

# City of Lago Vista



**LAGO VISTA**  
— TEXAS —

Employee Handbook  
Policies and Procedures

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# City of Lago Vista

## Personnel Policies and Procedures

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## **SECTION 1. GENERAL POLICIES**

### **A. PURPOSE OF THESE POLICIES**

The purpose of these Personnel Policies is to provide a uniform set of guidelines governing employment with the City. The policies contained here inform employees of the benefits and obligations of employment with the City. They have been prepared and adopted in order to promote consistent, equitable, and effective practices by both employees and supervisors. These policies have also been prepared to provide a high quality of public service to the citizens of this City. These policies do not in any way constitute a contract of employment with the city.

### **B. AUTHORITY**

These policies are established by the City Council, and any deletions, amendments, revisions, or additions to the policies must be approved by the Council. These policies completely replace and supersede any and all personnel policies previously adopted, either individually or as a set of policies, by the City Council. The City may also issue additional policies and procedures from time-to-time. No oral statements or representations can in any way change or alter the provisions of these Policies. General and final authority for personnel/employee administration rests with the City Manager, with the exception of matters reserved to the City Council by state law or the City Charter and matters involving the City Manager directly as an employee of the City.

Any changes to the contents of the handbook will be immediately updated in the electronic version of the handbook maintained in the Human Resources department; therefore, the only current handbook and set of policies is the electronic version which supersedes any other version in any form. Employees will be notified promptly via email of any changes to the contents of the handbook, and asked to return an executed acknowledgement of receipt of the revisions.

1. **Management Authority and Amendments.** The City may modify, revoke, suspend, interpret, terminate, or change any or all of its policies and procedures, in whole or in part, at any time, with or without notice. The issuance of these policies and procedures does not constitute a contract between the City and its employees. Nothing in these Policies or in any other document, including benefit plan descriptions, creates or is intended to create a promise or representation of continued or guaranteed employment for any Employee. Either the City or the employee can terminate the employment relationship at any time, for any reason.

Policy administration rests with City management and City management reserves sole authority to administer City operations. Authority may be delegated to appropriate staff members to act in the City Manager's behalf in the administration of these policies; however, the final authority on personnel decisions shall be reserved to the City Manager. Operational changes to any policy, practice, or process will require approval by the City Manager.

No City supervisor is authorized to modify these policies for any employee or to enter into any agreement, oral or written, in conflict with these policies.

2. **Departmental Policy and Procedural Requirements.** Individual City departments may develop policies and procedures that are consistent with City policies and procedures. Department policies and procedures that are operational and do not relate to those in this handbook, or other approved operational manuals, do not need to be reviewed and approved by the Human Resources Director other appropriate departments. All employment-related department policies must be reviewed by the Human Resources Director, and if necessary, the City Manager. Department directors are responsible for obtaining the necessary review and approval prior to issuing such departmental policies and procedures.

Departmental policies and procedures will not become effective unless they have been reviewed and approved in accordance with this policy.

3. **Miscellaneous.** Policies and procedures apply to all employees of the City, both on and off duty where applicable, unless otherwise restricted by proper authority, or prohibited by state and/or federal law.

Only the City Manager or the City Council, depending on the position, has the authority to enter into an employment agreement, promise, or commitment contrary to these policies and procedures, and all such agreements, promises, and/or commitments entered into by the City Manager or City Council must be contained in an express written employment contract signed by both the City Manager and the affected employee.

## **C. SEVERABILITY**

The provisions of these policies are severable, and if any provision or part of a provision is held invalid, illegal, or unenforceable, this shall not affect the validity of the remaining provisions or parts of provisions, which shall remain in force and effect.

## **D. APPLICABILITY OF PERSONNEL POLICIES**

These personnel policies and procedures apply equally to all employees of the City unless a class of employees is specifically exempted; the provisions of these policies may be varied in the case of an employee with a written employment agreement approved by the City Council. Individuals performing community service work for the City are not covered by the terms of these policies. It is the responsibility of all employees to become familiar with and abide by these policies.

In cases where federal or state laws or regulations supersede local policy for specific groups of employees, such laws or regulations will substitute for these personnel policies only insofar as necessary to comply.

## **E. DISSEMINATION OF PERSONNEL POLICIES**

The Human Resources Department maintains the official set of the personnel policies, with all revisions, for reference by employees, and is responsible for providing a complete copy of this handbook and copies of all subsequent revisions or policy changes to each employee. If a question

arises about a particular policy, the official set of policies in the Human Resources Department should be consulted and will control.

As a part of the initial orientation process, Human Resources will provide a copy of the *Employee Handbook - Policies and Procedures* to new employees. This copy is the employees to keep. Upon receipt of the handbook and before beginning work on the job, each employee is required to read the policies and sign an acknowledgment that he or she has received a copy of the *Employee Handbook - Policies and Procedures* and understands that he or she is responsible for knowing the contents. The signed acknowledgment is filed in the employee's official personnel file in the Human Resources department.

## **F. EMPLOYMENT AT WILL**

Employment with the City is for no fixed or definite term. All employment by the City has been and continues to be at-will, except for those positions that may have a written contract approved by the City Council.

That means that both the employee and/or the City have the right to terminate employment at any time, with or without notice, and with or without cause. These personnel policies do not constitute a contract of employment. Nothing in these policies is intended to alter the continuing at-will status of employment with the City.

The terms and conditions of employment with the City may be modified at the sole discretion of the City with or without cause and with or without notice.

Only the City Council, has the authority to create an employment relationship other than on an "at-will" basis. Any modification to the at-will employment doctrine requires a written agreement, authorized by the City Council and signed by both parties.

No implied contract concerning any employment-based decision or terms and conditions of employment can be established by any other statement, conduct, policy, or practice.

Additionally, no employee may be terminated from employment for refusing to perform an illegal act.

## **G. EQUAL EMPLOYMENT OPPORTUNITY**

The City is an equal opportunity employer. The City prohibits discrimination based on race, color, creed, religion, sex, pregnancy, veteran status, marital status, age, national origin or ancestry, citizenship, physical or mental disability, sickle cell trait, genetic information, sexual orientation, gender identity or expression, and any other consideration made unlawful by applicable federal, state, or local laws. All such discrimination is prohibited by the City.

In the event that any Employee feels that there is a violation of this policy, he or she should immediately notify an appropriate member of management of the City.

In addition, should any person who would normally review complaints or grievances filed pursuant to the Work-Related Problems procedure set forth below be the individual who is accused of engaging in improper discrimination and/or harassment, the Employee should bypass the Work-Related Problems procedure and immediately contact the next highest-ranking executive of the City to initiate the complaint process. If the complaint is against or involves the City Manager, the employee should bypass the Work-Related Problems procedure and contact the City Attorney, directly, who will initiate the appropriate process with the City Council.

All complaints will be investigated promptly and thoroughly, and any inappropriate and improper conduct will be remedied. There will be no retaliation against any Employee who, in good faith, reports a violation of this policy, and any violation of this policy will result in disciplinary action up to and including immediate termination of employment.

## **H. SEXUAL AND OTHER UNLAWFUL HARASSMENT**

All City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, citizens, and vendors. This means that each employee must be respectful of others and act professionally. City employees are also prohibited from engaging in unlawful harassment of other employees, citizens, vendors, and all other third parties.

1. **Sexual Harassment.** All types of sexual harassment are prohibited. Unwelcome sexual advances, insinuations, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

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

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Sexual harassment does not require sexual attraction or interest. This policy prohibits sexual advances and requests for sexual favors, sexual jokes and innuendo; comments about bodies, sexual prowess, sexual preferences, sexual experiences or sexual deficiencies; leering, whistling, or touching; verbal abuse of a sexual nature, including insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures, including nudity and pornography; and all inappropriate conduct of a sexual nature, whether it be physical, verbal or visual conduct.

2. **Other Prohibited Harassment.** In addition to the City's prohibition against sexual harassment, harassment on the basis of any other legally protected characteristic is also strictly prohibited. This means that verbal or physical conduct that singles out, belittles, or shows hostility or aversion toward someone because of race, religion, color, national

origin, age, disability, genetics, veteran status, citizenship, or any other characteristic protected by law is also prohibited.

Prohibited conduct includes, but is not limited to, epithets, slurs and negative stereotyping; threatening, intimidating, bullying or hostile conduct; denigrating jokes and comments; and writings or pictures that single out, denigrate, or show hostility or aversion toward someone on the basis of a protected characteristic. Conduct, comments, or innuendoes that may be perceived by others as offensive are wholly inappropriate and are strictly prohibited.

This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, comics, stories, etc., including but not limited to via facsimile, email, cell phone or other electronic devices, social media, and/or the Internet, such as YouTube and Facebook. Harassment of any nature, when based on race, religion, color, sex, sexual orientation, pregnancy, national origin, age or disability, genetics, veteran status, citizenship or any other characteristic protected by law is prohibited and will not be tolerated.

This policy applies to City employees, citizens, vendors, and other visitors to the workplace.

Any employee who violates this policy shall be subject to disciplinary action, up to and including immediate termination of employment. All employees have the responsibility act at all times in a manner consistent with this policy and to respect the rights of coworkers, vendors, customers, and visitors to the worksites. Further, it is the responsibility of each member of the City's management to create an atmosphere free of discrimination and harassment, sexual or otherwise.

In the event that any Employee feels that there is a violation of this policy, he or she should immediately notify an appropriate member of management of the City. In addition, should any person who would normally review complaints or grievances filed pursuant to the Work-Related Problems procedure set forth below be the individual who is accused of engaging in improper discrimination and/or harassment, the Employee should bypass the Work-Related Problems procedure and immediately contact the City Manager or the Human Resources Department to initiate the process. If the alleged complaint involves or is against the City Manager, the employee should bypass the Work-Related Problems procedure and contact the City Attorney who will initiate the appropriate process with the city council.

The Human Resources Department will attempt, in its capacity as an administrative employer, to bring the two sides together to attempt to facilitate a resolution.

3. **Mandatory Reporting**. The City requires that employees report all perceived incidents of harassment, regardless of the offender's identity or position. Any employee who observes or otherwise learns of possible harassment in the workplace or who feels that harassment has occurred or has been subjected to conduct prohibited by this policy must report it immediately to:

- ◆ The Department Director;

- ◆ The Human Resources Director; or
- ◆ The City Manager.

More than one avenue for reporting harassment is included to allow the employee to choose an organizational level that s/he is comfortable with in reporting the incident.

#### Human Resources

Under this policy, an employee may report to and/or contact the Human Resources department directly, without regard to the employee's normal chain of command.

All City managers/supervisors, including the City Manager, must immediately report any incidents of harassment to the City's Human Resources Department. If the harassment involves the Human Resources Director, the manager/supervisor should contact the City Manager or City Attorney. If the harassment involves the City Manager, the manager/supervisor should contact the City Attorney, who will initiate the appropriate process with the City Council. The harassment complaint will be promptly and thoroughly investigated, and confidentiality will be maintained to the maximum extent possible by law and under the circumstances. If harassment is found to have occurred, immediate and appropriate disciplinary/corrective action, up to and including immediate termination of employment, will be taken.

4. **Investigation.** All reports of prohibited conduct will be investigated promptly and thoroughly in as confidential a manner as possible. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have other relevant knowledge. All employees are required to cooperate with the investigation and to maintain confidentiality.
5. **Retaliation Prohibited.** Retaliation against any employee who makes a good faith charge or report of prohibited conduct or who assists in a complaint investigation is prohibited. Acts of retaliation must be reported immediately as set out above.
6. **Responsive Action.** Misconduct constituting harassment or retaliation will be dealt with appropriately. Discipline, up to and including dismissal will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action will be imposed in situations where claims of prohibited conduct were untruthful, fabricated or exaggerated, or when employees are untruthful during an investigation.

## I. AMERICANS WITH DISABILITIES ACT

To ensure compliance with the Americans with Disabilities Act and Americans with Disabilities Act, as Amended (ADAAA), the City provides equal employment opportunities to qualified individuals with disabilities, which includes providing reasonable accommodations, where appropriate and strictly prohibits discrimination against qualified individuals on the basis of disability.

The City will provide reasonable accommodation to the known physical or mental impairments of an otherwise qualified individual with a disability if such reasonable accommodation will enable the individual to perform the essential functions of the position at issue. The City's obligation

under this policy is limited to providing reasonable accommodations that will not result in undue hardship to the City.

Any employee seeking a reasonable accommodation for a disability that affects the employee's work schedule or ability to perform the essential functions of the position shall make a written application on a form provided by the Human Resources department. The employee will be required to furnish documentation from a treating physician to substantiate an ADA disability and the need for accommodation.

Employees who have a complaint involving potential violations of the Americans with Disabilities Act or ADAAA, including but not limited to harassment, discrimination, or failure to provide a reasonable accommodation, must immediately contact the immediate supervisor, Human Resources, the City Manager, or the City Manager's designee.

## **J. LACTATING/BREASTFEEDING POLICY**

Accommodations will be made for lactating mothers for up to one year after the child's birth. An employee who is breastfeeding her child will be provided reasonable break times to express breast milk for her baby. The City will designate a room for this purpose. A small refrigerator reserved for the specific storage of breast milk will be made available. Any breast milk stored in the refrigerator must be labeled with the name of the employee and the date of expressing the breast milk. Any nonconforming products stored in the refrigerator may be disposed of. Employees storing milk in the refrigerator assume all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage, refrigeration and tampering.

Nursing mothers wishing to use this room must request/reserve the room by contacting the Human Resources Department. Additional rules for use of the room and refrigerator storage are posted in the room. City employees who work offsite or in other locations will be accommodated with a private area as necessary. Breaks of more than 20 minutes in length will be unpaid, and the employee should indicate this break period on her time record.

## **SECTION 2. EMPLOYEE RESPONSIBILITIES**

### **A. GENERAL EMPLOYEE RESPONSIBILITIES**

The city is a public tax-supported organization. Its employees must adhere to high standards of public service that emphasize professionalism, courtesy and avoidance of even the appearance of illegal or unethical conduct.

Employees are required to give a full day's work, to carry out efficiently the work items assigned as their responsibility, to maintain honest conduct, and to do their part in maintaining good relationships with the public, their supervisors, city officials and their fellow employees.

### **B. FINANCIAL RESPONSIBILITY**

Employees of the City are expected to maintain a good credit standing in the community and to pay their obligations promptly. The City shall in no way serve as a collecting agency or arbitrator. If an employee fails to pay, or make reasonable provisions for future payment, of his or her debts to such an extent that the failure is detrimental to the employee's job performance, the employee may be disciplined, up to and including dismissal.

## **C. DRESS, APPEARANCE, AND UNIFORMS**

Employees must, at all times, dress appropriately and professionally and present a clean and neat appearance while at work and while representing the City or conducting City business. The City allows business casual dress in the workplace year-round, in accordance with this policy. This policy applies to all employees except those who are required to wear uniforms. Department directors are strongly encouraged to allow their employees to participate in business casual dress, as practical. Department directors and supervisors are responsible for enforcing this policy in their respective departments in order to maintain acceptable dress and appearance.

Professional business attire or a required uniform is to be worn when there is a need to present a more formal professional appearance for meetings or special events. Clean and presentable attire that is typical for the job function (i.e. suits or dresses for the City Manager's Office, polo with city logo and slacks for Parks & Recreation) are proper attire for personnel scheduled for City Council meetings, receptions, etc., unless otherwise directed by the City Manager for the occasion.

Employees must remember that they are professional 100% of the time and are dressing for business, not for pleasure. All clothing must be clean, neatly pressed and in good repair and appropriate to the work setting. Attire must always reflect a professional business attitude and presence. Provocative, suggestive articles or other inappropriate dress are not allowed in the workplace. When there is a question on whether or not an item of clothing is prohibited, please err in favor of being conservative and assume that it is not acceptable attire.

The City Manager may designate a specific day in which casual attire may be worn. However, it is at the City Manager's discretion and the attire worn on "casual days" should still reflect an appropriate professional appearance. Department directors may occasionally allow employees to wear casual attire if a specific work assignment dictates that casual attire is appropriate and to ensure the safety of an employee.

### **1. Standards for Business Casual Work Attire**

- ◆ Jeans, T-shirts and athletic shoes might be acceptable during normal work hours as specifically approved by the appropriate department director as work assignment dictates.
- ◆ Sweatshirts, sweatpants and hoodies of any type are not acceptable unless a special casual wear or festive occasion is declared by City management.
- ◆ Shorts shall not be worn unless they are part of a City department's approved uniform and worn with a shirt that identifies them as an employee of a particular City department or division or approved by the department director as special circumstances warrant.
- ◆ Women: Camisoles or tank tops are required to be worn under low cut blouses/tops. Clothing with thin or spaghetti straps or tank tops need to be worn with an acceptable

jacket. Skirts and dresses shall be worn no shorter than 2 inches above the top of the knee. Ankle length and Capri dress slacks are appropriate. Dress shoes or dress sandals are appropriate. No more than 3 earrings in each ear may be worn, provided the earrings are not unprofessional in appearance.

- ◆ Men: Knit shirts with collar, banded collar shirts, short sleeve or long sleeve dress shirts without a tie are acceptable. All shirts are to be tucked in unless specifically designed to be worn outside trousers. Dress shoes, boots or loafers are acceptable footwear. No more than 3 earrings in each ear may be worn, provided the earrings are not unprofessional in appearance.

2. **Examples of Inappropriate Attire.**

- ◆ Provocative or revealing attire including low cut, bare backs, bare shoulders, midriffs, body-hugging, see-through garments, tube tops, or excessively loose or tight fabrics;
- ◆ Stirrup pants, spandex pants, casual cargo pants, leggings, form-fitting or tight slacks/trousers;
- ◆ Clothing with unclear or obscene messages or that endorses alcohol, tobacco products, drugs, pornography, or offensive material of any kind;
- ◆ Un-pressed, soiled, ripped, and tattered clothing;
- ◆ Visible tattoos which could be deemed offensive;
- ◆ Nose rings, eyebrow rings, tongue studs, lip piercings, gauge piercings, or similar type facial jewelry.

3. **Jewelry.** All jewelry worn by employees must be appropriate, so it does not detract from a professional appearance or conflict with department uniform guidelines.

4. **Hair and Facial Hair.** Hair styles and hair colors must be appropriate to the employee's position, and extremes of any type are unacceptable. The length of hair must not pose a safety hazard for employees working around machinery and moving objects. Hair, including facial hair, must be clean and neatly groomed at all times. In accordance with state and federal law, the City permits applicants and employees to follow religious dress and grooming practices. Examples of religious dress and grooming practices may include: wearing religious clothing or articles (e.g., a Christian cross, a Muslim hijab (headscarf), a Sikh turban, a Sikh kirpan (symbolic miniature sword)); observing a religious prohibition against wearing certain garments (e.g., a Muslim, Pentecostal Christian, or Orthodox Jewish woman's practice of wearing modest clothing, and of not wearing pants or short skirts); or adhering to shaving or hair length observances (e.g., Sikh uncut hair and beard, Rastafarian dreadlocks, or Jewish peyes (sidelocks)). This list of examples is for illustration purposes only and is not to be considered exclusive.

5. **Perfume and Cologne.** While at work, employees should minimize the use of scented aftershaves, colognes, perfumes, and lotions as these products may impact the health of chemically-sensitive customers and other employees.

6. **Personal Hygiene.** All employees must maintain a clean, presentable appearance. Personal hygiene includes a regular bath/shower, use of deodorant, and appropriate oral hygiene.
7. **Uniforms.** The City supplies many Police, Parks and Recreation, and Public Works personnel with appropriate uniforms. Employees in jobs that require a uniform will be told how and where the uniforms can be obtained. The City will provide replacement uniforms as necessary. Uniforms must be clean and neat. City-owned or authorized uniforms may not be worn outside of work, for personal use, or by any third party. City uniforms may be worn by City employees in connection with outside employment only with the department director's prior written authorization.

Employees who are provided with uniforms are required to wear their uniforms when on duty and keep them in good, clean and serviceable condition. No part of the uniform shall be worn by itself. An employee must wear the entire uniform when on duty. No part of the uniform shall be worn when off duty, except to and from work, unless in connection with outside employment with the department director's authorization.

When an employee terminates, uniforms and any other City equipment which the employee possesses must be returned in good condition. The cost of lost or damaged City property and unreturned uniforms will be deducted from the employee's final paycheck.

Employees will be required to sign an authorization form at time of employment to allow the City to deduct lost, damaged and unreturned supplies and uniforms.

8. **Employee Purchasing of City Logo Clothing.** Employees who work primarily in offices are not eligible to receive uniforms. However, employees are permitted to purchase City logo apparel at their own expense and at the City's contract price from selected vendors.
9. **Exceptions.** Employees having a conflict with any aspect of this policy, based on cultural or religious traditions or medical reasons, may request an exemption. The employee must place the request in writing to Human resources. Human Resources shall review the request and determine whether an exception will be granted.
10. **Enforcement.** Employees and supervisors are responsible for ensuring compliance with the City's dress code standards. In all cases, the City will make the determination as to acceptable dress, appearance and grooming. Employees should direct questions about appropriate appearance or dress to their supervisor, Department director or to Human Resources.

Department directors shall specify requirements for uniforms and other work attire. Departments may impose special dress and grooming requirements necessary for employee safety, including use of appropriate personal protective equipment, shoes and clothing.

Supervisors are responsible for ensuring that employees know, understand and adhere to this policy as well as any department specific dress policy. Department directors and supervisors shall counsel employees' whose dress, personal hygiene or grooming is inappropriate.

Each employee is expected to adhere to the clothing, uniform and personal appearance guidelines set forth in this policy. Each employee must use good judgment and common sense in selecting clothing that fits with the function of his/her position, while also promoting a professional image. In order to avoid bringing discredit to the City, employees shall exercise caution in their conduct when wearing uniforms or other apparel bearing the name or logo of the City of Lago Vista.

Employees in violation of this policy may be sent home. Under such circumstances, non-exempt employees will not be paid for work time missed, and exempt employees will be required to make up the work time missed. Employees whose grooming or personal appearance violates this policy may be disciplined, up to and including termination of employment.

The department director, with approval of the City Manager's office, may make departmental exceptions to this policy when deemed necessary for business reasons or implement a more restrictive dress and appearance policy.

#### **Dress Guidelines**

	<b>Men</b>	<b>Women</b>
<b>Appropriate</b>	<ul style="list-style-type: none"><li>◆ Knit shirts with collar and banded collars</li><li>◆ Short sleeve or long sleeve dress shirts</li><li>◆ Dress shoes, boots, and loafers</li></ul>	<ul style="list-style-type: none"><li>◆ Camisoles or tank tops worn under low cut blouses/tops</li><li>◆ Thin or spaghetti straps and tank tops worn with jacket</li><li>◆ Skirts and dresses no shorter than 2 inches above top of knee</li><li>◆ Ankle length and Capri dress slacks</li></ul>
<b>Inappropriate*</b>	<ul style="list-style-type: none"><li>◆ Provocative or revealing attire</li><li>◆ Excessively loose or tight fabrics</li><li>◆ Bare shoulders</li><li>◆ Clothing with unclear or obscene messages or that endorses alcohol, tobacco products, drugs, pornography, or offensive material of any kind</li><li>◆ Stirrup pants, spandex pants, casual cargo pants, and leggings</li><li>◆ Form fitting or tight slacks/trousers</li><li>◆ Visible tattoos which could be deemed offensive</li><li>◆ Un-pressed, soiled, ripped, or tattered clothing</li></ul>	
<p>*Listing of inappropriate apparel is not intended to be exhaustive and all-inclusive and is provided to establish a guideline for what is acceptable in the workplace.</p>		

#### **D. USE OF CITY PROPERTY, VEHICLES, AND EQUIPMENT**

The City attempts to provide employees with adequate tools, equipment, vehicles and facilities for the job being performed, and the City requires all employees to observe safe work practices and

lawful, careful, and courteous operation of vehicles and equipment. Any required safety equipment provided by the City must be used at all times.

From time to time, the City may issue various types of equipment or other property to employees, e.g., credit cards, keys, tools, security passes, manuals, written materials, uniforms, cell phones, computers, and computer-related equipment. Employees are responsible for items formally issued to them by the City, as well as for items otherwise in their possession or control or used by them in the performance of their duties. At the time of issuance, employees may be required to sign certain forms or other documentation evidencing their receipt of property and/or equipment and authorizing a payroll deduction for the cost of lost, damaged, or unreturned items. In addition to payroll deductions, the City may take any other action it deems appropriate or necessary to recover and/or protect its property.

Employees must notify their supervisor immediately if any vehicle, equipment, machinery, tools, etc., appear to be damaged or defective, or are in need of repair. The appropriate supervisor can answer questions about an employee's responsibility for maintenance and care of equipment used on the job. The improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of equipment will likely result in disciplinary action.

1. **Personal Use Prohibited.** City property, materials, supplies, tools, equipment or vehicles may not be removed from the premises without prior written approval by the City Manager, or the Department Director, and may not be used for the personal benefit of an employee.
2. **Tobacco Use Prohibited.** The City's policy is to provide a smoke-free workplace. Smoking is prohibited in City buildings, or outdoors within twenty-five (25) feet of any entrance utilized by employees or the public. Smoking is also prohibited in all City vehicles, in garages or around entrances to buildings. Smoking is only allowed in designated smoking areas. Cigarette or cigar butts may not be discarded on the ground at any City facility, including parking lots. This prohibition against smoking applies to electronic cigarettes.

Users of smokeless tobacco are prohibited from spitting on sidewalks, parking lots, on landscaping or in the bathroom facilities. Spit cups must be kept out of the view of other employees or the general public and must not be disposed of in any of the trash cans inside City buildings.

3. **Vehicle Allowance.** An employee may be given a monthly allowance for consistently using such employee's own vehicle for City business if the use is deemed necessary by the City Manager. The amount of the allowance shall be determined by the City Manager.
4. **Take Home Vehicles.** A City vehicle may be assigned to a position or employee when it is more economical than payment of a car allowance or mileage reimbursement.

To be eligible for assignment of a take-home vehicle, an employee must be subject to emergency call back during off duty hours to locations other than the employee's normal workstation. No personal use of a take-home vehicle is permitted except to commute to and from home or work. A City vehicle is not to be used for personal business such as going to the bank, grocery store, etc., without prior written approval of the City Manager

or department director. No alcoholic beverages are allowed in City vehicles. No passengers may be transported in take-home vehicles except as required by official duties.

If approved by the City Manager, use of a City owned vehicle may be included within a contract of employment and may be exempt from this policy.

The City's vehicles are classified as either "exempt" or "non-exempt" as prescribed by law. Most pickups, vans and automobiles are classified as "non-exempt" vehicles. Employees to whom a "non-exempt" vehicle is assigned for take-home may incur a federal income tax liability for the benefit of commuting to and from work in a City vehicle. Police vehicles used by employees on call 24-hours are normally exempt from the benefit tax liability.

**5. Use of City Vehicles.** City-owned or leased vehicles may be used only for official City business. City owned or leased vehicles may only be driven by authorized City employees. If an employee drives a personal vehicle, or a City-owned, rented or leased vehicle on the job or while carrying out City-related business, the employee must comply with the following:

- ◆ Drivers must have a valid State of Texas driver's license appropriate for the vehicle operated, must maintain a satisfactory driving record, and must inform their supervisor of any change in status.
- ◆ Always observe all posted laws and speed limits.
- ◆ Always wear seat belts when the vehicle is in operation.
- ◆ No passengers other than City employees or others on City business may ride in a City vehicle unless otherwise approved in advance by the Department Director.
- ◆ No personal use of City-provided vehicles is allowed.
- ◆ All maintenance and use records for City vehicles must be completed as directed by the employee's supervisor. City vehicles must be kept clean; dispose of trash and put away tools daily.
- ◆ Report any broken, missing, or worn parts, tires, etc., or any needed maintenance of City vehicles to the appropriate supervisor immediately.
- ◆ All drivers must be eligible for coverage under the City's insurance policy.
- ◆ Drivers covered by Department of Transportation (DOT) regulations must comply with the DOT regulations at all times.
- ◆ AT NO TIME MAY AN EMPLOYEE UNDER THE INFLUENCE OF ALCOHOL OR A PRESENCE IN THE SYSTEM OF ILLEGAL DRUGS DRIVE A CITY VEHICLE OR A PERSONAL VEHICLE WHILE CONDUCTING CITY BUSINESS.
- ◆ EMPLOYEES INVOLVED IN AN ACCIDENT WHILE OPERATING A CITY VEHICLE, OR WHILE OPERATING A PERSONAL VEHICLE ON CITY BUSINESS, MUST IMMEDIATELY NOTIFY THE POLICE AND HIS/HER SUPERVISOR, DEPARTMENT DIRECTOR, AND/OR CITY MANAGER. THE EMPLOYEE SHALL **NOT** LEAVE THE SCENE OF THE ACCIDENT UNLESS REQUIRED TO DO SO BECAUSE OF INJURY. THE EMPLOYEE MAY

LEAVE THE SCENE AFTER THE POLICE INVESTIGATION IS COMPLETE OR IF THE POLICE DIRECT HIM/HER TO MOVE THE VEHICLE. ACCIDENT REPORTS, ALONG WITH ANY LAW ENFORCEMENT REPORT, MUST BE FILED BY THE EMPLOYEE WITH THE DEPARTMENT DIRECTOR AND THE CITY SECRETARY. IN ADDITION, THE EMPLOYEE IS REQUIRED TO PROVIDE A WRITTEN STATEMENT TO HIS/HER SUPERVISOR WITHIN TWENTY-FOUR (24) HOURS DETAILING THE INCIDENT AND INCLUDING WHETHER ANY CITATIONS WERE ISSUED.

- ◆ EMPLOYEES WHO ARE INVOLVED IN AN ACCIDENT WHILE OPERATING A CITY VEHICLE WILL BE SUBJECT TO A DRUG SCREEN.

6. **Driver's License Check.** The City may, at any time, check the driving record of a City employee who drives as part of the job duties to determine that the necessary qualifications are maintained as a City driver.
7. **Public Perception.** City employees must be aware of the fact that their actions while driving or in the vicinity of City vehicles are being observed by the public. Employees' irresponsible behavior and use of poor judgement reflects directly on the City and will not be tolerated. City employees must be courteous to other drivers and pedestrians.
8. **Violations of This Policy.** The above is not a complete and exhaustive list of vehicle use policies. Violations of any of the specific items listed, as well as the improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of a vehicle, may result in loss of driving privilege or disciplinary action, up to and including dismissal.
9. **Personal Property.** All employees shall be solely responsible for their personal property at all times.

## **E. OUTSIDE EMPLOYMENT**

1. **Written Authorization Required.** City employees may engage in outside employment provided they receive prior written approval from their Department Director who will notify the Human Resources department. The approval will be maintained in the employee's personnel file. Authorized outside employment may be subject to review in the event of schedule changes or interference with City duties.
2. **Outside Jobs Coordinated Through Police Department.** Police officers authorized to work part-time jobs coordinated by and through the City's Police Department must perform the outside employment in accordance with applicable Police Department procedures.
3. **Prohibited Activities.** Employees will not be permitted to engage in outside employment (including self-employment) or other activities that might discredit the City, result in a conflict of interest or a potential conflict of interest, or adversely affect the employee's job performance. City employees may not use City property, equipment, facilities, or telephones for outside business activities or for personal gain.
4. **Workers' Compensation Coverage.** Employees are not covered by the City's workers compensation insurance while working for another employer.

5. **Outside Employment While on Leave Prohibited.** Approval for outside employment as set out in this policy does **not** authorize an employee on FMLA leave, sick leave, disability leave, workers compensation leave, administrative leave, or an unpaid leave of absence, or on restricted or light duty, to engage in any outside employment. Any exceptions must be expressly authorized in writing by the Department Director and the Human Resources Director, or if applicable, by the City Manager.
6. **Outside Employment Prohibited During Normal Working Hours.** Employees are prohibited from conducting outside employment activities during normal working hours.

## **F. EMPLOYEE SAFETY**

The City is interested in all employees' safety and well-being. Accordingly, the City has developed safety rules and regulations. Each and every employee is required to comply with all safety rules and to exercise caution in all work activities. From time-to-time employees will be updated and reviewed on safety procedures in an effort to increase awareness of the importance of safety on the job. Employees can prevent accidents and injuries by following the safety rules of your job, by remaining alert and by THINKING SAFETY at all times. If an employee sees something that the employee believes is an unsafe act or an unsafe condition, the employee should immediately report it to a supervisor or to management.

1. **Safety Rules.** The following safety rules apply at all times, and some specific job descriptions may contain additional operational safety guidelines. Each employee must be familiar with such rules, and apply them at all times.
  - ◆ Use prescribed protective equipment such as eye protection, hearing protection, hard hats, safety shoes or boots, gloves, shields, etc., when those items are appropriate to the task being performed.
  - ◆ Smoke only during designated times in authorized outside areas.
  - ◆ Walk, do not run. Wipe spills and pick up fallen objects and debris. Keep floor surfaces clear of hazards and other obstacles, electric cords, etc. For your comfort and safety, wear shoes with non-slip soles, in good condition and with enclosed toes. Do not wear sandals, sneakers, moccasins or tennis shoes on any job site where feet could be injured. Employees working in departments that require steel toe boots must wear them at all times.
  - ◆ To avoid back injuries, use correct lifting methods. Get additional help with heavy (or difficult to handle) objects.
  - ◆ Be aware of sharp tools. Use safety devices where provided, and do not alter or remove them in any way. Report hazards to management immediately.
  - ◆ Material Safety Data Sheets (MSDS Sheets) - Employees will be shown the location of the City's Material Safety Data Sheets. MSDS sheets provide valuable information about various chemicals and other agents that may be encountered in the work.

MSDS explain possible reactions to exposure, and steps for employees should take if it occurs. Review this information from time to time.

- ◆ Fire - Be alert for causes and report smoke, heat or unusual odors immediately. Alert other people in the area to the possibility of danger in order to evacuate, if necessary. Try to verify the location and call 911. Use proper portable extinguishers for small fires.
- ◆ Do not put fingers, hands, feet or clothing in moving machinery.
- ◆ Do not carry items in a manner that obscures vision.
- ◆ Do not block access to fire extinguishers.
- ◆ Do not touch open or loose electrical circuits.
- ◆ Report unusual vibrations, smells, or noises coming from equipment.
- ◆ Do not wear rings or jewelry while operating machinery.
- ◆ Do not perform maintenance or repairs on running equipment.
- ◆ Do not remove or alter warning tags or safety devices.
- ◆ Never leave nails or spikes protruding from planks or boards.
- ◆ Perform routine maintenance at all scheduled intervals.
- ◆ Do not use compressed air for cleaning clothing or floors.

2. **Accident Reporting.** All accidents and injuries, however slight or seemingly inconsequential, **must immediately be reported** to the appropriate supervisor or the Human Resources Director. Failure to report any accident or injury within 24 hours of its occurrence may lead to disciplinary action, up to and including termination of employment. Such reports are necessary so that the City can remain in compliance with applicable laws and begin workers compensation benefit procedures where appropriate.

Employees who violate safety standards, who cause or exacerbate hazardous or dangerous situations, or who fail to report or, where appropriate, correct such situations, will likely be subject to immediate disciplinary action, up to and including termination of employment.

3. **Accidents Involving City Equipment or Vehicles.** Any employee involved in an accident while operating City equipment or vehicles shall report the accident immediately to the supervisor and to the proper law enforcement agency. The employee must immediately complete an accident report, no matter how minor the damage is to the vehicle, and submit the report to the supervisor and to the City Secretary.

Drivers must obey all traffic rules and regulations prescribed by law and use every reasonable safety measure to prevent accidents. No one under the age of 18 may operate a City vehicle. Wearing of seat belts is mandatory.

Any traffic fines imposed upon a City employee while operating a City vehicle will be the personal responsibility of the employee and not the City.

Any employee involved in any type of accident involving City equipment may be disciplined if, upon investigation, it is determined that the employee was negligent or through carelessness or recklessness contributed to the cause of the accident.

## **G. POLITICAL ACTIVITY**

City employees will not be appointed or retained on the basis of their political support or activities.

City employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies. No City employee is prohibited from becoming a candidate for public office. However, at no time may City employees utilize City resources for political purposes.

**While on work duty, no City employee is allowed to:**

- ◆ Publicly endorse or campaign in any manner for any person seeking public office. This provision is not intended to prevent a city employee from displaying a candidate's sign on their personal property.
- ◆ Use the employee's position or office to coerce political support from employees or citizens.
- ◆ Use the employee's official authority or influence to interfere with or affect the result of a campaign issue, an election or nomination for public office.
- ◆ Make, solicit, or receive any contribution to the campaign funds of any candidate, directly or indirectly through an organization or association, or take any part in the management, affairs, or political campaign of any such candidate; provided nothing herein shall infringe upon the rights of an employee to seek office himself/herself, express his or her opinions, and to cast his or her vote.
- ◆ Use working hours or City property to be in any way concerned with soliciting or receiving any subscription, contribution, or political service to circulate petitions or campaign literature on behalf of an election issue or candidate for public office in any jurisdiction.
- ◆ Contribute money, labor, time or other valuable thing to any person for City election purposes, except as permitted by law, such as on-duty attendance at a political rally or function for a candidate on a ballot if the employee is assigned to be present for legitimate City reasons, such as providing security..
- ◆ Hold an appointive or elective office of public trust where service would constitute a direct conflict of interest with City employment, e.g., City of Lago Vista City Council, Lago Vista ISD, and Travis County. Upon being elected to such an office, an employee must immediately resign or will be dismissed upon failure to do so.

However, while off-duty and not acting as a City representative, employees may engage in political activities during their personal time, including attending rallies, supporting candidates, and expressing political opinions, provided it does not interfere with their official City duties and the individuals involved are off-duty and not in uniform or wearing any official city item or clothing that identifies the employee as an employee of the city

## **H. CONFLICTS OF INTEREST/SOLICITATION AND ACCEPTANCE OF GIFTS**

1. **Conflicts of Interest.** No employee of the City may:

- ◆ Have any financial or other interest, directly or indirectly, in any proposed or existing contract, transaction, purchase, work, sale or service to, for, with or by the City;
- ◆ Use City employment, authority, or influence in any manner for personal betterment, financial or otherwise;
- ◆ Have any financial interest, directly or indirectly, in the sale to the City of any land, materials, supplies or services;
- ◆ Have discussions or participate in decisions of any City agency, board, commission or instrumentality if the employee has any personal economic interest or is employed, directly or indirectly, by the person or entity that is the subject of the discussion or decision;
- ◆ Accept other employment or engage in outside activities incompatible with the performance of duties and responsibilities as a City employee or that might impair independent judgement in the performance of duties to the City; or
- ◆ Accept remuneration or provide services for compensation, directly or indirectly, to a person or organization requesting an approval, investigation, or determination from the City.

Additionally, employees **must** disclose any direct substantial financial interest in any entity or property affected by City decisions and abstain from voting or decision-making in such cases.

## **2. Solicitation and Acceptance of Gift.**

- ◆ Solicitation of funds or anything of value for any purpose whatsoever shall be permitted of or by City employees on the job only with the express approval of the City Manager. No employee may be required to make any contribution, nor may an employee be penalized in any way concerning employment according to the employee's response to a solicitation.
- ◆ No employee shall accept or solicit any money property, service, or other thing of value from a person, business entity or other organization regulated by, contracting with, or having any other business relationship with the City department of which the employee is a member. However, this section shall not be interpreted to include any pen, pencil, calendar, cap, or similarly valued item distributed by any such business or organization for advertising purposes.
- ◆ If a person presents a gift to a City employee as a reward for service or as an act of expressing appreciation, then the employee shall report the gift (other than the minimal gifts listed in the paragraph above) in writing to the supervisor and the City Manager.
- ◆ No employee shall accept or solicit any money, property, service, or other thing of value in excess of \$50.00 for the benefit of the City, or any employee, or department of the City, unless approved in advance by the City Council.

Violations of this policy may result in disciplinary action. Employees should direct questions regarding the prohibitions imposed by this policy to your Department Director, the Human Resources Director, or the City Manager's office.

## **I. PURCHASING**

Purchases by City employees will be made only as authorized by the City Manager or the City Council and must be made in accordance with state purchasing laws as they apply to cities.

## **J. ARRESTS, CONFINEMENTS, AND INDICTMENTS**

1. **Policy.** City employees are subject to disciplinary action and/or job restrictions for violations of law. This policy applies to acts prohibited by law that result in charges being filed, arrest, confinement, indictment, and/or conviction, as well as to acts prohibited by law not resulting in charges filed, arrest, confinement, or indictment.
2. **Procedure.**
  - ◆ **Employee Notice of Felony and Misdemeanor Charges.** Employees must immediately notify their supervisor and/or Department Director within twenty-four (24) hours if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead *nolo contendere* to any misdemeanor or felony. Employees who do not drive as a part of their job duties with the City are not required to report minor traffic violations. Failure to report these events in a timely manner may result in immediate termination.
  - ◆ **Employee Status after Alleged Violation of Law.** At the time the employee's department is made aware of an employee's arrest or conduct constituting an offense, the Department Director shall consult with the Human Resources Director to determine available options which may include, but are not limited to:
    - ✓ allowing the employee to return to regular duty with pay;
    - ✓ allowing the employee to return to restricted duty with pay;
    - ✓ placing the employee on paid administrative leave;
    - ✓ placing the employee on unpaid administrative leave; or
    - ✓ terminating the employee.
  - ◆ **Employee Status after Adjudication.** Once the indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are commuted and all related administrative matters are completed, the Department Director will determine, in conjunction with the Human Resources Director the status of the employee. An employee on administrative leave may, in the City's sole discretion, be reinstated to the position held before being placed on administrative leave (if available), if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.
  - ◆ **Disciplinary Action:** Disciplinary action may be pursued concurrently or in place of the above options or imposed at a later date. Multiple violations of law or confinements within a prescribed time period may also result in disciplinary action.
  - ◆ **Violations of Law Discovered through Criminal History Check:** The City may conduct criminal history checks on existing employees at any time during their employment, for any reason. Conduct constituting an offense, arrest or conviction that is discovered may result in disciplinary action, up to and including termination.

- ◆ **Other Policies:** This policy should not be construed to limit disciplinary action that may be taken in accordance with other Personnel Policies and Procedures, department policies, or other city-wide policies.

## **K. TELEPHONE CONTACT**

1. All supervisory personnel and service personnel must have a telephone number at which they can be reached during off-duty hours. This can be a cell phone or a land line telephone.
2. No reimbursement shall be made to the employee for the City's use of such employee's private telephone to contact the employee regarding work related matters.
3. All employees must immediately notify supervision of any change in phone number(s), and provide a phone number for a secondary contact, i.e., spouse, parent.

## **L. SOCIAL MEDIA POLICY**

An employee's use of social media, both on and off duty, must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City or violate any City policy. The intent of these standards is to regulate the creation and distribution of information concerning the City, its employees, and citizens through electronic media, including but not limited to online forums, instant messaging, and internet social media and blogging sites. This policy is designed to protect the City's reputation and ensure that an employee's communications not only reflect positively on the employee as an individual, but also on the City.

The term "social media" includes X (formally known as Twitter), tweets and twittering, Facebook, LinkedIn, Instagram, Snapchat, blogs, and other online journals and diaries; bulletin boards and chat rooms, microblogging, and all other social networking sites, instant messaging, and the posting of video on YouTube and similar media.

1. **Use of City's Internet.** Use of the City's Internet is a privilege and City employees must use it responsibly and ethically. The City may monitor an employee's access, use, and postings to the City's Internet to ensure compliance with internal policies; support the performance of internal investigations; assist management of information systems; and for all other lawful purposes. The City expects all employees to follow the guidelines below when posting information on the City's social media sites.
2. **Other City Policies.** This policy should be read and interpreted in conjunction with other City policies, including but not limited to, policies prohibiting harassment, discrimination, offensive conduct, or inappropriate behavior. Violations of the Social Media Policy may lead to disciplinary action. The City provides an effective system for employee complaints "off-line" through the "Grievance" policy without resorting to social media.

## **M. EMPLOYEE GUIDELINES: USE OF CITY'S SOCIAL MEDIA ON WORK TIME**

Any blogging or posting of information on the Internet or other City social media sites must comply with the City's guidelines, regardless of where the blogging or posting is done.

1. Blogging or posting information of a personal nature on the Internet or other City social media sites is prohibited during work hours. Employees are not permitted to engage in

social networking of a personal nature while using any of the City's electronic social media sites.

2. Employees must obtain written authorization from the City Manager to update or post on social media sites on behalf of the City, and all content must be approved prior to posting. All of the employee's time spent updating or posting on City social media sites as part of the employee's job duties is compensable time that must be reported and counted in the calculation of overtime.
3. No use of social media on work time and on City equipment on City-operated networks is considered private or confidential, even if password protected or otherwise restricted. The City reserves the rights to access, intercept, monitor, and review all information accessed, posted, sent, stored, printed, or received through its communications systems or equipment at any time.
4. Never disclose any confidential information concerning another employee of the City in a blog or other posting to the Internet. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.
5. Employees must abide by all federal and state laws and policies of the City with regard to information sent through the City's Internet.
6. Individual supervisors do not have the authority to make exceptions to these guidelines.

## **N. EMPLOYEE GUIDELINES: USE OF PERSONAL SOCIAL MEDIA WHILE NOT ON WORK TIME**

The City recognizes that many City employees utilize social media when not at work. The City requires that employees be aware of guidelines regarding posting of work-related information on personal social media sites, and they are listed below:

1. If the employee's social networking includes any information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City.
2. Do not put anything on your personal social media site that may constitute a violation of the City's harassment policy. Do not post any pornographic pictures of any type that could identify you as an employee of the City. Be mindful that the City's harassment policy covers both work and non-work time, including postings on social media sites.
3. Do not post pictures of yourself or others on your personal social media site containing images of City uniforms or insignia, City logos, City equipment or City work sites.
4. Do not permit or fail to remove postings violating this policy, even when placed by others on your social media site.

## **M. Maintaining Confidentiality**

As a condition of initial and continued employment, all current and former employees are expected to conduct themselves in a manner that protects and preserves proprietary, confidential, and trade secret information. "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

- Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

All information regarding the City, employees, customers, vendors, and the like is to be kept confidential and revealed only to those at the City with a need to know and authorization to receive such confidential information. Employees may be required to enter into a written confidentiality agreement. If a question arises whether information should be protected, please contact your immediate supervisor.

All records and files maintained by the City are confidential and remain the property of the City. Records and files are not to be disclosed to any outside party without the express permission of the City Manager, the City Attorney, and City Council, including records and files subject to the Texas Public Information Act. Such confidential information includes, but is not limited to, business and strategic plans, financial records, Employee and payroll records, customer, vendor, and supplier information, inventions, programs, formulas, trade secrets as noted above, techniques, processes, sales and marketing information and all practices and processes (collectively "Confidential Information.") Confidential Information may not be removed from the worksite premises without the express authorization of the City Manager, City Attorney, and City Council.

Confidential Information obtained during or through employment with the City may not be used by any employee for the purpose of furthering current or future outside employment or activities or for obtaining personal gain or profit. The City reserves the right to pursue all legal or equitable remedies to prevent impermissible use of Confidential Information or to recover damages incurred as a result of the improper use of the Confidential Information.

The City respects your right to express personal opinions and communicate concerning the terms and conditions of employment. Nothing in this policy is intended to interfere with your rights under federal and state laws, including the National Labor Relations Act.

### **SECTION 3. EMPLOYMENT PRACTICES**

#### **A. EMPLOYEE RECRUITMENT AND SELECTION**

The City hires employees based on their knowledge, skills and abilities, experience, and other qualifications as they relate to the duties and responsibilities of a position without regard to race, national origin, religion, color, sex, age, citizenship, political affiliation, disability, genetics, veteran's status, or any other characteristic protected by law. It is the desire and intent of management to provide promotional opportunities for employees of the City by offering assistance to interested employees in developing career plans and making applicable training and educational opportunities available within budget limits.

1. **Methods of Recruitment and Selection.** The city has several methods of recruiting and selecting persons to fill vacancies:

- ◆ Promotion from within; or
- ◆ Transfer from within; or
- ◆ Public announcement (including media announcement and posting of notice for city employees) and competitive consideration of applications for employment; or
- ◆ Referral from a job training program; or
- ◆ Selection from a valid current eligibility list of applicants. (A valid current eligibility list is a record of applications for the same or a similar position for which recruitment was conducted within the preceding six (6) months.)

The City Manager approves the method of selection to be used in filling each vacancy. However, the City Council must have approved funding for a position before recruitment begins.

All positions will be posted publicly after the expiration of a five-day internal recruitment application period.

2. **Recruitment Requirements.** The recruitment process is initiated by a City department director submitting a request to fill a vacancy of a budgeted position to the Human Resources Director. Job vacancies will normally be posted internally for the benefit of any qualified employee, posted in City employee break areas, and sent electronically to all City employees. External recruitment may also be conducted simultaneously with an internal posting.

3. **Public Announcements.** When public announcements of position openings at the City are used, and competitive consideration will be given, the announcements are disseminated by Human Resources in the manner most appropriate for the particular position being filled, as determined by the City Manager. City department directors wanting to fill job vacancies within their departments must submit relevant information about the position to Human Resources who ensures that job opening announcements are made public through publication in the local newspaper and posting on the City website and bulletin board at City Hall.

Current employees may apply for positions for which they believe themselves to be qualified.

If selected for the position for which he or she applied, a City employee can transfer to another City position without loss of pay provided that his or her current pay is within the limits set by the City Council for the transfer position.

The length of time during which applications will be accepted will be determined by the Human Resources Director in accordance with the circumstances that exist at the time.

4. **Applications.** When a specific vacancy exists, each person desiring employment with the City must submit a written application and other pertinent information regarding training

and experience. To be valid, an application must be made on the City's official application form. Each person desiring employment with the City may obtain an application for employment from the Human Resources Director or designee.

The City will make appropriate inquiries to verify criminal history, education, experience, character, and required certificates and skills of an applicant prior to extending an offer of employment. In the case of applicants for positions with the City which require driving a vehicle, the City must check the prospective employee's driving record prior to offering the applicant employment with the City.

The City does not accept applications for employment unless a specific job opening exists. Persons wishing to apply for a job with the City when a specific vacancy does not exist will be informed that City job openings are advertised in the local newspaper, on the City website and posted on the bulletin board at City Hall; and they may file an application when an advertised vacancy exists for which they consider themselves to be qualified. After a City position has been filled, all applicants who were interviewed but were not chosen will be notified in writing or by telephone as soon as practicable by the Human Resources Director.

The City should retain each employment application for two years after receipt of the application. (*Legal reference: 29 Code of Federal Regulations 1602; V.T.C.A. Government Code, Section 441.158; State Library and Archive Commission Local Schedule GR, as amended.*)

5. **Qualifications.** The City maintains a job (class) description, which establishes the required knowledge, skills and abilities for each staff position and the acceptable levels of experience and training for each. The job description sets forth the minimum acceptable qualifications to fill the position.
6. **Testing.** Except for drug/alcohol tests, physical examinations, psychological tests for law enforcement officers, and any other tests that may be required by state law, the only performance tests administered for employment or promotion will be specifically job related ("piece-of-the-job") tests (e.g., typing, operating a computer, operating a piece of equipment, lifting something heavy which is specifically required to be lifted in the job, tabulating columns of numbers, providing writing samples, etc.)
7. **Drug and Alcohol Testing.** In addition to the physical examination required by the city for all prospective employees, all prospective employees for any regular, full-time position in the city are required to be tested to show no trace of drug dependency or illegal drug usage.

All prospective employees are required to pass a drug/alcohol test after a conditional offer of employment has been extended, but prior to their first day of work. The offer of employment is contingent upon the prospective employee passing a drug/alcohol test. After employment, any employee may be required to submit to a test for drug dependency or illegal drug use. For more information on drug testing or drug usage, see the chapter of these policies on **Drug and Alcohol Use**.

8. **Selection**. In accordance with the City Charter, the City Council appoints and may remove the City Manager and Municipal Court Judge. Except for appointments reserved to the City Council or that require City Council approval by statute, ordinance, or charter, the City Manager has exclusive authority to select and employ personnel within the limits of these policies and the City budget. The City Manager may authorize City Department Heads to appoint and remove employees within their departments, subject to approval by the manager and within the limits of these policies and the City budget. Other supervisors may be asked for recommendations as appropriate.

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any city employees whom the City Manager or any of his or her subordinates is authorized to appoint. However, the City Council or its members may express freely to the City Manager their views and opinions on such matters.

Vacancies on the City Staff are filled on the basis of merit, whether by promotion or by initial appointment. Selections of the most qualified persons are made on the basis of occupational qualifications and job-related factors such as skill, knowledge, education, experience, and ability to perform the specific job.

After making a decision to hire, the hiring department must submit the appropriate paperwork to the Human Resources Director, along with the applicable Personnel Action Form. Offers for City employment, other than department heads, will be communicated by the Human Resources Director upon receipt of the hiring recommendation and all related paperwork. Offers for City Department Heads will be communicated by the City Manager.

9. **Physical Standards**. Knowledge of physical conditions and existing health problems of employees is necessary to avoid occupational injuries and to ensure that it will be possible to differentiate any future job-related injuries from existing medical problems. For these reasons employees are required to pass a drug/alcohol test and a physical examination after a conditional offer of employment has been extended, but prior to their first day of work. Employees will not be placed on the City payroll prior to passing these exams. Back X-rays are required for persons who will perform strenuous physical activity. The required physical examinations will be performed by a physician of the City's choice and will be paid for by the City.

In each instance, the examining doctor will be provided a copy of the appropriate job description or summary of duties and will be required to certify that the prospective employee is physically able to perform the essential duties of the job.

In addition, prospective new employees for active or reserve Police Officer certification must undergo an examination by a licensed psychologist or psychiatrist and be declared in writing by the psychologist or psychiatrist to be in satisfactory psychological and emotional health.

The City also may require all prospective active Police or reserve employees to submit to a polygraph test. The required examinations will be made by a physician and psychologist or psychiatrist of the City's choice and will be paid for by the City. (*Legal reference: Police only – V.T.C.A., Government Code, Section 415.057.*)

10. **Age Requirements.** No persons under seventeen (17) years of age will be employed in any regular full-time position. No persons under eighteen (18) years of age will be employed in any position requiring the operation of a motorized vehicle owned by the City of Lago Vista. A person under the age of eighteen (18) may be employed in a temporary or part time position if the person furnishes the City with a properly completed and signed minor's release form.

11. **Residency Requirements.** Employees who may be subject to emergency call and/or periodic service in a stand-by status may be required to establish residency within a reasonable distance from the principal work site in order to assure a timely response. For these purposes, the City Council has established that for employees hired after July 2016, a reasonable response time to a civil emergency is thirty (30) minutes. As a general rule, only those employees who reside within the City are potentially eligible for a City issued "take-home" vehicle.

12. **Employment of Relatives (Nepotism).** Nepotism is the showing of favoritism toward a relative. In order to prevent conflicts of interest, to avoid accusations and perceptions of biased conduct, and to maintain the confidentiality of restricted information, the City forbids the practice of nepotism in hiring personnel or awarding contracts.

A person who is related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) to any member of the City Council or to the City Manager may not be hired. (See Figures 1 and 2 on the following page for the prohibited degrees of relationship).

A person who is already employed by the City and is related in a prohibited manner may not stay in City employment unless the employee had been continuously employed by the City for a period of:

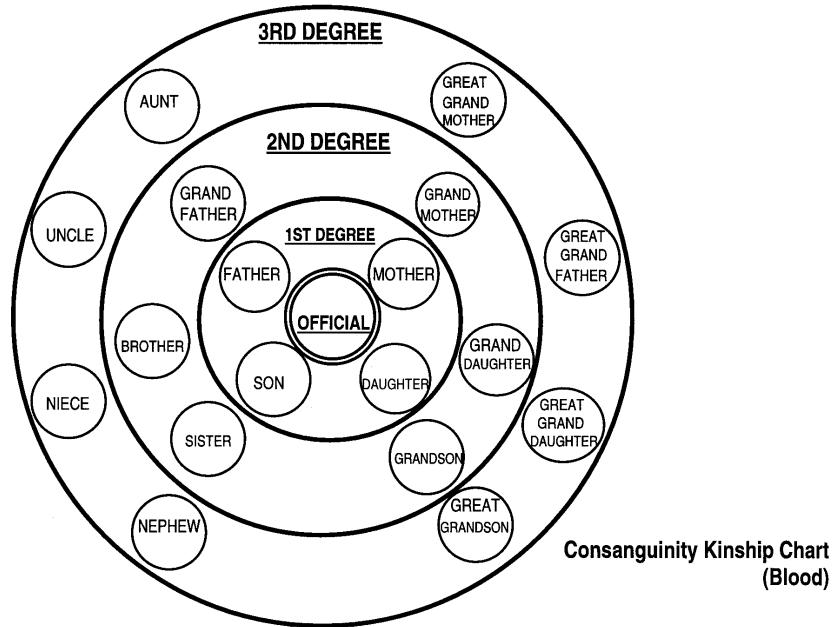
At least 30 days, if the officer or member is appointed; or

- ◆ At least six months, if the officer or member is elected at an election other than the general election for state and county officers; or
- ◆ One year if the related City officer is elected at a general election for state and county officers.

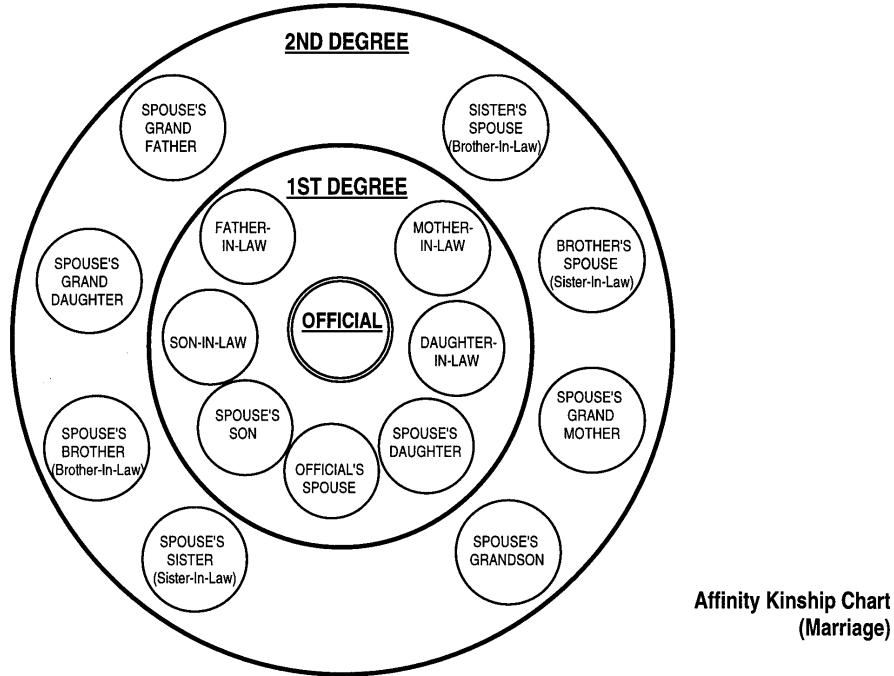
*(Legal reference: V.T.C.A. Government Code, Section 573.062, as amended.)*

In addition, no personnel action (hiring, demotion, promotion, transfer, reorganization) will be taken that would result in any employee's directly or indirectly supervising or being supervised by another employee who is related within the second degree of affinity or the third degree of consanguinity. Prohibited degrees of relationships are defined in Figures 1 and 2 of the Nepotism Charts. Spouses of relatives within the first or second degree of consanguinity (e.g., son-in-law, mother-in-law, brother-in-law, sister-in-law, etc.) are also included in the prohibition.

## NEPOTISM CHARTS



Consanguinity Kinship Chart  
(Blood)



Affinity Kinship Chart  
(Marriage)

In the event that two City employees within the same chain of command become related or members of the same household, receive a promotion, or any other situation giving rise to a relationship prohibited by the paragraph preceding the above charts, one or both of the affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of the paragraph preceding the Nepotism charts.

If a suitable transfer cannot be made within ninety (90) days of the event giving rise to a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment. In addition, written authorization must also be obtained from the City Manager (or designee) to employ any relative of a current City employee.

13. **Verification of Eligibility to Work.** In order to comply with the Immigration Reform and Control Act of 1986, each new employee will be required to complete and sign an INS Form I-9 within three days of his or her first day of employment to provide proof of his or her identity and employment eligibility. (Legal reference: P.L. Number 99-603; Federal Immigration Reform and Control Act of 1986.)

In the event the employee has not provided evidence of eligibility to work within the first three days of employment, the employee will not be allowed to continue working and shall be subject to termination.

14. **Driving Record.** Every City employee who is required to drive a vehicle or operate a piece of equipment which requires a valid driver's license must maintain a safe driving record. The City will check a prospective employee's driving record if the applicant's employment will be in a capacity which requires operating a vehicle or piece of equipment. For this reason, any offer of employment will be contingent upon verification that the prospective employee has maintained a safe driving record.

15. **Medical Records.** All records relating to the medical condition, medical testing, or drug testing of an employee or prospective employee are maintained separately from employee personnel files. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only the Human Resources Director has routine access to employee medical records for legitimate business-related reasons.

**NOTICE OF PRIVACY PRACTICES.** This Notice of Privacy Practices is provided as a requirement of the Health Insurance Portability and Accountability Act (**HIPAA**). It describes how the City may use or disclose an employee's protected health information, with whom that information may be shared, and the safeguards the city has in place to protect it. This notice also describes an employee's rights to access and amend his/her protected health information. The employee has the right to approve or refuse the release of specific information outside of the City's system except when the release is required or authorized by law or regulation.

"Protected health information" is individually identifiable health information. This information includes demographics, for example, age, address, e-mail address, and relates to the employee's past, present, or future physical or mental health or condition and related health care services. The City of Lago Vista is required by law to do the following:

- ◆ Make sure that an employee's protected health information is kept private;
- ◆ Give each employee this notice of the City's legal duties and privacy practices related to the use and disclosure of an employee's protected health information;
- ◆ Follow the terms of the notice currently in effect;

- ◆ Communicate any changes in the notice to each employee.

By law, the City must disclose the employee's health information to that employee unless it has been determined by a competent medical authority that it would be harmful to the employee. The City must also disclose health information to the Secretary of the Department of Health and Human Services (DHHS) for investigations or determinations of City compliance with laws on the protection of the employee's health information.

The City will share the employee's protected health information with third-party "business associates" who perform various activities for the City of Lago Vista (for example, the City's health insurance company). The business associates will also be required to protect the employee's health information.

The City may disclose protected health information during any judicial or administrative proceeding, in response to a court order or administrative tribunal (if such a disclosure is expressly authorized) and in certain conditions in response to a subpoena, discovery request, or other lawful process.

The City may disclose the employee's protected health information to comply with workers compensation laws and other similar legally established programs.

The employee may exercise the following rights by submitting a written request (depending on the request, the employee may also have rights under the Privacy Act of 1974):

- ◆ The employee may inspect and obtain a copy of his/her protected health information that is contained in a "designated record set" for as long as the City maintains the protected health information;
- ◆ The employee may request the City to provide him/her with an accounting of the disclosures the City has made of the employee's protected health information;
- ◆ The employee may obtain a paper copy of the notice.

This Notice of Privacy Practices is provided to each employee as a requirement of the Health Insurance Portability and Accountability Act (HIPAA). There are several other privacy laws that also apply, including the Freedom of Information Act, the Privacy Act and the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act. These laws have not been superseded and have been taken into consideration in developing City policies and this Notice of how the City will use and disclose the employee's protected health information.

16. **Disqualification.** Applicants will be disqualified from consideration for one or more of the following:

- ◆ Failure to meet the minimum qualifications necessary for performance of the duties for the position;

- ◆ If they previously worked for the City and were involuntarily terminated, or resigned in lieu of termination;
- ◆ If employment will result in a violation of the City's Nepotism Policy;
- ◆ Failure to meet minimum age requirement of 17;
- ◆ False statements or material omissions on the application form or during the application process;
- ◆ Failing any of the City's background and employment requirements including, but not limited to, drug/alcohol testing;
- ◆ The applicant commits or attempts to commit a fraudulent act at any stage of the selection process;
- ◆ The applicant is not legally permitted to work in the United States;
- ◆ The applicant is unable to perform the essential functions of the job applied for with or without a reasonable accommodation; or
- ◆ Any other reason deemed to be in the best interests of the City.

**17. Prior Service with the City.** Employees entering service with the City who have had prior service with the City may be considered for appointment above the customary entry salary level. In addition, employees rehired to fill regular full-time positions with the City will receive credit for their prior length of service as regular full-time employees for longevity pay purposes.

A break in continuous service with the City, however, forfeits vacation and sick leave benefits accrued prior to the break. For details pertaining to how a break in service affects retirement benefits, please refer to your Texas Municipal Retirement System "Member Information Guide."

**18. Reinstatement.** An employee is eligible for reinstatement if:

- ◆ The employee is returning from a military duty leave of absence; or
- ◆ The employee was previously incapacitated, is no longer incapacitated, and remains otherwise qualified to perform duties of job; or
- ◆ The employee is being rehired after having been laid off. Reinstatement allows the person to maintain his or her previous regular status for recording leave and longevity accrual.

## **B. CLASSIFICATION AND COMPENSATION PLAN**

**1. Placement on City Payroll.** New employees must report to the Human Resources Department before or during their first day of employment to fill out employment forms and be scheduled for new employee probationary.

2. **Minimum Pay.** Employees shall be paid no less than the minimum of the salary range established for the position. The following exceptions may be made when approved by the City Manager:

- ◆ When a period of training is required to demonstrate the employee's ability to perform the duties; (i.e., trainee status, normally not to exceed three (3) months); or
- ◆ When the employee is temporarily assigned to a position in a higher grade, normally not to exceed one (1) month.

3. **Maximum Pay.** The City's classification and compensation plan establishes a maximum for each pay range, which is the maximum pay the market will support for the positions listed in that pay range on the pay schedule.

New employees may not be hired into City employment above the minimum pay range without the written approval of the City Manager.

4. **Promotion.** A promotion is the assignment of an employee from a position in one classification to a position in another job classification having a higher starting salary. Promotional opportunities will be provided whenever possible to City employees; therefore, the selection may, at the discretion of the department director, be limited to qualified City employees. A director may, with the approval of the Human Resources Director or the City Manager, authorize a temporary promotion to insure the proper performance of a City function while a position is vacant, or if the position's regular incumbent is temporarily absent. Temporary assignment pay shall be considered on a case-by-case basis and shall be determined by the department director and the Human Resources Director with the approval of the City Manager.

5. **Lateral Transfer.** A transfer is the assignment of an employee from one position to another position in the same pay classification or same pay grade either within the same department or in a different department. Directors shall have the authority to transfer employees to other positions within their department. Transfers may be made for administrative convenience or upon the request of an employee. An employee may also be transferred when the employee applies for and is selected for a position in a different department.

6. **Demotion.** A demotion is the assignment of an employee to a position having a lower starting salary. A demotion requires the approval of the department director, the Human Resources Director, and the City Manager.

- ◆ **Voluntary Demotions** – A voluntary demotion is not a disciplinary action and does not disqualify the employee from consideration for future advancement.
- ◆ With the approval of the department director and, if qualified to perform the duties of a lower-level position, an employee may be administratively demoted at the employee's own request or as an alternative to a layoff.

- ◆ **Involuntary Demotions** – An involuntary demotion is a disciplinary action. (See section of these policies on Disciplinary Actions). The salary of a demoted employee (voluntary or involuntary) shall be adjusted. (See section of these policies on Classification and Compensation). Involuntary demotions are subject to the grievance process (See section of these policies on Grievances).

## **C. NEW EMPLOYEE ORIENTATION AND TRAINING**

Before an individual begins performing his or her actual duties, he or she normally will be given a brief orientation session, conducted by the supervisor for whom he or she will be working, or by that person's designated representative. The purpose of the session is to enable a new employee to understand his or her job better, as well as that job's relationship to the overall operation of the City.

An orientation session will also be provided by the Human Resources Director. During the orientation, employees are given a copy of these *Personnel Policies and Procedures*. Employees are responsible for knowing and following the information contained in the personnel policies, and must turn in a signed acknowledgment to this effect to the Human Resources department within the first two days of employment with the City.

Training an employee is the responsibility of the supervisor for whom the employee works. Whenever possible, employees receive on-the-job training under close supervision.

## **D. NEW EMPLOYEE PROBATIONARY PERIOD**

All new employees hired to fill regular full time or part time positions must satisfactorily complete a probationary period. All police officers are required to successfully complete a one (1) year probationary period, and all other employees are required to successfully complete a six (6) month probationary period.

Additionally, all current employees, including police officers, who are transferred, promoted, demoted, or reclassified to a supervisory position, as well as former City employees who are rehired, must satisfactorily complete a probationary period of six (6) months.

The probationary period assists the City in maintaining an effective, productive, and efficient workforce to provide quality services to the citizens. Only those employees who meet acceptable performance and other standards during their probationary period will be retained as employees. The probationary period may be extended for additional training as determined by the supervisor. In the event that an employees' probationary period is to be extended, the supervisor will meet with employee to clarify the need for additional training or performance improvement. Employees are considered in the probationary period until they have actually performed their regular job duties for the full length of the period applicable to their job to assure their ability to meet acceptable standards of work performance and behavior for the employee's position. A probationary period is not to be construed as a guarantee of 6 months of employment.

Each employee serving in the probationary period is responsible for knowing, understanding, and meeting the expectations and standards for the position.

In addition, each employee is also responsible for performing the job in a safe, productive, and effective manner within the instructions and established standards for the position.

During the probationary period, employees are expected to maintain acceptable standards of conduct and attendance and it will be the responsibility of the employee to correct any deficiencies or inadequacies in job performance, conduct or attendance.

1. **Seasonal/Temporary Employees.** Seasonal and temporary full and part time employees do not serve a probationary period and have no right of appeal when terminated at any time.
2. **Change in Assignment of Employee serving in the Initial Probationary Period.** Employees serving in the probationary period may not request or make application for reassignment, promotion, or voluntary transfer during the probationary period without written approval from the City Manager, or if requested, by their department director. If the reassignment, promotion, or transfer is approved, the employee will serve a six (6) month probationary period in the new position beginning with the date of the position change.
3. **Absences during Probationary Period.** During the probationary period, an employee is eligible to use sick leave for qualifying absences, and may use vacation leave for an absence due to illness or injury only if all sick leave has been exhausted. Compensatory time off or recognized holidays during the probationary period may be used as approved in accordance with established City/departmental policy or practice. Transferred or promoted employees serving in the probationary period retain eligibility for all types of leave established by City policy.
4. **Probationary Period Performance Evaluations.** All employees serving in the probationary period shall be constantly evaluated and will receive a performance evaluation(s) in accordance with the “Performance Evaluation System” policy. These reviews are designed to evaluate each employee’s performance and to communicate that performance to the employee. The written reviews include a supervisory recommendation to retain or terminate the employee.
5. **Extensions to Probationary Period.** The probationary period may be extended under the following circumstances:

At the end of the initial probationary period, the performance probationary period may be extended for up to an additional six (6) months when:

- ◆ An employee’s performance has been marginal due to extenuating circumstances,
- ◆ Additional training is warranted, or
- ◆ Frequent absences or an employee’s absence from work for an extended period of time did not permit an opportunity for adequate assessment of performance.

The decision to extend or not to extend an employee’s probationary period may not be appealed. If an extension is granted, the employee will be advised in writing and given the date on which the extended probationary period will be completed. Such extensions will be at the sole discretion of the department director and the Human Resources Director.

A probationary period may be extended for time spent on an approved Leave of Absence including leaves of absences due to injury or illness or approved Military Leave. The approved extension will normally equal the length of time away from work. Accordingly, each full-day absence incurred by an employee during the probationary period will normally extend the probationary period by an additional day.

6. **Successful Completion of Probationary Period; “Regular” Status Granted.** Employees have no guarantee of employment either during or after their probationary period. Only employees who meet acceptable performance, conduct, attendance, and other standards during the probationary period will be retained as regular employees. An employee is granted “regular” status in the new position if the employee satisfactorily completes the probationary period.
7. **Failure of Probationary Period.** An employee is considered to have failed the probationary period when it is determined that the employee’s fitness, job performance, quality or quantity of work, attendance, or combination thereof, does not meet minimum job performance standards and expectations for the position. Failure of probationary period may occur at any time within the probationary period. An employee who does not successfully complete the probationary period will normally be terminated from the City’s employment. If desirable and feasible, the employee may be administratively transferred to a more suitable position at the sole discretion of the Human Resources Director and the City Manager.

A transferred or promoted employee who fails the probationary period may, at the sole discretion of the City, be reinstated to the former position provided there is a vacancy and if approved by the affected department director(s). Department directors are responsible for ensuring the thorough written documentation of all cases of failure of the probationary period, including documentation of counseling, training, and other efforts to help employees during their probationary period. All such documentation must be reviewed by the Human Resources Director before an employee serving in the probationary period can be terminated.

8. **Termination of Employees Serving in the Probationary Period.** All employees of the City, including those serving in the initial probationary period, are at-will employees and may be terminated at any time during the probationary period, with or without notice or cause. An employee serving in the initial probationary period who is terminated has no right of appeal. Employees serving in the initial probationary period are subject to all policies and procedures of the City with the exception of appeal rights.
9. **Sexual and Other Unlawful Harassment.** Employees serving in the probationary period are subject in all respects to the City’s Sexual and Other Unlawful Harassment Policy. Employees serving in the probationary period have no right of appeal; however, if it is believed that unlawful harassment or discrimination has occurred; such conduct must immediately be reported as set out in City policy.

## **E. HEALTH / MEDICAL EXAMINATIONS / FITNESS FOR DUTY**

1. **Safe Work Environment.** The City endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation.
2. **Serious Health Condition/Disabilities.** The City recognizes that employees with a potentially life-threatening and/or infectious illness or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. As long as these employees are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees. All employees must notify Human Resources of any health development or condition which could require reasonable accommodations to assist them in continuing to perform their essential job functions.
3. **Medical Exams for Current Employees.** The Human Resources Director, or an employee's department director (with the prior written approval of the Human Resources Director) may require a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment, as may be necessary in order for the City to provide a reasonable accommodation; following an injury or accident; and as otherwise permitted in accordance with applicable laws.
4. **Medical Information from an Employee's Doctor.** Under certain circumstances (e.g., FMLA Certifications), Human Resources may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.
5. **Genetic Information.** In accordance with the Genetic Information Nondiscrimination Act (GINA), the City will neither request nor require genetic information of an employee or his/her family member, except as specifically allowed by GINA. To comply with GINA, employees are directed not to provide any genetic information when responding to any City request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.
6. **Medical Records.** Medical records and sensitive information regarding an employee's health will be kept confidential as required by law. Limited information may be provided to supervisors and managers, first aid and safety personnel, government officials, Texas Workers' Compensation Commission, and as necessary for insurance and other business-related purposes.

7. **Return to Work/Fitness for Duty.** Before returning to work following a medical and/or psychological examination under this policy, the employee must coordinate his/her return through Human Resources. An employee who misses work due to medical reasons may be required to provide a fitness-for-duty certification before returning to work.
8. **Time Off From Work.** Time away from work undergoing a City mandated fitness for duty examination will normally be coded to paid administrative leave, but may be retroactively changed to sick leave, Family Medical Leave Act leave, and/or other leave as circumstances warrant.

## **F. WEAPONS CONTROL AND VIOLENCE PREVENTION POLICY**

The City strives to provide a safe and secure working environment for its employees. This policy is designed to help prevent incidents of violence from occurring in the workplace and to provide for the appropriate response when and if such incidents do occur.

1. **Zero Tolerance.** This policy prohibits harassment, intimidation, threats, bullying and violent behavior by or toward anyone in the workplace that is in any way job or City related, that is or might be carried out on City property, or that is in any way connected to the employee's employment with the City, whether the conduct occurs on-duty or off-duty. The City has a zero-tolerance policy for this type of misconduct.
2. **Firearms and Other Weapons Banned.** Unless specifically authorized by the City Manager, no employee, other than a City licensed peace officer, shall carry or possess a firearm or other weapon inside any City buildings. Prohibited weapons include firearms, long guns, clubs, explosive devices, knives with blades exceeding 5 ½ inches, switchblades, etc. Employees do not have an expectation of privacy, and the City retains the right to search for firearms or other weapons inside City buildings.

Signs clearly stating the City's ban against weapons are conspicuously displayed and clearly visible at all entrances to City buildings.

- ◆ The signs are in both English and Spanish and read, in accordance with Texas Penal Code Chapter 30.06:
  - ✓ "NO OPENLY DISPLAYED OR CONCEALED FIREARMS ALLOWED: Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law) may not enter this property with either a concealed handgun or a handgun carried openly."
- ◆ The signs have contrasting colors with block letters at least one inch in height, as required in the statute.

3. **License to Carry a Firearm.** Employees licensed by State of Texas to carry a handgun or other gun may have a permitted weapon only on the City parking lot if it is locked in the employee's vehicle. Employees licensed to carry handguns must report to the Human Resources Director their identity and license plate numbers of all vehicles that employee may park in City parking lots.

4. **Mandatory Reporting.** Each City employee must immediately notify his/her supervisor, department director, the Human Resources Director, and /or the Police Department of any act of violence or of any threat involving a City employee that the employee has witnessed, received or has been told that another person has witnessed or received. Even without an actual threat, each City employee must also report any behavior that the employee regards as threatening or violent when that behavior is job related or might be carried out on City property, a City controlled site or City job site, or when that behavior is in any manner connected to City employment or activity. Each employee is responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person, or persons threatened or the target of the threatening behavior. A supervisor who is made aware of such a threat or other conduct must immediately notify his/her department director and Human Resources.
5. **Protective Orders.** Employees who apply for or obtain a protective or restraining order which lists City locations as being protected areas, must immediately provide to Human Resources and the City's Police Department a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent. City employees must immediately advise their department director and Human Resources of any protective or restraining order issued against them.
6. **Confidentiality.** To the extent possible, while accomplishing the purposes of this policy, the City will respect the privacy of reporting employees and will treat information and reports confidentially. Such information will be released or distributed only to appropriate law enforcement personnel, City management, and others on a need-to-know basis and as may otherwise be required by law.
7. **Documentation.** When appropriate, threats and incidents of violence will be documented. Documentation will be maintained by Human Resources and the Police Department.
8. **Policy Violations.** Violations of this policy may lead to disciplinary action, up to and including termination of employment. Policy violations may also result in arrest and prosecution.

## **SECTION 4. TYPES OF EMPLOYMENT**

### **A. JOB CLASSIFICATIONS**

#### **Job Classifications**

Each Employee is assigned to a specific job and each job has a related job classification. Your job is classified as one of the following:

- **Regular employees:** Employees who are hired to work on a continuous basis until either they or [Company] terminates the employment relationship.
- **Temporary employees:** Employees hired for a particular task. Temporary employees shall not be eligible to participate in any insurance plans adopted by [Company], nor any other fringe benefit programs, except where required by law. This position could require employees to work from 20 to 40+ hours per week depending upon business needs. This

category is designed to allow the City to handle seasonal operations demands and should be considered a supplement to permanent positions. Temporary employees are not eligible for vacation/holiday pay, personal leave, jury duty, or maternity/funeral leave. If an employee is needed for more than 7 consecutive months in a calendar year, he/she will be transferred to a permanent position.

- Full-time employees: Employees who generally work 37.75 to 40 or more hours per week. All regular full-time employees shall be eligible to receive all of the benefits set forth by the City which may change from time to time.
- Part-time employees: Employees who generally work more than 20 hours per week, but less than 37.75 hours per week. Part-time employees shall not be eligible to participate in insurance plans adopted by the City, nor any other fringe benefit programs unless they regularly work more than 30 hours per week, or as mandated by law.
- Inactive Status: Employees who are on any type of leave of absence, work-related or non-work-related, that exceeds any protected state or federal leave of absence will be placed on inactive status.
- Independent Contractor: As defined by the US Department of Labor, independent contractors are not employees of the City and are not eligible for Company benefits.
- Assigned Personnel: Employees who are assigned to the City but are paid directly by another government or private organization are not employees of the City. These employees' benefits are specified in the contract for services. Assigned personnel are governed by all terms of these policies not in conflict with their contract for services

Additionally, each position is classified as either exempt or nonexempt. A **nonexempt** employee is any full-time or part-time employee, whether salaried or hourly, who holds a position subject to overtime pay provisions mandated by the federal Fair Labor Standards Act (FLSA) and related state laws. An **exempt** employee is any salaried employee who holds a position considered exempt from (not subject to) overtime pay as mandated by the FLSA. Exempt employees are not paid overtime.

Eligibility for various programs described herein may be linked directly to an Employees' job classification. If an Employee has any questions regarding their job title or job classification, they should please talk with their immediate supervisor or manager.

Because all Employees are "at-will" and hired for an unspecified duration, none of the classifications above guarantees employment for any specific length of time. Employment is at the consent of the Employee and the City. Accordingly, either the Employee or the City can terminate the employment relationship at-will, at any time, with or without cause or advance notice for any non-discriminatory reason.

## **SECTION 5. EMPLOYEE COMPENSATION AND ADVANCEMENT**

### **A. PAY**

Compensation for City employees is set each year by the City Council in the adopted City operating budget. Rules governing salary administration and pay increases are also established by the City Council.

### **B. PAYDAYS AND CHECK DELIVERY**

The pay period for the City is biweekly. Checks are issued every two weeks on Friday, for the 14-day period ending the previous Friday at midnight. If the payday falls on a holiday, checks will be issued on the last working day preceding the holiday.

Employees may receive a paycheck early only for the following reasons:

1. An emergency situation, or
2. Employee will be out of town on City business on the payday, or
3. Employee will be out of town on approved, scheduled vacation leave.

Paychecks will be given to someone other than the employee only if the employee provided advance written permission to Human Resources. If an employee is deceased, the final paycheck will be distributed only to the employee's estate.

The City encourages employees to have their paychecks electronically deposited.

No salary advances or loans against future salary will be made to any employee for any reason.

An employee must promptly bring any discrepancy in a paycheck (such as overpayment, underpayment, or incorrect payroll deductions) to the attention of the appropriate department head, who will notify Human Resources.

### **C. PAYROLL DEDUCTIONS**

An Employees' pay will be subject to required deductions for state, federal and local taxes, and for social security taxes. Voluntary deductions agreed to in writing may be made for example, for health, dental or life insurance premiums, or voluntary contributions to a retirement plan, if applicable.

Additionally, the City may be required by law to recognize certain court orders, liens, wage garnishments and other deductions required by law. In the event changes occur, you should obtain copies of court orders and immediately forward them to the City with any changes.

**Social Security and Medicare Taxes:** Social Security tax is deducted from an Employees' pay in two segments – Social Security tax and Medicare tax. The amount of deduction from the Employees' wages is matched by the City and credited towards the Employees' Social Security benefits. Contact Human Resources or the local Social Security office for further details or if assistance is needed.

Please be advised that all payroll changes, including deductions, must be submitted in writing.

Deductions for Exempt Employees: Exempt Employees will receive their full salary for any workweek in which any work is performed. The only exceptions to this general policy may occur in the following situations, where deductions from an Employees' salary may be made:

- for full day absences for personal reasons, including vacation but excluding sickness or disability.
- for full day absences due to sickness or disability if an Employees' paid leave (including vacation, paid time off (PTO), or sick) balance has been exhausted:
  - to offset amounts an Employee may receive as jury or witness fees (but not for travel and parking), or for military pay;
  - for penalties imposed in good faith for infractions of safety rules of major significance;
  - for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions (but not for performance or attendance problems);
  - during the initial and final week of employment (if the Employee works less than a full week);
  - for weeks in which an Employee takes unpaid leave under the Family and Medical Leave Act (if applicable).

In a workweek in which work is performed, an exempt Employees' pay will not be reduced for any of the following reasons:

- partial day absences for personal reasons, sickness, or disability (although the City reserves the right to require the exempt Employee to use available paid leave to cover partial-day absences where permitted by law).
- an absence created by the City (e.g., if the office is closed on a scheduled workday) when the Employee is ready, willing, and able to work.
- for variations in an Employees' quality or quantity of work.
- partial workday or partial workweek absences for jury duty, or attendance as a witness.
- any other deductions prohibited by applicable law.

Improper deductions are a serious violation of the policies and are prohibited.

*Payroll Complaint Procedure:*

If an Employee believes this policy has been violated in any way, the Employee must immediately report such concerns to an appropriate member of the management team or the Human Resources Department. Any manager receiving such a complaint must immediately report the complaint to the Human Resources Department.

The Employees' complaint will be thoroughly investigated. Any Employee electing to use this complaint procedure will be treated courteously, and the complaint will be handled as quickly as possible.

The registering of a complaint under this policy or participation in such an investigation will not be used against the Employee in any capacity, nor will it have an adverse impact on the Employees' employment. Retaliation will not be tolerated and must be reported to an appropriate member of the management team or the Human Resources Department.

In the event an improper deduction was made, the Employee will be promptly paid in full.

The City makes every effort to ensure Employees are paid correctly. Occasionally, however, unintentional errors happen. Mistakes brought to the attention of the City will be promptly corrected. Please review your pay stub upon receipt to ensure it is accurate and if you believe a mistake has been made you should report it. If you believe your wages have been subject to any improper deductions or your pay does not accurately reflect all hours worked, you should report your concerns to your supervisor, an appropriate member of the management team and/or the Human Resources Department. the City will promptly investigate and make corrections, as appropriate.

If there is a change in the employee's family status, address, or other factor affecting his or her payroll withholding or benefits status, the employee is responsible for obtaining, completing and returning the appropriate forms to the Human Resources Department forms for communicating these changes.

## **D. POSITION CLASSIFICATION PLAN**

The Human Resources is responsible for preparation and administration of a Position Classification Plan for all City positions. All positions are assigned an official classification title, a description of duties and minimum qualifications. Each new or revised position must be reviewed and approved by the Human Resources Director and the City Manager. All City positions are classified as either exempt or nonexempt from overtime compensation under the Fair Labor Standards Act (FLSA). Each job has an official job classification title which is used in all personnel matters, official records, payroll records and budgets.

## **E. COMPENSATION PLAN**

The Human Resources Department is responsible for preparation and administration of a Compensation and Benefits Plan for all City employees. The Human Resources Department shall be responsible for conducting salary and benefits surveys for the City. Survey information gathered will be for the purpose of making recommendations to the City Manager and City Council on pay policies and benefit plan changes in order to keep the City's compensation and benefit plans current, equitable and competitive. Salary administration shall be as follows:

1. **Probationary Employees.** A new employee shall normally be compensated at the minimum rate of the approved salary range. At the end of the first six months of employment (one year for Police Officers), probationary employees will be eligible for a salary increase based on their performance.
2. **Salary Increases.** Each budget year the City Council may consider approval of a salary increase budget for the next fiscal year. If approved, the funds appropriated are utilized for increases according to an established salary increase matrix. Annual salary increases will normally become effective on January 1<sup>st</sup>.
3. **Reallocation to a Higher Pay Grade.** Reallocation is the reassignment of an entire class of positions to a new pay grade based on market data and/or the current duties and responsibilities of the class. Reallocation can be to either a lower or a higher pay grade. Reallocations are recommended by the Human Resources and approved and implemented by the City Manager within budget limitations. If an employee's job is reallocated to a higher or lower pay grade, the employee will not be required to serve another probationary period. An employee shall normally be compensated at the minimum rate of the new range,

unless that pay rate is less than the employee's current salary, in which case the employee's rate of pay will remain the same.

4. **Reclassification**. A reclassification is a reassignment of a position to a lower, higher, or different class (job title) based on current duties and responsibilities of the position. An employee whose position is reclassified upward does not automatically receive a pay increase unless an increase occurs to place the employee at the entry of the pay range of the new pay group. Downward reclassifications will not result in a decrease in pay unless the demotion was for disciplinary reasons. Reclassifications are recommended by Human Resources and approved and implemented by the City Manager within budget limitations.
5. **Lateral Transfers**. An employee who transfers laterally from one position to another position in the same pay grade shall continue to receive the same salary.
6. **Demotion**. An employee who is demoted from one position to another position having a lower pay grade shall be compensated at a rate within the lower pay grade as determined by the department director and the Human Resources with approval of the City Manager. All demotions require a reduction in salary unless otherwise approved by the City Manager.
7. **Maximum Rate of Pay**. An employee shall not be paid above the maximum rate established in the approved salary schedule. If salary ranges are adjusted, making an employee's pay higher than the maximum of the pay grade to which his or her job is assigned, the employee's pay will be "frozen" until such time as the pay schedule has been adjusted a sufficient number of times that the employee's pay once again falls within the pay range.
8. **Termination Pay**. Employees who terminate prior to completing the six (6) month probationary period are not eligible to receive vacation pay at termination. Terminated employees will be paid within six (6) calendar days.

A regular employee, who has completed the probationary period and has given the appropriate notice of resignation, will be paid for unused vacation leave, up to the limit established by these policies. Employees who are resigning from employment with the City will normally be paid on the next regularly scheduled payday. Payment for such leave balances will be included in the employee's final paycheck and will be calculated in the following manner:

- ◆ The total work time and allowable vacation and compensatory leave time, if any, will be calculated as a total number of hours for which compensation is due. The employee's regular hourly rate is listed on the City's pay schedule.
- ◆ For employees who are subject to the overtime provisions of the Fair Labor Standards Act (FLSA), any overtime hours worked during the employee's final pay period which have not been compensated through either of the time off methods described in the "**Overtime Worked**" section of these policies, will be paid in the final paycheck at a rate of one and one-half times the employee's regular hourly rate for each overtime hour worked.

- ◆ Compensatory time which has been entered and carried on the employee's records at one and one-half times the number of hours worked will be paid at the employee's regular straight-time rate for the total number of hours on the employee's compensatory time record. (Since the compensatory time was recorded at one and one-half times the number of hours worked, the straight time payment for these hours is equivalent to time and one-half pay for the overtime hours actually worked.)

## **SECTION 6. ATTENDANCE, WORK SCHEDULE, TIME REPORTING, AND OVERTIME**

### **A. HOURS WORKED**

1. **Normal Working Hours.** Normal working hours for most City employees are Monday through Friday, 8:00 a.m. to 5:00 p.m., with one hour for lunch, for a total of 40 hours per workweek. However, other hours of work and official work periods for individuals or groups of employees may be set by the department head with approval of the City Manager. A morning and an afternoon break of 15 minutes each will be available to each employee, but this time does not accumulate if not taken and may not be applied to any other absence, leave, or time off.
2. **Adjustment to Work Hours.** In order to assure the continuity of City services, it may be necessary for the City Manager to establish other operating hours for their departments. Work hours and work shifts must be arranged to provide continuous service to the public. Employees are expected to cooperate when asked to work overtime or a different schedule. Acceptance of work with the City includes the employee's acknowledgement that changing shifts or work schedules may be required, and indicates that the employee will be available to do such work. The schedule of a workday may be adjusted to accommodate an employee's needs with the approval of the employee's supervisor. Flex-time arrangements for longer than one (1) month, however, must be formalized by memorandum to the department director and the Human Resources.

During the summer months, employees may work different hours, while still working five (5) days a week, eight (8) hours per day. This seasonal work schedule is changed at the discretion of the department directors, who confer with the City Manager before making the transition each year.

3. **Determination of Hours Worked and Compensation.** The City Manager determines the number of hours worked by an employee for the compensation to be received subject to laws governing pay and working hours and to the provisions of the City's budget and these policies.

### **B. OFFICIAL WORK PERIOD**

1. **Non-Police Employees' Official Work Period.** The official work period for most City employees is a seven-day period beginning at 12:01 a.m. on Saturday and ending at 12:00 midnight on the following Friday.

The official work period for sworn police personnel is different in length from the above work period.

2. **Police Officer Work Periods and Work Schedules.** In accordance with the exception allowable under Section 207(k) of the Fair Labor Standards Act (FLSA) and 29 C.F.R. Part 553, the City has established the following work period for its police officers:

- ◆ The official work period consists of 14 days with each shift consisting of twelve work hours per day and approximately 15 minutes for shift briefing and shift relief for officers coming off-duty.

Each officer on each shift is given thirty (30) minutes for a meal during the shift. However, during the mealtime, the officers are required to remain in contact with the department. Thus, each officer works twelve hours and 15 minutes each workday resulting in a total of 86 scheduled working hours each 14-day work period.

- ◆ Each officer's regular hourly rate for the purpose of computing the time and one-half overtime rate will be based on 86 working hours per 14-day work period; time and one-half overtime compensation will commence after the 86th hour worked in a 14-day period.
- ◆ If a police officer is required to work an extra full shift due to the absence of another officer who is on sick, vacation, or compensatory leave, the officer working the extra shift will receive time and one-half overtime compensation for the full shift. If a police officer is required to work only a partial shift to substitute for another officer who is on approved leave, he or she is paid time and one-half overtime for the total actual number of hours worked. The time-and-a-half overtime rate applies in both situations, either for pay or for accumulation of compensatory time off. However, if the employee has had unscheduled absences or time off for sickness, emergencies, or other personal reasons, the employee's additional hours worked will not be considered for overtime purposes unless the number of hours actually worked exceeds 86 for the 14-day work period. (Please see the provisions in the paragraph titled "Leave Taken and Overtime" for additional information.)
- ◆ The Police Chief will notify affected employees at least once annually of the beginning and ending dates and times of the official 14-day work period. Subsequent work periods follow the calendar in 14-day cycles and track the City's pay periods.

*(Legal reference: U.S. FLSA of 1938, as amended; Garcia v. S.A.M.T.A., U.S. Supreme Court, 1985; U.S. Equal Pay Act of 1963.)*

## **C. OVERTIME WORKED**

Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour requirements. Exempt employees are not paid overtime compensation.

The policy of the City is to allow overtime only in cases of emergencies, special circumstances, or when specifically authorized by the City Manager. Employees may be required in emergencies to provide services in addition to normal hours or on weekends or holidays.

1. **Non-Exempt Employees**. When the City's operating requirements or other needs cannot be met during regular working hours, non-exempt employees may be scheduled to work overtime, at the request of their supervisor. When possible, advance notification of mandatory overtime assignments will be provided. Overtime assignments will be distributed as equitably as practical to all non-exempt employees qualified to perform the required work. Refusal or other failure to work mandatory overtime may result in disciplinary action up to and including termination of employment. Overtime work is otherwise subject to the same attendance policies as straight-time work.

All non-exempt employees must receive their supervisor's and department director's prior authorization before performing any overtime work. This means employees may not begin work prior to their scheduled workday, may not work through their lunch break and may not continue working beyond the end of their scheduled workday, without prior authorization from the appropriate supervisor.

On the employee's timesheet, the appropriate supervisor must also approve any overtime before the timesheet is submitted for processing and payment. Non-exempt employees shall not remain on the work premises without authorization unless they are on duty or are scheduled to begin work within a short period of time. Non-exempt employees who work overtime without receiving proper authorization will likely be subject to disciplinary action, up to and including possible termination of employment.

Generally, except for sworn peace officers, overtime pay for non-exempt employees is at the rate of 1 ½ times the employee's regular hourly rate of pay for hours actually worked in excess of 40 in the City's workweek. (The City's workweek begins at 12:01 a.m. on Saturday and ends at midnight the following Friday.) Sworn police personnel are paid overtime based on the 14-day work cycle described earlier in this Section of the City's policies, using the Section 207(k) exemption under the Fair Labor Standards Act (FLSA).

2. **Leave Taken and Overtime**. Paid holidays are included as hours worked for purposes of determining eligibility for overtime pay. Vacation, sick leave, witness duty leave, bereavement leave, jury duty or any unscheduled leave of absence is not considered time worked for purposes of performing overtime calculations.
3. **Compensatory Time**. Non-exempt employees may accrue compensatory time in lieu of being paid overtime compensation. Compensatory time accrues at a rate of 1 ½ hours for every hour of overtime worked by non-exempt employees. Compensatory time accruals are to be monitored at the department level and any accrued time should be used within 60 days of its accrual.

An employee who has accrued compensatory time and requests use of such time must be permitted to use the time off within a "reasonable period" after making the request, if it does not "unduly disrupt" the work of the department. If use of requested compensatory time would be disruptive, the department may elect to pay the employee in lieu of approving the requested time off. The City may, at any time, elect to pay a non-exempt

employee for any or all of the employee's accrued compensatory time. The City may also require employees to take time off in order to reduce their accrued compensatory time. Otherwise, compensatory time off may be used the same as leave time.

4. **Payment of Compensatory Time**. All employees who are reclassified from a non-exempt position to an exempt position will be paid all accrued compensatory time upon approval of the reclassification and will cease to be eligible for any additional overtime and/or compensatory time. Likewise, an employee who is promoted, transferred, or demoted to another non-exempt position will be paid in full for any compensatory time accrued before the promotion or demotion becomes effective.

Upon leaving employment with the City, a non-exempt employee will be paid for unused compensatory time at the employee's current hourly rate.

5. **Flex-time Work Schedule**. In situations where overtime payment is not feasible due to budgetary constraints, the department director or supervisor must consider flexing the employee's work schedule in an effort to minimize the need for overtime compensation. Flexing must be completed within the same workweek (or work cycle if under the 207(k) exemption of FLSA) that the overtime was worked and must be accurately reflected on the affected employee's time record.
6. **Exempt Employees**. Exempt employees are those who are not covered by the overtime requirements of the FLSA. Accordingly, exempt employees are not entitled to overtime compensation for work performed beyond 40 hours in a workweek (or 80 hours for sworn peace officers in a 14-day work period). Exempt employees are expected to work the hours necessary to complete their assignments with an acceptable level of quality in a timely manner.

"Docking" an exempt employee's pay for a partial day's absence will be permitted only as authorized by law and approved by the Human Resources Director. It is the policy of the City not to make improper deductions from an exempt employee's pay. Any exempt employee, who believes an improper pay deduction has been made, must immediately notify the Human Resources Director. The City will promptly reimburse an exempt employee for any improper deduction(s) and will make a good faith commitment to comply in the future.

Absent accrued paid leave time, an exempt employee need not be paid for any workweek in which no work was performed.

Overtime is defined as hours worked in excess of the allowable **number** of hours under the Fair Labor Standards Act (FLSA) (40 hours per seven-day workweek for non-police employees; and 80 hours per 14-day work period for sworn peace officers).

For most employees, overtime begins to accrue after the 40<sup>th</sup> hour worked during the seven-day workweek. For sworn peace officers, overtime begins to accrue after the 80<sup>th</sup> hour worked during the 14-day work period.

Employees engaged in recreational or seasonal activities which do not operate for more than seven months in any calendar year, and which meet the other statutory prerequisites, are also exempted from

the minimum wage and overtime provisions of the Fair Labor Standards Act as recreational, seasonal employees.

Each City job description designates whether persons hired in that classification are exempt from, covered by (nonexempt), or not covered by the overtime provisions of FLSA. See the chapter of these policies under the main heading **“Categories of Employment”** for additional information on FLSA exemptions.

## **D. ON-CALL DUTY PAY**

The City provides for after-hour service needs by allowing some departmental operations to designate certain non-exempt employees to be on-call. Employees designated to be on-call are expected to respond to departmental after-hour service needs as required by procedures established by their Department.

1. **Return to work provisions.** After regularly scheduled working hours, on-call employees are free to pursue personal activities but must respond to a call back (via phone or radio) by arriving at the worksite within 30 minutes. Employees designated as on-call must be fit, both mentally and physically, to accomplish on-call services needed within the time frame required. An employee is considered officially scheduled and designated as on-call only when approved by the supervisor in accordance with procedures established by the department.
2. **On-Call Compensation.** On-call status is not considered time worked and is not compensable unless the employee actually responds to a call back. However, in recognition of the added commitment the employee is being asked to make when designated as “on call,” the City pays the on-call employee an additional \$75.00 per week for serving on-call.

In addition, the City pays on-call employees called back to the workplace at one and one-half (1 ½) their regular rate of pay for actual hours worked, as well as guaranteeing a minimum of two (2) hours’ pay for each call-back within the same 24 hours after their regularly scheduled working hours or on a regular day off.

Time worked immediately after regularly scheduled working hours at the request or approval of the supervisor is not considered call-back time and is paid at the employee’s regular rate of pay until overtime requirements are met.

Travel time to and from a call-back is compensable under this policy. On-call employees who do not return to the workplace but who handle a workplace issue by phone will be paid for actual time spent on the phone. In all cases, employees must report their actual hours worked on their timesheets.

Employees exempt from overtime are not eligible for compensation under the provisions of this policy.

3. **Employees Called in for Emergencies Who Are Not Designed as “On Call”.** Employees who may be asked to report to duty at any time due to an emergency situation are not considered to be on call. When such employees report for duty, they are paid for time actually worked at their regular hourly wage unless the additional hours actually worked constitute overtime under the FLSA provisions explained earlier in this Section.

## **E. INCLEMENT WEATHER / EMERGENCY CLOSING**

During normal operating hours, City offices DO NOT CLOSE during inclement weather conditions. All City employees, whether exempt or non-exempt, are expected to make a sincere effort to report to work during inclement weather conditions or other emergency situations.

If an employee determines that the weather conditions constitute a danger to life and/or property, the employee must notify his or her immediate supervisor and/or department director and make arrangements to report to work if weather conditions improve. Any leave taken due to inclement weather can be flexed or charged to vacation or compensatory time. Regular full time and part time non-exempt employees who are unable to flex their time and who have no accrued vacation or compensatory time available will not be paid for the time missed.

Each department director or immediate supervisor is responsible for seeing that City services are staffed while City offices are open for business during inclement weather or emergency conditions. Any City service that cannot be provided during inclement weather or other emergency conditions must be immediately reported to the City Manager's Office.

When weather or other conditions are such that the City Manager declares certain City offices/departments officially closed, all affected, non-essential personnel who were scheduled to work during the time of closure will be granted paid "administrative leave" for the time the office/department is closed. Essential personnel must report to work even when other City departments are officially closed due to weather or other types of extraordinary circumstances. Essential personnel required to be on the job regardless of adverse weather or other conditions are designated by the department director and/or the City Manager. Essential personnel who fail to report to work may be subject to disciplinary action up to and including termination of employment.

In the event that weather conditions prohibit certain departments whose primary work location is outdoors, employees may be asked to perform other duties, attend training sessions or the supervisor may deem it necessary to send the employees home until conditions improve. Employees sent home due to adverse weather conditions will be paid at their regular pay rate but those hours will not count towards calculating overtime.

## **F. TIME REPORTING**

Supervisors will keep records of all hours worked and time not worked. Forms for this purpose are provided by the City. Time records must be signed by the employee's immediate supervisor and department head.

**It is recommended that these forms be filled out after each day's work in order to maintain an accurate and comprehensive record of the actual time worked.**

Altering, falsifying, tampering with time records, or recording time on another employee's time record will result in disciplinary action, up to and including termination of employment.

Each department head is responsible for ensuring that all hours worked and leave time taken are reported on the timesheets sent to the Human Resources Department and recorded on the individual department's records.

## **SECTION 7. BENEFITS**

### **A. MEDICAL AND LIFE INSURANCE**

Regular full-time employees of the city are eligible for group health benefits (general medical, hospitalization, prescription drug, dental, life and AD&D insurance benefits). The city pays 100 percent of the premiums for the employee for this coverage. The City also pays up to \$220.00 per month toward employee's dependent medical coverage and 100% of dependent dental coverage. The Human Resources Department provides current information concerning eligibility, coverage and cost. The city offers vision insurance benefits for employees and dependents on a voluntary basis. Employees may pay for vision insurance coverage through bi-weekly payroll deductions.

The nature and extent of insurance coverage is subject to change for medical, dental, life and AD&D insurance for new employees. Retirees from the City of Lago Vista are eligible to have their health insurance continued through the City's health insurance provider as long as the retiree pays the premiums for such health insurance. (*Legal Reference: Tex. Local Gov't Code §§ 175.001 et seq., as amended.*)

Upon employment, each regular full-time employee is given a benefits booklet containing detailed information about the City's insurance programs. See the provisions in these policies on **Continuation of Group Insurance** for information on continued coverage after certain status changes.

### **B. SOCIAL SECURITY**

All employees of the City are covered by Social Security. The City also contributes to the Social Security System on behalf of each employee.

### **C. RETIREMENT**

The City is a member of the Texas Municipal Retirement System (TMRS). Regular full-time employees and employees expected to work at least 1000 hours per year are required to become members of TMRS and are eligible for this benefit immediately upon employment. Members contribute six percent (6%) of their gross salary each month toward retirement. The City matches the employee's TMRS contributions on a 2 to 1 ratio.

The City has a five-year (5) vesting plan, and allows retirement at or after age 60 or at any age after 20 years of participation in the TMRS plan. Accidental death and disability benefits are also incorporated into this retirement plan should an employee become disabled prior to retirement.

Funds contributed by the employee may only be withdrawn upon retirement or resignation. Vested employees will receive the City's matching funds only when they are eligible for retirement and began receiving monthly retirement benefits.

More information is provided in the TMRS Handbook or on their website at [www.tmrs.com](http://www.tmrs.com).

1. **Military Leave Buy-Back**. Employees who performed active-duty military service prior to employment with the City, are eligible to establish credit in TMRS for a maximum of 60 months of military service, if the employee has been employed by the City for ten (10) years, and has at least ten (10) years of creditable service in TMRS.

Employees who voluntarily leave employment with the City to enter into active-duty military service, and terminate their TMRS membership by withdrawing their deposits are eligible to establish credit in TMRS for a maximum of 60 months of military service provided the employee is re-employed by the City within 90 days of:

- ◆ Release or discharge from active duty; or
- ◆ Release from hospitalization continuing for not more than one year after discharge.

The credit received is only for the months of active-duty service performed (maximum of 60), has no monetary value, and is not included in the calculation of Updated Service Credits. More detailed information is provided in the TMRS Handbook.

2. **Updated Service Credits**. Employees who have current service credit or prior service credit in TMRS in force and effect on the first day of January of the calendar year preceding such allowance, by reason of service in the employment of the City, and on such date have at least thirty-six (36) months of credited service with the System, shall be and are hereby allowed "updated service credits" as defined in subsection (d) of Section 853.402 of the TMRS Act. The updated service credit is one hundred percent (100%) of the "base updated service credit," calculated as provided in subsection (c) of Section 853.402 of the TMRS Act. Each updated service credit replaces any updated service credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service. More detailed information is provided in the TMRS Handbook

## **D. WORKERS' COMPENSATION**

Employees of the City are covered by the workers compensation insurance program. This coverage provides medical and salary continuation payments to employees who receive bona fide, on-the-job, work-related injuries. Detailed information about workers compensation benefits is found in the sections of this manual under the main headings of **Workers' Compensation** and **Injury Leave**.  
*(Legal reference: V.T.C.A. Labor Code, Title 5, Subtitle A and Chapter 504.)*

## **E. UNEMPLOYMENT INSURANCE**

All employees of the City are covered under the Texas Unemployment Compensation Insurance program. This program provides payments for unemployed workers in certain circumstances.  
*(Legal reference: V.T.C.A. Labor Code, Title 4, Subtitle A.)*

## **F. LEAVE TIME**

Regular full-time City employees are eligible for holidays, vacation leave, sick leave, and other types of released time under certain circumstances. Detailed information about leaves and other types of released time are found in this manual under **Section 8 - Leave Time** and **Section 9 - Holidays**.

## **G. LONGEVITY PAY**

Longevity pay is paid at the rate of \$25.00 for the first year of employment (regardless of the number of days employed) and an additional \$25.00 for every year thereafter. The maximum longevity pay is \$500 per year. Employees are eligible for longevity pay if they are full-time, active employees on the day the longevity payroll is published. In addition, the City pays the FICA and TMRS matching costs related to the longevity pay. Longevity pay is paid within the first two weeks of December each year.

## **H. CONTINUATION OF GROUP HEALTH INSURANCE (COBRA)**

COBRA is a federal law that requires most employers who sponsor group health plans to offer employees and their families the opportunity to temporarily extend their group coverage at group rates in certain instances where coverage under the employer's group health plan would otherwise terminate. The employee is responsible for paying for the cost of any such continuation coverage.

Under COBRA, employees may elect COBRA continuation of coverage for up to 18 months after termination of employment (unless the employee is terminated due to gross misconduct), or if an employee's hours are reduced to such an extent that the employee no longer qualifies for participation in the group health plan. Under other circumstances, COBRA coverage is available for up to 36 months following a qualifying event. Employees must notify the City within 60 days of the occurrence of the employee's legal separation or divorce and of a covered dependent ceasing to qualify as a dependent under the medical plan.

Detailed COBRA notices are given to employees when an employee becomes eligible for participation in the City's group health plan and again when a qualifying event occurs. For more complete information on COBRA and your health plan, you should review your summary plan description or review a copy of the full health plan at the Human Resources Department.

## **I. EDUCATION / PROFESSIONAL DEVELOPMENT**

1. **General Policy**. The City encourages its regular full-time employees to take advantage of educational or training opportunities and professional memberships that are related to and will enhance their performance of work with the City.
2. **Required Attendance**. When the City requires an employee to attend any educational or training course, conference, or seminar, the City will provide the necessary time off with pay and will reimburse the employee for associated costs, including tuition or registration fees and authorized travel, meals and lodging.

When appropriate, the City may prepay registration fees, hotel costs, and/or airline or other public transportation costs directly to the entity involved. See additional information in the chapter of these policies **Travel/Expense Reimbursement**.

3. **Professional Memberships and Seminars.** Subject to the prior approval of the City Manager, an employee who joins a professional association related to his or her work at the City may be reimbursed for dues and necessary travel expenses when meetings are judged to offer special training or information of value to the employee in his or her work at the City. Likewise, subject to the City Manager's prior approval, an employee may be reimbursed for conference or seminar expenses if the conference or seminar is related to his or her work.

## **SECTION 8. LEAVE TIME**

### **A. DEFINITIONS**

1. **Leave Time.** Leave time is time during normal working hours in which an employee does not engage in the performance of job duties. Leave time may be either paid or unpaid.
2. **Excused Absences.** Excused absences are defined in this policy manual and approved by the employee's supervisor. Examples include paid sick leave, vacation, holidays, bereavement leave, administrative leave, work-related injury leave, and other types of approved time off. To be eligible for an excused absence, an employee must contact his/her supervisor no later than thirty (30) minutes after the employee's regularly scheduled starting time. The reasons for the absence and the date and the time the employee expects to return to work must be reported at this time. This thirty (30) minutes provision may be waived by the supervisor if there are extenuating circumstances.

### **B. APPROVAL OF LEAVE**

In order to be considered an excused absence, any leave request must be authorized by the employee's immediate supervisor and approved by the appropriate department head. Employees should submit leave request forms at least seven (7) calendar days before the requested time off. Copies of signed leave forms are attached to the time sheets and sent to the payroll office for recording.

### **C. VACATION LEAVE**

Temporary and part-time employees do not earn vacation leave.

1. **Vacation Leave Accrual.** All new employees are subject to a six (6) month probationary period during which time vacation leave will accrue but cannot be taken. Regular full-time employees earn vacation leave on the following basis:

<b>Number of Years of Service</b>	<b>Number of Hours / Days of Vacation Leave</b>	<b>Hours Accrued Per Pay Period</b>
End of 1 <sup>st</sup> 6 Months	40 Hours / 5 Days	3.08

End of 1 <sup>st</sup> Year – 5 Years	80 Hours / 10 Days	3.08
6 Years	88 Hours / 11 Days	3.39
7 Years	96 Hours / 12 Days	3.69
8 Years	104 Hours / 13 Days	4.00
9 Years	112 Hours / 14 Days	4.31
10 Years	120 Hours / 15 Days	4.62
11 Years	128 Hours / 16 Days	4.92
12 Years	136 Hours / 17 Days	5.23
13 Years	144 Hours / 18 Days	5.54
14 Years	152 Hours / 19 Days	5.85
15 Years	160 Hours / 20 Days	6.15

Vacation leave is accrued at a rate of 10 days per year of continuous employment through the fifth year of employment. One additional day per year accrues beginning with the sixth year and ending with a maximum of 20 days the fifteenth year. (Example: 6 years = 11 days per year, 7 years = 12 days per year, etc.)

2. **Use of Vacation Leave.** Vacation leave usage shall be scheduled with the employee's supervisor as far in advance as possible. Use of vacation leave will be at the convenience of the employee whenever possible. However, use of vacation leave should not interfere with normal functioning of City operations. Vacation leave may be taken in increments of one-half day or more.
3. **Sickness during Vacation Leave.** Employees who become ill during their vacation should notify their supervisor so that the time they are ill may be counted as sick leave. At the discretion of the supervisor, medical proof of illness may be required.
4. **Payment upon Termination.** Upon termination, all regular employees who resign or are terminated after completing the full six (6) month probationary period will be compensated for unused vacation leave, up to a maximum of twenty (20) days (160 hours). Employees who leave City employment before completing six (6) months of service shall not be entitled to vacation pay. Payment will be based on the employee's salary at the time of termination. Employees who leave employment without providing at least a two (2) week written notice will forfeit accumulated vacation leave.
5. **Holidays during Vacation.** City holidays that occur during an employee's vacation will not be charged to vacation time.
6. **Payment upon Death.** Payment for the employee's accrued vacation leave will be paid to the employee's estate.

7. **Restrictions**. An employee shall not be granted vacation leave in excess of accumulated leave. Employees may not elect to receive pay in lieu of vacation leave. Vacation leave is not transferable to another employee. Employees shall be allowed to retain their vacation leave credits if they are reassigned, promoted, or demoted. Employees do not accumulate vacation leave while on leave of absence.

## **D. SICK LEAVE**

Sick leave is a benefit provided to regular City employees to be used when an employee or a member of the employee's immediate family is unable to work due to illness, physical incapacity, doctor and dental visits. (Dependent family member is defined as husband, wife, son, daughter, mother, father or other family member who is dependent upon and/or resides with the employee.) Abuse of this sick leave benefit will not be tolerated. Employees who willfully use sick leave for purposes other than those intended by these policies shall be subject to discipline. All regular full time employees of the City are entitled to accumulate paid sick leave credit according to the following rules:

1. **Sick Leave Accrual**. All regular full-time employees accrue sick leave at the rate of twelve (12) days per year (or eight (8) hours per month), with accrual allowed to continue without limit.
2. **Use of Sick Leave**. Sick leave may be taken in hourly increments; however, sick leave must be accrued before it is used. The following rules govern the use of sick leave:
  - ◆ Sick leave will accumulate and may be used during the probationary period; however, sick leave may not be used in advance of its being earned.
  - ◆ Employees may use sick leave for illness of a dependent family member. (Dependent family member is defined as husband, wife, son, daughter, mother, father or other family member who is dependent upon and/or resides with the employee.)
  - ◆ Sick leave may be used, if approved by the City Manager, as additional Bereavement Leave (See paragraph on Bereavement Leave.)
  - ◆ After an employee's accumulated sick leave has been exhausted, accrued vacation leave may be used in lieu of sick leave. When absence due to illness exceeds the amount of paid leave earned, authorized pay to the employee shall be discontinued until the employee returns to work.
  - ◆ To receive paid sick leave, an employee must communicate with his/her immediate supervisor or the supervisor's authorized representative, before or within one (1) hour of the time set for beginning work unless a justifiable excuse is presented regarding an emergency situation.
  - ◆ Supervisors and department directors may require satisfactory proof of illness according to these policies (for either the employee or the employee's dependent family member) if there are three (3) or more consecutive days of absence. (See paragraph relating to "Unexcused Absences.") If there is a question of an employee's fitness to continue in his/her present position, an employee may be required to undergo a physical examination by a physician designated by the City at the City's expense.
  - ◆ Employees shall not earn sick leave while on a leave of absence.

3. **Light Duty.** An arrangement mutually acceptable to both the employee and supervisor may be made to allow an employee to return to work when regular duty is not possible. Light duty must be approved by the department director and the Human Resources Director on a case-by-case basis. A physician must specify what will constitute light duty.
4. **Payment for Sick Leave at Termination.** The following is the policy for employees who started employment before July 1, 2016:
  - ◆ The number of sick days that an employee will be paid at time of termination is fifty percent (50%) of the employee's accumulated leave balance. The maximum sick leave payment an employee will receive at termination is ninety (90) days/720 hours.

Any employee employed by the City after July 1, 2016, will not be eligible for paid accrued sick leave at termination.

## **E. CIVIL LEAVE**

The City provides paid leave to regular full-time employees required to serve on jury duty or requested to testify as a witness by the City in a City-related civil, criminal, legislative, or administrative proceeding. Court appearances for testimony, investigation, and court preparation as a result of official duties as a City employee (e.g., police, fire, inspections, animal control, etc.) are compensated as actual hours worked and are not classified as paid leave. In all other cases, employees are required to schedule accrued vacation, holiday or compensatory leave; otherwise, a nonexempt employee's time off to testify will be considered a leave without pay. (*Legal reference: V.T.C.A. Labor Code, Sec. 52.051; Election Code, Sec. 276.004.*)

The employee must provide documentation of the requirement for jury duty, subpoena compliance, etc., with the leave request. Employees must submit a Leave Request Form, along with supporting documentation to their supervisor as soon as possible so that arrangements can be made to accommodate the absence.

An employee who is on jury duty typically must report for City duty for the remainder of the day upon completion of court or jury service, or request approval for use of other available paid time off. An employee, who is called for jury duty, must provide his or her supervisor with an acknowledgement of service from the court. Any payment for jury duty received by the employee may be retained by the employee.

Jury duty leave is paid at the employee's base rate at the time of leave and does not include overtime or any other special forms of compensation.

## **F. VOTING LEAVES**

Employees are encouraged to exercise the right to vote in elections. If the polls are not open on election day for voting for two consecutive hours outside of the employee's working hours, the employee will be permitted reasonable time to vote during working hours.

Upon ten (10) days' notice to the supervisor, employees may be granted time off to attend a precinct convention or a county, district, or state convention to which the employee is a delegate. Time may be charged to vacation, accrued compensatory time, or leave without pay for the period of time missed.

## **G. FAMILY AND MEDICAL LEAVE (FMLA)**

In accordance with the Family and Medical Leave Act (FMLA), the City allows eligible employees to take unpaid leave for certain specified reasons. The maximum amount of leave an employee may use is either 12 or 26 weeks within a 12-month period depending on the reasons for the leave. Covered Employers must grant such leave and usually protect an employees' position (or its equivalent in pay and other benefits) upon timely return from leave. Employees should contact Human Resources to determine whether you may be eligible for leave under this policy.

### Eligibility

To be eligible for FMLA leave, you must:

1. Have worked at least 12 months for the City in the preceding seven years (limited exceptions apply to the seven-year requirement);
2. Have worked at least 1,250 hours for the City during the preceding 12 months; AND
3. Currently work at a location where there are at least 50 employees within 75 miles.

### Conditions Triggering Leave

FMLA leave may be taken for the following reasons:

1. The birth of a child, or to care for a newly born child (up to 12 weeks);
2. Placement of a child with the employee for adoption or foster care (up to 12 weeks);
3. To care for a qualifying family member (spouse, child, or parent) with a serious health condition (up to 12 weeks);
4. Because of the employees' own serious health condition that makes the employee unable to perform his/her job (up to 12 weeks);
5. To care for a covered service-member with a serious injury or illness related to certain types of military service (up to 26 weeks); or,
6. To handle certain qualifying exigencies arising out of the fact that the employees' spouse, son, daughter, or parent is on duty under a call or order to active duty in the Uniformed Services (up to 12 weeks).

The maximum amount of leave that may be taken in a 12-month period for all reasons combined is 12 weeks, with one exception of leave to care for a covered service-member with a serious injury or illness related to certain types of military service. For such leave, the maximum combined leave entitlement is 26 weeks, with leaves for all other reasons constituting no more than 12 of those 26 weeks.

### Definitions

A “*serious health condition*” is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of his/her job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement includes an incapacity of more than three (3) full calendar days and two visits to a health care provider or on visit to a health care provider and a continuing regimen of care; an incapacity caused by pregnancy or prenatal visits, a chronic condition, or permanent or long-term conditions; or absences due to multiple treatments. Other situations may meet the definition of continuing treatment.

A “*covered service-member*” is a member or veteran of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

- The term “*serious injury or illness*” means an injury or illness incurred by the covered service-member in the line of duty while on active duty in the Armed Forces that may render the service-member medically unfit to perform the duties of the service-member’s office, grade, rank, rating, or one that existed before the beginning of active duty and was aggravated by service in the line of duty while active duty. With regard to veterans, the injury or illness may manifest itself before or after the individual assumes veteran status.
- “*Qualifying exigencies*” include activities such as short-notice deployment, military events, arranging alternative childcare, making financial and legal arrangements related to the deployment, rest and recuperation, counseling, and post-deployment debriefings.

### Identifying the 12-Month Period

The City measures the 12-month period utilizing a “rolling” 12-month period for counting family and medical leave, counting backward from the first day FMLA leave is taken. FMLA leave generally ends 12 months after that first date of leave. FMLA leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

For leave to care for a covered service-member, the City calculates the 12-month period beginning on the first day the eligible employee takes FMLA leave to care for a covered service-member and ends 12 months after that date.

### Using FMLA Leave

Eligible employees may take FMLA leave in a single block of time, intermittently (in separate blocks of time), or by reducing the normal work schedule when medically necessary for the serious health condition of the employee or qualifying family member, or in the case of a covered service-member, his or her injury or illness. Eligible employees may also take intermittent or reduced-scheduled leave for military qualifying exigencies. Intermittent leave is not permitted for the birth of a child, to care for a newly born child or for placement of a child for adoption or foster care. Employees who require intermittent or reduced-schedule leave must try to schedule their leave so that it will not unduly disrupt the City's operations.

#### Use of Accrued Paid Leave

The City requires you to use accrued paid leave (such as sick leave, vacation, personal days, or other paid time off), concurrently with your FMLA leave. In order to substitute paid leave for FMLA leave, an eligible employee must comply with the City's normal procedures for the applicable paid leave policy (e.g., call-in procedures, advance notice, etc.).

An employee utilizing this policy for the employee's own serious health condition shall exhaust all accrued sick leave, vacation leave and personal leave prior to going on unpaid leave. If an employee is off work due to a work-related injury and the employee qualifies for family and medical leave, the family and medical leave will run concurrently with any paid leave.

An employee utilizing this policy for the placement of a child for adoption or foster care with the employee shall be required to exhaust all accrued vacation and any other applicable paid leave prior to going on unpaid leave.

An employee utilizing this policy for the serious illness of a child, spouse or parent must exhaust all accrued personal leave, vacation leave and any other applicable paid leave prior to going on unpaid leave.

If an employee gives birth to a child, sick leave can be utilized until the employee receives a release from the doctor. After being released, the employee may use additional sick leave if permitted in accordance with the sick leave policy. Once all applicable sick leave has been used, the employee shall be required to exhaust all accrued vacation, compensatory time, holiday leave and any other accrued paid leave, prior to going on unpaid leave.

***The City may count any paid leave that qualifies for family and medical leave toward the twelve (12) or twenty-six (26) weeks allowed under this policy.***

#### Notice and Medical Certification

When seeking FMLA leave, employees are required to provide:

1. Sufficient information for the City to determine if the requested leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient

information may include notification you are unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. You must also inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified;

2. If the need for leave is foreseeable, this information must be provided 30 days in advance of the anticipated beginning date of the leave; if the need for leave is not foreseeable, this information must be provided as soon as is practicable and in compliance with the City's normal call-in procedures, absent unusual circumstances;
3. Medical certification supporting the need for leave due to a serious health condition affecting you or a qualifying family member within 15 calendar days of the City's request to provide the certification (additional time may be permitted in some circumstances). If you fail to do so, the City may delay the commencement of your leave, withdraw any designation of FMLA leave or deny the leave, in which case your leave of absence would be treated in accordance with the City's standard leave of absence and attendance policies, subjecting you to discipline up to and including termination of employment. Second or third medical opinions and periodic re-certifications may also be required;
4. Period check-ins during leave and require employees on an extended FMLA leave must check in at least once each week by phone or email during their absence with Human Resources or their supervisor; and
5. Medical release before returning to work if the leave was due to your serious health condition. The City will require this certification to address whether you can perform the essential functions of your position.

Failure to comply with these requirements may result in delay or denial of leave, or disciplinary action, up to and including termination of employment.

#### Supervisor Responsibilities

Each department supervisor is responsible for notifying the Human Resources Department immediately when an employee is away from work for a family and medical leave qualifying event (if family and medical leave has not been approved), even if the employee is utilizing paid vacation, sick or personal leave, or is out due to a work-related injury. An employee using sick leave should be reported to the Human Resource Department if it is anticipated that the duration of the illness will be three (3) or more days, or once the employee exceeds three (3) days.

#### City Responsibilities

To the extent required by law, the City will inform employees whether they are eligible under the FMLA upon inquiry or applicability of the FMLA. Should an employee be eligible for FMLA leave, the City will provide them with a notice that specifies any additional information required, as well as the employees' rights and responsibilities. If an employee is not eligible, the City will

provide a reason for the ineligibility. The City will also inform employees if leave will be designated as FMLA-protected and, to the extent possible, note the amount of leave anticipated to be counted against the employees' leave entitlement. If the City determines that the leave is not FMLA-protected, the City will notify the employee.

#### Job Restoration

Upon returning from FMLA leave, eligible employees will typically be restored to their original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

#### Exemption for Key employees

Certain "Key employees" may not be returned to their former or equivalent position following leave if doing so would cause substantial economic injury to the City. Key employees are salaried and among the highest paid 10% of all employees at a worksite or within 75 miles of that worksite. The City will notify you if you qualify as a "key employee," if the City intends to deny reinstatement and/or other rights.

#### Effect on Married Couples

If a City employee is married to another City employee and either or both employees request family and medical leave for the birth or placement of a child with the employee for adoption or foster care, the total time allowed shall be limited to no more than twelve (12) weeks combined during any rolling twelve (12) month period. For other qualifying family and medical leave events, each employee is entitled to leave as long as the total amount of leave taken during any twelve (12) month period does not exceed twelve (12) weeks (or twenty-six (26) weeks, if applicable).

#### Continuation of Insurance Benefits

While utilizing unpaid family and medical leave, an employee's insurance benefits will continue without interruption as long as the employee pays his or her portion of the insurance premiums. Insurance premiums can be deducted from the paycheck before the leave begins, or during the leave, if the employee continues to receive pay (pre-tax), paid monthly or bi-weekly.

#### Holidays

Holidays will be paid in accordance with the Holidays policy. City holidays will be counted as part of the twelve (12) or twenty-six (26) weeks of family and medical leave, whether the employee is on paid or unpaid leave.

#### TMRS

Employee contributions to TMRS may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave without pay status. It is the employee's responsibility

to initiate such an arrangement by timely contacting Human Resources and completing the necessary paperwork.

### Recordkeeping

Family medical leave time will be tracked on an hourly basis for payroll and compliance purposes. To determine entitlement for employees who work variable hours, the minimum hours required for eligibility is calculated on a pro rata or proportional basis by averaging the weekly hours worked during the twelve (12) weeks prior to the start of family and medical leave.

### Failure to Return After FMLA Leave

Any employee who fails to return to work as scheduled after FMLA leave or exceeds the 12-week FMLA entitlement (or in the case of military caregiver leave, the 26-week FMLA entitlement), may be subject to the City's standard leave of absence and attendance policies. This may result in termination of employment if you have no other Company-provided or legally mandated leave available to you that applies to your continued absence. Likewise, following the conclusion of your FMLA leave, the City's obligation to maintain your group health plan benefits ends (subject to any applicable COBRA rights).

### Other Employment

The City generally prohibits employees from holding outside employment that violates the Employment Outside Work policy. This policy remains in force during all leaves of absence including FMLA leave, and a violation may result in disciplinary action up to and including termination of employment.

### Worksite Employers' Compliance with FMLA and employees' Enforcement Rights

FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA, or terminate or discriminate against any person for opposing any practice made lawful by FMLA or for involvement in any proceeding under or relating to FMLA.

While the City encourages employees to bring any concerns or complaints about compliance with FMLA to its attention, FMLA regulations require employers to advise employees that they may file a complaint with the U.S. Department of Labor or bring a private lawsuit against an employer. Further, FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

### Limited Nature of this Policy

This policy should not be construed to confer any express or implied contractual relationship or rights to any employee not expressly provided for by FMLA. The City reserves the right to modify

this or any other policy as necessary, in its sole discretion, to the extent permitted by law. State or local leave laws may also apply.

For further information concerning FMLA leave, including whether you and the City are covered by the FMLA and whether you are eligible for such leave, please contact Human Resources.

## **H. MILITARY LEAVE**

The City complies with all state and federal laws relating to employees in reserve or active military service and does not discriminate against employees who serve in the military. Temporary employees who have brief or non-recurrent positions with the City and who have no reasonable expectation that their employment with the City will continue indefinitely or for a significant period of time are generally ineligible for extended paid military leave in excess of 15 days, re-employment rights, or any other military leave benefits under this policy.

This policy covers employees who serve in the uniformed services in a voluntary or involuntary basis, including active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty.

1. **Notice to City of Need for Leave.** Employees must provide as much advance written or verbal notice to the City as possible for all military duty (unless giving notice is impossible, unreasonable, or precluded by military necessity). Absent unusual circumstances, such notice must be given to the City no later than 24 hours after the employee receives the military orders. To be eligible for paid military leave, employees must complete and submit a Request for Leave Form along with the official documents setting forth the purpose of the leave and, if known, its duration. The Leave Request Form must be turned into the Human Resources as far in advance of the leave as possible.
2. **Paid and Unpaid Leave for Training and Duty.**
  - ◆ **Full Pay For Up to 15 Days.** Employees will be paid for military absences of up to a maximum of 15 workdays per fiscal year. Shift employees will be transitioned to a 40-hour workweek during military absences. This leave may be used when an employee is engaged in National Guard or U.S. armed forces reserve training or active military duty ordered or approved by proper military authority. The paid leave days may be consecutive or scattered throughout the year. An employee who qualifies for this leave may request an annual accounting of the use of this leave.
  - ◆ **Other Paid Leave.** Employees who have exhausted all available paid military leave may, at their option, may use any other available paid leave time (i.e., vacation leave, holiday leave, and compensatory time) to cover their absence from work.
  - ◆ **Unpaid Leave.** After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay.
  - ◆ **Benefits.** The City will continue to provide employees on paid military leave with most City benefits.

- ♦ **Medical and Dental.** While an employee is on paid military leave (or any military leave of less than 31 days), the City will continue to pay its portion of the monthly premium for group health benefits. When military leave is unpaid, the employee may elect to continue group health coverage for up to 24 months following separation of employment or until the employee's reemployment rights expire, whichever event occurs first, for the employee and eligible dependents.
- ♦ **Return to Employment.** Upon an employee's return to employment following military service, the City will provide health insurance coverage immediately. In addition, a returning employee will not be subjected to exclusions from coverage unless the exclusions apply to injuries or conditions that were incurred as a result of military service.
- ♦ **Other Benefits.** While on *paid* military leave, employees continue to accrue vacation, sick leave, and other benefits provided to other employees on paid leave. The City will also continue to pay the premium for any City-provided life insurance while the employee is on *paid* military leave. While on unpaid military leave, employees are generally ineligible for most City-provided benefits. Benefits, such as vacation and sick leave, do not accrue while an employee is on unpaid leave, including unpaid military leave. While on unpaid military leave, benefit accruals will be suspended and will resume upon the employee's return to active employment. Once an employee returns to work following an unpaid leave, the employee will be treated as though continuously employed for purposes of determining benefits based on length of service, such as vacation accrual and longevity pay.
- ♦ **TMRS.** Typically, an employee's period of uniformed service is deemed to constitute service for purposes of vesting and benefit accrual. Thus, employees earn service credit for time spent on active-duty military leave. Service time is credited when an employee returns to work. To qualify for service credit, an employee must: return to work for the City within 90 days after discharge; receive an honorable discharge; and timely complete the necessary application. In order to receive monetary credit, an employee has the lesser of five years or three times the length of the military service to make up any TMRS contributions that were missed while on military leave.
- ♦ **Returning from Leave.**
  - ✓ **Return to Work:** A person returning from service must report back to work or apply for reemployment within the time constraints prescribed by USERRA. The City shall re-employ a returning veteran according to the provisions of USERRA. Civil service employees shall be required to meet additional requirements in Chapter 143 of the *Texas Local Government Code* before being reinstated.
  - ✓ **Deadline to Notify City of Intent to Return to Work.** The deadline for an employee to return to work and/or notify the City that the employee intends to return to work following military leave depends upon how long the employee's military service lasted:

- For service of less than 31 days, employees have eight (8) hours following their release from service to report for their next scheduled work period.
- For service between 31 days and 180 days, employees have 14 days following their release from service to apply for reemployment.
- For service of more than 180 days, employees have 90 days following their release from service to apply for reemployment.
- ✓ These deadlines may be extended for 2 years or more when an employee suffers service-related injuries that prevents the employee from applying for reemployment or when circumstances beyond the employee's control make reporting within the time limits impossible or unreasonable.
- ◆ **Required Documentation.** To qualify to return to work, an employee returning from leave must provide documentation of the length and character of military service. Also, evidence of discharge or release under honorable conditions must be submitted to the City if the military leave lasted more than 31 calendar days.

## **I. ADMINISTRATIVE LEAVE**

The City may grant Administrative Leave with or without pay to an employee, at the discretion of the City Manager (or designee), when no other paid leave category is available or applicable.

Department directors, in consultation with Human Resources, may designate Administrative Leave with pay only pending a disciplinary decision or drug/alcohol screening results, or during an internal investigation.

Written notice of administrative leave shall be provided to the employee and a copy forwarded to Human Resources for proper payroll processing.

## **J. OTHER LEAVES OF ABSENCE WITHOUT PAY**

In extraordinary circumstances, the City may grant employees an unpaid leave of absence (LOA). All requests for LOA must be submitted on the City's Leave Request Form. Department directors are authorized to grant an unpaid LOA for up to 30 days. Any LOA beyond 30 days must be authorized by the City Manager. The employee may seek extensions of leave, up to a maximum of 180 total days away from work. This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act, the American with Disabilities Act as Amended and the Family Medical Leave Act (FMLA). An LOA will not be authorized unless there is a reasonable expectation that the employee will return to employment with the City at the end of the approved leave period.

1. **Use of All Other Available Leave.** All vacation, compensatory time, holiday time and/or leave authorized under FMLA must be used prior to authorizing an LOA to an employee. If the LOA is due to illness or injury, all sick leave must also be used prior to authorizing an LOA.

2. **Criteria**. Factors considered by the City in granting an LOA include the reason for the leave; departmental work requirements; the employee's length of service, work performance and disciplinary history.
3. **Reasons for LOA**. An LOA may be considered in the following circumstances:
  - ◆ Recovery from extended illness, injury or temporary disability.
  - ◆ Extended care for immediate family members.
  - ◆ Educational purposes when successful completion will contribute to the work of the City.
  - ◆ Public service assignment.

4. **Documentation**. Requests for LOA without pay must be made in writing to the employee's department director as far in advance as possible prior to the requested leave date. Requests for an extension of leave must also be in writing and submitted to Human Resources. The need for a medical LOA must be supported by documentation acceptable to the City, including but not limited to a doctor's explanation of why the employee cannot perform the essential functions of the position, when the employee is expected to return to work, and periodic updates regarding the employee's ability or inability to return to work in a full or modified duty capacity.

Any employee on LOA without pay must contact Human Resources weekly to report on the employee's condition or status. Before returning to work from a medical LOA, the employee must submit a letter from the doctor stating that the employee is able to resume normal job duties. The City may also impose additional return to work requirements.

5. **Other Employment during Leave**. Under no circumstances may an employee on an authorized LOA without pay work another job, whether for pay, as a volunteer or as self-employment, unless expressly authorized in writing by the department director and Human Resources.
6. **Reinstatement**. Employees returning from an LOA will be reinstated to their same position or one of similar pay and status, provided the City's circumstances have not changed to the extent that it would be impossible or unreasonable to provide reinstatement. If the same job or one of similar pay and status is not available, reinstatement may, at the City's discretion, be deferred until a position is available. Usually, an employee who fails to return to work at the conclusion of an approved LOA will be considered to have voluntarily resigned employment with the City.
7. **Benefits/Premium Payments**. All LOA's are unpaid. Vacation, sick leave, holiday pay, and other benefits do not accrue during an unpaid LOA. Any benefit continuation during an LOA must be approved in advance by Human Resources and the City Manager.

Any insurance premiums, or partial premiums, normally paid on behalf of the employee by the City will not be paid by the City beginning the first day of the month following the starting date of an LOA. Employees who have group health or any other kind of insurance through the City continue to be responsible for paying their portion of the premiums while

on a LOA. An employee's failure to pay either the employee's, or the City's, portion of insurance premiums during an LOA may result in cancellation of coverage.

8. **Revocation.** The City Manager may revoke authorized leave without pay at any time. Failure to return to work after the expiration of an authorized LOA or failure to provide required medical status reports, physician's statements, or to contact the City per the required schedule will likely result in revocation of the LOA and/or disciplinary action up to and including dismissal.

## **K. WORKERS COMPENSATION INSURANCE AND LEAVE**

**Every injury, no matter how minor, must be reported to the Human Resources within 24 hours of occurrence by the injured employee's supervisor.**

Workers Compensation benefits are provided, as required by law, for injuries or illness arising out of job-related duties, and is free to Employees.

1. **Police Personnel.** Police personnel will be compensated according to State law for injuries occurring in the course of employment.
2. **All Other City Employees.** All other employees will adhere to the following policy upon incurring an on-the-job injury:
  - ◆ **First Seven (7) Days.** The City will pay the employee's full salary for the first seven (7) calendar days, whether that employee is a regular employee, still in the probationary period, full-time, or temporary
  - ◆ **After First Seven (7) Days.** If the employee must be absent from work for more than seven (7) calendar days, Worker's Compensation will pay either 66 2/3% of the employee's full salary, or a set amount (whichever is less). The City will provide the difference between the employee's regular pay and the Worker's Compensation payment. The combined total of the City paycheck and the Worker's Compensation check shall not exceed the employee's regular salary.
  - ◆ **Time Limit.** The time limit for use of injury leave is five (5) months, with the count beginning on the first day the employee is off work. At the end of five (5) months, the employee will either receive Workers' Compensation checks only, or he/she will begin to use accrued sick or vacation leave. No exceptions to this policy will occur.
  - ◆ **Modified Duty.** If modified duty can be arranged by the supervisor, the employee shall return to work on a modified duty status with no loss in pay. The doctor is to determine what modified duty entails as far as activity. As soon as the doctor rules that the employee is able to return to full duty, he/she will be taken off modified duty and placed back on his/her regular tasks.
  - ◆ **Return to Work.** If at any point information is obtained that the employee is able to return to work but not willing to do so, the Human Resources will report this information to the Worker's Compensation insurance carrier and the carrier will

investigate the matter. Refusal to return to work could result in the loss of Worker's Compensation benefits and the possibility of termination.

- ◆ **Benefits.** Employees accrue vacation, sick and holiday leave while on injury leave.

For information on eligibility and injury reporting procedures for bona fide, on-the-job, work-related injuries, please see the section in this manual under the main heading **Worker's Compensation**.

## **L. USING LEAVE IN COMBINATION**

When an employee who is on sick leave has exhausted his or her accrued sick leave, the employee will automatically be placed on vacation leave if the employee has accrued vacation leave available, and then on compensatory leave if the employee has that leave available.

Sick leave cannot be used for vacation purposes when vacation leave is exhausted.

With the approval of the employee's department head and the City Manager, other types of leave may be used in combination or coupled with holidays if it is determined to be in the best interests of the City and the employee.

## **SECTION 9. HOLIDAYS**

### **M. LIST OF HOLIDAYS**

The following is a list of approved holidays:

<b>Holiday</b>	<b>Date(s)</b>
New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday in January
President's Day	3rd Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Juneteenth	June 19th
Independence Day	July 4th
Labor Day	First Monday in September
Veteran's Day	November 11th
Thanksgiving Day	Fourth Thursday In November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24th
Christmas Day	December 25th

Day After Christmas	December 26th
Employee Option Day	Employee/Supervisor Discretion

## 1. **Rules Governing Holidays**

- ◆ Monday-Friday- If the holiday occurs on Saturday, it will be observed on the preceding Friday. If the holiday occurs on Sunday, it will be observed the following Monday. The Mayor, upon approval by the City Council, may issue a proclamation declaring any day a holiday.
- ◆ Monday-Thursday- If the holiday occurs on Friday or Saturday, it will be observed on the preceding Thursday. If the holiday occurs on Sunday, it will be observed the following Monday.
- ◆ Full-time, regular, non-exempt employees who are required to work on a holiday will receive holiday pay in addition to the pay for the hours worked on the holiday, both at their regular rate of pay.
- ◆ Part-time employees who regularly work at least 25 hours weekly may be granted reduced holiday benefits. Temporary employees are not eligible for paid holidays.
- ◆ An employee who is absent without leave on the day immediately preceding or following a City holiday shall not be paid for the holiday.
- ◆ City employees accrue an Employee Option Day after the employee completes six (6) months of satisfactory performance. Police officers accrue an Employee Option Day after the officer completes one (1) year of satisfactory performance.
- ◆ If an official holiday falls within a regular employee's vacation, the employee will be granted the holiday and not charged for a day of vacation.
- ◆ If a full-time employee is not scheduled to work on the holiday, they will be paid for the holiday, at a regular rate of pay.

## **SECTION 10. WORKERS' COMPENSATION**

### A. ELIGIBILITY FOR WORKER'S COMPENSATION

1. **Purpose.** Workers' compensation is designed to cover the costs associated with injuries resulting from identifiable and specific accidents or injuries occurring during the course and scope of one's employment. It is not designed to cover ordinary diseases of life. All employees and volunteers of the City are covered by workers compensation insurance.

2. **Eligibility.** Employees injured on the job are generally eligible for workers compensation benefits, which may cover the cost of hospitalization, doctors, treatment, prescription drugs and other related expenses, as well as possible partial salary continuation.
3. **Not Covered.** Injuries not directly related to or caused by a specific accident or incident that occurred in the performance of the employee's job duties for the City, injuries occurring while an employee or volunteer is working or volunteering for an employer or organization other than the City, and/or injuries occurring during self-employment, are not covered under the City's workers compensation plan.

## **B. ACCIDENT AND INJURY REPORTING PROCEDURES**

1. **Medical Attention.** When an employee is injured on the job, the City's first priority is to ensure that the employee gets timely medical attention. The employee must immediately report the circumstances of the accident and/or injury to the supervisor who will direct the employee to seek medical treatment, if necessary, from an approved provider list as provided by the City's Workers' Compensation insurance carrier or the Texas Department of Insurance.
2. **Reporting and Documentation.** The employee's supervisor is responsible for notifying Human Resources and the employee's department head immediately upon being made aware of an employee's involvement in an accident or injury. This timely notification is critical.
3. **Investigation.** The employee's supervisor will initiate a thorough investigation into the cause and circumstances of the accident causing the injury, including interviewing all witnesses and preparing a detailed written report explaining the facts of the accident that occurred. The supervisor must submit the City's Accident Report and any other related information to Human Resources no later than the next business day after the injury was reported or no later than 9 a.m. on Monday for injuries occurring over the weekend.
4. **Report Suspicious Circumstances.** If the employee's supervisor has reason to believe that an injury has been reported that is not directly related to or caused by a specific accident or incident occurring in the performance of the employee's assigned job duties, the supervisor must advise Human Resources of these circumstances. The decision of whether or not an injury will be covered by workers compensation will be made by the City's Workers' Compensation insurance carrier or the Texas Department of Insurance and not by the City.
5. **Employee Reporting Requirements.** If the employee's treating physician recommends convalescence at home, the employee is required to contact the supervisor each day during the time away from work and to report to Human Resources each Friday. For every doctor's office visit, the employee is required to obtain from his doctor a completed Work Status Report, which includes the employee's diagnosis, when the employee is expected to be

able to return to work, the employee's restrictions and the date of the employee's next appointment. It is the employee's responsibility to ensure that a copy of the Work Status Report is forwarded to Human Resources and to the employee's supervisor. Failure to report to Human Resources as required may result in disciplinary action, up to and including termination of employment.

6. **Returning to Work.** The employee is to return to work immediately after treatment unless the employee's physician will permit neither regular duty nor modified duty. The employee must have a written release from the doctor to return to work and the release must specify any restrictions. The City does not guarantee the availability of a modified duty opportunity. However, the employee must accept any modified duty assignment that is offered, including an assignment in another department.
7. **Approval of Modified Duty Assignments.** All modified duty assignments must be approved by Human Resources to ensure compliance with the City's policies, the physician's restrictions/release, and with the Americans with Disabilities Act as Amended (ADAAA).
8. **Maximum Time Limits.** The City will hold open an employee's position, following an injury that occurred while performing official job duties or conducting City business, for a reasonable time period if holding the position does not result in undue hardship on the City. Twelve (12) weeks of this period will be deemed leave under the Family and Medical Leave Act (FMLA), running concurrently with the employee's workers compensation leave.
9. **Consideration of Reasonable Accommodations.** Human Resources will engage in discussions of any reasonable accommodations that may assist the employee in performing the essential functions of the job. At the end of the reasonable period of time, should the employee still be unable for any reason to perform the essential duties of the job, with or without accommodation, the employee's position may be filled, and the employee may be considered for a vacant position for which the employee is qualified and released from the physician to perform.

If no vacant position is available for which the employee is qualified, if not selected to fill the vacant position or if the employee declines to accept another position, employment with the City will be terminated.

## **SECTION 11. DRUG AND ALCOHOL USE POLICY**

### **A. DRUG-FREE AND ALCOHOL-FREE WORKPLACE**

It is the desire of the City to provide an alcohol and drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory and safe manner.

## **B. PROHIBITION AGAINST ALCOHOL AND ILLEGAL AND UNAUTHORIZED DRUGS**

While on City premises, while on duty, while conducting City-related business or other activities off premises, while at City locations that sell alcohol, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment, no employee may use, possess, distribute, sell, or be under the influence of alcohol (except under the limited circumstances described below), inhalants, illegal drugs, including drugs which are legally obtainable but which were not legally obtained, and prescribed or over-the-counter drugs which are not being used as prescribed or as intended by the manufacturer.

The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. Further, an employee on duty or conducting City business, including City-related business entertainment, may not drive his or her own personal vehicle while under the influence of alcohol. No employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol. City employees may not bring alcoholic beverages on City premises, including parking lots adjacent to City work areas, and may not store or transport alcohol in a City-owned or leased vehicle.

## **C. PROHIBITION AGAINST ILLEGAL AND UNAUTHORIZED DRUG-RELATED PARAPHERNALIA**

This policy also prohibits the use, possession, distribution and sale of drug-related paraphernalia while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment. Drug-related paraphernalia includes material and/or equipment designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing illegal or unauthorized drugs into the body.

## **D. PERMISSIVE USE OF PRESCRIBED AND OVER-THE-COUNTER DRUGS**

The legal use of prescribed and over-the-counter drugs is permitted while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment only if it does not impair an employee's ability to perform the essential functions of the job (or operate the vehicle, property, or other equipment) effectively and in a safe manner that does not endanger the employee, citizens, or other individuals in the workplace. Examples of impairment include, but are not limited to, slurred speech, drowsiness, dizziness, confusion, or feeling shaky.

## **E. POLICE DEPARTMENT EMPLOYEES**

Certain City Police Department employees may be required to be in possession of alcohol and/or drugs in carrying out their job duties. Such employees will be exempted from certain portions of this policy under certain limited conditions. Additional guidelines may be established by Police Department operating procedures.

## **F. MANDATORY DISCLOSURE BY EMPLOYEES**

Employees taking prescription medication and/or over-the-counter medication must report such use to either their department director or to the City Manager if there is a reasonable likelihood the medication will impair the employee's ability to perform the essential functions of his or her job (or operate a vehicle, property, or other equipment, if applicable) effectively and in a safe manner that does not endanger the employee, citizens, or other individuals in the workplace. Examples of impairment include, but are not limited to, slurred speech, drowsiness, dizziness, confusion, or feeling shaky.

## **G. ON-CALL EMPLOYEES**

Employees scheduled to be on call are expected to be fit for duty upon reporting to work. Any employee who is scheduled to be on call, and is called out, is governed by this policy. Sometimes, an employee who is not scheduled to be on call may nevertheless be called out. If this or any other situation occurs where the employee called out is under the influence of alcohol or has a presence in the system of drugs, such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty. The employee will not be required to report to work.

## **H. MANDATORY REPORTING OF ARRESTS AND CONVICTIONS**

Employees must notify their immediate supervisor and the department director, in writing, of any alcohol or drug-related arrest and/or conviction (including a plea of *nolo contendere*) or deferred adjudication, for a violation occurring off duty and/or in the workplace as soon as possible or no later than twenty-four (24) hours after the arrest and/or conviction.

## **I. OFF-DUTY CONDUCT**

The City may take disciplinary action, up to and including termination of employment, if an employee's off-duty use of or involvement with drugs or alcohol is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use, or involvement adversely affects the employee's job performance. Any employee reporting to work under the influence of illegal drugs or alcohol (.02 bac or higher) may be disciplined, up to and including termination.

## **J. REHABILITATION/TREATMENT.**

1. It is the City's desire to assist employees who voluntarily request assistance with alcohol or drug dependency. For City support and assistance, however, an employee must acknowledge the problem and seek and accept counseling and/or rehabilitation before it impairs job performance and/or jeopardizes the employee's employment.
2. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take a leave of absence to participate in a rehabilitation or treatment program. (An employee may not enroll in a rehabilitation or treatment program in lieu of disciplinary action.) The leave of absence may be granted in the City's sole discretion. Factors considered by the City in deciding whether to grant leave include:
  - ◆ The length of the employee's employment with the City;

- ◆ The employee's prior work and disciplinary history;
- ◆ The employee's agreement to abstain from the use of the problem substance and follow all other requirements of the rehabilitation/treatment program;
- ◆ The reputation of the program and the likelihood of a successful outcome;
- ◆ The employee's compliance with City policies, rules, and prohibitions relating to conduct in the workplace;
- ◆ The resulting hardship on the City due to the employee's absence. Unless otherwise required by law, it is the City's policy to grant such a leave of absence only once during the course of an employee's employment with the City.

3. The cost of any rehabilitation or treatment may be covered under the City's group health insurance policy. In any case, the employee is responsible for all costs associated with any rehabilitation or treatment program.
4. During time off for a City-approved rehabilitation or treatment program, the employee must use any available vacation leave, sick leave, compensatory time off, or other accrued paid leave time.
5. If the employee successfully completes the prescribed rehabilitation or treatment, the City will make reasonable efforts to return the employee to the prior position or one of similar pay and status. However, employment with the City following a City-approved leave for rehabilitation or treatment is conditioned on the following:
  - ◆ Initial negative test for drugs and/or alcohol before returning to work;
  - ◆ A written release to return to work from the City-approved rehabilitation or treatment facility/program;
  - ◆ Periodic and timely confirmation of the employee's on-going cooperation and successful participation in any follow-up or ongoing counseling, testing, or other treatment required in connection with the City-approved rehabilitation or treatment program, if applicable;
  - ◆ In addition to any testing required in connection with the employee's ongoing treatment or follow-up to treatment, all employees who participate in rehabilitation or treatment under this section will also be required to submit to periodic and/or random testing by the City during the two years following the employee's return to work following treatment;
  - ◆ The employee must sign a formal written agreement to abide by the above conditions, as well as any other conditions deemed appropriate by Human Resources. The employee must meet with Human Resources to discuss the terms of continued employment and sign a formal agreement before returning to work.

## **K. POLICY VIOLATIONS**

Violations of this policy will lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. The Police Department may have stricter disciplinary rules regarding violation of this

policy. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their supervisor or Human Resources to receive assistance or referrals to appropriate resources in the community.

## L. TESTING

1. **Types of Tests.** Testing may include one or more of the following: urinalysis, hair testing, breathalyzer, Intoxilyzer, blood, or other generally-accepted testing procedure. City employees are subject to five types of testing: pre-employment (applicants), post-accident (all employees), random (employees in safety-sensitive positions), reasonable suspicion (all employees), and return to duty (specific employees).
2. **Testing of Applicants.** All applicants to whom a conditional offer of employment has been made will be required to submit to testing for alcohol and illegal and unauthorized drugs. A positive test result, refusal to test, or attempts to alter or tamper with a sample or any other part of the test, will render the applicant ineligible for consideration of employment or future employment with the City.
3. **Testing of Employees.**
  - ◆ Employees may be tested for alcohol and/or illegal and unauthorized drugs after a workplace injury or accident or “near miss,” when reasonable suspicion exists, or in connection with any required treatment or rehabilitation. The City may conduct random testing on employees holding safety-sensitive positions.
  - ◆ Police Department employees are also subject to any applicable departmental rules and regulations regarding illegal and unauthorized drug and alcohol testing.
  - ◆ For purposes of this policy, reasonable suspicion is a belief based on articulable observations (e.g., observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury, evidence of possession of substances or objects which appear to be illegal or unauthorized drugs or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Supervisors who refer an employee for reasonable suspicion testing must document the specific factors that support reasonable suspicion testing (e.g., the who, what, when, where of the employee’s behavior and other symptoms, statements from other employees or third parties, and other evidence supporting the reasonable suspicion testing).
  - ◆ Tests will be paid for by the City. To the extent possible, testing will normally be done during the employee’s normal work time.
  - ◆ Any employee who refuses to be tested, or who attempts to alter or tamper with a sample or any other part of the testing process, will be subject to disciplinary action up to and including termination.
  - ◆ A positive test result is a violation of the City’s Drug and Alcohol Use Policy and may result in disciplinary action up to and including termination of employment. Any employee who is terminated for violation of the City’s Drug and Alcohol Use Policy is

ineligible for future employment with the City.

- ◆ The City has additional obligations when testing for controlled substances and alcohol for those employees who are licensed to drive commercial City vehicles regulated by the U.S. Department of Transportation. Please see the City's Drug and Alcohol Policy for DOT Employees for additional information.

### **Testing Procedures.**

- ◆ All testing must normally be authorized in advance by both the employee's department director and Human Resources. If the department director is unavailable within a reasonable period of time, Human Resources may, with sole discretion, authorize the testing of an employee. If Human Resources is unavailable within a reasonable period of time, the department director may, with sole discretion, authorize the testing of an employee. For reasonable suspicion testing, testing may not be authorized without the supervisor's documentation of the articulable factors which led the supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Testing should be arranged as soon as possible after the supervisor's articulable observations.
- ◆ If an employee's conduct resulted in a workplace accident, injury or "near miss," or reasonable suspicion exists to believe that the employee has violated the City's Drug and Alcohol Use Policy, the employee will be provided with transportation to the testing facility. A supervisor or other designated City representative may be required to stay with the employee during the testing process. The City may, in its discretion, reassign the employee or put the employee on administrative leave until the test results are received. The City will make arrangements to have the employee transported home after the testing.
- ◆ All substance abuse testing will be performed by an approved laboratory or healthcare provider chosen by the City. Positive test results may be subject to confirmation testing.
- ◆ Test results will be maintained in a confidential file separate and apart from the employee's personnel file. Any medical-related information will be confidential and accessible only by Human Resources; supervisors and managers on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City.

### **M. SEARCHES**

The City may conduct unannounced searches or inspections of the work site, including but not limited to City property used by employees such as lockers, file cabinets, desks, and offices, computer and electronic files, social media sites, cell phones, text messages, whether secured, unsecured or secured by a lock or password provided by the employee; the employee shall have no expectation of privacy. No supervisor has the authority to deviate from City policy. If reasonable suspicion exists, the City may also conduct unannounced searches or inspections of the

employee's personal property located on City premises, including vehicles parked on City parking lots.

All searches must be authorized and conducted under the direction of Human Resources and/or the City Manager. Employees who refuse to cooperate with a search may be subject to disciplinary action up to and including termination.

## **SECTION 12. DRUG AND ALCOHOL POLICY FOR EMPLOYEES UNDER DOT REQUIREMENTS**

### **A. EMPLOYEES / APPLICANTS SUBJECT TO TESTING.**

City employees who drive a commercial motor vehicle (CMV) requiring a Commercial Driver's License (CDL) as part of their job duties are subject to alcohol and drug testing as required by the U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration and as outlined in this policy. The employee's supervisor or Human Resources will advise the employee if the employee is subject to DOT testing and the terms of this policy. Employees who are not required by DOT to hold a CDL are not subject to this policy. Applicants for employment for a position requiring a CDL are also subject to testing under this policy.

Employees covered by this policy are also required to comply with the City's Drug and Alcohol Use Policy. In other words, this DOT Drug and Alcohol Policy is in addition to, not in lieu of, the provisions of the City's general Drug and Alcohol Use Policy. DOT tests will be completely separate from non-DOT tests in all respects. DOT tests take priority and will be conducted and completed before a non-DOT test is begun. All drug and alcohol testing performed under this DOT Policy will comply with applicable DOT procedures. If this policy conflicts with DOT regulations in any way, the DOT regulations will govern.

An employee subject to the provisions of this policy may be a person employed by the City, a contractor engaged by the City or an employee of such contractor. City positions currently subject to the testing provisions of this policy are all drivers with Class A, Class B or Class C CDL's. The positions may change as job responsibilities change or as new jobs are added to the City's work force. Employees required by DOT to hold a CDL, due to the type of equipment they operate, are subject to this policy whether or not this list is immediately updated to include their job titles. Employees who hold these jobs are required to carry their CDLs when they are at work or are operating City equipment.

### **B. PROHIBITED ALCOHOL USE.**

1. **On-duty and Pre-duty Use.** Reporting for, or remaining on, duty requiring the performance of safety-sensitive functions is prohibited under the following conditions:

- ◆ While having a breath alcohol concentration of 0.04 or more as indicated via breath test;
- ◆ While using alcohol; or
- ◆ Within 4 hours after using alcohol.

2. **Use Following an Accident.** An employee required to take a post-accident alcohol test

pursuant to this policy is prohibited from using alcohol for 8 hours following the accident, or until undergoing a post-accident alcohol test, whichever occurs first.

## **C. PROHIBITED DRUG USE**

Illicit use of drugs by safety sensitive drivers is prohibited both on and off duty. An employee may not report for duty or remain on duty when using or after use of any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a CMV. An employee may not report for duty, remain on duty or perform a safety sensitive function if the employee tests positive for controlled substances or has adulterated or substituted a test specimen.

## **D. REQUIRED ALCOHOL AND DRUG TESTS**

DOT requires the following testing for covered drivers: pre-employment, post-accident, random, reasonable suspicion, return-to-duty and follow-up testing. Before conducting any required DOT testing, the City will notify the driver that the alcohol or drug test is required by DOT regulations.

1. **Pre-employment Testing.** Drug and alcohol tests will be conducted after a conditional offer of employment is made, but before actually performing safety-sensitive functions for the first time. These tests are also required when employees are promoted, demoted or transferred into a safety sensitive driver position.
2. **Post-accident testing.** Drug and alcohol tests will be conducted after accidents in which the driver's performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation. Post-accident testing must be conducted as soon as practicable on all surviving drivers following an occurrence involving a CMV operating on a public road in commerce, as follows:
  - ◆ When the employee is issued a moving traffic violation citation and one or more of the vehicles involved is disabled and must be towed from the scene;
  - ◆ When the employee is issued a moving traffic violation citation, and any person involved in the accident is injured to the extent that he/she requires and receives immediate medical treatment away from the scene of the accident; or
  - ◆ In an accident involving a fatality, testing will be performed on anyone who was performing safety sensitive functions with respect to the vehicle.

An employee subject to post-accident testing must remain readily available for such testing or will be deemed by the City to have refused to test. Nothing in this policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

In post-accident situations, the City may substitute a blood or breath alcohol test for a urine drug test, so long as the test is performed by state or local law enforcement officials using

procedures required by their jurisdictions, provided such test results are received directly from the local jurisdiction or the driver. A positive post-accident test administered by law enforcement will result in the same action as a positive post-accident test performed at the City's behest.

- ♦ **Post-Accident Alcohol Testing.** If alcohol testing cannot be administered within 2 hours of one of the above listed occurrences, a written statement explaining why the alcohol test was not promptly administered must be provided to Human Resources by the appropriate supervisor. If alcohol testing cannot be administered within 8 hours after the occurrence, the City will cease attempts to administer an alcohol test and document the reasons the alcohol test was not administered. This report must be promptly forwarded to Human Resources.
- ♦ **Post-Accident Drug Testing.** A driver will be drug tested as soon as practicable but not later than 32 hours after one of the above listed occurrences. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to Human Resources.

3. **Reasonable Suspicion Testing.** Reasonable suspicion drug and alcohol testing is conducted when a trained supervisor has reason to believe that an employee is in violation of this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee; the observations may also include indications of the chronic and withdrawal effects of controlled substances. The supervisor must consult with the Department Director (or designee) and affirm the basis of the suspicion. If the Department Director concurs, the employee will be required to undergo testing only after consultation with Human Resources. A written report of the reasonable suspicion observations must be prepared by the supervisor(s) who made the observation within 24 hours of the observed behavior or before the results of tests are released, whichever is earlier. This report must be promptly forwarded to Human Resources.

- ♦ **Reasonable Suspicion Alcohol Testing.** Reasonable suspicion alcohol testing is permitted only if the reasonable suspicion observation is made during, just before, or just after, the period of the workday the employee is required to be in compliance with this policy. An employee may be directed to undergo reasonable suspicion testing only while the employee is performing, just before performing, or just after performing, safety sensitive functions.

If alcohol testing cannot be administered within two (2) hours after the reasonable suspicion observation, a written statement that explains why the alcohol test was not promptly administered must be given to Human Resources. If alcohol testing cannot be administered within 8 hours after the observation, the City will cease attempts to administer an alcohol test, and the appropriate supervisor must immediately document the reasons that the alcohol test was not administered; this report must be promptly forwarded to Human Resources.

Notwithstanding the absence of a reasonable suspicion alcohol test under this policy, an employee may not report for duty or remain on duty requiring the performance of safety sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol

misuse. In such instances, the employee will not be permitted to perform or continue to perform safety sensitive functions until:

- ✓ An alcohol test measures the employee's alcohol concentration at less than 0.02; or
- ✓ 24 hours have elapsed since the reasonable suspicion observation was made.

◆ **Reasonable Suspicion Drug Testing.** A driver will be drug tested as soon as practicable but not later than 32 hours after the reasonable suspicion observation. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to Human Resources.

4. **Random Testing.** Drivers are selected for random, unannounced drug and alcohol testing using a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the employee's Social Security number, payroll identification number, or other comparable identifying numbers. Each driver subject to this policy will have an equal chance of being tested each time random selections are made. The number of drivers randomly selected will be in accordance with applicable DOT regulations. Each driver randomly selected for testing will be tested during the selection period. Dates and times for random testing are unannounced and spread reasonably throughout the calendar year.

Each driver selected for random testing must proceed to the test site immediately after notification; if, however, the driver is performing a safety-sensitive function, other than driving a CMV, at the time of notification, the City will instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible. A driver will be randomly tested for alcohol just before, during, or just after performing, safety sensitive functions; random testing for drugs does not have to be conducted in immediate time proximity to performing safety sensitive functions.

5. **Return-to-duty and follow-up testing.** Return-to-duty tests are conducted when a driver who has violated DOT's prohibited drug and alcohol standards returns to performing safety sensitive duties. Follow-up tests are unannounced, and at least 6 tests must be conducted in the first 12 months after a driver returns to duty; follow-up tests may be extended for up to 60 months following a driver's return to duty. Drug tests must be negative and alcohol tests must demonstrate a breath alcohol level of less than 0.02. The driver will pay all costs associated with return-to-duty testing.

When applicable, the City will follow all applicable DOT regulations in requiring return-to-duty and follow-up testing. The City is not, however, required to hire an applicant or continue the employment of a driver who has violated DOT drug and alcohol regulations or this policy, and it is the policy of the City not to do so.

Thus, return-to-duty and follow-up tests are generally applicable only for those seeking assistance as set out below and, based on individual circumstances, for those who may have had an alcohol concentration of 0.02 or greater, but less than 0.04.

## **E. REFUSAL TO TEST**

An employee who refuses to be tested in any of the above circumstances, who obstructs the testing process, or who tampers with/alters a specimen, will not be permitted to perform or continue to perform safety sensitive functions and will likely be terminated. An applicant who does one of these prohibited acts will not be hired. Except in the case of pre-employment testing, a refusal to test includes the failure to appear for testing within a reasonable time, as well as failure to remain at the testing site until the testing process is complete. Failure to test also includes the failure to provide the required sample with no adequate medical explanation, and the failure to cooperate with any part of the testing process (e.g., refusing to empty pockets when asked to do so, behaving in a confrontational way that disrupts the collection process, or failure to undergo a medical exam or evaluation as directed by the physician medical review officer (MRO) as part of the verification process).

## **F. ADDITIONAL INFORMATION ABOUT ALCOHOL TESTING.**

1. **Consequences of a Positive Alcohol Test.** An employee who is tested and has an alcohol concentration of 0.04 or greater will be removed from safety sensitive functions and may be terminated. An employee who is tested and has an alcohol concentration of .02 to .039 will not be permitted to perform safety sensitive functions for a minimum of 24 hours and will be disciplined, up to and including termination. If not terminated, then the employee will receive a mandatory referral to a substance abuse professional. Any non-compliance with the treatment recommendations of the substance abuse professional will result in disciplinary action, up to and including termination. (The employee will be placed on administrative leave without pay during the treatment period. That employee may use accrued sick leave during the treatment period.)
2. **Alcohol Testing Procedures.** A trained breath alcohol technician will conduct alcohol tests. If the alcohol concentration is 0.02 or greater, a second confirmation test will be conducted in accordance with DOT regulations, the results of which will determine any actions taken. Any result of less than 0.02 alcohol concentration is considered a “negative” test. The second, confirmation test results determine if the employee is in violation of this policy. Testing procedures that ensure accuracy, reliability and confidentiality of test results will be followed pursuant to DOT regulations.

## **G. ADDITIONAL INFORMATION ABOUT DRUG TESTING.**

1. **Drug Testing Procedures.** Drug testing is conducted by analyzing a driver’s urine specimen at a lab certified by the U.S. Department of Health and Human Services. The driver provides a specimen in a location that affords privacy, and the “collector” seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug-testing lab. “Split” urine specimens provide drivers with an opportunity for a second test, if needed.
2. If the driver challenges the validity of the test, then the employee has 72 hours to request that the split specimen be sent for testing to another certified lab approved by Human Resources. The second test will be at the driver’s own expense.
3. **Drugs Tested For.** DOT requires testing for the following drugs:
  - ◆ Marijuana (THC)

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

A screening test is performed first. If the results are positive for one or more of these drugs, then a confirmation test is performed. Whenever the terms “drug,” “drugs” or “controlled substances” are used in this policy, they refer to the substances listed above. The City will not test for any other substances under this policy. The City may, however, (1) test for other controlled substances pursuant to its general Drug and Alcohol Use Policy; or (2) modify the list of DOT tested drugs at the direction of DOT.

4. **Review of Drug Test Results.** All positive drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City. If the lab reports a positive result to the MRO, the MRO will contact the driver (either in person or by phone) and will conduct an interview to determine if there is an alternative medical explanation for the drug(s) found in the driver’s urine specimen. If the driver provides appropriate documentation and the MRO determines that it is a legitimate medical use of the prohibited drug(s), the drug test result is reported as a negative to the City.
5. **Consequences of a Positive Drug Test.** A driver will be removed from safety sensitive duties and placed on administrative leave if the test returns a positive for drugs. The removal cannot take place until the MRO has interviewed the driver and determined that the positive test resulted from the unauthorized use of a controlled substance. A confirmed positive drug result will result in termination of employment.

## **H. CONFIDENTIALITY**

Test results may be released only to the driver, designated City officials, a substance abuse professional, laboratory officials or a medical review officer (MRO). Records will also be made available to a subsequent employer or other identified person upon the driver’s specific written request. Test results will not be released to others except as required by law or expressly authorized in the applicable DOT regulations (e.g., the decision maker in a lawsuit, appeal or administrative proceeding initiated by or on behalf of the driver and arising from a positive DOT drug or alcohol test or refusal to test; this includes workers compensation and unemployment proceedings.)

All test results will be kept in a confidential file by Human Resources. Management and supervisory personnel who are authorized to have access to alcohol and drug testing results must maintain complete confidentiality regarding this information. City employees who make a reasonable suspicion observation or who witness an accident must also maintain confidentiality. Breach of confidentiality relating to test results, or any other related matters, will likely result in disciplinary action, up to and including termination of employment.

## **I. INFORMATION FROM PRIOR EMPLOYERS**

For new hires, promotions and transferred employee-drivers seeking to perform safety sensitive functions for the first time, the City is required, with the driver’s written consent, to obtain information from previous employers regarding alcohol test results of 0.04 or greater, verified

positive drug test results, refusals to test (including verified adulterated or substituted drug test results), and any other violation of DOT drug and alcohol testing regulations within the two years prior to the date of the driver's application, promotion or transfer. Affected individuals must sign a Breath Alcohol and Drug Testing Results Request. The City will obtain and review the information before allowing the person to perform safety sensitive functions. If the City receives any such information about an applicant-driver, the applicant will not be hired; if such information is received about an employee seeking promotion or transfer, the employee will not be promoted or transferred to the driver position and may also receive disciplinary action, up to and including termination of employment.

The City will maintain a written, confidential record of the information it obtains and/or the good faith efforts it made to obtain the information. This information will be retained for a minimum of three (3) years. The City will also ask if the person has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the driver applied for, but did not obtain, safety sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two (2) years. If the person admits to such conduct, the person will not be allowed to perform safety sensitive functions for the City. If the driver refuses to provide the City with the required written consent, the driver will not be permitted to perform safety sensitive functions and will likely be disciplined (up to and including termination of employment) if employed, or not hired if applying for employment.

## **J. NOTIFICATION TO APPLICANTS/EMPLOYEES OF POSITIVE TEST RESULTS**

The City will notify applicants of the results of a pre-employment drug test if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The City will notify an employee of the results of random, reasonable suspicion and post-accident drug tests if the test results are confirmed positive, and also which controlled substance(s) verified positive after the MRO confirms the positive. The City will also make reasonable efforts to contact and request each driver who tested positive to contact and discuss the results of their drug test with an MRO who has been unable to contact the driver. The City will immediately notify the MRO that the driver has been notified to contact the MRO within 72 hours.

## **K. EMPLOYEE ADMISSION OF DRUG/ALCOHOL USE**

An employee who admits to alcohol misuse or drug use must do so in accordance with the City's general Drug and Alcohol Use Policy; provided, however, the employee may not self-identify in order to avoid the testing requirements of this DOT policy. Further, the employee must make the admission prior to performing a safety sensitive function, i.e., prior to reporting for duty.

The employee may not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed educational or treatment requirements in accordance with the City's general Drug and Alcohol Use Policy.

A drug and alcohol abuse evaluation expert, i.e., an EAP professional, a substance abuse professional or a qualified drug and alcohol counselor, will determine successful completion. Prior to the employee performing safety sensitive functions, the employee must undergo a return to duty alcohol test with a result of less than 0.02 and/or a return to duty drug test with a negative test result.

## **L. SAFETY SENSITIVE FUNCTIONS**

For purposes of this policy, safety sensitive function or duty means all the time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety sensitive functions/duties include:

1. All time at a City, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
2. All time inspecting equipment as required by applicable DOT regulations or otherwise inspecting, servicing, or conditioning any CMV at any time;
3. All time spent at the driving controls of a CMV in operation;
4. All time, other than driving time, in or upon any CMV;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## **M. TRANSPORTATION TO TESTING SITE**

With the exception of pre-employment and random testing, employees will be driven to the testing facility by a supervisor. The supervisor will remain with the employee during the testing process. The City will make arrangements to have the employee transported back to the City or home, as appropriate, after the testing is complete.

## **N. QUESTIONS**

Anyone with questions regarding this policy should contact Human Resources.

## **SECTION 13. PERFORMANCE APPRAISALS**

### **A. PURPOSES OF PERFORMANCE APPRAISAL SYSTEM**

The City uses a thorough performance appraisal system for assisting supervisors in communicating job expectations, measuring the employee's level of past performance, recognizing employee achievements and exemplary performance, and strengthening the supervisor-employee relationship. The performance appraisal system provides necessary information for management decisions including career development and training, assignments, advancements, transfers, disciplinary actions, retention, compensation, etc. The purpose of the performance appraisal system as outlined herein is to achieve optimum employee performance resulting in outstanding citizen service.

### **B. SCHEDULE**

1. Regular full time and part time employees are eligible for:

- ◆ A performance review after six (6) months of their initial probationary period, except for new Police Officers, who serve a twelve (12) month probationary period; and
- ◆ Annual performance appraisal in December of each year.
- ◆ Newly transferred or promoted employees who are serving their initial probationary period may also receive periodic evaluations during their probationary period.
- ◆ Department directors are not governed by the above schedule; the City Manager's office establishes a performance appraisal system for director-level positions.

## C. PERFORMANCE APPRAISAL PROCESS

1. **Written Appraisals.** All performance appraisal information must be written where required and forwarded to Human Resources for retention in the employee's official personnel file. An appraisal is considered complete at the time the employee signs and dates the appraisal document, or the supervisor and/or department director has a witness acknowledge the employee's refusal to sign the appraisal document.
2. **Clear Communication.** Supervisors will strive to clearly communicate all elements of job performance, key result areas, performance standards, measures, goals, strengths and areas of development needed. Each employee will sign and date a copy of the performance appraisal when it is reviewed with him, or her and the supervisor will forward a copy to Human Resources for filing in the employee's official personnel file and provide the employee a copy.
3. **Reviewers Properly Trained.** Department directors are expected to ensure compliance with this policy and ensure that supervisors and managers under their direction are adequately trained in the performance appraisal process. In order to correct any obvious errors or rating bias, department directors and/or mid-level managers are encouraged to review all performance appraisal documents for validity prior to the department supervisor conducting the performance appraisal meeting with the affected employee.
4. **Human Resources Responsibilities.** Human Resources will review all appraisal documents for obvious errors and return them to the department directors for any clarifications or procedural corrections. Human Resources is responsible for maintaining original appraisal documents in the City's official personnel files and for timely processing appraisals for any compensation due.
5. **Employee Responsibilities.** Employees are expected to be knowledgeable of their essential job functions and key result areas and maintain established performance standards and requirements as outlined. Employees are encouraged to address issues and concerns regarding their annual performance appraisal with their evaluating supervisor. If the employee is unable to resolve issues and concerns with the evaluating supervisor, the employee may address them with the department director; if the department director is the evaluating supervisor, the employee may go to the City Manager to address concerns.

## D. PERFORMANCE APPRAISAL APPEALS

Employees have the right to present an appeal concerning their performance appraisal. The performance appraisal appeal will follow the grievance procedure guidelines (See the Section on **Grievances**), through the City Manager level. The City Manager's decision is final.

## **SECTION 14. EMPLOYEE CONDUCT & WORK RULES / DISCIPLINARY ACTION**

### **A. PURPOSE**

To ensure orderly and productive operations and provide the best possible work environment, the City requires employees to follow rules of conduct that will protect the interests and safety of the City, its citizens and employees.

### **B. PROGRESSIVE DISCIPLINE**

In certain instances, the City will use a progressive disciplinary system. The City is not obligated to use all of the progressive disciplinary steps available, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, the employee's length of service, and any mitigating circumstances. **At-will employment status is not affected by the use of the progressive discipline process.** Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

- ◆ oral warning
- ◆ letter of counseling
- ◆ written reprimand
- ◆ probation
- ◆ suspension (without pay)
- ◆ demotion
- ◆ Performance Improvement Plans
- ◆ discharge

### **C. DOCUMENTATION**

All forms of discipline, other than oral warnings, must be documented and will be placed in the employee's personnel file. Even an oral warning should be noted in writing by the supervisor or director issuing the oral warning; the employee should be asked to acknowledge the oral warning, and the note, signed by the employee and the person conducting the oral warning, should be sent to the employee's personnel file.

Any written disciplinary action should set forth:

1. Examples of conduct, incidents, actions, or failures to act, that resulted in the discipline;
2. The discipline to be imposed,
3. The effective dates, and

4. If the action is not a dismissal, the likely effect if the employee continues to perform, or to fail to perform, in the manner that resulted in the disciplinary action.

In the event an employee is to be discharged, the supervisor, prior to taking the action, shall forward a copy of the documentation to Human Resources for review, who shall forward a copy of the proposed dismissal to the City Manager. The supervisor will also make a recommendation concerning the possible rehiring (or not rehiring) of the person in the future.

## **D. SUPERVISORY RESPONSIBILITY**

All employees with the responsibility and authority to supervise and direct employees under their control shall administer policies and procedures within their scope of authority; document their subordinates' job performance, conduct, and behavior as appropriate; properly conduct evaluations of subordinates in a timely manner; and discipline their subordinates as required under their departmental and/or City policies and procedures. Employees with supervisory responsibilities shall also address performance appeals submitted to them, as provided by policy, in a professional manner. The intent of these policies is to attempt to resolve such issues at the lowest possible supervisory level.

## **E. REVIEW BY HUMAN RESOURCES MANAGER AND APPROVAL BY CITY MANAGER**

Any proposed disciplinary action in excess of an oral warning must be reviewed by Human Resources prior to being given to the employee. This applies to both employees serving the initial probationary period and regular employees that have completed the initial probationary period.

Disciplinary actions, other than oral or written warnings, require the advance approval of Human Resources unless an emergency situation exists. Any written notice of disciplinary action will be included in the employee's personnel file.

## **F. APPEAL RIGHTS**

Where a disciplinary action involves a suspension of one (1) day (or one (1) shift) or more, demotion, and/or termination, the employee will normally be given an opportunity to respond to the allegations prior to disciplinary action being taken. However, positions classified as Director level and above are employed at the will and pleasure of the City Manager and have no right of appeal for any type of disciplinary action, including termination. Employees serving the initial probationary period have no right of appeal for disciplinary action taken against them.

## **G. PROHIBITED ACTIVITIES**

Disciplinary action will be imposed for violations of City or departmental policies and procedures, codes of conduct, rules and regulations, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulations, yet may adversely affect the City or put the health and safety of fellow employees, citizens, or other third parties at risk, may also result in disciplinary action. It is impossible to list all the forms of behavior that are considered unacceptable in the workplace. The following are some examples of conduct that will likely result in disciplinary action, up to and including termination of employment:

- ◆ Theft or inappropriate removal or use of City property or other property not belonging to the employee;
- ◆ Falsification of timekeeping or other records, including employment application;
- ◆ Reporting for work or working under the influence of or a presence in the system of alcohol or illegal drugs;
- ◆ Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating City-owned equipment;
- ◆ Violation of City's policy regarding sexual or other unlawful harassment;
- ◆ Interfering with work schedules or another employee's ability to work;
- ◆ Misuse of City telephones, computers, mail systems, internet, etc.;
- ◆ Excessive or unscheduled absenteeism, tardiness in reporting for work or returning from lunch and breaks, or absence without notice and/or approval;
- ◆ Breaks in excess of the allotted time allowed;
- ◆ Violation of smoking/tobacco policy;
- ◆ Violation of safety or health rules and failure to immediately report an on-the-job injury/accident;
- ◆ Profanity, abusive language, or racial slurs;
- ◆ Unauthorized disclosure of confidential information;
- ◆ Violation of any provision of the City Charter;
- ◆ Violation of City or departmental policies, codes of conduct, rules and procedures;
- ◆ Coercion, intimidation, or threats against citizens, supervisors, co-workers, City officials, or others;
- ◆ Making or publishing false, vicious, or malicious statements about the City, or a City employee or citizen, or others;
- ◆ Unsatisfactory performance or conduct;
- ◆ Inefficiency, incompetence, or neglect of duty;
- ◆ Fighting, provoking or instigating a fight, or threatening violence;
- ◆ Disruptive activity in the workplace;
- ◆ Engaging in a work stoppage;
- ◆ Conduct which results in waste or damage of a co-workers, the City's, or citizen-owned property;
- ◆ Insubordination or other disrespectful or unprofessional conduct;
- ◆ Discourteous treatment of the public;
- ◆ Possession of weapons on City time, City premises, or while on City business (except for licensed police officers required to carry a weapon as part of their job duties or employees with concealed handgun license with permitted weapon locked in their personal vehicle);

- ◆ Violation of local, state or federal law;
- ◆ Conviction of a felony, including reasonable belief employee has committed a crime under Texas Penal Code or Class A or B misdemeanor involving moral turpitude, or repeated conviction of Class C misdemeanor charges, or any crime;
- ◆ Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension;
- ◆ Outside employment that conflicts with, or potentially conflicts with, City interests;
- ◆ Acceptance of payment of any kind for activities related to City employment;
- ◆ Failure or refusal to follow lawful orders;
- ◆ Sleeping on the job;
- ◆ Dishonesty, including misrepresentation during the hiring process; or
- ◆ An accumulation of minor infractions.

## **H. DISCIPLINARY MEETING**

A disciplinary meeting will be scheduled prior to the imposition of a suspension of one (1) day (or one (1) shift) or more, demotion, or termination. The department director, the affected employee, (the meeting may also include a representative from Human Resources) attend the disciplinary meeting. During the meeting, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees will be given advance notice of the meeting. Employees may, in the City's sole discretion, be placed on administrative leave prior to, during, or after the disciplinary meeting. The employee will be notified of the City's determination following the meeting.

## **I. ADMINISTRATIVE LEAVE**

During an investigation into alleged offenses or violations of City policies, the City may, in its sole discretion, place the employee on administrative leave. The leave may be with or without pay, and may be charged to available accrued leave if authorized by the City Manager.

## **J. ADDITIONAL INFORMATION**

For additional information regarding procedures to be followed if the discipline results in separation by involuntary dismissal see the following sections of this manual relating to **Separations**.

### **SECTION 15. SEPARATIONS**

#### **A. TYPES OF SEPARATIONS**

The City designates all employee separations as one of the following types:

1. **Resignation.** An employee who intends to resign is expected to notify the supervisor and/or Human Resources in writing at least (2) two weeks prior to the last day of work. Department Managers are expected to notify the City Manager and Human Resources at least thirty (30) days in advance. Employees who fail to give the required advance notice are typically not eligible for rehire.
2. **Retirement.** An employee who intends to retire is requested to notify the department director, supervisor, and Human Resources, in writing at least one month prior to the date of retirement. The Texas Municipal Retirement System (TMRS) application for retirement must be in the TMRS office the day of intended retirement date to lock in the in-service-date.
  - ◆ **Retiree Health Coverage.** An employee who retires from City employment and who is entitled to receive retirement benefits from TMRS is entitled to purchase continued health benefits coverage for the retiree and eligible dependents unless the person is eligible for group health benefits coverage through another employer. To receive continued coverage under the plan, the employee must inform Human Resources before the date of retirement.

An employee can elect retiree coverage only if covered under the plan at the time of retirement. Similarly, a retiree may elect to cover only those eligible dependents that were covered under the plan at the time the employee retired. A person who was not covered under the plan at the time of the employee's retirement is not eligible for retiree coverage.

3. **Dismissal/Termination.** The City may terminate an employee's employment as a result of unsatisfactory performance or conduct and/or violation of City policies or procedures, including a new hire who fails the probationary period. City employees who are terminated, or who resign in lieu of termination, due to unsatisfactory performance, pending results of an investigation, or conduct and/or violation of City policies or procedures, are not eligible for rehire.

Dismissal may also occur for the following:

- ◆ **Job Abandonment.** If an employee fails to properly notify the City of an absence from work or if an employee is absent without authorization and/or notification for three (3) or more consecutive days, the City will normally consider the employee to have abandoned employment, and the employee will be terminated.
- ◆ **Long-Term Absence.** Leave of absence beyond 180 days may be granted if it is a reasonable accommodation justified by medical necessity.
  - ✓ This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act and the Amendments to the Americans with Disabilities Act.
- ◆ **Incapacity.** An employee may be terminated for incapacity when the employee no longer meets the physical or mental requirements of the job with or without accommodations. A termination for incapacity is not considered a disciplinary action.

The employee may receive accrued vacation and sick leave benefits if provided by policy, payable upon termination.

- ♦ **Reductions-in-Force/Reorganization.** An employee may be separated from City service when it is deemed necessary by reason of shortage of funds or work, the elimination of the position, other material change in the duties of the organization, or for other reasons which are outside the employee's control, and which do not reflect discredit upon the service of the employee.

When reductions in force are necessary, decisions on individual separations will be made after considering:

- ✓ The relative necessity of each position to the organization,
- ✓ The performance record of each employee,
- ✓ Qualifications of the employee for remaining positions with the city, and
- ✓ The employee's length of service with the city.

Employees who have been laid off may reapply to the City for another position. Qualified former employees will be given priority consideration in the event of a vacancy.

When a regular employee who has been employed by the city for 12 continuous months is dismissed as a result of a reduction in force, he or she will be given a minimum of two (2) weeks' written notice and paid in full to the time of discharge including accrued benefits. In addition, the City department director will attempt to guide the employee to any available, suitable job openings in the area for which the employee qualifies.

- ♦ **Death.** If a City employee dies, the designated beneficiary or estate will be paid all earned pay and payable benefits.

**Separation Agreements/Severance Agreements.** At the City's sole discretion, an employee may be offered a Separation Agreement or a Severance Agreement relating to the employee's termination of employment. The best practice for separation payment calculation is one week's pay for every one year of continuous tenure/service calculated from the most recent date of hire. City Council shall be notified of all separation or severance agreements. All Separation Agreements or Severance Agreements offered to department heads whose termination or removal requires City Council approval as stipulated in the City Charter, regardless of the financial terms or dollar amount, shall require prior approval by the City Council.

#### **Procedure for Approval:**

1. The City Manager shall present all proposed department head separation agreements to the City Council for review and approval during a duly noticed public meeting.
2. The presentation shall include all relevant details of the agreement, including but not limited to the reasons for the separation, the financial terms, and any other pertinent information. Portions of the presentation may be made in closed session of the Council, as permitted by law.

## **B. EXIT INTERVIEWS**

The City usually provides separating employees with an exit interview prior to their last day of work. The purpose of the exit interview is to finalize all compensation due, return City equipment, provide explanation of any continuing benefits, review employment history, discuss the reason(s) for the separation, and solicit constructive feedback to improve the City. Human Resources shall complete an Exit Interview Form, and the supervisor also completes a form.

Exit interviews are conducted confidentially by Human Resources. Information discussed during the exit interview may be shared with the City Manager's office and acted upon as deemed appropriate by the City. The department director (or designee) is responsible for promptly notifying Human Resources of all separations, arranging for the exit interview, and providing documentation of receipt of all departmental and/or City property from the exiting employee.

## **SECTION 16. GRIEVANCES**

### **A. POLICY**

It is the policy of the City, insofar as possible, to prevent the occurrence of grievances, and to deal promptly with those that occur. No adverse action will be taken against an employee who files a grievance in good faith with a reasonable belief in the grievance and who does not provide false information during the investigation.

The Texas Whistle Blower Act provides that the City may not suspend or terminate the employment of, or otherwise discriminate against, a City employee who reports a violation of law to an appropriate law enforcement authority, if the employee report is made in good faith.

An employee may file a grievance regarding their wages, hours, or conditions of employment, including but not limited to one or more of the following grounds:

- ◆ Improper application of rules, regulations, and procedures (but not the rules, regulations, and procedures themselves);
- ◆ Unfair treatment;
- ◆ Illegal discrimination based on race, religion, color, sex (including sexual harassment), age, disability, or national origin;
- ◆ Improper application of fringe benefits; or
- ◆ Improper or unsafe working conditions.

The City follows a grievance procedure which ensures a uniform process in the City's consideration of work-related grievances. Elements of the process include the right to be represented, the right to mount a defense, and the right to present written response(s) regarding resolution of the grievance.

## **B. FINAL AUTHORITY**

Grievances can be appealed through the employee's supervisor to the City Manager whose decision is final. City Council is the final authority regarding complaints and/or grievances against the City Manager.

## C. PROCEDURE

The following procedures are applicable to regular employees. If a grievance involves a complaint against the employee's immediate supervisor or department head, the complaint should be directed immediately to the Human Resources Department. In consultation with the City Attorney, the Human Resources Department will review the dispute, consider the facts, and may conduct an investigation. If a grievance involves a complaint against the Human Resources Director, the complaint should be directed to the City Manager or City Attorney.

1. **Informal Grievances.** The first step in the grievance procedure is for the employee to attempt to resolve the grievance by informal conference with his or her supervisor. If this informal conference does not result in a resolution of the problem(s) that is satisfactory to the employee, he or she may file a formal, written grievance.
2. **Formal Grievances.** Formal grievances must be in writing on a form provided by the Human Resources Department, signed by the employee, and presented to the employee's supervisor within twenty (20) City working days after the event(s) forming the basis of the grievance allegedly occurred or were reasonably discovered by the grievant. A statement of the specific remedial action requested by the employee must be included in the written grievance.

An employee may be represented throughout the grievance process by a representative of their choice, including another City employee.

The employee's supervisor shall, or if the complaint/grievance is against the immediate supervisor or department head, Human Resources Director shall:

- ◆ Schedule and conduct a meeting with the employee and their representative (if any) within ten (10) City working days of receipt of the written grievance to allow the employee to present their grievance, including submission of written materials that the employee deems relevant to the resolution of the grievance;
- ◆ Communicate a written decision on the grievance to the employee within fifteen (15) City working days after receipt of the grievance, sending a copy of the proposed resolution to the employee's file in the Human Resources Department, to the City Manager, as well as the department head.

**Written Appeal.** If no meeting is scheduled and held as required above, or if an employee receives no written resolution from the supervisor within fifteen (15) working days from the date on which the grievance meeting was held, or if the employee is not satisfied with the proposed written resolution from the supervisor, the employee may file a written appeal with the department director within ten (10) City working days after receipt of the written decision, or the time period for the receipt of a proposed resolution has elapsed.

The department director will review the file materials; consult with the Human Resources Director; and schedule a meeting with the parties involved no later than five (5) working days after receipt of the grievance appeal. Following the meeting, the department director shall respond in writing to the employee within ten (10) working days of the date on which

the appeal was received in the department director's office, sending a copy to Human Resources and the City Manager.

**Next Level Written Appeal.** If the employee receives no written resolution from the department head within ten (10) working days from the date on which the appeal was filed with the department head, or if the employee is not satisfied with the department head's proposed resolution of the appeal, the employee may file a written appeal with the City Manager within ten (10) working days.

The City Manager shall review the file materials; consult with the Human Resources Director; and schedule a meeting with the parties involved no later than five (5) working days after receipt of the grievance appeal. Following the meeting, the City Manager shall respond in writing to the employee within ten (10) working days of the date on which the appeal was received in the City Manager's office, sending a copy to Human Resources. The decision of the City Manager is final and cannot be appealed further within the City.

3. **Maximum Time Periods.** At each stage of the grievance process, the time periods specified are maximums. Grievances should be dealt with promptly and written responses provided as quickly as possible.
4. **Documentation.** Copies of all documentation relating to the grievance will be forwarded to Human Resources Director immediately upon conclusion of each step in the grievance process and will be placed in the employee's personnel file.
5. **Grievances Relating to Sexual or Other Harassment or Discrimination.** Any employee may file a grievance related to alleged sexual harassment or discrimination on the basis of race, religion, color, sex (including sexual or other harassment), national origin, age, or disability.
  - ◆ The initial written grievance may, at the employee's option, be submitted directly to Human Resources immediately.
  - ◆ If the grievant alleges discrimination or sexual or other harassment by the City Manager, the employee may file the grievance directly with Human Resources or with the City Attorney. Such grievances shall also be filed within 10 working days of the alleged discriminatory act. In such instances, to allow adequate time for proper investigation, the total cumulative time period which would have been allowed at the other steps in the grievance process is available to the appropriate authority before his or her written resolution of the grievance is required to be received by the employee.
  - ◆ In all instances of alleged discrimination or sexual or other harassment, the City Attorney will be consulted before a written resolution is provided to the grievant.
6. **Grievances against the City Manager.** If an employee files a grievance complaining of the actions of the City Manager, the employee should bypass the Work-Related Problems procedure and submit the written grievance form to the City Attorney directly to initiate the process with the City Council. Such grievances will be resolved by the City Council using a process as similar to the standard grievance process as possible given the requirements of the Open Meetings Act.

7. **Requirement for Appeal if Dissatisfied**. If the employee is dissatisfied with any proposed resolution during the grievance process, he or she must appeal to the next step within the established time period. Failure to appeal implies that the employee is satisfied with the latest resolution.

## **SECTION 17. PERSONNEL RECORDS**

### **A. PERSONNEL FILES**

An employee's official personnel file contains all documents related to an employee's employment relationship with the City, except for medical records and I-9 forms.

An employee's personnel file does not contain information regarding an employee's medical record(s), nor does it contain any information relating to drug or alcohol testing. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only Human Resources has routine access to employee medical records.

Federal law requires that the City maintain all employee medical information in separate, confidential files. Therefore, in addition to personnel files, the City maintains a separate medical file for each employee. Human Resources maintains these confidential medical files.

It is important that employees understand that medical records are confidential but that the confidentiality may be waived when the employee provides medical information to the supervisor or the other City employees, except Human Resources. When an employee provides information to the supervisor, the supervisor is expected to share the information only on an "as needed" basis with other members of management and with Human Resources.

In addition to protecting their own confidential medical information, employees must also respect the privacy and confidentiality of other co-workers' medical information. Employees are expected to use discretion and judgment when dealing with such information and should not disclose any information, gossip, rumors, or anything else that may constitute an invasion of a co-worker's privacy or breach of confidentiality. Failure to adhere to this policy will result in disciplinary action, up to and including, termination of employment.

The City must maintain current and accurate records of all employees' addresses and telephone numbers. It may become necessary to write or telephone an Employee at home about working conditions or schedules. Each employee must promptly inform Human Resources of any changes in an address or telephone number. Employees must also promptly inform Human Resources of any changes in family status such as marriage, divorce, or births. Failure to do so may affect the ability to offer or continue any health benefits to which you or your dependents may be entitled. Any of the above changes should be reported at the time the changes occur.

As governed by the Texas Public Information Act, the employee may request, review, and obtain a copy of their personnel file.

Any request to inspect or copy personnel records must be made in writing with advance notice to Human Resources. The request form can be obtained from the Human Resources Department. The employee's request must be approved prior to the review of their personnel file.

The employee's personnel records may be made available to review at the Human Resources Department. In accordance with the Texas Public Information Act, the records will be made available no later than 30 calendar days from the date the City receives their written request to inspect or copy their personnel records. The City shall attempt to produce the personnel records as soon as practicable following the request, and no later than 10 City working days from the date of the request. If the request cannot be fulfilled within 10 City working days, the employee will be notified in writing no later than the 10<sup>th</sup> City working day of when the records will be available. In no event shall it take longer than 30 calendar days to produce personnel records to the employee (unless you/your representative and the City mutually agree in writing to a date beyond 30 calendar days but in no event later than 35 calendar days from receipt of the written request).

The City will strictly limit accessibility of personnel records to the employee, the employee's designated representative, the employee's immediate supervisor, department director, Finance Department or designee (material is restricted to financial matters), the Human Resources Department, the City Manager, the City Attorney, and any duly sworn officer of the court upon proper subpoena, court order, or written request, except when a request for personnel information is required under the Texas Public Information Act. In instances where a request has been made under the Texas Public Information Act for information contained in an employee's personnel file, the employee will be notified in writing that such a request has been made, along with the name of the person making the request.

Disclosure of personnel information to outside sources will be limited. However, the City will cooperate with requests from authorized law enforcement or local, state, or federal agencies conducting official investigations, and as otherwise legally required.

## **B. INFORMATION DISCLOSURE ELECTION**

Each employee may choose whether the City discloses the employee's home address and telephone number to the public on request. If a new employee does not request confidentiality within the first fourteen (14) days of employment, the home address and telephone number on file are considered public information, with the exception of police officers, whose addresses and telephone numbers are not public information.

However, employees may change their election for disclosure or confidentiality at any time. A form for designating this information as confidential or public is available from the Human Resources Manager.



## **SECTION 19. ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING**

### **ACKNOWLEDGMENT OF RECEIPT OF EMPLOYEE HANDBOOK**

The Employee Handbook contains important information about the City, and I understand that I should consult the Human Resources Department regarding any questions not answered in the handbook. I have entered into my employment relationship with the City voluntarily and understand that there is no specified length of employment. Accordingly, either the City or I can terminate the relationship at will, at any time, with or without cause, and with or without advance notice.

I understand and agree that no person other than the City Manager or the City Council may enter into an employment agreement for any specified period of time or make any agreement contrary to the City's stated employment-at-will policy.

Since the information, policies, and benefits described herein are subject to change at any time, I acknowledge that revisions to the handbook may occur, except to the City's policy of employment-at-will. All such changes will generally be communicated through official notices, and I understand that revised information may supersede, modify, or eliminate existing policies. Only the City Manager or the City Council have the ability to adopt any revisions to the policies in this handbook.

Furthermore, I understand that this handbook is neither a contract of employment nor a legally binding agreement. I have had an opportunity to read the handbook, and I understand that I may ask my supervisor or any employee of the Human Resources Department with any questions I might have concerning the handbook. I accept the terms of the handbook. I also understand that it is my responsibility to comply with the policies contained in this handbook, and any revisions made to it. I further agree that if I remain with the City following any modifications to the handbook, I thereby accept and agree to such changes. City Council members will also be provided with a copy of these policies.

I have received a copy of the City's Employee Handbook – Policies and Procedures on the date listed below. I understand that I am expected to read the entire handbook. I understand that the official current version of the handbook is maintained in the Human Resources department. Additionally, I will sign two copies of this Acknowledgment of Receipt, retain one copy for myself, and return one copy to the City's Human Resources department on the date specified. I understand that this form will be retained in my personnel file. I further acknowledge that I will be notified via email of any changes to the contents of the handbook, and that upon such email notice I will sign two copies of this Acknowledgement of Receipt and will retain one copy for myself and return one copy to the City's Human Resources department.

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*Employee Signature*

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*Date*

**THIS PAGE IS TO BE DATED, SIGNED AND RETURNED TO THE HUMAN  
RESOURCES DEPARTMENT UPON RECEIVING A COPY OF THESE POLICIES  
AND PROCEDURES**