived if not timely filed.

Within ten working days after a timely request, the appointing authority shall conduct an informal hearing at which the employee shall be given an opportunity to respond to the reasons for the disciplinary action.

Within ten working days after a hearing conducted under this subsection, the appointing authority shall file with the employee and the Human Resources Director a written reply to the employee's response to the disciplinary action. The reply may rescind, modify or affirm the disciplinary action.

G. Requests for hearings, hearings and replies under Subsection F and G of this section may be combined into a single request, hearing and/or reply.

### **3.16.130 - Dismissal.**

A permanent status employee who has been dismissed shall not be entitled to payment for accumulated leave or any benefits until all administrative and court appeals are exhausted and the dismissal finally is affirmed or the time for FILING any appeal has passed without any appeal being filed.

### **3.16.140 - Discipline of certain members of the exempt service.**

The Mayor/APPOINTING AUTHORITY is responsible for the discipline of each member in the exempt service as set forth in Section 3.08.010. The discipline may include, but not necessarily be limited to, transfer, layoff, suspension, demotion or dismissal

### **3.16.150 - Appeals.**

A. A permanent status civil service employee may appeal to the Civil Service Board a disciplinary action consisting of a suspension without pay of any length, demotion or dismissal AS FOLLOWS: ~~Intolerable working conditions, administrative leave without pay pursuant to Section 3.16.120(E) and other complaints enumerated in the civil service rules~~

1. INFORMAL APPEAL TO APPOINTING AUTHORITY: PRIOR TO THE IMPOSITION OF DISCIPLINE CONSISTING OF SUSPENSION WITHOUT PAY, DEMOTION OR DISMISSAL, THE EMPLOYEE MAY FILE WITH THE APPOINTING AUTHORITY AND HUMAN RESOURCES DEPARTMENT A WRITTEN REQUEST TO BE HEARD INFORMALLY BY THE APPOINTING AUTHORITY IN RESPONSE TO THE STATED REASON FOR THE ACTION DISCIPLINE.

a. SUCH A REQUEST SHALL BE FILED NOT LATER THAN FIVE WORKING DAYS FOLLOWING THE DATE OF THE NOTICE OF DISCIPLINARY ACTION UNDER SECTION 3.16.120(D). THE EMPLOYEE'S RIGHT TO A HEARING BY THE APPOINTING AUTHORITY SHALL BE WAIVED

IF NOT TIMELY FILED.

- b. WITHIN TEN WORKING DAYS AFTER A TIMELY REQUEST, THE APPOINTING AUTHORITY SHALL CONDUCT AN INFORMAL HEARING AT WHICH THE EMPLOYEE SHALL BE GIVEN AN OPPORTUNITY TO RESPOND TO THE REASONS FOR THE DISCIPLINARY ACTION AND AT WHICH TIME THE DEPARTMENT DIRECTOR MAY HEAR FROM OTHERS WITH RELEVANT INFORMATION AND CONSIDER EVIDENCE AND RELEVANT TESTIMONY.
  
  - c. WITHIN TEN WORKING DAYS AFTER A HEARING CONDUCTED UNDER THIS SUBSECTION, THE APPOINTING AUTHORITY SHALL FILE WITH THE EMPLOYEE AND THE HUMAN RESOURCES DIRECTOR A WRITTEN DECISION. THE DECISION MAY RESCIND, MODIFY OR AFFIRM THE DISCIPLINARY ACTION.
  
  - d. IF THE EMPLOYEE HAS FILED A TIMELY REQUEST FOR AN INFORMAL HEARING AS DESCRIBED IN THIS SECTION AND THE APPOINTING AUTHORITY HAS PROVIDED A DECISION WHICH THE EMPLOYEE WISHES TO APPEAL, THE EMPLOYEE MAY APPEAL THAT DECISION TO THE CIVIL SERVICE BOARD. THE APPEAL WITH THE CIVIL SERVICE BOARD SHALL BE FILED WITH THE HUMAN RESOURCES DEPARTMENT IN WRITING NOT LATER THAN FIVE WORKING DAYS AFTER THE DATE OF THE APPOINTING AUTHORITY'S DECISION.
2. DIRECT APPEAL TO CIVIL SERVICE BOARD: THE EMPLOYEE MAY WAIVE THE INFORMAL HEARING DESCRIBED IN SECTION 3.16.150 A.1. ABOVE AND FILE A DIRECT APPEAL TO THE CIVIL SERVICE BOARD.
- a. SUCH AN APPEAL SHALL BE FILED IN WRITING WITH THE HUMAN RESOURCES DEPARTMENT NOT LATER THAN FIVE WORKING DAYS AFTER THE DATE OF NOTICE OF THE DISCIPLINARY ACTION UNDER SECTION 3.16.120(D). THE EMPLOYEE'S RIGHT TO AN APPEAL TO THE CIVIL SERVICE BOARD SHALL BE WAIVED IF NOT TIMELY FILED.
  
  - b. IF THE EMPLOYEE FILES A TIMELY REQUEST FOR A CIVIL SERVICE BOARD HEARING PURSUANT TO THIS SECTION, THE IMPOSITION OF DISCIPLINE SHALL BE SUSPENDED PENDING THE DECISION OF THE CIVIL SERVICE BOARD.
  
  - c. THE CIVIL SERVICE BOARD SHALL SCHEDULE A HEARING WITHIN A REASONABLE TIME NOT EXCEEDING FORTY-FIVE DAYS, UNLESS EXTENDED BY THE BOARD, FOLLOWING THE DATE THE APPEAL WAS FILED. THE HEARING SHALL BE OPEN TO THE GENERAL PUBLIC. THE EMPLOYEE MAY BE REPRESENTED BY COUNSEL, PRESENT WITNESSES IN THE EMPLOYEE'S BEHALF AND EXAMINE AND CROSS-EXAMINE ALL WITNESSES. THE

CIVIL SERVICE BOARD SHALL HAVE THE POWER TO ISSUE A SUBPOENA ON ITS OWN OR AT THE REQUEST OF ~~AN~~ THE EMPLOYEE OR THE CITY. THE CIVIL SERVICE BOARD MAY REQUEST ANY EMPLOYEE OF THE CITY TO GIVE TESTIMONY. NOTWITHSTANDING ANY PROVISION OF THE CHARTER OR THIS CODE AUTHORIZING THE CITY ATTORNEY TO SERVE AS LEGAL COUNSEL TO THE CIVIL SERVICE BOARD, IN CONTESTED CASES BEFORE THE BOARD, THE CITY ATTORNEY SHALL REPRESENT THE INTEREST OF THE CITY AND THE APPOINTING AUTHORITY AND SHALL NOT RENDER LEGAL ADVICE TO THE CIVIL SERVICE BOARD.

- d. THE CIVIL SERVICE BOARD SHALL ISSUE A WRITTEN DECISION WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING. IF THE CIVIL SERVICE BOARD FINDS THAT THE ACTION OF THE APPOINTING AUTHORITY WAS IN ERROR OR ACTED CONTRARY TO THE PROVISIONS OF THE CITY CODE OR THE RULES AND REGULATIONS OF THE PERSONNEL SYSTEM, OR THAT THE APPOINTING AUTHORITY FAILED TO FOLLOW THE PROPER PROCEDURE, THE CIVIL SERVICE BOARD MAY AFFIRM, REVERSE OR MODIFY THE ACTION OF THE APPOINTING AUTHORITY AND, IF APPROPRIATE, MAY ORDER REINSTATEMENT OF THE EMPLOYEE WITH OR WITHOUT LOSS OF PAY. DECISIONS OF THE CIVIL SERVICE BOARD ON ALL APPEALS SHALL BE IN WRITING, SHALL CONTAIN THE REASONS FOR THE DECISION, AND CONSTITUTE FINAL ADMINISTRATIVE ADJUDICATION.
3. LEAVE WITHOUT PAY STATUS: IF AN EMPLOYEE IS PLACED ON ADMINISTRATIVE LEAVE WITHOUT PAY PRIOR TO THE IMPOSITION OF DISCIPLINE OR THE RESOLUTION OF A PENDING APPEAL, THE EMPLOYEE MAY FILE WITH THE APPOINTING AUTHORITY AND HUMAN RESOURCES DEPARTMENT A WRITTEN REQUEST TO BE HEARD INFORMALLY BY THE APPOINTING AUTHORITY IN RESPONSE TO THE REASON FOR THE ACTION.
- a. SUCH A REQUEST SHALL BE FILED NOT LATER THAN FIVE WORKING DAYS FOLLOWING THE DATE OF THE NOTICE OF DISCIPLINARY ACTION UNDER SECTION 3.16.120(D). THE EMPLOYEE'S RIGHT TO A HEARING BY THE APPOINTING AUTHORITY ON THE ISSUE OF BEING PLACED ON LEAVE WITHOUT PAY SHALL BE WAIVED IF NOT TIMELY FILED.
  - b. WITHIN TEN WORKING DAYS AFTER A TIMELY REQUEST, THE APPOINTING AUTHORITY SHALL CONDUCT AN INFORMAL HEARING AT WHICH THE EMPLOYEE SHALL BE GIVEN AN OPPORTUNITY TO RESPOND TO THE REASONS FOR THE LEAVE WITHOUT PAY DECISION AND AT WHICH THE DEPARTMENT DIRECTOR MAY HEAR FROM OTHERS WITH RELEVANT INFORMATION.
  - c. WITHIN TEN WORKING DAYS AFTER A HEARING CONDUCTED UNDER THIS SECTION, THE APPOINTING AUTHORITY SHALL FILE WITH THE EMPLOYEE AND THE HUMAN RESOURCES DIRECTOR A WRITTEN DECISION. THE DECISION MAY RESCIND, MODIFY OR AFFIRM THE LEAVE WITHOUT PAY DECISION. A REQUEST TO BE HEARD FILED UNDER THIS SECTION SHALL NOT STAY THE LEAVE WITHOUT PAY DECISION.

- d. IF THE EMPLOYEE HAS FILED A TIMELY REQUEST FOR AN INFORMAL HEARING AS DESCRIBED IN THIS SECTION, THE EMPLOYEE MAY APPEAL THAT DECISION TO THE CIVIL SERVICE BOARD. THE APPEAL TO THE CIVIL SERVICE BOARD SHALL BE FILED IN WRITING WITH THE HUMAN RESOURCES DEPARTMENT NOT LATER THAN FIVE WORKING DAYS AFTER THE DATE OF THE APPOINTING AUTHORITY'S DECISION.
4. APPEAL UNDER A COLLECTIVE BARGAINING AGREEMENT: AN EMPLOYEE WHO IS A MEMBER OF A RECOGNIZED EMPLOYEE ORGANIZATION MAY ELECT TO PURSUE EITHER THE REMEDIES AVAILABLE UNDER THE PROVISIONS OF THE APPLICABLE COLLECTIVE BARGAINING AGREEMENT OR THE REMEDIES AVAILABLE UNDER THIS SECTION.
- a. THE PRESENTATION OF A WRITTEN GRIEVANCE PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT SHALL CONSTITUTE A WAIVER OF REMEDIES AVAILABLE UNDER 3.16.150A OR 3.16.150 B.
- b. THE FILING OF EITHER A REQUEST FOR HEARING UNDER SECTION 3.16.150 A OR AN APPEAL UNDER SECTION 3.16.150(B) SHALL CONSTITUTE A WAIVER OF REMEDIES AVAILABLE UNDER A COLLECTIVE BARGAINING AGREEMENT.
- B. An aggrieved employee shall file an appeal with the Civil Service Board not later than five working days after the date of notice of the disciplinary action under Section 3.16.120(D). If the employee files a timely request for an informal hearing under Section 3.16.120(F), the appeal with the Civil Service Board shall be filed not later than five working days after the date of the appointing authority's reply under that section. The employee's right to an appeal to the Civil Service Board shall be waived if not timely filed. If the employee files a timely request for a Civil Service Board hearing pursuant to this section, the imposition of discipline shall be suspended pending the decision of the board. Leave pursuant to Section 3.16.120(E) shall not be suspended pending the decision of the board.
- C. The Civil Service Board shall schedule a hearing within a reasonable time not exceeding forty-five days following the date the appeal was filed. The hearing shall be open to the general public. The employee may be represented by counsel, present witnesses in the employee's behalf and examine and cross-examine all witnesses. During the course of any investigation or hearing the Civil Service Board may request any employee of the City to give testimony. Notwithstanding any provision of the Charter or this code authorizing the City Attorney to serve as legal counsel to the Civil Service Board, in contested cases before the board, the City Attorney shall represent the interest of the City and the appointing authority and shall not render legal advice to the board.
- D. The Civil Service Board shall issue a written decision within forty-five days after the conclusion of the hearing. If the Civil Service Board finds that the action of the appointing authority was in error, contrary to the personnel provisions of this code, or that the appointing authority failed to follow the proper procedure, the Civil Service Board may reverse or modify the action and, if appropriate, may order reinstatement of the employee with or without loss of pay. Decisions of the Civil Service Board on all appeals shall be in writing, shall contain the reasons for the decision, and are final.

5. AN EMPLOYEE MAY FILE AN APPEAL TO THE CIVIL SERVICE BOARD ALLEGING INTOLERABLE WORKING CONDITIONS OR OTHER COMPLAINTS ENUMERATED UNDER THE CIVIL SERVICE RULES WITHIN 30 DAYS OF THE DATE OF THE EVENT WHICH CAUSES THE EMPLOYEE TO BELIEVE ~~THEY HAVE~~ HE OR SHE HAS BEEN AGGRIEVED. INTOLERABLE WORKING CONDITIONS EXIST WHEN: (1) THE EMPLOYER'S UNLAWFUL CONDUCT EFFECTIVELY FORCED THE EMPLOYEE TO RESIGN; (2) A CONTINUOUS PATTERN OF EMPLOYER MISCONDUCT EXISTED; (3) OR CONDITIONS WERE SO EGREGIOUS AND INTOLERABLE THAT ANY REASONABLE PERSON WOULD HAVE RESIGNED.

a. THE CIVIL SERVICE BOARD SHALL SCHEDULE A HEARING WITHIN A REASONABLE TIME NOT EXCEEDING FORTY-FIVE DAYS AFTER THE APPEAL WAS FILED, UNLESS EXTENDED BY THE BOARD. THE HEARING SHALL BE OPEN TO THE PUBLIC. THE EMPLOYEE MAY BE REPRESENTED BY COUNSEL, PRESENT WITNESSES AND EXAMINE AND CROSS-EXAMINE ALL WITNESSES. THE CIVIL SERVICE BOARD SHALL HAVE THE POWER TO ISSUE A SUBPOENA ON ITS OWN OR AT THE REQUEST OF AN EMPLOYEE OF THE CITY. THE CIVIL SERVICE BOARD MAY REQUEST ANY EMPLOYEE OF THE CITY TO GIVE TESTIMONY. NOTWITHSTANDING ANY PROVISION OF THE CHARTER OR THIS CODE AUTHORIZING THE CITY ATTORNEY TO SERVE AS LEGAL COUNSEL TO THE CIVIL SERVICE BOARD, IN CONTESTED CASES BEFORE THE BOARD THE CITY ATTORNEY SHALL REPRESENT THE INTERESTS OF THE CITY AND THE APPOINTING AUTHORITY AND SHALL NOT RENDER LEGAL ADVICE TO THE CIVIL SERVICE BOARD.

THE CIVIL SERVICE BOARD SHALL ISSUE A WRITTEN DECISION WITHIN FORTY-FIVE DAYS AFTER THE CONCLUSION OF THE HEARING.

b. IN APPEALS OF DEMOTIONS, NON-DISCIPLINARY DISMISSALS AND VIOLATIONS OF THE CITY CODE OR RULES AND REGULATIONS OF THE PERSONNEL SYSTEM NOT OTHERWISE ADDRESSED IN SECTION 3.16.150, THE BOARD MAY AFFIRM, REVERSE OR MODIFY THE ACTION OF THE APPOINTING AUTHORITY, AND IN APPEALS OF ALLEGED INTOLERABLE WORKING CONDITIONS, THE BOARD MAY ORDER ANY OF THE FOLLOWING RELIEF:

1. ORDER THAT THE EMPLOYEE OR EMPLOYEES CAUSING THE INTOLERABLE WORKING CONDITIONS CEASE AND DESIST IN THE CONDUCT THAT CREATES THE INTOLERABLE WORKING CONDITIONS;

2. ORDER THAT THE EMPLOYEE OR EMPLOYEES CAUSING THE INTOLERABLE WORKING CONDITIONS ACCEPT COUNSELING, EDUCATION AND/OR TRAINING;

3. RECOMMEND DISCIPLINARY ACTION AGAINST THE EMPLOYEE OR EMPLOYEES CAUSING THE INTOLERABLE WORKING CONDITIONS;

4. ORDER THAT THE EMPLOYEE WHO WAS THE SUBJECT OF THE INTOLERABLE WORKING CONDITIONS BE OFFERED REINSTATEMENT TO HIS OR HER MOST RECENT POSITION WITH THE CITY OR, IF NOT AVAILABLE, TO OTHER SUITABLE EMPLOYMENT IN THE CITY.

~~E~~6. A failure by the appointing authority or the Civil Service Board to timely conduct a hearing or to timely issue a determination following a hearing shall not constitute a basis to reverse or modify any disciplinary action taken pursuant to this chapter.

~~E~~7. A party aggrieved by a decision of the Civil Service Board made pursuant to this section may appeal that decision to the eCircuit eCourt for Anne Arundel County pursuant to Maryland Rule Title 7, Chapter 200 AS MAY BE AMENDED FROM TIME TO TIME or its successor. For purposes of this subsection, an employee shall be considered "aggrieved by a decision of the Civil Service Board" if and only if the decision is to suspend the employee for thirty or more consecutive days, to demote or to dismiss the employee. An appeal under this section must be taken within thirty days of the date of the decision appealed and shall be the exclusive remedy of the aggrieved party from that decision.

### **~~3.16.160 – Election of remedies.~~**

~~An employee who is a member of a recognized employee organization may elect to pursue either the remedies available under the provisions of the applicable collective bargaining agreement or the remedies available under this chapter. The presentation of a written grievance pursuant to a collective bargaining agreement shall constitute a waiver of remedies available under this chapter. The filing of either a request for hearing under Section 3.16.120(F) or an appeal under Section 3.16.150(B) shall constitute a waiver of remedies available under a collective bargaining agreement.~~

## **Chapter 3.20 - LEAVES**

### **Section 3.20.010 - Applicability.**

Unless otherwise specified, the provisions of this chapter apply to all civil service employees.

### **3.20.020 - Leave of absence without pay.**

A. Voluntary. The appointing authority may grant requests for leaves of absence without pay for periods not to exceed one year. The leave shall be for a valid purpose and in the best interest of the City. At the termination of such leave, the employee shall be reinstated in the civil service system with all previous rights and privileges, but shall not receive credit for either sick leave or annual leave for the period of time

the employee was on leave of absence without pay.

B. Involuntary.

1. A civil service employee who, by reason of illness or physical disability, is required to be placed on leave of absence without pay, shall not be entitled to accrue either sick leave or annual leave so long as the employee remains on leave of absence without pay.
2. A civil service employee who, by reason of illness or physical disability, is on leave of absence for one calendar year or more shall be released from employment with the City, and all pay and benefits stopped, and the position may be filled. The released employee shall have priority consideration, before other applicants, for any job vacancy for which that person is qualified when that person is certified by medical authority to return to work with no medical or physical limitations. Prior to being released, the employee shall be examined by ~~the City's Medical Review Board~~ A LICENSED MEDICAL PROFESSIONAL beginning in the tenth month of absence, to determine the extent of the employee's incapacity.
3. A permanent civil service employee subject to disciplinary action may be placed on administrative leave pursuant to Section 3.16.120 of this code.

**3.20.030 - ~~Official or a~~Administrative leave.**

The appointing authority may grant ~~official~~ADMINISTRATIVE leave with pay to allow employees to attend professional meetings, technical conferences, short-term courses on subjects related to official duties or for other valid purposes. ~~Official~~ADMINISTRATIVE leave shall not be deducted from any other leave earned by the employee. ~~Official leave may also be referred to as administrative leave.~~

**REVISOR'S NOTE- 3.20.040 - Jury leave.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.20.050 - Military leave.**

There are no changes to this Section.

**3.20.060 - Funeral leave.**

Permission for funeral leave or conditions caused by death in the immediate family OR OTHER RELATIVE BY MARRIAGE, AS DEFINED IN THE RULES AND REGULATIONS OF THE PERSONNEL SYSTEM ~~rules and regulations~~, OR AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT, for a maximum period of three workdays may be granted by the appointing authority. Funeral leave shall not be deducted from any other leave earned by the employee.

**3.20.070 - Annual leave.**

All regular full-time civil service employees shall be entitled to paid annual leave. Regular full-time employees are those employees who are employed on a full-time basis. Annual leave shall be granted and administered as follows:

- A. Upon completion of six months' continuous employment, all full-time employees of the City shall be entitled to annual leave accrued from the date of first employment at the rate authorized from time to time by the City Council. A civil service employee employed prior to January 1, 1985 is authorized to carry over to a succeeding calendar year no more than thirty workdays of unused annual leave. A civil service employee employed on or after January 1, 1985 is authorized to accumulate no more than five workdays of unused annual leave to carry over to a succeeding calendar year and is authorized to accumulate an aggregate maximum of thirty workdays of unused annual leave at any time.
- B. Annual leave may be granted by the appointing authority, as conditions permit, on written requests from employees.
- C. Upon termination of employment, employees with six or more months of continuous service shall be paid for any accumulated annual leave credit. The payment shall not exceed the equivalent of thirty REGULAR days of ~~salary~~ PAY.

### 3.20.080 - Sick leave.

Each ~~regular~~ full-time civil service employee shall be entitled to paid sick leave at the EMPLOYEE'S regular rates of pay. ~~Regular full-time employees are those employees who are employed on a full-time basis.~~ Sick leave shall be granted and administered as follows:

- A. Upon completion of six months' continuous employment, ~~all regular full-time~~ employees are entitled to sick leave accrued from the date of first employment at the rate of one and one-quarter working days per month.
- B. When an employee becomes ill the employee shall notify the immediate supervisor or appointing authority ~~on the first day of illness~~ **BY PRIOR TO THE START TIME OF THE SCHEDULED WORK DAY** and the probable date of return to work. ~~IN THE CASE OF A~~ absences due to illness for over three consecutive days ~~THE EMPLOYEE SHALL OBTAIN AND PROVIDE~~ ~~shall be substantiated~~ by a certificate from a ~~practicing physician~~ **LICENSED MEDICAL PROVIDER** describing the nature of the illness, date treatment began, and date of discharge or probable date of discharge from treatment. Failure to **TIMELY** notify the supervisor or appointing authority is sufficient cause for disciplinary action.
- C. All sick leave shall be substantiated by an approved sick leave form to be submitted by the employee.
- D. Absence due to **ILLNESS OR injuries** incurred while on duty shall be substantiated by a sick leave request. When an employee is rendered unable to report for work, because of an **ILLNESS OR injury** sustained while in the line of duty and **SUBSEQUENTLY** receives ~~workmen's WORKERS'~~ compensation ~~therefor~~, then, during the period of the employee's inability to report for work, the City shall pay to the employee the difference between the amount received through ~~workmen's WORKERS'~~ compensation and the employee's current basic salary. The portion of time paid for by the City shall be charged against the employee's accumulated sick leave, but no charge shall be made against sick

leave for that portion of time which is paid for by ~~workmen's~~ WORKERS' compensation. Should the term of any case exceed a period of thirty calendar days, the case shall be referred by the Human Resources Director for a medical evaluation and recommendation in accordance with Chapter 3.16. If any employee has received all of his/her sick leave entitlement and remains unable to report for work, the employee shall revert to nonpay status unless otherwise authorized by the appointing authority.

### **3.20.090 - Personal leave.**

A full-time permanent status **CIVIL SERVICE** employee whose job classification is not represented by a recognized employee organization and who is not otherwise entitled to receive personal leave shall receive three personal leave days for use per calendar year. These personal leave days shall be credited to the employee on January 1st of each year. An employee who attains full-time permanent status on or after January 1st of any year, shall receive one personal leave day per remaining (full) quarter of that year, for use in that year, which leave shall be credited to the employee on the day permanent status is attained. An employee shall not be paid for any personal leave days not used at the time of the employee's termination of employment with the City.

### **3.20.100 - Overtime payment and compensatory leave.**

A. An employee who performs overtime work shall be granted overtime payment or compensatory leave in accordance with the provisions of the Fair Labor Standards Act (FLSA) ~~amendment of 1985~~ and subsequent STATE AND Federal regulations governing that compensation.

### **3.20.110 - Holiday leave.**

All employees shall be granted holiday leave as prescribed in the ~~civil service~~ **RULES AND REGULATIONS OF THE PERSONNEL SYSTEM**. Holiday leave shall not be deducted from any other leave earned by any employee.

### **3.20.120 - Coordination of disability income insurance and ~~sick~~ leave.**

When an employee receives payment from any approved disability income insurance program ~~provided by~~ WHICH the City PROVIDES, the City shall pay to the employee during the period of the employee's disability the difference between the amount the employee receives through the disability income insurance program and the employee's current basic salary. The portion of time thus paid for by the City shall be charged against the employee's accumulated ~~sick~~ leave, but no charge shall be made against ~~sick~~ leave for that portion of time which is paid for by the disability income insurance program. In the event that an employee has received all of the employee's ~~sick~~ leave entitlement and remains unable to report for work, the employee shall revert to a nonpay status unless otherwise authorized by the appointing authority.

### **3.20.130 - Family AND MEDICAL leave FMLA.**

FAMILY AND MEDICAL LEAVE IS AVAILABLE TO EMPLOYEES UNDER THE PROVISIONS OF THE FEDERAL FAMILY AND MEDICAL LEAVE ACT.

- A. Definitions.
1. "Family leave" means leave without pay available to an employee who needs to take time off from work to care for:
    - a. A newly born or newly adopted child of the employee;
    - b. A foster child placed with the employee; or
    - c. A seriously ill child, spouse, parent, or legal dependent of the employee.
  2. "Employee" means any person employed by the City regardless of merit system status and who:
    - a. Regularly works thirty-two or more hours per week;
    - b. Has been employed for at least one year; and
    - c. Is not in a collective bargaining unit with exclusive recognition that already has family leave rights.
- B. Use of Family Leave.
1. An employee electing to take family leave may:
    - a. Use any combination of earned and available annual, personal or compensatory leave;
    - b. Take sixty work days without pay in a twelve-month period, in accordance with the terms and limitations of the City Code and subject to the following limitations:
      - i. Leave used for birth or adoption must be taken within twelve months after the birth or adoption.
      - ii. Leave used for family illness must be at the time of the illness and certified by a physician's statement.
      - iii. With the approval of the employee's supervisor and the director or chief, family leave may be taken to regularly reduce the workday or workweek, intermittently, or in any combination.
      - iv. Leave without pay shall not be permitted for periods of less than three consecutive workdays.
  2. Notice to Supervisor. The employee's supervisor and the director or chief must receive a written request from the employee at least thirty days prior to taking leave for birth or adoption:
    - a. The thirty-day notice requirement may be waived by the supervisor and the director or chief when circumstances make it impractical for an employee to give the required notice.
  3. An employer is not required to grant to an employee family leave that would allow the employee family leave for any period of time during which the child's other parent or guardian is also taking family leave and this employee is also employed by the City.
- C. Employee Rights.
1. An employee's share of City group health plan premiums shall not increase during unpaid family leave.
  2. An employee may not be required to take leave without pay for family leave.
  3. An employee's request for family leave must be answered within twenty days of the date of notice.
- D. Return of Employee from Family Leave.
1. An employee returning from family leave shall be entitled to:
    - a. Employment in the employee's former position; or
    - b. A position of comparable duties, benefits, number of hours, and pay, including any automatic adjustments in the employee's pay scale that occurred during the leave period.
  2. An employee, with the consent of the supervisor and the director or chief, may return to work part-time during the leave period without forfeiting the right to return to employment on a full-time basis at the end of the leave period.
- E. Approval of Leave.
1. The supervisor of the employee shall forward a copy of the notice of family leave to the department's director or chief, Human Resources Director, Finance Director, and the office of the Mayor within five days of receipt of notice.

2. The supervisor is responsible for recovering all City property, keys, permits, equipment, etc., before the effective date of the leave.
  3. The supervisor must receive approval from the department's director or chief prior to any agreement with the employee regarding any changes, and forward all changes to the Human Resources Director, Finance Director, and the office of the Mayor.
- F. Cancellation or Changes of Family Leave.
1. If an employee, after submitting a request for family leave, decides to change the effective date of the leave, the supervisor must notify the department's director or chief, Human Resources Director, Finance Director, and the office of the Mayor.
  2. If an employee, after submitting a request for family leave, decides to change the effective date of the leave, the employee must resubmit notice and include all documentation regarding the change of date.
  3. When an employee, after submitting a request for family leave, decides to cancel, a written statement from the employee or the employee's physician or lawyer explaining the reason for the cancellation must be submitted to the employee's supervisor.

### 3.20.140 - Sick leave bank.

By regulation, the Department of Human Resources shall establish a sick leave bank to which employees may donate unused annual leave and from which employees who are entitled to sick leave but have exhausted all SICK leave may draw ADDITIONAL sick leave FROM THE BANK.

## Chapter 3.24 - CONDUCT AND QUALIFICATIONS

### Section 3.24.010 - Hours of work.

Hours of work shall be established by the City Council; ~~provided that.~~ All authorized work in excess of the prescribed working hours per week shall be compensated for by overtime payment at the rate as MAY BE authorized by the City Council, NEGOTIATING AGREEMENTS, OR OTHER APPLICABLE LAW.

### 3.24.020 - Prohibited conduct.

- A. ~~Unless otherwise specified, this section applies to all City employees.~~
- BA. A City employee, directly or indirectly, shall not use or seek to use the employee's official position, authority or influence to control or modify the political action of any other person; nor shall any employee, during duty hours, engage in any active form of political activity.
- CB. An employee may not hold any City elective office without first resigning the employee's position. Unless ~~sooner~~ having resigned SOONER PREVIOUSLY, an employee shall be deemed to resign the employee's position immediately upon qualifying and taking office.
- DC. No employee shall receive or be in any manner ~~concerned~~ ASSOCIATED with receiving any money or things of value from any other City employee for any political purpose.

ED. Violation of this section may constitute grounds for disciplinary action.

**3.24.030 - Fire Department employee-Volunteer fire company office.**

No employee assigned to the Fire Department shall hold office in any volunteer fire company.

**3.24.040 - Fire Department employee-Outside workEMPLOYMENT.**

A person employed by the City as firefighterNO EMPLOYEE shall not accept or hold employment in any job outside of the department, except as may be specifically permitted by the rules and regulations adopted for the department in accordance with this codeBY THE APPOINTING AUTHORITY. EMPLOYEES WISHING TO HOLD OUTSIDE EMPLOYMENT SHALL SUBMIT A WRITTEN REQUEST TO THE APPOINTING AUTHORITY SEEKING APPROVAL. **UNAUTHORIZED OUTSIDE EMPLOYMENT IS PROHIBITED.** This section does not apply to any work on a firefighter's own property or the property in which the firefighter lives. No **EMPLOYEE** work shall be done in any fire station, except that pertaining to the City **CITY FACILITY OR DURING DUTY HOURS FOR AN OUTSIDE EMPLOYER.** NO EMPLOYEE SHALL PERFORM WORK FOR AN OUTSIDE EMPLOYER IN A CITY FACILITY OR DURING WORKING HOURS.

**3.24.050 - Reserved.**

**EDITOR'S NOTE-** Ord. No. O-13-14, § I, adopted September 29, 2014, repealed § 3.24.050, which pertained to police residency requirement. See also the Code Comparative Table and Disposition List.

**3.24.060 - Retirement benefits of employees on or after January 1, 1980.**

Any employee who is not a member of the employees' retirement system of the State of Maryland on December 31, 1979, or who becomes an employee on or after that date, or who transfers to the pension system for the employees of the State, is not eligible for the benefits provided under Article VIII, Section 5 of the Charter.

**Chapter 3.28 - MEDICAL REVIEW BOARD**

THE HUMAN RESOURCES DIRECTOR MAY RETAIN OUTSIDE MEDICAL PROFESSIONALS TO PERFORM INDEPENDENT MEDICAL EXAMINATIONS AS NEEDED IN ORDER TO ASSESS THE FITNESS FOR DUTY OF APPLICANTS OR EMPLOYEES.

**Chapter 3.32 - EMPLOYEE-MANAGEMENT RELATIONS**

**REVISOR'S NOTE- 3.32.010 - Purpose.**  
There are no changes to this Section.

### 3.32.020 - Definitions.

For the purposes of this chapter, the following words and phrases have the meanings indicated:

- A. "Appropriate unit" means a group of employees recognized as appropriate for representation, using such criteria as similarity of job duties, skills, wages, educational requirements, supervision, hours of work, job location and working conditions, by an employee organization.
  
- B. "Employee organization" means any lawful organization which admits municipal employees to membership, the primary purpose of which is to represent employees concerning terms and conditions of employment, but the term shall not include any organization which discriminates because of ~~race, color, sex, creed or national origin~~ RELIGION, RACE, COLOR, SEX, AGE, FAMILY STATUS, NATIONAL ORIGIN, MARITAL STATUS, DISABILITY, VETERAN STATUS, GENETIC INFORMATION, SEXUAL ORIENTATION, OR GENDER IDENTITY, with regard to the acquisition or retention of membership, or in accepting or advancing members in any training, apprenticeship or employment program.
  
- C. "Employer" means the City.
  
- D. "Grievance" means:
  - 1. A dispute concerning the application or interpretation of the terms of a COLLECTIVE BARGAINING AGREEMENT OR memorandum of understanding;
  - 2. A claimed violation, misinterpretation or misapplication of the rules or regulations of a municipal agency or the employer affecting the terms and conditions of employment.
  
- E. "Professional employee" means any employee engaged in work which is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work, which involves the consistent exercise of discretion and judgment in its performance, of a character that the output produced or the result accomplished cannot be standardized in relation to a given time period, and which requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes. THESE POSITIONS ARE CATEGORIZED AS FAIR LABOR STANDARDS ACT "FLSA" EXEMPT.
  
- F. "Strike" means, by concerted action, the failure to report for duty, the willful absence from one's position, the stoppage or slowdown of work or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing, coercing or preventing a change in compensation or rights, privileges, obligations or other terms and

conditions of employment.

- G. "Supervisory employee" means one who has the authority to exercise independent judgment in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, schedule or review the work of subordinate employees; or one who is performing duties as are distinct and dissimilar from those performed by the employees supervised; or one who is exercising judgment in adjusting minor grievances, applying other established personnel policies and procedures; or one who is establishing or participating in the establishment of performance standards for subordinate employees and taking corrective measures to implement these standards.

**REVISOR'S NOTE- 3.32.030 - Employee rights.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.32.040 - Employer rights.**

There are no changes to this Section.

**3.32.050 - Recognition of employee organizations.**

- A. An employee organization seeking recognition as an exclusive bargaining agent for eligible personnel within an appropriate unit of the City government may file with the City a petition seeking that recognition. A petition may not be accepted by the City unless filed by the employee organization during the month of October.
- B. When evidence is presented to the City that at least thirty percent of the eligible personnel within an appropriate unit of the City government are members of an employee organization which seeks recognition for the purpose of bargaining on behalf of those personnel, the City shall grant those employees recognition as an employee organization after verifying, by a secret ballot election, that the majority of the employees in the appropriate unit desire to be represented by the employee organization. No election shall be conducted within an appropriate unit for the purpose of determining recognition more than once every twelve months.
- C. No unit shall be deemed appropriate if it includes both professional and other employees; ~~unless a majority of the professional employees vote for inclusion in such unit~~, nor shall any unit be deemed appropriate if it includes both supervisory and nonsupervisory personnel.
- D. When an employee organization has been recognized, it shall have the exclusive right to represent all employees in the unit for the purpose of collective negotiation with respect to the terms and conditions of employment of employees in the unit.

**REVISOR'S NOTE- 3.32.060 - Negotiations.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.32.070 - Unfair labor practices.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.32.080 - Right of check-off.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.32.090 - Grievance procedure.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.32.100 - Strikes prohibited.**

There are no changes to this Section.

**REVISOR'S NOTE- 3.32.110 - Review of union contracts.**

There are no changes to this Section.

**REVISOR'S NOTE- Chapter 3.36 - POLICE AND FIRE RETIREMENT**

There are no changes to this Chapter.

**Chapter 3.40 - SEXUAL HARASSMENT**

**Section 3.40.010 - Definitions.**

- A. "Employer" means any person engaging in any activity, enterprise or business employing or having supervisory authority over at least one individual and includes but is not limited to an agency or employee of the government of the City of Annapolis.
- B. "Sexual harassment" means any UNWELCOME SEXUAL ADVANCEMENTS, REQUESTS FOR SEXUAL FAVORS, OR OTHER VERBAL, PHYSICAL, NONVERBAL OR VISUAL INTERACTION OR CONDUCT OF A SEXUAL NATURE, OR CONDUCT BASED UPON AN INDIVIDUAL'S GENDERsexual overture or physical contact of a sexual nature or verbal or physical conduct of a sexual nature which shall include, but not be limited to, the deliberate, repeated making of unsolicited sexually-oriented gestures or comments, or the deliberate, repeated display of sexually graphic materials which is not necessary for business purposes.

**3.40.020 - Prohibited conduct.**

SEXUAL HARASSMENT IS STRICTLY PROHIBITED. ~~An employer violates this section when any of the following occurs~~ A VIOLATION OF THIS PROHIBITION OCCURS UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

- A. ~~An employee's acquiescence in or submission to sexual harassment is made either explicitly or implicitly a term of condition of employment.~~ SUBMISSION TO THAT CONDUCT OR COMMUNICATION WHICH CONSTITUTES SEXUAL HARASSMENT IS MADE EITHER EXPLICITLY OR IMPLICITLY A TERM OR CONDITION OF EMPLOYMENT; OR

- B. ~~An employee's acquiescence in or submission to sexual harassment or refusal to acquiesce or submit to sexual harassment is used by the employer as a basis for an employment decision affecting an employee.~~ SUBMISSION TO OR REJECTION OF CONDUCT OR COMMUNICATION WHICH CONSTITUTES SEXUAL HARASSMENT IS USED AS A BASIS FOR EMPLOYMENT DECISIONS AFFECTING THE EMPLOYEE, OR
- C. CONDUCT OR COMMUNICATION THAT HAS THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING WITH AN INDIVIDUAL EMPLOYEE'S WORK PERFORMANCE OR CREATING AN INTIMIDATING, HOSTILE, OR OFFENSIVE WORKING ENVIRONMENT.

### 3.40.030 - Penalty.

#### A. ~~Criminal.~~

1. ~~Any person violating this section shall be guilty of a misdemeanor.~~
2. ~~Each act of prohibited conduct and each victim of such conduct constitutes a separate offense.~~ EMPLOYEES WHO HAVE BEEN DETERMINED TO BE IN VIOLATION OF THE CITY'S POLICY ON WORKPLACE DISCRIMINATION SHALL BE SANCTIONED IN ACCORDANCE WITH THE APPLICABLE RULES AND REGULATIONS OF THE PERSONNEL SYSTEM AND APPLICABLE STATE OR FEDERAL LAW.

### 3.40.040 - Other penalties.

The provisions of this chapter shall not preclude any person from exercising any rights or privileges granted by any Federal or State ~~statute~~LAW.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date of its passage.

#### EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments