

**AN ORDINANCE REPEALING ARTICLE IX - SECTION 19-80 TO 19-83, AND
ADOPTING A NEW ARTICLE IX-A, CLASSIFICATION AND UNIFORM PAY PLAN FOR
EMPLOYEES OF COMSTITUTIONAL OFFICERS**

BE IT ORDAINED by the council of the City of Suffolk, Virginia, that Article IX, sections 19-80 through 19-83, of the Code of the City of Suffolk, Virginia, 1976, be, and it is hereby, repealed, and that a new Article IX-A, to be entitled "Classification and Uniform Pay Plan for Employees of Constitutional Officers," of the Code of the City of Suffolk, Virginia, 1976, be, and it is hereby, added to read as follows:

Sec. 19-83.1. Employees of Constitutional Officers.

It is acknowledged that the employees of the Sheriff, the Attorney of the Commonwealth, the Clerk of the Circuit Court, the Commissioner of the Revenue, and the Treasurer are employees of these Constitutional Officers, and are employees whose positions and base salary are established by the State Compensation Board; however, state law authorizes the inclusion of such employees in a locality's personnel system and authorizes local governing body to supplement the salaries of such employees. It is the policy of the City of Suffolk to provide for the inclusion of the employees of Constitutional Officers in the classification plan for service and uniform pay plan of the City, upon agreement by the affected Constitutional Officer and the City Council. The inclusion of such employees in the City plan shall not change the status of such employees as employees of a Constitutional Officer, nor deprive the Constitutional Officer of control over the actions of his or her employees, but shall serve as the basis for supplementation of salaries as permitted by law. The inclusion of such employees in the classification and uniform pay plans shall not constitute inclusion in the City's grievance procedure unless expressly agreed to by the Constitutional Officer and the City Council.

Sec.19-83.2. Same - Inclusion in classification plan for service and uniform pay plan.

Upon presentation by any Constitutional Officer of a proposal for the inclusion of his or her employees in the City's classification plan for service and uniform pay plan, Council may, if it finds that the classification plan and pay proposals are consistent with the criteria in the City's plan, and that inclusion is in the best interests of the City, approve the inclusion of that Constitutional Officer's employees in the City's plan. The payment of salaries and wages for such employees shall be made from funds appropriated by the Commonwealth for those positions and as may be supplemented from time to time with local funds appropriated by City Council. When approved by Council, such plan shall remain in effect until amended or discontinued by Council, or until discontinued by the affected Constitutional Officer.

Sec.19-83.3 Same -- Administration of plan

In administering the City's classification for service plan and uniform pay plan with respect to his or her employees, the participating Constitutional Officer shall follow the procedures established in the City's plan, mutatis mutandis, with that Constitutional Officer performing the functions for his or her employees that are assigned to the City Manager for employees of the City.

Sec. 19-83.4 Same - Existing plans.

All employees of Constitutional Officers covered by the previous Article IX of this chapter, adopted by Ordinance Number 84-86 (July 16, 1986), as amended from time to time, and as modified by Ordinance Number 30-92 (June 17, 1992), shall remain in the City's classification for service plan and uniform pay plan at the classifications and pay levels currently assigned, subject to the provisions of this article.

AND BE IT FURTHER ORDAINED that all phrases, clauses, sentences, paragraphs, subsections, and chapters of the Code not amended or repealed hereby remain in full force and effect.

READ AND ADOPTED: (date)

TESTE: _____

Approved as to Form:

City Attorney

RESOLUTION NUMBER 101-92

**A RESOLUTION TO INCLUDE EMPLOYEES OF THE CITY TREASURER
IN THE CITY'S CLASSIFICATION PLAN FOR SERVICE AND UNIFORM
PAY PLAN**

WHEREAS, the Treasurer of the City of Suffolk has requested that the employees of the Treasurer be included in the City's classification plan for service and uniform pay plan as permitted by Sections 2.1-114.5:1 and 15.1-7.1 of the Code of Virginia, and has agreed to such inclusion; and

WHEREAS, the City Council finds that it is in the best interests of the city.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Suffolk, Virginia, that, pursuant to the provisions of Article IX-A of the Code of the City of Suffolk, Virginia, 1976, as amended, that the employees of the Treasurer of the City of Suffolk, Virginia, excluding the Treasurer, be, and they are hereby, included in the classification plan for service and uniform pay plan for the City, with the pay grades and salary ranges assigned as shown on the attached Departmental Installation Schedule; and

BE IT FURTHER RESOLVED that such inclusion of these employees shall constitute inclusion in the City's grievance procedure; and

BE IT FURTHER RESOLVED that such inclusion shall become effective as of July 1, 1993, and shall remain in effect until amended or discontinued by Council, or until discontinued by the Treasurer; and

BE IT FURTHER RESOLVED that such inclusion shall not take effect until the terms of this resolution have been accepted in writing by the Treasurer.

READ AND ADOPTED: (date)

TESTE: _____
Deputy City Clerk

**A RESOLUTION RECEIVING THE AGREEMENT OF THE CITY TREASURER
TO
THE INCLUSION OF HIS EMPLOYEES IN THE CITY'S CLASSIFICATION
PLAN
FOR SERVICES AND UNIFORM PAY PLAN**

WHEREAS, by Resolution No.101-92, adopted (date), a copy of which is attached, Council approved the inclusion of employees of the City Treasurer in the City's classification plan for service and uniform pay plan, to be effective (date), subject to the acceptance of the terms of agreement to such inclusion by the Treasurer; and

WHEREAS, by letter to the Mayor dated (date), a copy of which is attached and incorporated herein, the Treasurer has indicated agreement to such inclusion of his employees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Suffolk, Virginia, that the employees of the City Treasurer be included in the City's classification plan for service and uniform pay plan as provided in Suffolk, Va., Resolution No. 101-92, subject to the terms of the Treasurer's acceptance as set forth in the attached.

READ AND ADOPTED: _____

TESTE: _____
City Clerk

Approved as to Form:

City Attorney

**A RESOLUTION TO INCLUDE EMPLOYEES OF THE CITY
TREASURER IN THE CITY'S CLASSIFICATION PLAN FOR SERVICE AND UNIFORM
PAY PLAN**

WHEREAS, the Treasurer of the City of Suffolk has requested that the employees of the Treasurer be included in the City's classification plan for service and uniform pay plan as permitted by Sections 2.1-114.5:1 and 15.1-7.1 of the Code of Virginia, and has agreed to such inclusion; and

WHEREAS, the City finds that it is in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Suffolk, Virginia, that, pursuant to the provisions of Article IX-A of the Code of the City of Suffolk, Virginia, 1976, as amended, that the employees of the Treasurer of the City of Suffolk, Virginia, excluding the Treasurer, be, and they are hereby, included in the classification plan for service and uniform pay plan for the City, with the pay grades and salary ranges as shown on the attached Departmental Installation Schedule; and

BE IT FURTHER RESOLVED that such inclusion of these employees shall not constitute inclusion in the City's grievance procedure; and

BE IT FURTHER RESOLVED that such inclusion shall remain in effect until amended or discontinued by Council, or until discontinued by the Treasurer.

READ AND ADOPTED: (date)

TESTE: _____

Approved as to Form:

City Attorney

REPORT OF THE ATTORNEY GENERAL

CONSTITUTIONAL OFFICERS-Employees And Deputies Of-Board of supervisors has no authority to impose personnel policies upon treasurer's office.

July 6, 1977

THE HONORABLE CHARLES A. REID

Treasurer for Greensville County

This is in reply to your recent letter requesting my opinion regarding personnel policies adopted by the Greensville County Board of Supervisors. You state that the Board has adopted administrative regulations to govern the hiring of new employees and the filling of vacant positions. Those policies require, *inter alia*, that all vacancies must be advertised, that the county administrator supervise the advertisement of all vacant positions, and that the supervisors must approve the hiring of any employee. You inquire whether a constitutional officer is required to comply with these administrative regulations.

The position of county treasurer is a constitutional office created pursuant to Article VII, Section 4, of the Constitution of Virginia (1971). The county treasurer is authorized to appoint one or more deputies, and by § 15.1-48 of the Code of Virginia (1950), as amended, that statute provides the sole authority for the appointment of such deputies. The Compensation Board determines the salary to be paid to deputies and employees of constitutional officers. See § 14.1-51 of the Code. There is no statute which prescribes the manner in which employees other than deputies of constitutional officers are to be hired.

As a constitutional officer, the treasurer is not subject to the control and jurisdiction of the governing body. See Report of the Attorney General (1974-1975) at 558. In addition, this Office has ruled consistently that it is the traditional view and the practice in Virginia that:

" . . . an officer elected by the people pursuant to the Constitution is charged with the obligation to perform certain duties connected with that office and should not have his control over the office impaired by an officer appointed by a council or other local governing body."

Report of the Attorney General (1966-1967) at 65.

Absent contrary statutory authority, a constitutional officer has the sole responsibility regarding the personnel policies of his office. It is not the prerogative of any local official to make personnel determinations for a constitutional officer. See Report of the Attorney General (1969-1970) at 59. A constitutional officer has, therefore, the sole appointing power with respect to deputies and personnel under his supervision. See Report of the Attorney General (1971-1972) at 367. Employees and deputies of constitutional officers are not subject to the county personnel system and the employment terms of those persons are not subject to the control of the governing body. See Reports of the Attorney General (1975-1976) at 50, 149, (1973-1974) at 67. Based on the foregoing, I am of the opinion that the supervisors have no authority to impose personnel policies upon your office.