	<b>CITY OF HENDERSONVILLE</b>		
		Policy Name:	Confidential Information Policy

## I. PURPOSE

It is the policy of the City of Hendersonville to provide a personnel policy with best practices for confidential information. The City expects that employees will use this policy and good judgement with confidential information in the workplace.

## II. PROVISIONS

### A. Confidential Information


Confidential information has the greater power to harm if disclosed than other information, and hence requires greater protection. Employees are encouraged to use common sense when handling confidential information. If an employee is uncertain of the classification of a particular piece of information, the employee should contact their Department Head or Human Resources for clarification.

Confidential information may include, among other things, medical records, employee records, other personal information regarding City employees or former employees, economic development information, records of criminal investigations, and business or financial records.

We recognize the need to comply with public information requirements as mandated by federal, state and City laws and regulation.

**(1) Information gained while employed:** During the course of employment, employees may learn, see or acquire confidential information about the City, other employees, or our citizens. Such information must be handled in strict confidence and is to be shared only with those persons within the City who need to know such information. Employees are expected to deal with confidential information in a manner which complies with state and federal laws and regulations. Unauthorized access to confidential information is prohibited.

**(2) Breach of confidentiality:** Employees must recognize that the unauthorized disclosure of confidential information could cause irreparable harm and be detrimental to the City of Hendersonville and its employees. Any violation of this policy may result in disciplinary action, up to and including termination. Employees who violate confidentiality laws may also be subject to sanctions as imposed by federal or state law, including possible criminal sanctions.


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**(3) Personnel Information:**

- a. All City of Hendersonville personnel information is categorized into two main classifications with regard to disclosure: **Public** and **Confidential**.
- b. The information covered in this policy includes all personnel information within the City’s information systems that is processed, stored, or transmitted via any means. This includes electronic information, information on paper, and information shared orally or visually.

Only the following ten items in an employee’s personnel file must be disclosed to the public when requested:

- a. The employee’s name.
- b. The employee’s age.
- c. The date of the employee’s original employment or appointment.
- d. The employee’s current position title.
- e. The employee’s current salary.
- f. The date and the amount of each increase or decrease in the employee’s salary.
- g. The date and type of each employee’s promotion, demotion, transfer, suspension, separation or other change in position classification.
- h. The date and type of each employee’s dismissal, suspension, or demotion for disciplinary reasons. If the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal.
- i. The office or station to which the employee is currently assigned.
- j. 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.


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Any person may have access to the information described in (a) through (j) above 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. 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 City.

**B. Access to Confidential Information**

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

- a. The employee or his/her duly authorized agent may examine all portions of his/her personnel file except 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.
- b. A licensed physician designated in writing by the employee may examine the employee's medical record.
- c. A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- d. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- e. An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be 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.
- f. 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


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specified in the release to prospective employers, educational institutions, or other persons specified in the release.

- g. 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 public confidence in the administration of the City services or to maintain the level and quality of City services. The written determination shall be retained by Human Resources, is a public record subject to public inspection, and shall become a part of the employee's personnel file.

**C. Precautions**

- (1) Keep all confidential personnel documents out of view and locked away.
- (2) Confidential personnel information on your personal computer should always be password protected and should never be left open when stepping away from your desk or electronic device.
- (3) Electronic confidential personnel documents should be filed on a secured, password protected system and kept on your own personal drive such as OneDrive and not on a shared drive. If documents must be shared, documents must be password protected or encrypted.
- (4) Monitor the printer when printing a confidential personnel document. Do not leave confidential personnel documents unattended.
- (5) Remove all confidential personnel documents from any printer when completed. In the event of a machine jam, make sure all confidential papers are removed and shredded.
- (6) Close doors when confidential personnel discussions occur during meetings. Erase and/or remove all white boards, flip charts, and papers once the meeting has concluded. Be discreet in communications with others to ensure that unauthorized disclosure of confidential personnel information does not occur.
- (7) Confidential personnel related mail may be sent via regular mail courier. Interoffice confidential mail should be hand carried to local destinations (within reasonable traveling

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distance). Please instruct staff that incoming mail marked "Confidential" should be delivered unopened to the recipient immediately. Confidential papers (including notes and working papers) should not be discarded in wastebaskets or recycle bins. Confidential personnel papers should be shredded or placed in a locked shred box.


- (8) Using the fax machine for transmitting confidential personnel information is not recommended. However, if necessary, arrangements should be made at both ends of the transmission to monitor the fax machine until the entire fax has been sent and received. Do not leave a fax machine unattended when sending or receiving a confidential personnel document.
- (9) All conference calls where confidential personnel information may be discussed should be conducted behind closed doors.
- (10) Individuals should be cautious of their surroundings when leaving voice mail messages that may contain confidential personnel information.

**D. Personnel Actions**

Human Resources, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions. Official personnel files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, letters of recommendation, and other personnel-related documents. Any documents not contained in these files are not an official part of the personnel file.

**E. Records of Former Employees**

The provisions for access to records apply to records of former employees as they apply to those of current employees. The retention of former employee files will be in accordance with the adopted Records and Retention Schedule published by North Carolina State Archives adopted by the City Council on May 2,2019 and as maybe amended from time to time.

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**F. Remedies of Employees Objecting to Material in File**

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

**G. 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.

**H. Destruction of Records Regulated**

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

As of February 6, 2020 this policy replaces and supersedes any previous policies or unwritten policies or practices covering the same subject.