

City of Everman



Personnel Manual

January 2021

CITY OF EVERMAN PERSONNEL POLICIES

ARTICLE I. GENERAL

Sec. 1.01. Purpose.

It is the purpose of these personnel policies to:

- (1) promote and increase productivity, efficiency, responsiveness to the public, and economy of operation;
- (2) provide fair and equal opportunity for qualified persons to enter and progress in city employment through job performance as evaluated by the appropriate supervisor;
- (3) maintain policies for recruitment, advancement, and tenure to enhance the attractiveness of a city career and to encourage each employee to give his or her best effort to the job and the citizens;
- (4) provide and maintain an up-to-date position classification and compensation plan;
- (5) develop high morale among city employees by fostering good working relationships and by providing uniform personnel policies;
- (6) assure that employees are protected against coercion for partisan political purposes and are prohibited from using their positions with the city for the purpose of interfering with or affecting the results of an election or nomination for office.

Sec. 1.02. Administration.

- (a) **City manager.** The city manager is responsible for the administration of the personnel policies. With the exception of appointments and other personnel actions reserved to the city council by statute, city charter, or ordinance, the city manager has final authority on personnel decisions.
- (b) **Human Resources Director.** The city manager shall appoint the Human Resources Director. The Human Resources Director shall have responsibility for the following functions:
 - (1) administer the regulations of this policy in cooperation with the department heads;
 - (2) review departmental policies affecting employees and ensure that the policies do not conflict with the provisions of this policy;
 - (3) administer employee benefits;
 - (4) review all new state and federal laws affecting personnel administration of the city, consult with the city attorney, and report to the city manager when adjustments are needed in these policies or other city procedures to conform to these laws;
 - (5) maintain a personnel records system, including work records, leave records, disciplinary records, and all pertinent data needed for efficient and proper personnel administration; and
 - (6) other responsibilities assigned by the city manager.

Sec. 1.03. Administration of these Policies.

Department heads are responsible for the proper and effective administration of these policies within their departments. Routine matters and duties, such as maintaining records and preparing reports and payrolls may be assigned to a subordinate.

Sec. 1.04. Availability of these Policies.

A copy of these policies shall be given to all city employees.

Sec. 1.05 Amendments to this Policy.

These policies are established by the City Council and any amended, revised, or new policies must be approved by the council.

Sec. 1.06. Equal Opportunity Policy.

No officer or employee of the city shall discriminate in employment practices based on race, creed, color, religion, national origin, gender, age, veteran status, or the existence of a physical or mental disability. This equal opportunity policy of the city applies to all areas of employment, including, but not limited to recruitment, hiring, job assignments, pay, training, promotions, privileges, and conditions of employment.

Sec. 1.07. Definitions.

In this policy:

AFFINITY WITHIN THE SECOND DEGREE includes an employee's spouse, step-parent, father-in-law, mother-in-law, spouse's grandparents, spouse's grandchildren, brother-in law, sister-in-law, son-in-law and daughter-in-law.

ALCOHOLIC BEVERAGES means alcohol, or any liquid containing more than one-half of one percent of alcohol-by-volume that is capable of use for beverage purposes alone or when diluted.

AMERICANS WITH DISABILITIES ACT OF 1990 means Title 42 U.S.C. §12101, *et seq.*, as amended.

APPLICANT means a person who has completed a written application form and provided any clarification information requested.

APPOINTING AUTHORITY means a person or group of persons having authority to appoint or to remove a person from a position of city employment.

APPOINTMENT means initial employment by the city.

BENEFIT means an employer-sponsored program that includes, but is not limited to, holidays, vacation leave, sick leave, and health and life insurance, but does not include salary, service credit, or seniority.

CALL BACK means the unscheduled return to work outside of normal hours on a holiday or day off at the request of a supervisor. It does not include overtime or holiday work scheduled in advance.

CHILD means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

- (A) under 18 years of age; or
- (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

CITY means the city of Everman, Texas.

CITY MANAGER means the city manager of the city of Everman, Texas or the city manager's designee.

CONSANGUINITY WITHIN THE THIRD DEGREE includes an employee's great grandparents, grandparents, parents, children, grandchildren, great-grandchildren, brother, sister, nieces, nephews, and half-nieces and nephews.

DEMOTION means the movement of an employee to a different classification having a lower maximum rate of pay, but not including a reclassification.

DISMISSAL means involuntary termination of employment with the city.

DEPARTMENT HEAD means a person appointed by the city manager who is responsible for the administration of a department.

DRUG PARAPHERNALIA means equipment, products, or materials, as defined in Chapters 481, 484 or 485 of the Texas Health and Safety Code, that may be used to facilitate the use of controlled substances or inhalants.

DRUG AND ALCOHOL TEST means the entire process of testing an individual for the presence of illegal drugs or alcoholic beverages, beginning with the collection of a specimen of bodily fluids, and continuing through the conclusion of laboratory testing of a specimen.

EMERGENCY MEDICAL SERVICES EMPLOYEE means an employee of the emergency services department who is either an emergency care attendant, emergency care technician, or a licensed paramedic.

EMPLOYEE means a person employed and paid a salary by the city and includes the following categories, but does not include an independent contractor or city council member:

FULL-TIME EMPLOYEE means a person employed by the city to work at least 40 hours a week.

PART-TIME EMPLOYEE means a person who works fewer than 40 hours a week and is in a position that by city policy and practice is designated as "part-time."

REGULAR EMPLOYEE means a full-time or part-time employee who is not a temporary employee.

TEMPORARY EMPLOYEE means an employee:

- (A) whose employment is scheduled to last less than six months;
- (B) who holds a seasonal position, even though the employment may last more than six months; or
- (C) in a position which, by city policy and practice, is intended to give introductory work experience to a person preparing for entry into the work force.

EMPLOYEE PERSONNEL FILE is a collection of documents maintained by the Human Resources Director regarding an employee's work history with the city.

EXEMPT EMPLOYEE means an employee who performs an executive, administrative, or professional function as defined in the Fair Labor Standards Act.

FAIR LABOR STANDARDS ACT means Title 29 U.S.C. §201, *et seq.*, as amended.

GRIEVANCE means an issue raised by an employee relating to the employee's benefits or conditions of employment.

HEALTH CARE PROVIDER means:

- (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;
- (B) podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice;
- (C) Nurse practitioners, nurse-midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice;
- (D) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
- (E) any health care provider from whom the city or the city's group health plan will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

ILLEGAL DRUGS means controlled substances, as defined in Chapter 481 of the Texas Health and Safety Code, and inhalants, as defined in Chapters 484 and 485 of the Texas Health and Safety Code.

IMMEDIATE FAMILY means the employee's brother, sister, mother, father, grandchildren, grandparents, child, step parents, spouse and the spouse's immediate family. A legal guardian may be considered as immediate family if approved by the city manager.

IMPAIRED or IMPAIRMENT means the inability of an employee to perform duties safely and competently due to use of alcohol, illegal drugs, prescription drugs or over-the-counter drugs.

INTERMITTENT LEAVE is FMLA leave taken in separate blocks of time due to a single qualifying reason.

JOB (see POSITION)

LEGAL GUARDIAN means a person appointed by a court to guard the interests of a child who is a ward.

PARENT means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

POSITION means a collection of tasks, duties and responsibilities regularly assigned to and performed by one person. The term "job" is synonymous with "position" when it is performed by one person.

PROMOTION means the change of an employee from a lower classification to a higher classification with a resulting increase in salary.

REAPPOINTMENT means employment of a person who has previously been employed by the city.

REASONABLE SUSPICION means a belief based on objective, articulable facts sufficient to lead a reasonably prudent person to suspect that an employee may be under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job may be impaired or so the employee's ability to perform the job safely may be reduced.

REDUCED LEAVE SCHEDULE means a leave schedule that reduces the usual number of hours per work week, or hours per work day, of an employee.

REINSTATEMENT means the reappointment of an employee who was reduced in classification or separated from employment as a result of a position being vacated or abolished by the city council.

REINSTATEMENT LIST means a list of persons who have been reduced or separated from a particular classification as a result of positions being vacated or abolished by the city council, ranked in the order of seniority.

REPRIMAND means a statement to an employee by a supervisor describing deficiencies in the employee's performance or acts of the employee that are in violation of the standards of conduct and describes corrective measures which the employee should take. A reprimand is formal if it is in writing.

SEPARATION means any termination of employment with the city.

SERIOUS HEALTH CONDITION means an illness, injury, impairment, or physical or mental condition that involves:

- (A) inpatient care in a hospital, hospice, or residential medical care facility; or
- (B) continuing treatment by a health care provider, including one or more of the following:
 - (i) a period of incapacity of more than three consecutive calendar days that requires:
 - (aa) treatment two or more times by a health care provider or by a provider of health care services under the orders of a health care provider; or
 - (bb) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;
 - (ii) any period of incapacity due to pregnancy or for prenatal care even if no treatment is received during the absence;
 - (iii) any period of incapacity or treatment for an incapacity due to a chronic serious health condition even if no treatment is received during the absence;

- (iv) a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective;
- (v) any period of absence to receive multiple treatments by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider.

SPOUSE means a husband or wife as defined or recognized under state law for purposes of marriage, including common law marriage.

SUPERVISOR is an employee having direct authority over other employees; such authority can include assignment of job duties, performance counseling and evaluation and disciplinary action.

SUSPENSION means an involuntary absence without pay imposed by an appointing authority for disciplinary purposes.

SWORN EMPLOYEE means an employee of the police department or the emergency medical services (EMS) department who is certified by the state Commission on Law Enforcement Officer Standards and Education or the Texas Department of Health.

TERMINATION means cessation of employment with the city.

TRANSFER means a change from one position to another in which departmental or classification lines, or both, may be crossed, but which does not result in either promotion or demotion.

UNDULY DISRUPTIVE means that to grant an employee leave would impose an unreasonable burden on the city's ability to provide services of acceptable quality and quantity for the public during the time requested. Inconvenience is insufficient as a basis for determining that leave would be unduly disruptive.

WORK DAY means one shift during which a department is open for business or for which an employee is scheduled to work.

WORKING HOURS means the time during which an employee is on duty, including regular time, overtime, and emergency duty.

WORK PERIOD means a regularly recurring designated period of work which is used in accordance with the Fair Labor Standards Act to determine when a nonexempt employee is entitled to overtime compensation.

WORK WEEK means the number of hours an employee is regularly scheduled to work during a seven-day work period.

ARTICLE II. APPLICATION AND INITIAL EMPLOYMENT

Sec. 2.01. Recruitment.

The city has the following methods of recruiting and selecting persons to fill vacancies in city positions:

- (1) promotion from within the city organization;
- (2) lateral transfer within the city organization; or
- (3) public announcement and consideration of applications.

Sec. 2.02. Applications.

- (a) **Application form.** Applicants for employment with the city shall complete an application form provided by the Human Resources Director. Every applicable question on the form must be answered. Failure to answer all applicable questions may result in the disqualification of the applicant.
- (b) **False or misleading information.** An applicant or an employee who provides false information on the application form or who fails to disclose information that is pertinent to the appointment, is subject to denial of employment, dismissal, or other disciplinary action.
- (c) **Clarifications.** When information provided on an application needs clarification or is incomplete, the Human Resources Director shall notify the applicant. If no reply is submitted within 10 days after mailing the notification, the application may be placed in an inactive file.

Sec. 2.03. Basic Employment Qualifications.

In addition to the qualifications applicable to each position, an applicant must:

- (1) be at least 18 years of age or meet special age requirements for the police ~~and fire~~ department;
- (2) have a social security number;
- (3) be a citizen of the United States or possess a valid resident alien work card; ~~and~~
- (4) agree to be fingerprinted; and
- (5) agree to a criminal background check.

Sec. 2.04. Special Qualifications for Sworn Employees of the Police and Fire Departments.

- (a) **Age.** Applicants for sworn positions in the police department must be at least 21 years of age. Applicants for sworn positions in the fire department must be at least 18 years of age.
- (b) **Physical tests.** Applicants for sworn positions in the police or fire department must pass physical tests relevant to the essential functions of the position, including, but not limited to range of motion and aerobic fitness.
- (c) **Vision.** The vision of applicants for sworn positions in the police or fire department must be correctable to 20/20.
- (d) **Hearing.** The hearing of applicants for sworn positions in the police or fire department must test between minus 10 to plus 25 (ANSI standard).

Sec. 2.05. Evidence of Qualifications.

- (a) Applicants for positions which are scientific, professional, or technical, or the duties of which require special qualifications, may be required to provide documentary evidence of necessary education, training, or experience.
- (b) Applicants for positions requiring college graduation may be required to furnish a transcript of their college work as well as a copy of their diploma.
- (c) Whenever college training is allowed to substitute for work experience, an applicant may be required to document the education with a transcript.

Sec. 2.06. Retention of Applications.

Whether or not an applicant is hired, promoted, or transferred, the application shall not be returned, but shall be retained by the city in accordance with the city's records retention schedule.

Sec. 2.07. Employment Inquiry Form.

The Human Resources Director shall provide an employment inquiry form to applicants seeking employment in positions in which there are no vacancies posted. The form shall provide the means for an applicant to indicate interest in specific positions with the city. The form, when filled in, shall be retained by the Human Resources Director. The applicant will be notified by the Human Resources Director when a designated position becomes vacant. Failure to notify an applicant will not invalidate the selection process. The employment inquiry forms do not constitute an application for city employment, but are provided for convenience only.

Sec. 2.08. Anticipating Vacancies.

Department heads shall notify the Human Resources Director of their anticipated vacancies as far in advance as reasonably possible to permit sufficient time for the selection of qualified candidates.

Sec. 2.09. Physical Examinations and Health.

- (a) **Pre-employment.** In compliance with the Americans with Disabilities Act of 1990 ("ADA"), the city does not:
 - (1) require a pre-employment physical examination for any city position;
 - (2) inquire as to whether an applicant has a disability before the offer of a position is made; nor
 - (3) inquire about an applicant's worker's compensation history.
- (b) **Positions with physical requirements.** The Human Resources Director shall designate which city positions require regular and sustained periods of physical effort, agility, and mobility, or regular and sustained operation of motor equipment or vehicles. When an offer of employment is made for these positions, the offer will be conditioned upon the applicant passing a job-related physical requirements test. All requirements to pass the physical requirements test will be job-related and consistent with business necessity.
- (c) **Confidentiality.** The results of the physical requirements test and all medical information concerning an applicant or employee shall be kept confidential; except, that:
 - (1) supervisors and managers may be informed regarding restrictions on work duties of employees and necessary accommodations;
 - (2) if emergency treatment might be required, then first aid and safety personnel may be informed; and
 - (3) information may be provided to government officials investigating compliance with the ADA.

- (d) **Reasonable accommodations.** If an otherwise qualified applicant has a disability which might impede job performance, the city will nevertheless consider the applicant in competition with other qualified applicants and determine whether reasonable accommodations can be made to overcome the impediment without imposing an undue hardship.
- (e) **Drug Test.** Before employment with the city, all prospective employees are required to submit to a urine test to ascertain the presence of illegal drugs in accordance with Section 11.04. An offer of employment is contingent upon the results of the test. Applicants shall be advised that a positive result from the drug test will preclude employment with the city.

Sec. 2.10. Personnel Records.

- (a) **Retention and inspection.** The Human Resources Director will maintain work history records for each employee and retain those records in accordance with the city's records retention schedule. An employee's record is available for inspection in the human resources department by that employee and the employee's immediate supervisor, manager, department director, executive director or the city manager.
- (b) **Information update.** Each employee shall report to the Human Resources Director any change in address, telephone number, or family status, to be included in the employee's personnel file.

Sec. 2.11. Nepotism.

- (a) **Relatives of city officials.** A person shall not be hired as an employee of the city who is related within the second degree of affinity (marriage) or within the third degree by consanguinity (blood) to the mayor, any member of the city council, the city manager, or a department head. [See Section 12.07, City Charter.]
- (b) **Supervision.** No employee may work in a position which is in the line of supervision of a person related to the employee within the second degree of affinity or the third degree of consanguinity. Employees working in the same department who are related within the degree described above, will not, to the extent possible, be assigned to the same shift. Shifts of relatives working in the same department at the time of adoption of this policy will not be changed unless one of the related persons changes positions.
- (d) **Previous continuous employment.** Subsection (a) does not affect the employment of a person who has been continuously employed by the city since one year before April 5, 1986 (date city charter was adopted). [See Section 12.07, City Charter.] Subsection (c) does not affect the employment of a person who has engaged in a relationship prohibited by subsection (c) and has remained continuously employed by the city since on or before April 1, 2002.

Sec. 2.12. Reinstatement.

An employee who is reinstated following a reduction in force or as a result of a city manager or court order after the appeal of a dismissal, will retrieve previous regular service earned during the immediately preceding period of regular employment.

Sec. 2.13. Reappointment.

- (a) **Retrieved Service Time.** A person who is reappointed as a regular city employee will retrieve previous regular service earned during the immediately preceding period of regular employment if the employee is reappointed within 120 days of separation.
- (b) **Benefits.** Continuous regular service retrieved under Subsection (a) is for the purpose of determining seniority and service-related benefits except retirement benefits.

ARTICLE III. CONDITIONS OF EMPLOYMENT

Sec. 3.01. Regulation of Employees Not a Contract; Expectations.

- (a) All employees of the city serve at the will and pleasure of the city. Neither this policy nor any other policy of the city nor any statement of a city official, shall be construed as granting a property interest in employment with the city. The existence of this policy does not constitute any limitation on the rights of the city to manage its affairs. The city reserves the right to interpret, change, suspend, cancel, or dispute, with or without notice, all or any part of this policy. Employees will be notified before implementation of any change.
- (b) Although adherence to this policy is considered a condition of continued employment, nothing in this policy alters an employee's status and shall not constitute nor be deemed a contract or promise of employment. Employees are expected to continue to meet job performance standards, observe departmental regulations, and observe city rules of conduct in order to continue employment with the city.

Sec. 3.02. Compliance with Regulations and Laws.

An employee shall comply with the provisions of the charter and ordinances of the city, with this policy, and with the instructions and directives promulgated by the city council or by a person in whom authority is vested by the state law or the city council.

Sec. 3.03. Work Periods.

- (a) **Standard work periods.** Standard work periods are established for purposes of compliance with the Fair Labor Standards Act. The standard work period for employees other than fire personnel is seven days. The standard number of work hours worked during this work period is 40.
- (b) **Meal periods.** Except for sworn employees of the fire and police departments, approved meal periods are not included in the calculation of the standard work day or shift and are considered time off without pay.
- (c) **Rest periods.** The standard work day may include two 15-minute rest periods each work day if authorized by an employee's immediate supervisor. A rest period is a privilege and not a right, and shall never interfere with proper performance of the work responsibilities and schedules of a department.

Sec. 3.04. Hours of Work.

The hours during which city offices and facilities are open for business shall be determined by the city manager and the city council.

Sec. 3.05. Replacement of City Equipment.

If an employee loses or damages city equipment, the employee must make a written report, documenting the circumstances, to the immediate supervisor who will submit the report for review by the department head. Determination of an employee's financial responsibility for replacement or repair of the equipment will be made by the department head.

Sec. 3.06. Solicitations.

Solicitation of funds for any purpose during working hours on city property is permitted only with the approval of the department head.

Sec. 3.07. Separation Requirements.

In order to resign in good standing, an employee should give at least two weeks written notice of the intention to separate from employment. Failure to provide this notice results in the city manager having authority to revoke terminal pay covering unused vacation leave to which an employee may be eligible.

Sec. 3.08. Retirement.

City employees who work more than 1000 hours per year, participate in the Texas Municipal Retirement System (TMRS) as a condition of employment. The employee contribution rate is 5%, and the city contributes an equivalent amount. Additional information can be obtained from the TMRS handbook, available in the Human Resources Office.

Sec. 3.09. Additional Benefits.

- (a) **Social Security.** Employees of the city are covered by social security. The city matches each employee's contribution to the social security system. Eligibility begins on the first day of employment.
- (b) **Unemployment insurance.** Employees of the city are covered under the Texas Unemployment Compensation Insurance Program. Eligibility begins on the first day of employment.
- (c) **Health insurance.** The city provides each employee with health insurance. There is no cost to the employee. Dependent coverage is available at the employee's expense through payroll deduction. Eligibility begins the 1st of the month after employment start date.
 - Conditional opt-out: In this arrangement, the employer will provide the incentive only if the employee satisfies some established condition related to having health care coverage, such as enrollment in another group health plan (from a spouse or parent's plan, for example). Any cash incentive offered in such an arrangement would be included in the affordability calculations unless it also met the criteria of an eligible opt-out arrangement.
 - Eligible opt-out: As defined in the IRS's Premium Tax Credit Notice of Proposed Rulemaking VI (REG-109086-15), cash incentives under this type of arrangement would not need to be included in the affordability calculations. These arrangements must condition an employee's right to receive the opt-out payment on the following, according to the notice:
 - The employee must decline to enroll in the employer-sponsored coverage and;
 - The employee must provide reasonable evidence that the employee and all other individuals for whom the employee reasonable expects to claim a personal exemption deduction for the taxable year have minimum essential insurance coverage during the period to which the opt-out arrangement applies.
 - The employee will lose the opt-out benefit should they discontinue/lose their outside insurance coverage; at which time the employee would be required to enroll, or reacquire, the employer-sponsored coverage.
- (d) **Life insurance.** The city provides each employee with life insurance at no cost. The city may alter the portion of the rates paid by the City each year. Dependent life insurance is available at the employee's expense through payroll deduction. Eligibility begins after 60 days of employment.

Sec. 3.10. Federal and Court Ordered Garnishments.

- (a) **Child support wage withholding.** The city, upon receipt of a court order or letter signed by the employee, will automatically deduct child support in accordance with the directions contained in the court order or employee letter. An employee letter cannot supersede a court order. If child support is ordered by a court, another court order must be issued to cancel or modify the amount of the original court order.
- (b) **IRS garnishments.** The city will adhere to any wage garnishment issued by the Internal Revenue Service. A garnishment issued by the IRS must be released by the IRS.

Sec. 3.11. Use of City Property.

Employees who are assigned tools, equipment, vehicles, or any other city property are responsible for them and for their proper use and maintenance. Personal use of city property is not permitted. Violation may result in disciplinary action and possible prosecution.

Sec. 3.12. Possession of Weapons.

(a) **Definitions.** In this section:

(1) CITY WORK SITE includes:

- (A) city buildings and real property;
- (B) other assigned work locations;
- (C) city vehicles and equipment; and
- (D) private vehicles while being used on city business, for which the city is paying a car allowance or mileage reimbursement.

(2) CITY BUILDING means a building or portion of a building owned, leased, or otherwise controlled by the city.

(b) **Prohibition.** It is the policy of the city that a city employee (other than a peace officer, fire marshal or fire department personnel authorized by the Chief of Police) shall not carry on or about his or her person, any instrument or weapon that is specifically designed, made, or adapted for the purpose of inflicting serious bodily injury or death, including, but not limited to, clubs, firearms, handguns, illegal knives, explosives, crossbows, bows and arrows, throwing stars, and knuckles, regardless of whether or not the person is licensed by the State of Texas to carry a concealed handgun:

- (1) at a city work site;
- (2) in any city building; or
- (3) while conducting city business.

Sec. 3.13. Minimum Training Requirements.

(a) **Attendance.** Personnel are expected to attend all assigned training programs. Attendance will be documented either by the instructor or, in cases where the training is at a location other than locally, documentation will be furnished by those responsible for the training. In some cases, attendance at a training program may be excused, such as for sickness. Any absence must be properly excused by the administrators of the program. Any time lost must be made up before any certificate of completion is issued. Certificates will be issued to those students who complete any training program. Employees shall provide a copy of any certificates to the Human Resources Director for inclusion in the employee's personnel file.

(b) **Expenses.** With the exception of paper and pencils or pens, all expenses incurred by department personnel as a result of required training will be reimbursed based on actual expenses (receipts must be provided).

(c) **Required Training.** In addition to job specific required training (see job descriptions for specific training requirements), all employees, staff and volunteers within the City must complete the below listed training immediately upon appointment of their position and must retake each course annually.

- TMLIRP Cyber Security
- Sexual Harassment in the Workplace (TMLIRP)
- Diversity in the Workplace (TMLIRP)

- (d) **Remedial Training.** Remedial Training is directed at solving a particular problem or improving performance in a particular area within a designated time and with clearly defined, expected results. Remedial training may be assigned as a result of discipline or counseling.

ARTICLE IV. COMPENSATION

Sec. 4.01. Salaries.

All salary ranges of city employment shall be identified in the salary schedule approved by the city council. Generally, changes in the schedule are made through adoption of the annual operating budget.

Sec. 4.02. Exempt Employees.

- (a) **Function and pay.** An employee who performs an executive, administrative, or professional function is an exempt employee. An exempt employee is paid on a weekly salary basis regardless of the number of hours worked unless the employee is absent and:
 - (1) permission has not been sought or has been sought and denied;
 - (2) accrued leave has been exhausted; or
 - (3) the employee chooses to use leave without pay.
- (b) **Prorated salary.** If part of a week is taken as leave without pay, a proportionate part of the weekly salary will be paid to an exempt employee for the part of the week worked. A proportionate part of the weekly salary will also be paid to an exempt employee for the part of the week worked in the initial or terminal week of employment.

Sec. 4.03. Compensation for Overtime Work.

- (a) **Weekly overtime.** A nonexempt employee, other than a sworn employee of the police department, is entitled to overtime pay for all hours worked in excess of 40 during a seven-day work period. For purposes of computing weekly overtime, the first seven days on a payroll will constitute one seven-day work period, and the second seven days on a payroll will constitute a second seven-day work period. Working of overtime hours and the method of compensation must be approved in advance by the department head. The department head may require a written understanding or agreement with an employee on compensation for overtime work.
- (b) **Overtime for sworn employees.** A nonexempt sworn employee of the police department is entitled to overtime pay for all hours worked in excess of 84 hours during a 14 day pay period.
- (c) **Trade time.** Upon approval by the department head, an employee may trade time with another employee who performs work of the same capacity. The employee must be of the same level of appointment and the trade must occur within the same pay period.
- (d) **Exempt employees.** Exempt employees do not receive overtime pay.

Sec. 4.04. Paid and Unpaid Leave.

For purposes of calculating overtime hours, paid and unpaid leave will not be counted as worked time. An employee, other than an employee of the police or fire department, is charged with paid leave only on days the employee would otherwise have been scheduled to work. Other than an employee of the police and fire department, no more than 40 hours paid leave may be charged in one seven-day work period.

Sec. 4.05. Overtime Rate.

A nonexempt employee will be paid for overtime worked at the rate of 1-1/2 times the employee's regular hourly rate of pay. For purposes of calculating overtime pay, this hourly rate shall include base, merit, incentive, and longevity pay.

Sec. 4.06. Overtime on Holidays.

A nonexempt employee who is required to work on an official paid holiday will be paid at the rate of two times the employee's regular hourly rate of pay for the first eight hours worked. Hours worked in excess of eight are paid at the overtime rate.

Sec. 4.07. Authorization for Overtime.

An employee shall not be permitted to work overtime unless authorization has been given by the department head. The department head has the responsibility to determine that funds are available before authorizing overtime work and to administer overtime as evenly as possible among all employees qualified to do the job. A department head may authorize overtime under the following circumstances:

- (1) Hours worked in excess of the number of regular hours during the designated work period of the employee;
- (2) A call back for an emergency if otherwise off duty;
- (3) Attendance at an approved training class required by the department head if time for attendance is in addition to the employee's regular work schedule.

Sec. 4.8. Documentation of Overtime.

The director of finance shall keep records of all overtime worked and taken by employees. Department heads should report overtime hours worked in their departments to the director of finance with departmental payroll records. The records must include the following information:

- (1) Number of overtime hours worked each work week or work period;
- (2) Number of overtime hours paid each work week or work period and the rate paid;
- (3) Number of compensatory hours accumulated and taken each work week or work period;
- (4) Number of compensatory hours compensated monetarily, the amount paid, and the date of payment;
- (5) Any written understandings or agreements with respect to the accrual and use of compensatory time.

Payment for overtime work shall be itemized separately on the time and attendance report.

Sec. 4.9. Call Backs.

- (a) **Minimum payment.** A non-exempt employee who is called back to work outside of the scheduled work hours will be paid at the overtime rate for a minimum of one hour, regardless of actual hours worked, if the call back does not merge with the employee's scheduled start time.
- (b) **Multiple call backs.** If the employee receives multiple call backs during the same scheduled off time period, payment will be made for actual time worked, subject to the above minimum.

Sec. 4.10 On-Call Status.

- (a) **Requirement for on-call status.** An employee who provides essential services to the public is expected to respond to a reasonable assignment by the employee's supervisor to be in "on-call status" periodically. The employee is free to pursue personal activities, but must respond to a call back within designated guidelines, set by the personnel officer. On-call status is not considered time worked and will not be counted in the total number of hours the employee works during the work period. An employee who is

called and reports to work will be compensated for the actual number of hours worked at the applicable rate based on the total number of hours the employee works during the work period.

- (b) An employee will be considered to be officially scheduled and designated as "on-call" when:
 - (1) an on-call need has been identified by the department head, instructions have been communicated by the supervisor to the employee concerned and the employee has acknowledged the on-call status and availability instructions; and
 - (2) the employee indicates to the supervisor how the employee can be contacted by phone.

Sec. 4.11. Longevity Pay.

- (a) **Fire Department and Police Departments.** Sworn employees of the fire and police departments shall be paid longevity pay at the rate of \$4.00 per month for each completed year of full-time service to a maximum of 25 years of service.
- (b) **Other employees.** All other full-time employees shall be paid longevity pay at the rate of \$4.00 per month for each completed year of full-time service to a maximum of 25 years of service.

Sec. 4.12. Payment of Compensation upon Employee's Death.

In order to settle the accounts of deceased employees, all unpaid compensation due a deceased employee shall be paid to the person or persons surviving at the date of the employee's death, in the following order of precedence. When payments are made in accordance with this section, no other person may collect any of the amounts so paid.

- (1) First, to the beneficiary or beneficiaries designated by the employee in writing to receive the compensation, if the written designation is filed with the personal officer before the employee's death;
- (2) Second, if there is no designated beneficiary on file with the Human Resources Director, to the employee's surviving spouse;
- (3) Third, if there is no designated beneficiary or surviving spouse, to the child or children of the employee, or the descendants of deceased children, by representation;
- (4) Fourth, if none of the above, to the parents of the employee, or the survivor of them;
- (5) Fifth, if none of the above, to the duly appointed legal representative of the estate of the deceased employee, or if there is none, to the person or persons determined to be entitled under the laws of descent and distribution of the State of Texas.

ARTICLE V. LEAVE POLICIES.

Sec. 5.01. Holidays.

- (a) **Eligibility.** All employees are eligible for paid holidays. When an official paid holiday occurs on a scheduled work day of an employee who works the day or shift before and following the holiday, the employee is entitled to holiday pay and shall receive pay for the number of hours the employee normally would have worked.
- (b) **Part-time and temporary employees.** Part-time and temporary employees who would have normally worked on a day of the week observed as a holiday shall be entitled to a paid holiday for the number of hours they would have worked on that day if the holiday had not occurred.
- (c) **Worked holiday.** As many employees as possible shall be given each holiday off without loss of pay. Full-time regular employees who are required to work on a holiday which is a work day, shall be paid at the rate of two times the employee's regular hourly rate of pay for the first eight hours worked. Hours worked in excess of eight are paid at the overtime rate. [See Sec. 4.06]
- (d) **Loss of holiday pay.** An employee will not receive pay for a holiday if the employee is:
 - (1) terminating employment with the city, and the last day as a paid employee is the work day before a paid holiday;
 - (2) on leave of absence without pay the work day before the paid holiday;
 - (3) absent on the work day before or following a paid holiday, without leave or without notifying the employee's supervisor in advance; or
 - (4) absent without leave on a holiday when the employee is scheduled to work.
- (e) **Holidays designated.** The following days are the official paid holidays for the city:
 - (1) New Year's Day (January 1);
 - (2) Martin Luther King Day (January 18th)
 - (3) Presidents' Day
 - (4) Good Friday;
 - (5) Memorial Day;
 - (6) Independence Day;
 - (7) Labor Day;
 - (8) Thanksgiving Day;
 - (9) Day after Thanksgiving Day;
 - (10) Christmas Eve;
 - (11) Christmas Day;
 - (12) One floating holiday; and
 - (13) Any other holiday declared by the city manager or city council.

- (f) **Religious holidays.** An employee wishing to observe a religious holiday not designated in Subsection (e), shall at the employee's option be given leave without pay or have the time charged to other appropriate leave.
- (g) **Substitute holidays.** If a designated holiday falls on a Saturday, the preceding day shall be observed as the holiday. If a designated holiday falls on a Sunday, the following day shall be observed as the holiday.
- (h) **Unusual schedules.** Department heads shall ensure that eligible employees working unusual schedules or on shifts, receive benefits for the full number of holidays.

Sec. 5.02. Vacation Leave.

- (a) **Eligibility.** A full-time employees and all part-time employees participating in the TMRS Retirement Plan accrue vacation leave in accordance with this section, but vacation leave may not be taken until the employee has completed six months of service. Vacation leave does not vest during the first six months of employment, and vacation leave is forfeited if the employee terminates employment before completing six months of service.
- (b) **Reappointments.** An employee who retrieves previous service under Section 2.13, accrues vacation leave at a rate that includes the number of years of service retrieved and may both accrue and use vacation leave during the first six months of reappointment.
- (c) **Accrual.** Vacation time accrues for each month during which the eligible employee is in pay status for at least half the standard number of paid days in that month for the employee's position. Vacation time is credited at the end of the month based on years of service as of the last calendar day of the month. Full-time regular employees begin accruing vacation hours the end of the first month of employment and accrue each month thereafter as follows:

Full-time regular employees with less than five years of service shall earn one hundred twenty (120) hours of vacation leave per year. Fire/EMS personnel shall earn one and a half times the hours earned by a regular employee. A qualified part-time employee will earn one half of the hours earned by a regular employee. After five full years of employment and until ten years of service is reached a regular employee will earn one hundred thirty-six (136) hours of vacation leave per year. The ratio of hours earned by Fire/EMS and qualified part-time employees, compared to regular employees, remains the same. After ten years of service, a regular employee earns one hundred sixty (160) hours of vacation leave. The ratio for Fire/EMS, and qualified part-time employees remains the same.

- (d) **Taking vacation leave.** Employees are encouraged to use their vacation time each year. Vacation leave shall be taken at a time approved by the department head giving due consideration to the needs of the city and interest of the employee. Normally, no more than 10 working days of vacation shall be taken consecutively. All employees who accrue vacation leave are required to take a minimum of 40 hours (regular and part-time) or 60 hours (Fire/EMS) per year. All managers are responsible for enforcing this mandatory vacation policy.
- (e) **No accumulation.** Vacation leave does accumulate when not taken, however, the maximum accumulation of vacation leave hours is equal to one and a half times an employee's yearly accrual. For an employee accruing 120 hours per year, their accumulation may not exceed 180 hours on January 1st. Any excess accumulation will be adjusted in January. The maximum payable accrued vacation leave on separation is one and a half times the employee's scheduled accrual in the year of termination.
- (f) **Miscellaneous vacation rules.** Vacation leave will be administered according to the following rules:
 - (1) Vacation time will be charged only for time during which the employee would ordinarily have worked;
 - (2) If an official paid holiday falls within an employee's vacation leave, an extra day will be added to the vacation time for each holiday falling within the vacation period;
 - (3) Employees who are transferred, promoted, or demoted shall retain accrued vacation time;

- (4) With the approval of the department head, vacation may be taken in eight-hour increments or less;
 - (5) Vacation time shall not be advanced to employees;
 - (6) Vacation credits are not transferable between employees;
 - (7) Department head vacations require city manager approval.
- (g) **Payment upon separation.** An employee who has completed at least one year of service with the city, and who separates in good standing in accordance with Section 3.07, upon separation from employment, is entitled to be paid for accrued unused vacation leave.

Sec. 5.03. Sick Leave.

- (a) **Eligibility.** A full-time employee is eligible for paid sick leave in accordance with this section. Part-time employees are not eligible for sick leave.
- (b) **Accrual.** Forty-hour per week personnel accrue one-half working day (4 hours) of sick leave for each full month of employment in the calendar year and EMS personnel accrue 12 hours of sick leave per month with all employees subject to a maximum accrual of 160 hours. Sick time does not accrue for any month during which an employee is in pay status for less than half the standard number of work days for the employee's position.
- (c) **Taking sick leave.** After an employee completes three months of service, sick leave may be used when:
 - (1) an employee is incapacitated from the performance of the employee's duties due to an illness, surgical procedure, or injury;
 - (2) a medical, dental, or optical examination or treatment is necessary; provided, that approval of the supervisor is obtained;
 - (3) an employee is incapacitated by or recovering from pregnancy, miscarriage, or childbirth;
 - (4) an employee has been exposed to a contagious disease that would warrant quarantine by a health officer, and the employee's presence on the job would jeopardize the health of others;
 - (5) an employee needs to remain with a sick family member living in the employee's household; or
 - (6) any member of the employee's immediate family is hospitalized.
- (d) **Use of other leave.** Vacation may be used to supplement sick leave. When absence due to reasons described in Subsection (c) exceeds the amount of sick leave and other accumulated leave, the pay of the employee shall be discontinued until the employee returns to work. Leave, retirement, and other benefits shall not accrue during the period of leave without pay.
- (e) **Miscellaneous sick leave rules.** Sick leave will be administered according to the following rules:
 - (1) Sick leave may be taken in increments of whole hours;
 - (2) Sick leave credits are not transferable between employees;
 - (3) Employees are not eligible for sick leave when absent from work due to sickness or disability:
 - (A) purposefully inflicted or caused by willful misconduct;
 - (B) sustained during periods of leave without pay or absence without leave; or
 - (C) acquired as a result of other employment.

- (4) An employee may be required to furnish a statement from an attending physician when:
- (A) there is reasonable cause to question the merits of an employee's claim that an absence is due to a reason described in Subsection (c); or
 - (B) the employee's safety or ability to work is in question; or
 - (C) absence from work due to illness totals three or more days.
- (5) Except as provided in section 5.01(d), if an official paid holiday falls during a period of sick leave, the employee will not be charged for sick leave on the holiday.
- (f) **Payment upon separation.** No payment shall be made for unused sick leave upon separation unless the employee is eligible for retirement or is deceased; in which case, payment may not exceed 160 hours. Upon separation all sick leave shall be canceled. If the employee returns to employment with the city within three months of separation, sick leave that had been accumulated shall be restored.
- (g) **Leave Donation Policy.** The City of Everman recognizes that employees may have a family medical emergency or be affected by a major disaster, resulting in a need for additional time off in excess of their available sick/personal time. To address this need, all eligible employees will be allowed to donate accrued paid sick or personal leave hours from their unused balance to their co-workers in need of additional paid time off, in accordance with the policy outlined below. This policy is strictly voluntary.

Eligibility. Employees must be employed with the City of Everman for a minimum of one year to be eligible to donate and/or receive donated sick/personal time.

Guidelines Employees who would like to make a request to receive donated sick/personal time from their co-workers must have a situation that meets the following criteria:

- **Medical emergency**, defined as a medical condition of the employee or an immediate family member that will require the prolonged/extended absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available. An immediate family member is defined as a spouse, child or parent.
- **Major disaster**, defined as a disaster declared by the president under §401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), or as a major disaster or emergency declared by the president pursuant to 5 U.S.C. §6391 for federal government agencies. An employee is considered to be adversely affected by a major disaster if the disaster has caused severe hardship to the employee or to a family member of the employee that requires the employee to be absent from work.

Donation of Sick/Personal Time

- The donation of sick/personal time is strictly voluntary.
- Donated sick/personal time will go into a leave bank for use by eligible recipients.
- Recipient identity will not be disclosed to donating employees.
- The donation of sick/personal time is on an hourly basis, without regard to the dollar value of the donated or used leave.
- The minimum number of sick/personal hours that an eligible employee may donate is 4 hours per calendar year; the maximum is up to 50 percent of the employee's current balance.
- Employees cannot borrow against future sick/personal time to donate.
- Employees will be given the opportunity to donate sick/personal time annually during benefit open enrollment. The donated sick/personal time will be transferred from the donor to the leave pool on December 31st or as otherwise needed as determined by the Director of Human Resources.

- Employees who are currently on an approved leave of absence cannot donate sick/personal time.

Requesting Donated Sick/Personal Time. Employees who would like to request donated sick/personal time are required to complete a Donation of Sick/Personal Time Request Form and submit it to Human Resources. Requests for donations of sick/personal time must be approved by human resources, the employee's immediate supervisor and a designated City Manager of City of Everman.

If the recipient employee has available sick/personal time in his or her balance, this time will be used prior to any donated sick/personal time. Donated sick/personal time may only be used for time off related to the approved request.

Employees who receive donated sick/personal time may receive no more than 480 hours (12 weeks) within a rolling 12-month period.

Nothing in this policy will be construed to limit or extend the maximum allowable absence under the Family and Medical Leave Act.

Sec. 5.04. Military Training Leave.

- (a) **Eligibility.** A regular employee who is a member of the national guard or reserves of the United States armed forces shall, upon notification to the department head and submission of appropriate documentation, be granted leave for a period required to perform active duty for training. A temporary employee will be given authorized leave without pay for this purpose.
- (b) **Definition.** Active duty for training means to be engaged in short periods of authorized military training such as cruises, training schools, weekly or weekend drills, and other similar activities.
- (c) **Length of leave.** In accordance with Section 431.005, Texas Government Code, a regular employee engaged in authorized military training or duties will receive pay and accrue benefits as if the employee were on the job, for up to 15 work days (three calendar weeks) in any one year.
- (d) **Leave in excess of 15 days.** An employee eligible for military leave who is ordered or authorized to participate in training or other duty for more than 15 work days in one calendar year, will be placed on leave without pay for any time in excess of 15 work days.
- (e) **Notice to department head.** An employee shall give as much advance notice as possible to his supervisor regarding dates for military training leave. Annual or quarterly training schedules should be given to the department head as the schedules become available to the employee.
- (f) **Rescheduled work days.** An employee who participates in weekend military training that occurs on a scheduled work day may reschedule a work day rather than have the absence charged to military leave, if the employee reschedules the work day within the same work week.

Sec. 5.05. Military Active Duty Leave.

- (a) **Active Duty.** Active duty in any branch of the United States armed forces, including a reserve component.
 - (1) **Eligibility.** A regular employee who leaves a position with the city for the purpose of entering any branch of the United States armed forces, including a reserve component, for extended active duty, shall be placed in military active duty status and granted leave without pay. The employee should give a supervisor advance notice of the employee's intent and, for reemployment purposes, submit a copy of the orders for inclusion in the employee's personnel record.
 - (2) **Use of military leave and vacation leave.** While serving on military active duty as a member of a reserve component of the armed forces, an employee may elect to use military training leave accrued in accordance with Section 5.04 and any accrued vacation leave, or similar leave accrued before the commencement of such service.

- (3) **Length of active duty.** In accordance with Section 4312, Title 38, United States Code, an employee may serve a total of five years on active duty in the armed forces as a member of a reserve component and still be eligible for reemployment. An employee's right to reemployment is not protected for periods of military active duty longer than five years.
- (4) **Reemployment.** A regular employee who returns from active duty as a member of the armed forces of the United States is entitled to reemployment in the position the employee would have been employed if continuous employment with the city had not been interrupted by military service; or in the same position held upon entrance to active duty; or in a position of comparable seniority, status and pay, if the employee:
 - (A) is physically and mentally qualified to perform the duties of the position;
 - (B) was discharged, separated, or released from military active duty under honorable or general conditions;
 - (C) has not been on military active duty leave for more than five years; and
 - (D) makes written application for reemployment within 90 days after discharge, separation, or release from military active duty and presents evidence of the discharge, separation, or release from military active duty.
- (b) **Leave for military physical exam.** A regular employee called for a military preinduction physical examination will be allowed a reasonable time with pay, including travel time, to take the examination.
- (c) **Credit for military service.** A regular employee with the city upon reemployment following military active duty, will be allowed full credit for time spent in the military service for the purpose of computing eligibility for vacation and sick leave and longevity pay. The employee will be entitled to all seniority, rights and benefits that the employee would have attained had the employee remained continuously employed with the city.

Sec. 5.06. Emergency Family Leave.

When approved by the department head, a regular employee with the city may take leave with pay, not to exceed three work days within a calendar year, in cases of death or serious health condition of a member of the employee's immediate family or household. An employee may be required to present proof of the serious health condition. Emergency family leave is not charged against vacation or sick leave. Emergency family leave does not accumulate. Unpaid emergency family leave may be granted to temporary employees.

Sec. 5.07. FMLA Leave.

- (a) **Federal law.** FMLA leave is provided in compliance with the Family and Medical Leave Act of 1993. When questions arise concerning FMLA leave that are not answered in this section, the department head or Human Resources Director should refer to federal regulations, 29 C.F.R. Part 825, for additional guidance. These regulations are controlling in any matter on which this policy is silent.
- (b) **Eligibility.** An employee is eligible for FMLA leave if the employee has been employed by the city:
 - (1) for at least 12 months;
 - (2) for at least 1,250 hours of service during the previous 12-month period; and
 - (3) the employee is employed at a worksite where fifty (50) or more employees are employed by the city within seventy-five (75) miles of that worksite.
- (c) **Entitlement and reasons for leave.** An employee who is eligible for FMLA leave is entitled to take a total of 12 work weeks of leave during a 12-month period for one or more of the following reasons:
 - (1) Because of the birth of a child of the employee and in order to care for the child;

- (2) Because of the placement of a child with the employee for adoption or foster care;
 - (3) In order to care for the spouse, child, or parent of the employee, if the spouse, child, or parent has a serious health condition; or
 - (4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.
- (d) **Calculation period.** The 12-month period during which an employee is eligible for 12 work weeks of leave, will be measured forward from the date the employee takes the first day of FMLA leave.
- (e) **Expiration of entitlement to leave.** Entitlement to FMLA leave under Subsection (c)(1) or (c)(2) for the birth or placement of a child expires at the end of the 12-month period beginning on the date of the birth or placement.
- (f) **Leave taken intermittently or on a reduced leave schedule.** (1) Leave taken under Subsection (c)(1) or (c)(2) may not be taken intermittently or on a reduced leave schedule. Subject to Paragraph (2) below, Subsection (k)(2) and Subsection (l)(1), leave under Subsection (c)(3) and (c)(4) may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under Subsection (c).
- (2) If an employee requests intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the city may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that:
 - (A) has equivalent pay and benefits; and
 - (B) better accommodates recurring periods of leave than the regular employment position of the employee.
- (g) **Effect of worker's compensation leave.** FMLA leave shall run concurrently with leave taken by an employee as worker's compensation leave if the injury meets the criteria for a serious health condition.
- (h) **Exhaustion of paid leave.** An employee who takes FMLA leave must use and exhaust accrued vacation leave, sick leave, and family leave with pay as part of the 12 work weeks of FMLA leave, before beginning leave without pay status.
- (i) **Duties of employees.** (1) When the necessity for FMLA leave under Subsection (c)(1) or (c)(2) is foreseeable because of an expected birth or placement, the employee shall provide the employee's department head with notice of the employee's intention to take FMLA leave, not less than 30 days before the date the leave is to begin. If the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide notice as soon as practicable.
- (2) When the necessity for FMLA leave under Subsection (c)(3) or (c)(4) is foreseeable because of planned medical treatment, the employee:
 - (A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the city, subject to the approval of the health care provider; and
 - (B) shall provide the employee's department head with not less than 30 days' notice, before the date the leave is to begin; except, that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide the notice as soon as practicable.
 - (3) When an employee takes paid or unpaid leave for a reason that qualifies for FMLA leave, the employee shall include in the notice or request given to the department head, a description of the reason for the leave.

- (4) An employee giving notice for or requesting paid or unpaid leave does not need to expressly mention FMLA. If the employee states a reason that qualifies for FMLA leave, the employee has met the obligation of giving notice.

(j) City's notice to employee.

- (1) Within two business days of receipt of notice from an employee requesting paid or unpaid leave, the department head shall:
 - (A) notify the Human Resources Director who will determine whether the reason for the leave qualifies for FMLA leave; and
 - (B) the Human Resources Director will notify the employee in writing of the determination, designating the leave as FMLA leave, if it qualifies.
- (2) If the Human Resources Director has the requisite knowledge to make a determination that paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to notify the employee in accordance with Subsection (j)(1) above that the requested leave qualifies as FMLA leave, none of the absence preceding notice to the employee may be counted against the employee's 12-week FMLA leave entitlement.
- (3) If at the time of a request for any paid or unpaid leave, the Human Resources Director is not given enough information to determine that the leave qualifies as FMLA leave, then within two business days of receiving adequate information, the Human Resources Director shall notify the employee that the leave has been designated as FMLA leave. In this case leave taken before the date of the Human Resources Director's notice may be counted against an employee's 12-week FMLA entitlement.
- (4) If leave qualifies as FMLA leave, the Human Resources Director shall, at the time of giving notice to the employee, provide the employee with an FMLA Information Form detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. This written information must be provided to the employee in a language in which the employee is literate.
- (5) For unusual circumstances involving notice and designation of FMLA leave, the Human Resources Director should refer to 29 C.F.R. §825.208.

(k) Spouses employed by the city. If a husband and wife are both employed by the city, the aggregate number of work weeks of FMLA leave to which both are entitled is limited to 12 work weeks during any 12-month period, if the leave is taken:

- (1) under Subsection (c)(1) or (c)(2); or
- (2) to care for a sick parent under Subsection (c)(3).

(l) Medical Certification.

(1) The Human Resources Director may require, by giving a written request to an employee, that FMLA leave under Subsection (c)(3) or (c)(4) be supported by a certification issued by the health care provider of the employee or the child, spouse, or parent of the employee. A certification must be furnished in a timely manner when requested. A certification must state:

- (A) the date on which the serious health condition commenced;
- (B) the probable duration of the condition;
- (C) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

- (D) (i) for purposes of leave under Subsection (c)(3), a statement that the eligible employee is needed to care for the child, spouse, or parent and an estimate of the amount of time that the employee is needed to care for the child, spouse, or parent; and
 - (ii) for the purposes of leave under Subsection (c)(4), a statement that the employee is unable to perform the functions of the position of the employee;
 - (E) in the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment;
 - (F) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under Subsection (c)(4), a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and
 - (G) in the case of certification for intermittent leave, or leave on a reduced leave schedule, under Subsection (c)(3), a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the child, spouse, or parent who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.
- (2) If problems or questions arise concerning the content of a medical certification, the department head should refer to 29 C.F.R. §825.305-§825.312.
 - (3) If the city has reason to doubt the validity of the certification provided under Subsection (l)(1), for leave under Subsection (c)(3) or (c)(4), the city may require, at the expense of the city, that the employee obtain the opinion of a second health care provider designated or approved by the city concerning any information certified under Subsection (l)(1). A health care provider designated or approved under this paragraph may not be employed on a regular basis by the city.
 - (4) If the second opinion described in paragraph (3) differs from the opinion in the original certification provided under Subsection (l)(1), the city may require, at the expense of the city, that the employee obtain the opinion of a third health care provider designated or approved jointly by the city and the employee concerning the information certified under Subsection (l)(3). The opinion of the third health care provider concerning the information certified under Subsection (l)(3) is final and binding on the city and the employee.
- (m) **Health benefits.** The city will provide health benefits to an employee while on FMLA leave at the level and under the condition's benefits would have been provided if the employee had continued in employment for the duration of the leave. The city will recover the cost that the city paid for the health benefits during the period of unpaid leave if:
 - (1) the employee fails to return to work after the period of leave to which the employee is entitled has expired; and
 - (2) the employee fails to return to work for a reason other than:
 - (A) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under Subsection (c)(3) or (c)(4); or
 - (B) other circumstances beyond the control of the employee.
 - (n) **Delay or denial of FMLA benefits.** (1) The city may delay the taking of FMLA leave under the following circumstances:
 - (A) if an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, FMLA leave may be delayed until 30 days after the date the employee provides notice to the city of the need for FMLA leave;

- (B) if an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave, the continuation of FMLA leave may be delayed until the employee submits the certificate.
- (2) If an employee fails to provide a requested fitness-for-duty certification to return to work, the city may delay restoration until the employee submits the certificate.
- (3) If the employment relationship terminates, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA.
- (4) If an employee fraudulently obtains FMLA leave, the city may deny job restoration and/or maintenance of health benefits.

Sec. 5.08. Other Leave with Pay.

- (a) **Jury and other court leave.** When an employee is summoned to serve on a jury or grand jury or subpoenaed as a witness in a court of law on a scheduled work day, the employee will be excused from work and receive pay for the number of hours required for the jury duty or court subpoena; provided that:
 - (1) the jury summons or subpoena creating the necessity for leave is presented to the department head the next work day after the employee receives it, so that arrangements for a replacement can be made, if needed;
 - (2) the employee notifies the department head if the employee is selected to serve on a jury or of any other circumstances that might result in the necessity for the leave to be extended;
 - (3) an employee will not be compensated if the employee is a party to the lawsuit, either civil or criminal, unless it is job related;
 - (4) paid jury and other court leave may not exceed forty (40) hours in any one week and is limited to 20 work days in a calendar year;
 - (5) compensation paid to the employee for serving on a jury or as a witness is the property of the employee;
 - (6) temporary employees are not eligible for paid jury and other court leave unless it is work related.
- (b) **Voting.** An employee eligible to vote in a national, state, county, or municipal election, shall when necessary, be allowed sufficient leave with pay to exercise this right.
- (c) **Inclement weather or disaster.** An employee ordered not to return to work because of inclement weather or disaster may be granted leave with pay by the city manager. Unless ordered not to report to work, employees must be at their duty stations.
- (d) **Promotional examinations.** Employees are entitled to necessary leave with pay for the purpose of taking qualifying or promotional examinations, including interviews, for city positions. The amount of time allowed for this activity is limited as prescribed by the city manager.
- (e) **Special leave.** A department head may grant employees special leave with pay and actual expenses to attend professional conferences, conventions or short schools, training activities, civic functions, or to coordinate with governmental or private agencies in the interest of the city, as authorized by the city manager.

Sec. 5.09. Other Leave without Pay.

- (a) **Eligibility.** Leave without pay, other than military training or active duty leave and FMLA leave, is granted as a matter of administrative discretion. No employee is entitled to leave without pay as a matter of right, but it may be granted to any employee.

- (b) **When granted.** The city manager may grant leave without pay to an employee for the following reasons:
 - (1) To participate in training or education that would result in increased job ability;
 - (2) To recover from illness or disability after FMLA leave has been exhausted; or
 - (3) In other circumstances described in other parts of these policies.
- (c) **Benefits.** Except for military training or active duty leave, benefits shall not accrue while an employee is on leave without pay when leave exceeds time worked for any month. For employees on military active duty leave, benefits other than health and life insurance shall accrue.
- (d) **Return from leave.** Except for military training or active duty leave, an employee who returns to work after leave without pay which exceeds three months, shall be given an adjusted service or seniority date and an adjusted anniversary date for merit review and vacation leave carry over purposes.
- (e) **Revocation of leave.** The city manager may revoke leave without pay upon finding evidence that the cause for granting leave without pay was misrepresented or has ceased to exist.
- (f) **Record keeping.** A department head is responsible for accurate records of employees who are on leave without pay. The bi-weekly report shall show absentees who are not entitled to pay.

Sec. 5.10. Absence without Leave.

An employee who fails to report for work or remain at work as scheduled without proper notification or authorization, shall be considered absent without leave and shall not receive pay for the time involved. Absence without leave for two or more consecutive working days constitutes abandonment of duties, and may result in dismissal from employment.

ARTICLE VI. INJURED OR ILL EMPLOYEES.

Sec. 6.01. Injury on the Job.

- (a) **Medical Care.** The supervisor is responsible for ensuring that an employee who is injured during the course of employment receives appropriate initial medical care. When notified that an employee has been injured, a supervisor shall:
 - (1) if qualified personnel are available, assure that first aid is begun;
 - (2) if the injury is serious, as may be indicated by, but not limited to, profuse bleeding, broken bones, unconsciousness, or shock, call for emergency medical transportation through the police department;
 - (3) if the injury requires medical care but does not warrant emergency transport, assure that the employee is taken to an emergency care facility or to the employee's personal physician, if the employee requests it.

- (b) **Reports.** Regardless of the severity of the injury, an employee who is able must report immediately to the supervisor any injury incurred in the course of employment with the city. The immediate supervisor is responsible for filing the following reports with the director of finance for inclusion in the employee's personnel file:
 - (1) Supervisor investigation report: an incident report to be filed with the department head within 72 hours of the occurrence on all injuries regardless of severity of the injury;
 - (2) Employee's First Report of Injury or Illness: must be filed with the supervisor within 72 hours of the occurrence on injuries requiring medical treatment or lost time;
 - (3) Employer's supplemental report of injury: must be filed by the department head when an injured employee returns to work if the injured employee missed time from work.

Sec. 6.02. Physical Examination.

- (a) **When required.** An employee who has been ill or injured shall obtain a physical examination from the employee's attending physician or the city physician if:
 - (1) the employee has received emergency treatment at a hospital; or
 - (2) the department head has reason to believe that the physical condition of the employee could result in danger to persons or property or that it interferes with normal work performance, and the department head instructs the employee to report for examination.

- (b) **Physician's release.** If it is determined that an employee returning from injury or illness must have a physical examination before resuming work, the employee must obtain a written release from the employee's attending physician or the city physician, indicating the employee's fitness to return to duty. The release must stipulate what kind of duty is permitted, specify limitations, if any, and state the date of the employee's release from medical care.

- (c) **Determination made by city physician.** If the city physician determines that an employee is not able to perform all of the duties of the employee's position as set forth in the job description, the physician will document the limitations.

Sec. 6.03. Modified Duty.

- (a) **Purpose.** The purpose of this section is to provide a process by which injured and ill employees may receive temporary work assignments that will benefit their full recovery. It is not intended nor to be used as a disability program.

- (b) **Evaluation of injured or ill employee.** When an employee is required to be absent from work because of an extended period of recovery from injury or illness, the employee's case will be reviewed by the department head and the city manager. An examination and evaluation conducted by the attending physician or the city physician will be used to determine the capabilities and prognosis for recovery of the injured or ill employee. A review of the potential work assignments will be conducted by the department head and the Human Resources Director to determine if an assignment is available which matches the injured or ill employee's training and skills and the employee's capabilities as determined by the physician.

- (c) **Work assignment.** A modified duty work assignment will be offered to an injured or ill employee if:
 - (1) it is approved by the department head;
 - (2) a work assignment exists within the city which meets the abilities documented by the attending physician or the city physician; and
 - (3) a modified duty work assignment would enhance the recovery of an injured or ill employee and facilitate the employee's return to the regular duty work assignment held before the injury or illness.

- (d) **Length of modified duty work assignments.** A modified duty work assignment may last until the time that the attending physician or city physician has set as the expected date of return to the employee's previous work assignment, but not to exceed three months unless the city manager gives written approval for a longer period.

- (e) **Conditions of modified duty.** As a condition of continuing in a modified duty work assignment, an employee must:
 - (1) adhere to prescribed treatment and make reasonable efforts toward rehabilitation;
 - (2) accept progressively more demanding assignments as the employee's condition improves; and
 - (3) make visible progress in returning to full performance capability.

- (f) **Termination of modified duty.** An employee's modified duty work assignment will be terminated if:
 - (1) the employee is found performing beyond the modified duty restrictions;
 - (2) the work assignment is completed;
 - (3) the employee performs unsatisfactorily in the position; or
 - (4) budgetary constraints do not allow continuation of the position.

Sec. 6.04. Reassignments.

If an employee's injury or illness will permanently prevent the employee from performing the essential functions of the employee's regularly assigned duties, the city manager, in conjunction with the department head, shall attempt to locate a suitable city position for the employee. Such position must be authorized and vacant and the individual must be qualified to perform the essential functions of the position. If no position is available at the time the individual is determined physically unable to perform the essential function of the employee's job, or, should the employee refuse to accept an available position, then termination of employment will occur. The city will not create a position.

Sec. 6.05. Life-Threatening Illness.

- (a) **Fair and equal treatment.** Pursuant to its commitment to providing fair and equal opportunity to all employees while providing a safe work environment, the city will treat employees with life-threatening illness like other employees as long as they meet performance standards, are able to perform the essential functions of their position, and medical and other information indicates that their condition is not a threat

to themselves or to others. The city will attempt to reasonably accommodate these employees whenever practicable.

- (b) **Confidentially and sensitivity.** If an employee contracts a life-threatening illness, or if an employee discovers a fellow worker has contracted a life-threatening illness, all reasonable efforts should be exercised to ensure that this information remains private and confidential. All employees should treat employees with a life-threatening illness with compassion and understanding.
- (c) **Educational information.** The city has access to educational programs for persons who want to know more about life-threatening illness. These programs discuss how to prevent or reduce the chance of contracting a life-threatening illness, as well as, how to deal with fellow workers, family members or friends who have a life-threatening illness. Supervisors and employees should contact the director of finance for more information about these programs.
- (d) **Physical examination.** To assure the city that an employee with a life-threatening illness is not a danger to anyone, the city may require the employee to be examined by a physician. All information related to the examination will be confidential and will be disclosed to a department head only when it is necessary.

ARTICLE VII. EMPLOYEE STANDARDS OF CONDUCT.

Sec. 7.01. Fair Employment Practices.

- (a) **City responsibilities.** The city work force exists to provide essential municipal services to the community. The city organization is committed, within its financial constraints, to maintaining a work force of the most qualified workers to provide reliable, quality, and cost-efficient services to the community in a respectful and friendly manner.
- (b) **Management responsibilities.** (1) In keeping with the respect due each employee, city management is committed to:
 - (A) provide effective and efficient delivery of services;
 - (B) compensate employees fairly for work done;
 - (C) provide safe, healthy, work conditions in accordance with provisions of all applicable law;
 - (D) adequately instruct and train employees in their duties;
 - (E) supply necessary tools and equipment (except those customarily provided by employees);
 - (F) provide reasonable opportunities for development experience and competitive advancement; and
 - (G) actively engage in equal opportunity activities.(2) City management shall not dismiss an individual, fail or refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, age, religion, gender, national origin, disability, veteran status, political opinions, or affiliations.
- (c) **Employee responsibilities.** An employee shall:
 - (1) be loyal to and meet the reasonable expectations of city management and the citizens of the city;
 - (2) report to work regularly and on time;
 - (3) consistently meet or exceed performance standards established for the employee's job; and
 - (4) work in a professional, cooperative, safe, and friendly manner.

Sec. 7.02. Employee conduct.

- (a) **Performance standards.** (1) An employee is expected to consistently maintain satisfactory performance standards. Whenever work habits, attitude, production, or personal conduct of an employee falls below a desirable standard, the problem should first be addressed by the mutually cooperative efforts of the supervisor and the employee. Those efforts include but are not limited to:
 - (A) an analysis of the problem;
 - (B) a determination of needed changes and assistance; and
 - (C) implementation of a corrective plan of action and establishment of achievement dates.

- (2) If performance standards are not met within a reasonable period of time, the employee, depending upon the documented reasons for failure, may be either transferred, demoted, or dismissed.
- (b) **Unacceptable conduct.** The following types of conduct are unacceptable and may be the reason for corrective discipline in the form of reprimand, suspension, demotion, or dismissal, depending upon the facts and circumstances of each case. The examples given are typical but not all-inclusive.
- (1) **Unsatisfactory attendance** exemplified by, but not limited to, the following violations:
- (A) unexcused absence or tardiness;
 - (B) failure to give notice of an absence or tardiness to the supervisor from within two hours before to within 30 minutes after starting time;
 - (C) separate absences or days of tardiness which exceed the average absences or days of tardiness of the employee's work group and which lack sufficient justification;
 - (D) absence or tardiness without sufficient justification that causes significant curtailment or disruption of service; or
 - (E) excessive amounts of time off the job, regardless of the reason.
- (2) **Job abandonment** occurs when an employee deliberately and without authorization is absent from the job, or refuses a legitimate order to report to work, for three consecutive work days. The employee is considered to have abandoned his job and may be dismissed.
- (3) **Inability or unwillingness to perform assigned work satisfactorily** is exemplified by, but is not limited to, the following violations:
- (A) failure to follow routine written or verbal instructions;
 - (B) arguing over assignments or instructions; or
 - (C) an accumulation of other deficiencies indicating the employee's continuing failure to adequately perform in a productive, efficient, and competent manner.
- (4) **Indifference towards work** is exemplified by, but is not limited to, the following violations:
- (A) inattention, inefficiency, loafing, sleeping, carelessness, or negligence;
 - (B) failure to remain at one's work station, leaving work without permission, or taking excessive time or more time than allowed for meal or rest periods;
 - (C) performance of personal business;
 - (D) interference with the work of others; or
 - (E) discourteous or irresponsible treatment of the public or other employees.
- (5) **Sabotage** is exemplified by, but is not limited to, the following violations:
- (A) deliberate damage to or destruction of city equipment or property;
 - (B) defacing of city property;
 - (C) unauthorized alteration, removal, destruction, or disclosure of city records;
 - (D) advocacy of or participation in unlawful trespass or seizure of city property;

- (E) encouraging or engaging in slowdowns, sit-ins, strikes, or other concerted actions or efforts to limit or restrict employees from working;
 - (F) refusal to cross picket lines;
 - (G) interference with the public use of or access to city services, properties, or buildings; or
 - (H) threats to commit any act of sabotage as defined in this subparagraph.
- (6) **Safety violations** are exemplified by, but are not limited to, the following violations:
- (A) failure to follow city or departmental safety regulations;
 - (B) failure to use required safety apparel;
 - (C) removal or circumvention of a safety device;
 - (D) lifting in an unsafe manner;
 - (E) operation of vehicle or other equipment in an unsafe manner;
 - (F) smoking in a prohibited area;
 - (G) endangering of one's own safety or that of others by careless or irresponsible actions or negligence;
 - (H) failure to report an on-the-job injury, vehicle accident, or unsafe work condition; or
 - (I) failure of a supervisor to remove from the work place or to assist to a safe location an employee whose mental capabilities are impaired due to injury, illness, alcohol or drug use, or emotional distress.
- (7) **Dishonesty** is exemplified by, but is not limited to, the following violations:
- (A) acceptance of money or anything of value from a person subject to the regulatory decision or supervision of the employee;
 - (B) cheating, forging, or willful falsification of official city reports or records;
 - (C) false reporting of the reason for paid leave of absence; or
 - (D) any other falsifying action detrimental to the city or fellow employees.
- (8) **Theft** regardless of property value, is exemplified by, but is not limited to, the following violations:
- (A) unauthorized taking of city property or the property of others;
 - (B) unauthorized use of city or employee funds;
 - (C) using or authorizing the use of city equipment or employee services for other than official city business; or
 - (D) using or authorizing the use of city equipment or employee services without proper authority.
- (9) **Insubordination** is exemplified by, but is not limited to, the following violations:

- (A) willful failure or refusal to follow the specific orders or instructions of a supervisor or higher authority; or
- (B) pursuit of a denied request to a higher authority without revealing the lower level disposition; provided that:
 - (i) if the employee believes an instruction or order is improper, he should obey the instruction or order and file a grievance later; or
 - (ii) if the employee believes the instruction or order, if followed, would result in physical injury to the employee or others or damage to city equipment, the employee should request approval by the next higher level of supervision before performing the work, unless the danger complained about is inherent to the job.

(10) **Abuse of drugs or alcohol:**

Abuse of drugs or alcohol is exemplified by, but is not limited to, the following violations:

- (i) an employee is judged unable to perform duties in an effective and safe manner due to:
 - (aa) ingestion, inhalation, or injection of a drug; or
 - (bb) ingestion of an alcoholic beverage;
- (ii) an employee possesses or ingests, inhales, or injects into his body an illegal drug:
 - (aa) during working hours;
 - (bb) in a city vehicle; or
 - (cc) on city property; or
- (iii) an employee possesses or ingests an alcoholic beverage:
 - (aa) during working hours;
 - (bb) in a city vehicle; or
 - (cc) on city property, except at an authorized city event.

(11) **Disturbance** is exemplified by, but is not limited to, the following violations:

- (A) fighting or boisterous conduct;
- (B) deliberate causing of physical injury to another employee or citizen;
- (C) intimidation;
- (D) unnecessary disruption of the work area;
- (E) use of profane, abusive, threatening, or loud and boisterous language;
- (F) spreading of false reports; or
- (G) other disruption of the harmonious relations among employees or between employees and the public.

- (12) **Abuse of city property:**
- (A) Abuse of city property is exemplified by, but is not limited to, the following violations:
 - (i) negligent damage or destruction of city equipment or property;
 - (ii) waste of materials or negligent loss of tools or materials;
 - (iii) improper maintenance of equipment; or
 - (iv) damage caused by use of tools or equipment for purposes other than that for which the tool or equipment was intended.
 - (B) In addition to appropriate disciplinary action, damage caused by proven intent will cause the employee to be responsible for the repair or replacement of any damaged property. Failure to reimburse the city is cause for dismissal.
- (13) **Misconduct** is any criminal offense or immoral conduct, during or off working hours, which, if it should become public knowledge, could have an adverse effect on the city or on the confidence of the public in city government.
- (14) **Disregard of public trust** is any conduct, during or off working hours, which, if it should become public knowledge, could impair the public's confidence or trust in the operation of city government.
- (15) **Unethical conduct** as exemplified by Section 7.04.
- (16) **Failure to report a violation** is exemplified by, but not limited to, failure to report to the proper authority any known violations of policy or law.
- (17) **Covert Recordings Prohibited** – unless authorized as a part of an official investigation, employees shall not covertly record the conversation of another employee. Recordings are permitted if all parties have knowledge of the recording, and have agreed to the recording, all person's present are named at the beginning of the recording, and the recording device is openly displaying during the recording.
- (c) **Disciplinary and legal actions.** When the evidence supports a violation of this section, disciplinary action may be taken independently of and before any legal action or criminal conviction.

Sec. 7.03. Employee Appearance.

- (a) **Policy.** It is the policy of the city that employees, when on duty, should appear clean, neat, and in appropriate attire exemplifying a positive and professional public image in order to foster respect from citizens and confidence in the services the city provides.
- (b) **Uniformed employees.** Employees who wear uniforms, other than public safety employees, shall:
 - (1) keep uniform articles clean and in good repair;
 - (2) keep shirts tucked in and unbuttoned no lower than the second button from the top;
 - (3) wear shoes that are enclosed and appropriate to the job being performed;
 - (4) wear appropriate caps or hats with the uniform;
 - (5) keep hair clean and appropriate for protective clothing and safety equipment;
 - (6) not wear any portion of the city issued uniform for the employee's personal off-duty attire;

- (7) not intentionally damage or destroy any part of the uniform (The city must be reimbursed for uniform articles intentionally damaged or destroyed.); and
 - (8) return all uniform articles as requested when employment with the city is terminated (Separation pay will be withheld until articles have been returned.).
- (c) **Uniformed public safety employees.** Uniformed public safety employees shall abide by departmental policies.
- (d) **Non-uniformed office employees.** Supervisors are responsible for setting appropriate dress standards for their departments. Supervisors will offer guidance as to proper attire. In setting dress standards, supervisors should consider these factors:
- (1) Employee's must present a clean and appropriate appearance.
 - (2) Employee's are expected to dress appropriately for their job and the nature of the work performed.
 - (3) The nature of the employee's public contact.
 - (4) Safety considerations, such as necessary precautions when working near machinery.
- (e) **Non-uniformed non-office employees.** Non-uniformed non-office employees must also present a clean professional image appropriate to the work they are performing; therefore, they should adhere to the following guidelines:
- (1) Shirts shall be worn at all times and shall not be unbuttoned below the second button from the top.
 - (2) Shorts are considered unsafe and inappropriate.
 - (3) Footwear appropriate to safety and the nature of the job shall be worn.
 - (4) No torn or tattered clothing shall be worn.
- (f) **General guidelines.** All employees shall adhere to the following guidelines:
- (1) No immodest attire shall be worn.
 - (2) Appropriate underclothing shall be worn at all times.
 - (3) Hats, caps or any article of clothing which displays alcoholic beverages, drugs, pornography or advertising material of any kind is unacceptable.
 - (4) Hair styles of both male and female employees shall be appropriate to the position of the employee, and extremes of any type are unacceptable. Extremes include length, color, and style. Hair shall be clean and neatly groomed at all times. Sideburns shall not extend below the ear lobe.
 - (5) Beards and moustaches shall be kept clean and neatly trimmed. For reasons of safety, persons who may be required to wear self-contained breathing apparatus shall not wear facial hair which might interfere with the facial mask.
- (g) **Enforcement.** It is the responsibility of the department head to enforce the provisions of this section. Employees in doubt about a particular article of clothing or matter of grooming should consult the department head. Generally, the department head will determine appropriateness; however, the city manager has final determination. Failure to comply with this section after one warning, shall constitute a violation subject to disciplinary action.
- (h) **Appeals.** A grievance concerning a supervisor's decision pursuant to this section shall be made through the grievance procedure.

Sec. 7.04. Conflict of Interest.

- (a) **Policy.** It is the policy of the city that the proper operation of democratic government requires that:
- (1) Public employees be independent, impartial and responsible only to the people of the city;
 - (2) Governmental decisions and policy be made using the proper procedures of the governmental structure; and
 - (3) No employee has any financial interest, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest.
- (b) **Standards of conduct.** An employee of the city shall not:
- (1) Accept or solicit a benefit valued over \$25 from any firm, individual, or corporation doing business or proposing to do business with the city. This restriction does not apply to gifts if the donor and recipient are related within the second degree by affinity (marriage) or the third degree by consanguinity (blood). [See Section 12.10, City Charter.]
 - (2) Use his official position to secure special privileges or exemptions for himself or others.
 - (3) Grant any special consideration, treatment or advantage to a person or organization beyond that which is available to every other person or organization. This shall not prohibit the granting of fringe benefits to city employees as a part of their contract of employment or as an added incentive to the securing or retaining of employees.
 - (4) Disclose information that could adversely affect the property or affairs of the city, or directly or indirectly, use any information understood to be confidential which was gained by reason of his employment for his own personal gain or benefit or for the private interest of others.
 - (5) Transact any business on behalf of the city in his official capacity with any business entity with which he is an officer, agent or member or in which he has a financial interest. In the event that such a circumstance should arise, then he shall make known his interest, and turn the matter over to his superior for reassignment, state the reasons for doing so and have nothing further to do with the matter involved.
 - (6) Personally provide services for compensation, directly or indirectly, to a person or organization who is requesting an approval, investigation, or determination from the department of which the employee is a member.
 - (7) Accept other employment or engage in outside activities incompatible with the full and proper discharge of his duties and responsibilities with the city, or which might impair his independent judgment in the performance of his public duty.
 - (8) Receive any fee or compensation for services as an employee of the city from any source other than the city, except as may be otherwise provided by law. This shall not prohibit his performing the same or other services for a public or private organization that he performs for the city if there is no conflict with his city duties and responsibilities.
 - (9) Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the city ordinances, rules or regulations or the achievement of official city programs.
 - (10) Use city supplies, equipment or facilities for any purpose other than the conduct of official city business.
 - (11) Engage in any dishonest or criminal act or any other conduct that reflects discredit upon the government of the city.

- (c) **Interest in contract with the city.** An employee who has a direct or indirect interest in a proposed or existing contract, purchase, work, sale, or service for the city, shall:
- (1) not participate in a decision regarding the contract, purchase, work, sale, or service;
 - (2) not influence the decision in any manner that would result in personal gain of any kind; and
 - (3) publicly disclose any interest the employee has in a matter before it is to be considered. [See Section 12.06, City Charter. Also see Chapter 171, Local Government Code.]

Sec. 7.05. Political Activities.

(a) **Undue political influence in a city council election.**

- (1) In order to avoid undue influence of city employees on the outcome of city elections and avoid undue influence of city elected officials or candidates on city employees, an employee of the city shall not:
 - (A) publicly endorse or actively support candidates for the city council or any political organization or association organized to support candidates for the city council;
 - (B) contribute, directly or indirectly or through an organization or association to such a campaign nor solicit or receive contributions for a city council candidate;
 - (C) wear city council campaign buttons nor distribute campaign literature at work or in a city uniform or in offices or buildings of the city; or
 - (D) campaign for or against the recall of the mayor or a city council member. [See Section 4.04, City Charter.]

(b) **Other political activities.**

- (1) Employees shall refrain from using their positions with the city to influence either for or against a candidate for public office or a political issue in any jurisdiction.
- (2) Employees shall not use working hours or city property to solicit or receive any subscriptions, contributions, or political service or to circulate petitions or campaign literature either for or against a candidate for public office or a political issue in any jurisdiction.
- (3) Employees shall not hold an appointive or elective city office, a partisan office in any jurisdiction, or any other office where service would constitute a direct conflict of interest with city employment. If an employee decides to assume such an office, the employee shall resign from city employment or shall immediately forfeit employment with the city.

- (c) **Exception.** Notwithstanding any conflict with subsection (a) or (b), a sworn employee of the police department may engage in political activities to the extent permitted by state law.

ARTICLE VIII. HARASSMENT POLICY AND PROCEDURES

Sec. 8.01. Purpose

The purpose of this policy is to provide all employees a work environment that is free from sexual harassment, and any other form of illegal harassment or intimidation.

Sec. 8.02. General Provisions

- (a) **Policy Against Harassment.** Pursuant to Title VII of the Civil Rights Act of 1964, the city prohibits all forms of discrimination, including harassment, on the basis of race, color, ancestry, religion, national origin, age, sex, marital status, disability, or veteran status, including harassment. In keeping with this commitment, the city will not tolerate harassment of city employees or applicants for employment.
- (b) **City manager.** The city manager is responsible for enforcing this policy and will serve as the investigative officer for harassment issues. The city manager will receive training about harassment and this policy, and will be responsible for investigating, or assigning an investigator for, harassment complaints.
- (c) **Distribution of Policies.** The Human Resources Director will distribute this policy to all employees. Employees are expected to read this policy and adhere to its provisions at all times.
- (d) **Amendments.** The City Council reserves the right to amend this policy. The Human Resources Director will notify employees of changes to this policy.
- (e) **Training.** The City shall provide mandatory training in harassment matters for supervisors.

Sec. 8.03. Definitions.

In this policy:

HARASSMENT consists of unwelcome conduct, whether verbal, physical, or visual, that is based on a person's race, color, ancestry, religion, national origin, age, sex, marital status, disability, or veteran status.

SEXUAL HARASSMENT consists of unwelcome sexual advances, requests for sexual favors, or verbal or physical acts of a sexual or sex-based nature where:

- (1) submission to the conduct is made an explicit or implicit term or condition of employment;
- (2) submission to or rejection of the conduct is used as the basis for an employment decision; or
- (3) the conduct unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive working environment.

Sec. 8.04. Prohibited Conduct.

The city considers the following conduct to represent the types of acts which violate this policy:

- (4) Physical assaults, such as:
 - (1) rape, sexual battery, molestation, or attempts to commit these assaults; and
 - (2) intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another person's body, or poking another person's body.
- (5) Unwanted sexual advances, propositions, or other sexual comments, such as:
 - (1) sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience;

- (2) preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward; or
 - (3) subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's rejection of sexual advances, speech, or conduct.
- (c) Sexual or discriminatory displays or publications in the workplace or when engaged in city business by employees, such as displaying pictures, posters, calendars, graffiti, objects, promotional materials, or reading materials that are sexually suggestive, sexually demeaning, or pornographic, or bringing into the work environment or possessing the material to read, display, or view at work. A picture is presumed sexually suggestive if it depicts a person who is not fully clothed or in clothes that are not suited to or ordinarily accepted for accomplishing routine work and who is posed for the obvious purpose of displaying or drawing attention to the private portions of the body.
 - (d) Subjecting, or threats of subjecting, an employee to unwelcome attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's race, color, ancestry, religion, national origin, age, sex, marital status, disability, or veteran status.
 - (e) Retaliation for harassment complaints, such as disciplining, changing work environments of, providing inaccurate work information to, or refusing to cooperate or discuss work-related matters with an employee because that employee has complained about or resisted harassment, discrimination, or retaliation.
 - (f) Other acts of a similar nature.

Sec. 8.05. Complaint Procedure

- (a) The city encourages employees who encounter harassment to firmly and promptly notify the offender that the behavior is unwelcome and that the conduct must stop.
- (b) An employee who experiences or observes sexual harassment or retaliation must report the incident to a supervisor, department head, or the city manager, whomever the employee feels most comfortable approaching.
- (c) The complaint may be either oral or written. However, oral reports of harassment must be reduced to writing by either the complainant or the person who receives the complaint, and must be signed by the employee.
- (d) Anonymous complaints will be taken seriously and investigated.
- (e) The supervisors and department heads must report all harassment and retaliation complaints to the city manager.
- (f) Each complaint will be promptly and thoroughly investigated to determine whether the harassment complained of occurred. Within a reasonable time, the city manager will produce a written report and provide a copy of the report to the complainant, upon request. The city manager will also recommend remedial measures based upon the results of the investigation, and the City Manager or City Council, as appropriate, will promptly consider and act upon the recommendation. To the extent practicable and allowed by the Texas Public Information Act, the city will keep complaints and the terms of their resolution confidential.
- (g) An employee will not be subject to retaliation or discipline for reporting or pursuing a sexual harassment complaint.

Sec. 8.06. Responsibility of Employees.

An employee or applicant for employment who has been harassed or knows of or suspects harassment in the workplace, sexual or otherwise, has the responsibility to report the conduct to a supervisor, a department head, or the city manager.

Sec. 8.07. Duties and Responsibilities of Supervisors.

- (a) Supervisors must treat all complaints seriously and confidentially. Each case will be promptly and thoroughly investigated to determine whether the harassment complained of occurred.
- (b) All reports or suspicions of harassment, sexual or otherwise, which come to a supervisor's attention must be referred immediately to the city manager for investigation.

Sec. 8.08. Discipline.

An employee found to have violated this policy will be subject to disciplinary action, including written reprimands, transfer, demotion, suspension, or termination. By enforcing this policy, the city will preserve the right of every employee and applicant for employment to enjoy a workplace free of harassment of any type.

ARTICLE IX. DISCIPLINE, APPEAL, AND GRIEVANCE PROCEDURES.

Sec. 9.01. Discipline Procedures.

- (a) **Policy.** It is the policy of the city that before the imposition of discipline, the following measures should be taken in the interest of ensuring that the department head has all necessary information, and in the interest of ensuring that mistakes in judgment are not made due to a lack of information. While the following steps and procedures should be taken in every case before discipline is imposed, failure to take any one or all of the measures shall not serve as a basis for a claim or other legal action against the city.
- (b) **Procedures and notices.** Department heads are responsible for initiating disciplinary action when necessary to assure proper order and compliance with city or departmental policies. The procedures for a disciplinary action of reprimand, suspension, demotion, or dismissal include the following:
 - (1) **Pre-dismissal meeting.** Before an action of dismissal is taken against an employee, the department head should meet with the employee, tell the employee of the charges and that discipline could be imposed, and give the employee the opportunity to explain or defend the employee's actions or omissions.
 - (2) **Reprimand, suspension, demotion, and dismissal.** A department head has the authority to reprimand, suspend, demote, or dismiss an employee. When one of these disciplinary actions is taken against an employee, the employee must be given written notice stating:
 - (A) the type of disciplinary action taken, i.e., reprimand, suspension, or dismissal;
 - (B) the specific rule violated;
 - (C) the specific acts of the employee which were in violation of the rule;
 - (D) the employee's right to appeal, if any, to a specific office within a specified time; and
 - (E) the finality of the action if the employee fails to appeal within the specified time.
- (c) **Reports to city manager.** A department head must make a written report of a disciplinary action to the city manager within three working days of the action.
- (d) **Appeal to the city manager.** If the disciplinary action is dismissal, demotion, or suspension, the employee may appeal by filing written notice with the city manager within three working days from the time the employee is notified of the action. The city manager will conduct an appeal hearing, at which the employee may produce witnesses and examine any documents or other evidence presented at the hearing. The decision of the city manager is final.
- (e) **Procedure for employees appointed by the city manager.** The procedure shall be the same as above, except that appeal shall be to the city council. The decision of the city council is final.

Sec. 9.02. Grievances.

- (a) **Purpose; informal efforts.** The purpose of the grievance procedure is to encourage employees to informally take job-related complaints or problems concerning working conditions to their immediate supervisors.
- (b) **Written grievance.** Following informal discussions, an employee remaining dissatisfied with a matter subject to grievance procedures, may present a grievance in writing to the immediate supervisor within five calendar days after the occurrence of the event or after the employee becomes aware of the event giving rise to the grievance. The immediate supervisor will study the grievance and attempt to resolve it within three working days.
- (c) **Referral.** If the grievance is not resolved satisfactorily to the employee within this time limit, the immediate supervisor shall refer it, with comments or recommendations, to the next higher level of

supervision, and this process shall continue up the levels of supervision to the city manager, if necessary. Supervisors and employees should make every effort to resolve grievances at the lowest possible level. Employees shall be kept informed of the status of their grievances. If a person in the supervisory chain fails to resolve or refer a grievance within three days, the employee may present the grievance directly to the next higher level of supervision. The city manager shall make a final decision within three working days.

- (d) **Assistance; assurance against reprisal.** Employees may be assisted by anyone of their choosing. Each supervisor shall ensure that an employee presenting a grievance is not subject to reprisal and that the processing of the grievance is conducted in an objective manner, with maximum confidentiality.
- (e) **Not used in disciplinary actions.** The grievance procedure may not be used to complain about disciplinary action.

Sec. 9.03. Evaluation and Classification Grievances.

- (a) **Performance evaluations.** An employee who is dissatisfied with a performance evaluation may file a written grievance with the department head, who may elect to refer the matter to the city manager. The department head or the city manager shall make a final determination within three working days and all documentation will be filed in the employee's personnel file.
- (b) **Position classifications.** An employee dissatisfied with a position classification may file a written grievance with the department head. Within three working days, the department head shall make a determination as to the correct classification of the position. If the employee is not satisfied with the decision of the department head, the employee may present the written grievance to the city manager within three working days of the department head's determination. The city manager shall make a final determination within three working days.

ARTICLE X. PERFORMANCE EVALUATIONS.

Sec. 10.01. Method and Forms.

Employee evaluations shall be conducted using forms and under procedures prescribed by the city manager. Evaluations will focus on the essential functions of each position as delineated in the position description.

Sec. 10.02. Rating Period and Reevaluations.

Each employee's work will be evaluated three months, and 12 months after starting employment with the city. Subsequent evaluations will be conducted every 12 months. If an employee receives an overall rating of either "unacceptable" or "improvement needed" on an evaluation, the employee must be reevaluated within two months. If the employee shows no improvement, the appointing authority shall determine any action to be taken.

Sec. 10.03. Notice to Employee.

An employee shall be given a copy of each evaluation report as soon as it is complete. No use may be made of the evaluation results until the evaluator reviews the report with the employee.

Sec. 10.04. Use of Evaluation Results.

The results of employee evaluations shall be considered for the following purposes:

- (1) In making salary adjustments.
- (2) In giving a special merit increase to an employee for outstanding performance as recommended by the department head and approved by the city manager.
- (3) In determining whether disciplinary action is warranted against an employee.

Sec. 10.05. Employee Conferences.

As frequently as the supervisor determines is necessary, a supervisor may conduct an employee counseling interview with an employee. The supervisor should communicate forthrightly to the employee the supervisor's reactions to the employee's conduct and performance. The supervisor should offer positive assistance in correcting any deficiency. This informal conference requires no communication with the Human Resources Director.

Sec. 10.06. Reconsideration.

Employees dissatisfied with their performance evaluations may seek reconsideration by using the grievance procedure specified in Section 9.03.

ARTICLE XI. DRUG FREE WORK PLACE POLICIES

Sec. 11.01. Purpose.

The city recognizes that drug and alcohol abuse ranks as one of the major health problems in the world and adversely affects an employee's performance and safety on the job. It is necessary and required by law for the city to provide a drug-free working environment for its employees. The objective of this policy is to provide a drug and alcohol-free work place which will foster safety and productivity and to provide education and treatment to employees. To further this objective, the following rules regarding alcohol and illegal drugs in the work place have been established.

Sec. 11.02. General Policy Statement.

To maintain a drug-free work place, the city prohibits the unlawful manufacture, distribution, dispensing, possession, sale, purchase, use or presence of illegal drugs, alcoholic beverages, or drug paraphernalia in the work place, during working hours, or in a city vehicle.

Sec. 11.03. Application of Policy.

This policy applies to all city employees regardless of rank or position and includes temporary and part-time employees, volunteer fire fighters, and reserve police officers.

Sec. 11.04. Pre-Employment Screening.

- (a) **Test required.** As a public employer, the city is entrusted with protecting the health and safety of its citizens. This obligation includes ensuring that public safety is not endangered as a result of drug use by city employees. In keeping with this obligation, individuals who have been offered employment with the city will be required to submit to pre-employment drug tests. All such tests will be conducted under the supervision of the city's designated physician or testing facility.
- (b) **Positive test.** An applicant with a confirmed positive test for any illegal drug for which he or she does not have a valid medical prescription, will not be considered for employment. The applicant may be considered for employment and retesting after a period of 12 months.
- (c) **Consent.** All job applicants will be required to sign a consent form authorizing pre-employment drug testing and the use of test results in employment decisions. Applicants who refuse to sign the consent form will not be considered for employment.

Sec. 11.05. Reasonable Suspicion Testing of Current Employees.

- (a) **Test required.** When a department head or supervisor has a reasonable suspicion that an employee, at work or when reporting to work, appears to be under the influence of alcohol or illegal drugs, or otherwise impaired, and therefore may be impaired or unfit for duty, the employee will be required to consent to a drug and/or alcohol test.
- (b) **Reasonable suspicion.** Circumstances which constitute a factual basis for determining reasonable suspicion may include, but are not limited to:
 - (1) Direct observation of drug or alcohol use or possession;
 - (2) Possession of drug paraphernalia;
 - (3) Observation of physical symptoms of drug or alcohol use, such as slurred speech, red watery eyes, dilated pupils, drowsiness, or sleeping;
 - (4) Sudden, unexplained personality changes, drastic mood swings, or changes in personal habits, including inattention to personal hygiene or frequently borrowing money;
 - (5) Documented deterioration of an employee's job performance, which may include excessive absenteeism or tardiness;

- (6) Information provided by a reliable or credible source which is independently corroborated;
 - (7) Involvement in accidents or injuries in which obvious precautions were not taken, improper or careless orders were given, or an unusually reckless attitude is present;
 - (8) Arrest or conviction for a drug or alcohol-related offense on or off the job, or the identification of an employee as the focus of a criminal investigation into illegal drug use, possession, or trafficking.
- (c) **Reasons for reasonable suspicion shall be documented.** In establishing a basis for reasonable suspicion, the department head, division manager, or supervisor will interview the employee about possible causes for the observed behavior, and will describe the incident in writing. This process will serve to document the circumstances leading to the conclusion that a test for the presence of an illegal drug or alcohol is warranted.
- (d) **Review of documentation.** Once the initial interview and written description has been completed, the highest ranking available department official must contact the city manager for a review of the documentation. The city manager must concur with the department official's recommendation before a drug and alcohol test is performed. Outside of regular working hours, or at times when the city manager is not available for consultation, a department head may order an employee to submit to an immediate drug and alcohol test, pursuant to the guidelines of this article. The city manager must be notified of the testing at the earliest opportunity, and all records relating to the incident will be maintained by the personnel department.

Sec. 11.06. Conducting Drug and Alcohol Tests.

- (a) **Consent form.** Employees required to submit to a drug or alcohol test will be required to sign a consent form provided by the Human Resources Director. Refusal to sign the consent form shall be considered a refusal to take a drug or alcohol test.
- (b) **Testing facility.** All drug and alcohol tests will be conducted under the supervision of the city's designated physician or testing facility. Testing will be performed using a specimen of urine, or other bodily fluid suitable for testing. Collection of specimens, delivery of specimens to a laboratory, and laboratory testing will all be conducted in accordance with relevant security-related provisions of the Mandatory Guidelines for Federal Work Place Drug Testing Programs (also known as the "NIDA" rules). Laboratory testing will be conducted only by laboratories that have been certified by the National Institute on Drug Abuse (NIDA) and which have been accredited as a forensic urine drug testing laboratory by the College of American Pathologists.
- (c) **Establishing positive results.** A two-stage process will be used to establish positive test results. A preliminary screening will be performed on all specimens, using the "EMIT" test or a comparable process. All positive drug screens will be confirmed by the use of the gas chromatography/mass spectrometry (GS/MS) method. The finding of any of the following substances in a serum specimen at the levels shown, or in greater amounts, will be considered a "positive" test:

<u>Substance</u>	<u>Cut-Off Level</u>
Alcohol	.02% weight per volume
Amphetamines	300 ng/L
Barbiturates	300 ng/L
Benzodiazepine	300 ng/L
Cocaine, Metabolites	300 ng/L
Marijuana	40 ng/L

Methadone	300 ng/L
Opiates	300 ng/L
PCP	75 ng/L
Propoxyphene	300 ng/L

- (d) **Prescription medicine.** In the event that a positive finding may have been caused by the use of a prescribed medication, the tested person will be given the opportunity to confer with the supervising physician, and to present a current prescription for a medication that caused the positive test result. If the physician finds the prescribed medication to be the legitimate cause of the test result, the overall test results will be reported to the city as "negative", and the person shall not be subject to any adverse action.
- (e) **Re-testing.** An employee or applicant who tests "positive" using the GS/MS method, may request a re-test of the original sample at the employee's own expense. An employee's request for a re-test must be made in writing to the department head within three working days of receipt of the test results. Applicants must submit a written request for re-testing to the Human Resources Director within three working days of receipt of the test results. Re-testing may be performed by the same laboratory, or by a second laboratory that meets the city's laboratory certification requirements. Proper chain-of-custody procedures must be followed when transferring specimens.

Sec. 11.07. Current Employees -- Consequences of Positive Test Results or Failure to Submit to a Drug and Alcohol Test.

- (a) **Positive test.** Any current employee who tests positive for the presence of illegal drugs or alcohol in a reasonable suspicion or post-accident drug and alcohol test shall be subject to discipline, including dismissal.
- (b) **Refusal.** Employees who refuse to submit to a drug and alcohol test required pursuant to this article shall be subject to discipline, including dismissal.

Sec. 11.08. Security of Data.

Test results will be held in the strictest confidence. The personal identification of the applicants failing to pass the test will not be communicated to anyone other than the applicant and the appropriate staff member in personnel and selected city employees on a need to know basis. For purposes of this section, those with a need to know will be the Human Resources Director or designee, the city manager, the city attorney, the department head of the department in which the employee works, and the employee's immediate supervisor. In the appropriate case, the information may be released only if required by court order from any court of competent jurisdiction. Applicants and employees who are tested will be provided with a copy of the test results if requested in writing. Dissemination of information relating to the results of any drug testing conducted on any employee to any person who has no need to know, may result in disciplinary action, including dismissal of the person disseminating the information.

Sec. 11.09. Self-Declaration as a Substance Abuser.

- (a) **Participation in city employee assistance program.** Any employee may identify himself or herself at any time as an abuser of drugs or alcohol and voluntarily through a recognized treatment program approved by the city, seek counseling and rehabilitation. In these instances, the employee will be permitted the use of available leave subject to the provisions set forth in Article V. Employees undergoing treatment will be required to authorize disclosure of their progress in treatment to the Human Resources Director. Employees who fail to actively participate in and comply with the rules of the rehabilitation program will be subject to immediate revocation of their leave and dismissal from employment.
- (b) **May not be used to avoid drug or alcohol testing.** This section is not intended to provide a means for an employee to avoid any required drug and alcohol testing. Once the process of establishing reasonable suspicion has been initiated, or an accident or injury has occurred, an employee may not seek treatment in an effort to avoid testing and possible disciplinary action.

Sec. 11.10. Drug or Alcohol Convictions.

- (a) **Notification required.** Any employee who is convicted of any criminal activity involving the illegal use or possession of drugs must notify the employee's supervisor no later than five days after a conviction. Failure to do so may result in disciplinary action, including dismissal.
- (b) **Conviction during working hours.** Employees who plead guilty or nolo contendere to a violation of criminal drug and alcohol statutes which occurred during working hours shall be dismissed from employment.
- (c) **Other Convictions.** Except as provided by Subsection (b), employees who are convicted under any drug or alcohol statute may be allowed to remain employed by the city, depending on the circumstances of their arrest and conviction, and the nature of their position with the city. Continued employment with the city will be contingent upon the employee's active participation in a recognized treatment program and the employee's work performance. Any convicted employee who is allowed to remain employed will be subject to periodic testing as provided in Section 11.06 and 11.12.

Sec. 11.11. Employee Assistance.

- (a) **Referral.** The city will provide employees with confidential referral for assistance in resolving or accessing treatment for addiction to, dependence on, illegal drugs or alcohol. The cost of treatment, counseling, or rehabilitation resulting from referral will be the responsibility of the employee. The city's group health plan may provide benefits for substance abuse treatment.
- (b) **Leave for treatment.** Employee assistance activities, such as referral appointments, will be treated on the same basis as other personal business or health matters with regard to use of sick leave.

Sec. 11.12. Follow-up Testing of Known Substance Abuser.

Employees who have completed a drug or alcohol rehabilitation program will be subject to periodic unscheduled testing for the period of two years after completion of the program. Employees who successfully complete treatment for use of drugs or alcohol and subsequently are found during working hours to be in possession of or under the influence of alcohol or drugs, or test positive at any time will be subject to dismissal from employment.

Sec. 11.13. Disclosure of Prescription or Over-the-Counter Drug Use to Supervisor.

- (a) **Notification required.** The city recognizes that employees may from time to time need to take prescription or over-the-counter medications that may cause the effects of light-headedness, weakness, dizziness, drowsiness, sedation, loss of coordination, disorientation, or other comparable side effects. The employee is required to notify the employee's supervisor prior to reporting for duty if the employee's performance is compromised or diminished from use of prescription or over-the-counter drugs. It is the responsibility of employees to request reassignment to other duties, if needed, for the duration of impairment, or to request the use of available leave.
- (b) **Failure to notify.** Employees who fail to notify their supervisor of such impairment, and who continue to work, may be required to take available leave, or to perform other assignments and may be subject to disciplinary action if supervisory intervention is required.

Sec. 11.14. Employees on Designated Stand-by Status or Subject to Call-back.

- (a) **On call employees.** Employees who are designated for "on-call status" are expected to be free of alcohol or illegal drugs, and available to report to work for the duration of their on-call status. "On-call" employees who fail to report to a call to duty, or who report for duty under the influence of drugs or alcohol, may be subject to drug and alcohol testing and discipline, including dismissal.
- (b) **Emergency duty.** The city recognizes that, in rare instances, employees who are not designated for call-back may be requested to report for emergency or unexpected duty. Employees who may be under the influence of alcohol or legally obtained medication must report this fact to their supervisor before or when reporting for duty. Based on this report, the supervisor and employee may jointly decide whether the

employee may perform requested duties while under such influence. In no event, however, will employees reporting to emergency duty under the influence of drugs, alcohol or legally obtained medication be allowed to operate vehicles or mobile equipment. Employees may decline calls for emergency duty because of off-duty use of alcohol or legally obtained drugs. In this event, the employee will not be subject to any disciplinary action or penalty.

Sec. 11.15. Off-Duty Conduct.

It is not the city's intent to intrude upon the private lives of its employees. The city does, however, reserve the right to take disciplinary action, up to and including dismissal, in the event that an employee's off-duty involvement with illegal drugs or alcohol is damaging to the city's reputation or business, or interferes with the employee's job duties.

Sec. 11.16. City Social Functions.

Alcoholic beverages are prohibited at city sponsored social functions, unless otherwise authorized by the City Council.

Sec. 11.17. Searches.

When reasonable suspicion, as defined by this article, exists, the city reserves the right to conduct unannounced searches for unauthorized substances anywhere on city property, including, but not limited to, lockers, desks, file cabinets, city vehicles and employees' personal vehicles parked on city parking lots. Personal property on city premises shall be subject to such searches. All such searches must be authorized and conducted under the direction of the city manager or his designee, and the grounds for suspicion must be described in writing prior to the search. Employees who refuse to cooperate during such unannounced searches shall be subject to disciplinary action, including dismissal.

Sec. 11.18. Administrative Procedures.

From time to time, the city manager may formulate administrative procedures to accompany the rules of this article. Such procedures shall apply to all city departments. Such procedures shall be disseminated to all employees and shall be available for copying and inspection in the city manager's office.

ARTICLE 11A. DRUG TESTING FOR DRIVERS OF COMMERCIAL MOTOR VEHICLES

Sec. 11A.1. Federal Mandate.

Effective January 1, 1996, the city must comply with the Omnibus Transportation Employee Testing Act of 1991 (the Act), and the regulations promulgated by the U.S. Department of Transportation, which require employers to test employees who drive commercial vehicles as part of their job duties, for the use of alcohol and drugs. The purposes of the provisions of the Act and the regulations are to deter misuse of alcohol and drugs and to protect the public from the damage such misuse may cause. To implement the Federal requirements, the city adopts and implements this policy.

Sec. 11A.2. Applicability.

This article applies to:

- (1) city employees who drive a commercial vehicle;
- (2) applicants for a position which includes, as a part of the job duties of the position, a requirement that the employee operate a commercial vehicle, either full-time, part-time, casual, intermittently, or occasionally; and
- (3) City employees who transfer into a position which includes, as a part of the job duties of the position, a requirement that the employee drive a commercial vehicle.

Sec. 11A.3. Definitions.

In this article:

ALCOHOL means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

ALCOHOL CONCENTRATION (OR CONTENT) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

ALCOHOL TEST means a test conducted by a Breath Alcohol Technician, or any other person approved by the U.S. Department of Transportation rules, using an Evidential Breath Testing Device to measure the amount of alcohol concentration in a volume of breath, or any other test used to detect the presence of alcohol that is approved by the Federal Highway Administration (FHWA).

ALCOHOL USE means the consumption of any beverage, mixture, or preparation, including medication, containing alcohol.

BREATH ALCOHOL TECHNICIAN (BAT) means an individual who instructs and assists employees in the alcohol testing process and operates the evidential breath testing device.

CITY-DESIGNATED REPRESENTATIVE (CDR) means the primary contact person designated by the city to receive all information and reports from the Medical Review Officer, the Breath Alcohol Technician, the Substance Abuse Professional and the laboratories. The CDR is authorized by the city to take immediate action to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The CDR is also the designated contact person for inquiries regarding this article. The CDR for the city is the public works director. The Human Resources Director will serve as deputy CDR in the absence of the public works director.

COMMERCIAL MOTOR VEHICLE means a motor vehicle or a combination of motor vehicles used in a commerce to transport passengers or property if the motor vehicle:

- (1) has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- (2) has a gross combination weight of 26,001 or more pounds;

- (3) is designed to transport 16 or more passengers, including the driver; or
- (4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulation (149 C.F.R. 172, subpart F).

CONFIRMATION TEST means:

- (1) for alcohol testing, a second test following a screening test with a result greater than 0.02 that provides quantitative data of alcohol concentration. Confirmation of the screening test must be by an Evidential Breath Testing (EBT) device listed on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL), and must be capable of printing out each test result and air blank, and must sequentially number each test.
- (2) for drug testing, a second analytical procedure to identify the presence of a specific drug or drug metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. (Gas Chromatography/Mass Spectrometry (GC/MS) is the authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine).

DRIVER means any employee who holds a Commercial Driver's License and is subject to operating a Commercial Motor Vehicle at the direction of, or with the consent of the city including, but not limited to, full-time, part-time, regularly employed drivers, casual, intermittent or occasional drivers, or any person applying to the city for a position, the duties of which include driving a Commercial Motor Vehicle.

DRUG(S) for which tests are required under this part include cocaine, marijuana, opiates, amphetamines, and phencyclidine and any other substance determined by the U.S. Department of Transportation to be a drug or a controlled substance.

DRUG TEST means a method for determining the presence of controlled substances in a urine sample using a scientifically reliable method performed in accordance with procedures specified in 49 C.F.R. 40.

EMPLOYEE means a person employed by the city who is designated in a Department of Transportation agency regulation as subject to drug and/or alcohol testing.

EVIDENTIAL BREATH TESTING DEVICE (EBT) means a device approved by the National Highway Traffic Safety Administration (NHTSA) and placed on the NHTSA's Conforming Products List and is used for the evidential testing of breath.

FOLLOW-UP TEST means an alcohol or drug test administered to a driver who has violated the prohibitions of this policy and who has been permitted to return to duty after passing a return-to-duty alcohol or drug test.

INVALID DRUG TEST means the result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

MEDICAL REVIEW OFFICER (MRO) means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the city's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

ON-DUTY TIME includes all time spent providing a breath sample or primary urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident or follow-up testing as directed by the city.

POST-ACCIDENT TEST means an alcohol or drug test administered to a driver following an accident involving a city-owned vehicle or any vehicle used in the performance of city business when the employee was performing safety-sensitive functions with respect to the vehicle and the accident involved a loss of human life, serious injury, or major property damage.

PRE-EMPLOYMENT TEST means an alcohol or drug test administered to a person prior to the first time the individual performs a safety-sensitive function upon appointment to a position requiring the person to hold a Commercial Driver's License.

RANDOM TEST means an alcohol or drug test administered to a driver who has been randomly selected by a scientifically valid method from among the pool of city drivers subject to such tests.

REASONABLE SUSPICION TEST means an alcohol or drug test administered to a driver as a result of a trained supervisor's or trained city official's reasonable belief that the driver has violated the drug or alcohol prohibitions of this policy. A reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic or withdrawal effects of drug or alcohol and any of the following:

- (1) documentation of unsatisfactory work performance or on-the-job behavior;
- (2) evidence of the manufacture, distribution, dispensing, possession, or use of drugs, alcohol or other prohibited substances;
- (3) occurrence of a serious or potentially serious accident that may have been caused by human error;
or
- (4) fights (physical contact), assaults, and flagrant disregard or violations of established safety, security or other work rules.

REFUSAL TO SUBMIT TO A DRUG, ALCOHOL OR CONTROLLED SUBSTANCES TEST means a driver:

- (1) fails to provide an adequate amount of breath during testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
- (2) fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing;
- (3) engages in conduct that obstructs or interferes with the testing process;
- (4) fails to be readily available for post-accident testing; or
- (5) fails to report to, and undergo alcohol and drug testing, at a collection site as required.

RETURN-TO-DUTY TEST means an alcohol or drug test administered prior to a driver being permitted to return to duty, when the driver has violated this policy.

SAFETY-SENSITIVE FUNCTION means a function performed by a driver whenever the driver:

- (1) begins work until the time the driver is relieved from work including time spent at a facility waiting to be dispatched;
- (2) is inspecting or servicing the vehicle;
- (3) is driving or at the controls of the vehicle;
- (4) is resting in the vehicle;
- (5) is loading or unloading the vehicle including the performance of any related paperwork;
- (6) is performing those duties required of a driver involved in a vehicle accident;
- (7) is repairing or attending to a disabled vehicle; or

- (8) during all time while providing a breath sample or urine specimen including travel time to and from the collection site in order to comply with testing directed by the city.

SCREENING TEST (ALSO KNOWN AS AN INITIAL TEST) means:

- (1) in alcohol testing, an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system; and
- (2) in drug testing, an immunoassay screen (or other DHHS-approved test) to eliminate "negative" urine specimens from further consideration.

SUBSTANCE ABUSE PROFESSIONAL (SAP) means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

SUPERVISOR means a management or supervisory employee of the city.

TRAINED SUPERVISOR OR TRAINED CITY OFFICIAL means any city supervisor or any city management employee who has received the requisite training in identifying the signs and symptoms of alcohol abuse or drug abuse.

Sec. 11A.4. Prohibitions Regarding Alcohol.

A driver shall not:

- (1) report for duty or remain on duty when the driver's ability to perform assigned functions is adversely affected by alcohol or when the driver's blood alcohol concentration is 0.04 or greater;
- (2) possess or use alcohol while on duty, or within four hours before reporting for duty;
- (3) perform safety-sensitive functions for 24 hours following an alcohol test result indicating an alcohol concentration of greater than 0.02 but less than 0.04;
- (4) use alcohol for eight hours following an accident or until the employee undergoes a post-accident alcohol test, whichever occurs first; or
- (5) refuse to submit to a pre-employment, post-accident, random, reasonable suspicion, return-to-duty or follow-up alcohol test. A driver who refuses to submit to an alcohol test shall not be allowed to perform safety-sensitive functions.

Sec. 11A.5. Prohibitions Regarding Drugs.

A driver shall not:

- (1) report for duty or remain on duty when the driver is using any drug, except when the use is pursuant to the instructions of a physician who has advised the employee that the drug will not adversely affect the driver's ability to safely perform safety-sensitive functions;
- (2) report for duty, remain on duty, or perform a safety sensitive function if the driver tests positive for drugs; or
- (3) refuse to submit to a pre-employment, post-accident, random, reasonable suspicion, return-to-duty or follow-up drug test. A driver who refuses to submit to a drug test shall not be allowed to perform safety-sensitive functions.

Sec. 11A.6. Disciplinary Action.

A driver is subject to disciplinary action, including termination, if the driver:

- (1) refuses to sign an employee acknowledgment form for a copy of the city's Drug and Alcohol Testing Policy upon receipt of a copy of the policy;
- (2) fails to report a conviction for operating a motor vehicle while under the influence of alcohol or drugs;
- (3) fails to report a conviction for operating a city motor vehicle or a motor vehicle operated in the performance of city business while under the influence of alcohol or drugs;
- (4) fails to report that the driver has been convicted of violating a statute related to drugs;
- (5) obstructs or interferes with the administration of any drug or alcohol testing; or
- (6) has an alcohol test result indicating an alcohol concentration of 0.02 or greater or tests positive for one or more drugs.

Sec. 11A.7. Consequences of a Driver Failing a Test.

- (a) **Level greater than 0.02, less than 0.04.** If a driver has an alcohol test result indicating an alcohol concentration of 0.02 or greater, but less than 0.04, the driver shall be prohibited from performing a safety sensitive function:
 - (1) for a minimum of 24 hours; and
 - (2) until the driver has undergone a return-to-duty alcohol test with a test result less than 0.02.
- (b) **Level greater than 0.04.** If a driver has an alcohol test result indicating an alcohol concentration of greater than 0.04 or tests positive for one or more drugs, the driver may not perform a safety sensitive function until:
 - (1) the driver undergoes evaluation by a substance abuse professional;
 - (2) a substance abuse professional determines that the driver has successfully complied with any required rehabilitation; and
 - (3) the driver undergoes a return-to-duty alcohol test with a result of less than 0.02 if the conduct involved alcohol or the driver undergoes a return-to-duty drug test with a verified negative result if the conduct involved drugs.
- (c) **Salary.** A driver shall not be paid for the period of time the driver is prohibited from performing safety sensitive functions.
- (d) **Disciplinary action.** In addition to the other consequences provided in this section, a driver who tests positive for drugs or an alcohol concentration of 0.02 or greater is subject to disciplinary action, including termination, during any stage of the process.

Sec. 11A.8. Notice of Requirements.

Before performing an alcohol or drug test under the requirements of the U.S. Department of Transportation regulations, the driver being tested shall be notified that the alcohol or drug test is required by 49 C.F.R. Part 382.

Sec. 11A.9. Notice of Results.

City shall notify an applicant or a driver of the results of a pre-employment drug test conducted under this policy, if the applicant or employee requests such results within 60 calendar days of being notified of the disposition of the

employment application. City shall notify a driver of the results of reasonable suspicion and post-accident tests, and notify drivers of the results of random tests, for drug conducted under this policy if the test results are verified positive. City shall also inform the driver which drug were verified as positive.

Sec. 11A.10. Notice to Contact MRO.

The CDR shall make reasonable efforts to contact and request each driver who submits a specimen, regardless of the driver's employment status, to contact and discuss the results of the drug test with a MRO who has been unable to contact the driver.

Sec. 11A.11. Testing Requirements in General.

All alcohol and drug testing will comply with the procedures of Title 49 C.F.R. Part 40.

Sec. 11A.12. Pre-employment Testing.

- (a) **Safety-sensitive function.** An applicant driver shall not perform a safety-sensitive function until the driver has undergone testing for alcohol and drugs and has achieved an alcohol test result indicating an alcohol concentration of less than 0.04 and has achieved a drug test result from the MRO indicating a verified negative test result. If a driver has an alcohol concentration of 0.02 or greater but less than 0.04, the driver shall not perform a safety-sensitive function until the start of the driver's next regularly scheduled duty period but not less than 24 hours following administration of the test.
- (b) **Release of previous tests results.** As a condition of employment, a person applying for a position requiring the performance of a safety-sensitive function shall provide written authorization for previous employers to release to the city any and all test results, including records of the individual's refusal to test, administered in accordance with the Federal regulations concerning drug and alcohol use and testing.
- (c) **Transfers.** An employee who seeks to move into a driver position must undergo pre-employment alcohol and drug tests. The alcohol test must indicate a concentration of less than 0.04. The drug test result from the MRO must indicate a verified negative result. If the test results do not meet these standards, the employee shall be disqualified from further consideration for the position.
- (d) **Previous employment.** If the city learns that an applicant for a safety-sensitive position tested positive for drugs or alcohol or refused to test while at a previous employer, the city shall verify the information, obtain proof that the applicant has completed a rehabilitation program and the return-to-duty test. The city shall not use a driver the city knows has tested positive for drugs or with an alcohol concentration of 0.04 or greater, and has not been recertified and tested negative in return-to-duty testing.

Sec. 11A.13. Random Testing.

- (a) **Alcohol.** At least 25% of the average number of the city's driver positions shall undergo random alcohol testing in each calendar year, or the number of drivers equal to an annual rate not less than the minimum annual percentage determined by the Federal Highway Administration Administrator.
- (b) **Drug.** At least 50% of the average number of the city's driver positions shall undergo random drug testing in each calendar year, or the number of drivers equal to an annual rate not less than the minimum annual percentage determined by the Federal Highway Administration Administrator.
- (c) **Scientifically valid method.** The selection of drivers for random testing, the timing and frequency of random tests, and the number of drivers to be tested on any given day shall be determined by the city. The selection of drivers for random testing shall be made by a scientifically valid method. Each driver shall have an equal chance of being selected for testing each time selections are made.
- (d) **Unannounced.** Random alcohol and drug tests shall be unannounced and shall be spread reasonably throughout the year.
- (e) **Test site.** A driver who is notified of selection for random alcohol or drug testing shall be required to proceed to the test site as instructed.

- (f) **Either test may be given.** A driver, when randomly selected, may be required to submit to either an alcohol or drug test, or both.
- (g) **Not present at work.** In the event a driver who is selected for a random test is not at work that day, another driver will be selected.
- (h) **When required.** A driver shall be subject to random alcohol testing only while the driver is performing a safety-sensitive function, just before the driver is to perform a safety-sensitive function, or just after the driver has ceased performing a safety-sensitive function.

Sec. 11A.14. Reasonable Suspicion Testing.

- (a) **Promptly comply.** A driver shall promptly submit to an alcohol and or drug test whenever a trained supervisor or trained city official has a reasonable suspicion to believe that the driver has violated the alcohol or drug prohibitions of this policy.
- (b) **When required.** The observations required by the paragraph above must be made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy.
- (c) **Time limit for alcohol test.** After determination of reasonable suspicion, the alcohol test shall be administered within two hours unless the supervisor or city official prepares and maintains on file a record stating the reasons the test was not administered within that time. The test may be conducted up to eight hours after the reasonable suspicion determination is made. If the test is not administered within eight hours after the determination, attempts to administer the test shall stop and the supervisor or city official shall record and maintain on file the reasons why the test was not conducted.
- (d) **Time limit for drug test.** No driver shall be subject to reasonable suspicion drug testing later than 24 hours following the determination that reasonable suspicion exists to require the driver to undergo such test. If the test is not administered within 24 hours after the reasonable suspicion determination, attempts to administer the test shall stop and the supervisor or city official shall record and maintain on file the reasons why the test was not conducted.
- (e) **Separation of duties.** A trained supervisor or trained city official who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.
- (f) **Written record of observations for drug test.** The trained supervisor who made the observations shall make and sign a written record of the observations leading to a drug reasonable suspicion test within 32 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.
- (g) **Written record of observations for alcohol test.** The trained supervisor who made the observations leading to an alcohol reasonable suspicion test shall make and sign a written record of the observations within 24 hours of the observed behavior.

Sec. 11A.15. Post Accident Testing.

- (a) **When tested.** A driver shall be subject to post-accident alcohol and drug testing as soon as practicable following the accident.
- (b) **Time limit for testing.** A driver subject to post-accident testing shall be subject to a breath alcohol test not later than eight hours following the accident and to a drug test no later than 32 hours following the accident.
- (c) **Report on delayed testing.** If an alcohol test is not administered within two hours following the accident, the trained supervisor or trained city official shall prepare and maintain on file a record stating the reasons the test was not administered. If an alcohol test is not administered within eight hours following the accident, the trained supervisor or trained city official shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. If a drug test is not administered within 32 hours following the accident, the trained supervisor or city official shall cease attempts to administer a drug test, and prepare and maintain on file a record stating the reasons the test was not promptly administered.

- (d) **Availability for testing.** A driver who is subject to post-accident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing. Nothing herein shall be construed to required the delay of necessary medical attention or to prohibit the driver from leaving the scene of the accident for the period of time necessary to obtain assistance in responding to the accident, obtain necessary medical treatment for injured people, or to obtain materials necessary to secure the accident site.

Sec. 11A.16. Return-to-Duty Testing.

A driver who has an alcohol test result indicating an alcohol concentration of 0.04 or greater or has a confirmed positive test for drugs, may at the city's discretion, be permitted to return to work subject to the following:

- (1) the driver has been evaluated by a substance abuse professional who has determined what assistance, if any, the driver needs in resolving problems associated with alcohol or drug use and the driver has successfully completed any prescribed rehabilitation;
- (2) if the driver has violated the alcohol prohibitions, the driver has undergone return-to-duty testing with a result indicating an alcohol concentration of less than 0.02;
- (3) if the driver has violated the drug prohibitions, the driver has undergone return-to-duty testing with a verified negative result for drug use.

Sec. 11A.17. Follow-up Testing.

The driver shall be subject to such follow-up testing for either or both alcohol and drug use as recommended by the substance abuse professional.

- (1) The number and frequency of such tests shall be determined by the substance abuse professional, and shall consist of at least six tests in the first 12 months following the driver's return to duty, but follow-up testing shall not extend past 60 months after the driver's return to duty.
- (2) The substance abuse professional may terminate such tests at anytime after the first six tests have been administered upon determination that the tests are no longer necessary.

Sec. 11A.18. Alcohol Test Procedures.

- (a) **Testing device for alcohol.** A Breath Alcohol Technician (BAT) shall administer alcohol tests using an Evidential Breath Testing device (EBT) except that if the Department of Transportation Federal Highway Administration approves administration of tests by persons other than BATs or approves the use of other methods or technologies for detecting the presence of alcohol, then the administration of tests by such other persons or the use of such other methods or technologies shall be permitted under this policy.
- (b) **Testing procedures.** Alcohol testing shall be conducted in accordance with the following:
- (1) A driver directed to undergo alcohol testing shall proceed to the designated test site as instructed.
 - (2) A driver shall follow all procedures and instructions given by the BAT including completing, signing, initialing, or dating any required forms or log books. If the driver takes the test but fails to sign the certification in Step 4 of the Breath Alcohol Technician Form, or fails to initial the log book entry, it will not be considered a refusal to test.
 - (3) The testing site shall provide visual and aural privacy to the driver, sufficient to prevent unauthorized persons from seeing or hearing test results.
 - (4) In order to prevent unauthorized persons from seeing or hearing test results, unauthorized persons shall not be permitted access to the testing location when the Evidential Breath Testing Device remains unsecured, or, at any time when testing is being conducted.

- (5) In unusual circumstances, a test may be conducted at a location that does not fully meet the requirements of paragraph (3) above. In such cases, the driver shall be provided visual and aural privacy to the greatest extent practicable.
- (6) The BAT shall supervise only one driver's use of the EBT at a time and shall not leave the alcohol testing location while the testing procedure for a driver is in progress.
- (7) Upon entering the test site, the driver shall be required to provide the BAT with positive identification. Positive identification may take the form of a photo ID card or identification by a supervisor or city official. On request of the driver, the BAT shall provide positive identification to the driver.
- (8) If a screening test of a driver indicates a breath alcohol concentration of less than 0.02, no further alcohol testing of the driver shall be conducted during this testing event, the BAT shall transmit the result to the city in a confidential manner.
- (9) If the result of a screening test of a driver indicates a breath alcohol concentration of 0.02 or greater, the driver shall be required to undergo a confirmation test.
- (10) If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test shall complete and sign the Breath Alcohol Testing Form and log book entry. The BAT shall provide the driver with Copy 2 of this form.
- (11) If a BAT other than the one who conducted the screening test is conducting the confirmation test, the driver shall be required to provide positive identification in accordance with paragraph (7) above, to the new BAT and the driver may request positive identification of the new BAT.
- (12) The driver shall not eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This waiting period begins with the completion of the screening test.
- (13) The confirmation test shall be conducted within 20 minutes of the completion of the screening test.
- (14) If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT shall initiate a new Breath Alcohol Testing form. The driver shall then complete Step 2 on the form, signing the certification. Refusal of the driver to sign the certification shall be deemed a refusal to test.
- (15) The driver's refusal to complete and sign the Breath Alcohol Testing form (Step 2) to provide breath, to provide an adequate amount of breath, or otherwise to fail to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT in the "Remarks" section of the form. The testing process shall be terminated and the BAT shall immediately notify the CDR.
- (16) The driver's refusal to complete and sign the Breath Alcohol Testing Form (Step 2), to provide breath, to provide an adequate amount of breath, or otherwise to fail to cooperate with the testing process in a way that prevents the completion of the test shall be deemed a refusal to test. A driver who refuses to submit to a required alcohol test shall be deemed to have tested at a level of 0.04 or greater for alcohol.
- (17) If a screening or confirmation test cannot be completed, or if an event occurs that would invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test, as applicable, using a new Breath Alcohol Testing form with a new sequential test number.
- (18) If the driver is unable, or alleges that he or she is unable, to provide an amount of breath sufficient to permit a valid breath test because of a medical condition, the BAT shall again instruct the driver to attempt to provide an adequate amount of breath.
 - (A) If the driver refuses to make the attempt, the BAT shall immediately inform the CDR.

- (B) If the driver attempts and fails to provide an adequate amount of breath, the BAT shall so note in the "Remarks" section of the breath alcohol form and immediately inform the CDR.
- (C) If the driver attempts and fails to provide an adequate amount of breath, the CDR shall direct the driver to obtain, as soon as practicable after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to the city concerning the driver's medical ability to provide an adequate amount of breath.
- (D) If the licensed physician determines, in his or her reasonable medical judgment, that a medical condition has, or with a high degree of probability, could have, precluded the driver from providing an adequate amount of breath, the driver's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The physician shall provide to the city a written statement of the basis for his or her conclusion.
- (E) If the licensed physician, in his or her reasonable medical judgment, is unable to determine that a medical condition has, or with a high degree of probability, could have, precluded the driver from providing an adequate amount of breath, the driver's failure to provide an adequate amount of breath shall be deemed a refusal to take a test. The physician shall provide to the city a written statement of the basis for his or her conclusion.

Sec. 11A.19. Drug Test Procedures.

Testing for drugs shall be conducted by a laboratory certified by the U.S. Department of Health and Human Services and in accordance with the following procedures:

- (1) A driver directed to undergo a drug test shall proceed to the designated collection site as instructed by the supervisor.
- (2) A driver shall follow all procedures and instructions given by the collection site person. Failure to do so shall be considered a refusal to test.
- (3) The collection site person shall collect a urine sample from the driver in accordance with Federal Highway Administration procedures.
- (4) A driver shall provide at least 45 ml of urine for testing. A driver who fails to provide at least this amount shall be subject to the provisions of paragraph (r) below.
- (5) The collection site person shall divide the specimen into two containers. One container shall contain at least 30 ml of urine and shall be the primary specimen. The other container shall contain at least 15 ml of urine and shall be the split specimen.
- (6) Both containers shall be shipped to the laboratory in a single shipping container, together with copies 1 and 2 and the split specimen copy of the chain of custody form.
- (7) The laboratory shall log in the split specimen with the split specimen seal remaining intact. The laboratory shall store the split specimen securely in accordance with approved procedures.
- (8) The primary specimen shall undergo a screening test for the presence of drugs. If the screening test detects the presence of a drug, the primary specimen shall undergo a confirmation test to verify the positive test result.
- (9) If the result of the test of the primary specimen is negative, the laboratory may discard the split specimen.
- (10) The MRO shall review all primary specimen results. If the result of the test of the primary specimen is confirmed positive for the presence of drugs, the MRO shall notify the driver that the driver has 72 hours in which to request a test of the split specimen. If the result of the test of the primary specimen is negative, the MRO is authorized to direct a driver to undergo a retest for the

presence of drugs if, upon review of the original test results, the MRO has reason to believe the primary specimen has been adulterated.

- (11) If the primary specimen tests confirmed positive for the presence of drug, the driver may request, in writing, that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for presence of the drug or drug metabolites for which a positive test result was obtained in the test of the primary specimen. The MRO shall honor such request if it is made within 72 hours of the driver having been notified of a verified positive test result. The driver shall be responsible for any and all costs associated with having the split specimen tested.
- (12) If the driver has not contacted the MRO within 72 hours, the driver may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the driver from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the driver's failure to contact the MRO within 72 hours, the MRO shall direct that the reanalysis of the primary specimen or analysis of the split specimen, as applicable, be performed. The driver may not request a reanalysis of the primary specimen.
- (13) If the result of the test of the primary specimen is positive, the laboratory shall retain the split specimen in frozen storage for 60 days from the date on which the laboratory acquires it. Following the end of the 60-day period, if not informed by the MRO that the driver has requested a test of the split specimen, the laboratory may discard the split specimen.
- (14) If the MRO directs the first laboratory in writing to forward the split specimen to a second DHHS-certified laboratory, the second laboratory shall analyze the split specimen by GC/MS to reconfirm the presence of the drugs or drug metabolites found in the primary specimen. Such GC/MS confirmation shall be conducted without regard to the cutoff levels established by DHHS. The laboratory conducting the analysis of the split specimen shall retain the sample in long-term storage for one year, or longer if litigation concerning the test is pending.
- (15) The result of the test of the split specimen shall be transmitted by the second laboratory to the MRO.
- (16) If the analysis of the split specimen fails to reconfirm the presence of the drug or drug metabolites found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for such to the CDR, the driver, and to the U.S. Department of Transportation.
- (17) A driver whose primary specimen tests confirmed positive for the presence of drug and who requests, in accordance with paragraph (k) above, that the split specimen be tested, shall not be permitted to return to work pending the outcome of such test but shall be suspended without pay and subject to further disciplinary action. If the test of the split specimen does not reconfirm the presence of the drug or drug metabolites found in the primary specimen, the driver shall be paid his wages for all regularly-scheduled shifts the driver would have worked had the suspension not occurred, and shall be reimbursed for the costs associated with having the split specimen tested.
- (18) If the driver is unable to provide the required 45 ml of urine, the driver shall be instructed to drink not more than 40 ounces of fluids, and, after a period of up to three hours, again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded.
- (19) If the driver is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the laboratory shall notify the city of the driver's inability to provide an adequate sample.
- (20) The MRO will then refer the driver for a medical evaluation to develop pertinent information concerning whether the driver's inability to provide an adequate specimen is genuine or constitutes a refusal to test. Upon completion of the examination, the MRO shall report his or her conclusions to the city in writing.

- (21) If the MRO determines that the driver's inability to provide an adequate sample is not genuine, the driver shall be deemed to have refused to test and shall be deemed to have tested positive for drugs.

Sec. 11A.20. Confidentiality of Records of Drug and Alcohol Testing.

Records of drug and alcohol testing of drivers are subject to the following:

- (1) All records required to be maintained by 49 C.F.R. §382.401, et seq. shall be maintained in a secure location with controlled access.
- (2) Except as required or permitted by law or expressly authorized or required by 49 C.F.R. §382.405, the city shall not release information that is contained in drug and alcohol testing records.
- (3) Upon receipt of a written request from a driver, the city shall make records available to a subsequent employer.
- (4) Upon written request, a driver is entitled to copies of any records pertaining to the driver's use of drugs or alcohol, including any records pertaining to the testing conducted pursuant to this policy.
- (5) All results of alcohol and drug testing conducted pursuant to this policy shall be made available, upon request, to the Secretary of Transportation.
- (6) City may disclose information pertaining to the drug or alcohol testing of a driver to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the driver, and including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver and arising from the results of an alcohol or drug test.

Sec. 11A.21. Referral to Substance Abuse Professional.

Each driver who has a positive drug test or a blood alcohol concentration test level of 0.04 or greater, shall be referred to a substance abuse professional. The substance abuse professional shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol or drug use. A substance abuse professional would ordinarily be available through the driver's health care provider. A listing of substance abuse professionals must be provided in training or posted in work sites. Drivers who do not know what substance abuse services are provided under their health care plan or who do not have a health care plan are encouraged to contact the mayor. The personnel director will serve as deputy CDR in the absence of the public works director.

ARTICLE XII. SAFETY REGULATIONS

Sec. 12.01. Purpose.

The purpose of this article is to establish the safest possible working conditions for city employees and to assure that employees exercise due care for the safety of the public.

Sec. 12.02. Responsibilities.

The responsibility for a successful safety program in the work place rests with every employee. All levels of city management and supervision shall demonstrate commitment in and support of city safety regulations.

Sec. 12.03. Duties of Employees.

Every employee has the duty to be knowledgeable of safety rules applicable to the employee's work. An employee shall:

- (1) follow all safety rules, posted safety signs, job safety training, and operating procedures applicable to the employee's work;
- (2) immediately report accidents and injuries to the employee's supervisor, regardless of how minor;
- (3) immediately report unsafe conditions, equipment, or acts, or fire or suspicion of fire to the employee's supervisor;
- (4) maintain the employee's work area and work facility in a clean, healthful, and sanitary condition;
- (5) maintain city equipment under the care of the employee in accordance with accepted safety practices applicable to the specific equipment and perform required safety checks of the equipment both before and following operation of the equipment;
- (6) comply with the city's ordinance regarding use of tobacco;
- (7) consume food and beverages in designated areas only.

Sec. 12.04. Duties of Supervisors.

Supervisors shall:

- (1) when an employee enters a new position with the city, train and instruct the employee in the safety regulations affecting that position;
- (2) provide ongoing training of all employees and provide training for any new equipment or processes introduced into the work place;
- (3) oversee the purchase, maintenance, and administration of required protective equipment.

Sec. 12.05. Protective Equipment.

- (a) **Required; signs posted.** Employees shall use or wear protective equipment in areas of the city work place and in the performance of tasks for which it is required. Designated areas will be posted with a conspicuous sign that describes when and what type of protective equipment is required.
- (b) **Types.** Protective equipment includes, but is not limited to: head protection, ear protection, face and eye protection, respiratory equipment, safety belts, protective footwear, and special work clothing.
- (c) **Purchase through payroll deductions.** The city will not furnish steel-toed shoes although some departments may require them as conditions of employment. The personnel ~~office~~ clerk may provide for purchase of steel-toed shoes and other required safety equipment through payroll deduction.

Sec. 12.06. Special Physical Evaluation.

- (a) **Conditions that constitute safety hazard.** When in the opinion of a department head, an employee's condition constitutes a safety hazard to anyone, or if one or more of the following circumstances exists, the department head shall arrange through the personnel department for the employee to undergo physical or psychological evaluation or drug testing:
- (1) inability to perform the essential functions of a job because of an apparent physical or psychological problem;
 - (2) the employee seeks promotion or transfer to a job that has been identified by the personnel clerk as requiring greater physical capability to perform the essential functions of the position;
 - (3) unusual number of occupational injuries or repeated recurrences of disability from a previous injury;
 - (4) excessive use of sick leave.
- (b) **Confidentiality.** The results of a physical or psychological examination performed by the city physician shall be confidential. Information shall not be provided to anyone outside the chain of command involved in the evaluation of the employee.

Sec. 12.07. Departmental Rules.

Departments may establish departmental safety rules necessary to ensure that the work areas are safe. The department head shall submit to the Human Resources Director and keep updated, a copy of the departmental safety rules.

Sec. 12.08. City Driver Regulations.

- (a) **License required.** An employee who operates a city vehicle must have a valid state of Texas drivers license that is required for the vehicle operated and must keep supervisors informed of any change of status in the employee's driver's license.
- (b) **Information required.** Before hiring an applicant into a position that requires the driving of a city vehicle, the Human Resources Director shall obtain consent from the applicant to secure the applicant's driving record from the Texas Department of Public Safety and determine if the applicant qualifies for employment under this section. Applicants who refuse consent will not be considered for employment.
- (c) **Disqualifications.** A person shall not be hired for or allowed to retain a position that requires the driving of a city vehicle if within the immediately preceding 36 months, the person has:
- (1) a conviction for driving while intoxicated;
 - (2) a conviction for driving under the influence of drugs; or
 - (3) more than three accidents or convictions for more than three moving violations, or more than three such accidents or violations in combination.
- (d) **Certification.** If the driving record of an applicant is acceptable and the applicant is offered a position, before beginning employment, the person must review the driving record and certify its accuracy by attesting to the following statement:

"I, _____, have reviewed the attached driving record and certify that it is a correct record of my driver history and that no further violations or accidents exist or have been omitted from the record. I understand that I am expected to meet and continue to meet the city driver qualifications as part of maintaining employment with the city. I further understand that the following violations on my driving record, if they are found to exist within any preceding 36-month period, shall be grounds for dismissal from employment with the city:

Driving while intoxicated.
Driving under the influence of drugs.
More than three accidents, or convictions for more than three moving violations, or more than three such accidents or convictions in combination.

- (e) **Additional record checks.** A department head may at any time request from the Texas Department of Public Safety the driving record of an employee responsible for driving a city vehicle in order to assure that the employee maintains qualifications as a city driver.

Sec. 12.09. Vehicle Collision Reports.

- (a) **Required.** When a city employee is involved in a vehicle collision while in the course of city employment or while driving a city vehicle, the employee shall report the collision to the police department and as soon as practical, to the employee's department according to departmental procedures.
- (b) **Other notifications.** A department head shall submit a police report and a vehicle damage report to the city manager the next work day following the day of the collision. The city manager shall forward necessary information to the city's insurance carrier as appropriate.
- (c) **Other damage.** When damage to a vehicle (such as a dent) is discovered during a pre-operation check, the supervisor shall be notified immediately and a report filed with the department head, with a copy to the city manager.
- (d) **Estimates.** Damaged vehicles shall be taken to obtain a damage estimate as soon as possible. The department head is responsible for notifying the city manager of the damage to a city vehicle as soon as possible.

ARTICLE XIII. CAR ALLOWANCE AND VEHICLE USE POLICY

Sec. 13.01. Car Allowances.

- (a) **Purpose.** A car allowance is a monthly-paid reimbursement provided to employees required to use personal vehicles for city-related business. The car allowance substitutes for providing employees a city-owned vehicle. A car allowance is not equivalent to full vehicle cost reimbursement.
- (b) **Eligibility.** The city manager will establish a list of employees who are eligible for a car allowance and the amount of the car allowance, based on need and funding availability.
- (c) **Requirements.** Car allowances are granted subject to the following requirements:
 - (1) Car allowances are disbursed at the end of each month. A car allowance shall not be paid to a new or terminating employee employed less than 15 calendar days of the beginning or ending month.
 - (2) Employees are not eligible for both a car allowance and use of a city vehicle. In the case of emergency or special uses, an exception may be granted on a temporary basis by the city manager.
 - (3) To remain eligible to retain a car allowance an employee must maintain:
 - (A) a current driver's license;
 - (B) the minimum liability insurance required by state law;
 - (C) current vehicle registration tags; and
 - (D) a current state inspection sticker.
 - (4) Car allowances are granted only when they are approved as part of the city's annual budget.

Sec. 13.02. Take-Home Vehicles.

- (a) **Purpose.** Take-home vehicles are owned, rented, or leased by the city and driven to and from an employee's place of residence and the job site so that the vehicle will be available to the employee at all times for the purpose of responding to duties or emergencies. Call-backs and responses to emergencies normally require the use of tools or special equipment contained in or made a part of the vehicle. In many cases a threat to life or property could result if the employee is required to obtain the vehicle from the normal work station before responding to an emergency.
- (b) **Eligibility.** An employee must be subject to emergency call-back during off-duty hours to locations other than the employee's normal work station in order to be eligible for a take-home vehicle.
- (c) **Requirements.** Take-home vehicles are authorized subject to the following requirements:
 - (1) Employees driving take-home vehicles, other than police vehicles, must live within the limits of Tarrant County. Special exceptions may be granted by a department head on a temporary basis, normally for a period not to exceed three days, for a special project or meeting which is held after normal working hours. Special exceptions must be approved by the city manager. Documentation of special exceptions will be kept by the department head and be available for review by the city manager upon request.
 - (2) Police vehicles may be taken home only when authorized in writing by the Chief of Police.
 - (3) A person who is not directly involved in official city business shall not be transported in a take-home vehicle without prior approval of the department head and the city manager.

- (4) City vehicles are to be used for official city business; except for police vehicles that are operated according to police department policy.

Sec. 13.03. Administrative Take-Home Vehicles.

- (a) **Purpose.** Take-home vehicles may be provided to administrative employees for city related business.
- (b) **Eligibility.** The city manager will establish a list of administrative employees who are eligible for a take-home vehicle based on need and funding availability.
- (c) **Requirements.** Employees with administrative take-home vehicles are subject to the requirements listed in Section 13.02(c); except, that because of the need to be in constant communication with their respective departments, the police chief is exempt from the restrictions regarding personal use and family members transported in a take home vehicle within Tarrant County.

Sec. 13.04. Mileage Reimbursement.

- (a) **Purpose.** Mileage reimbursement is the payment to employees, at a rate equal to that established by the Internal Revenue Service for business mileage reimbursement, for travel expenses incurred by using their personal vehicles while conducting city business.
- (b) **Eligibility.** An employee who does not receive a car allowance and does not have a take-home vehicle but who uses the employee's personal vehicle to conduct city business, is eligible for mileage reimbursement.

Sec. 13.05. General Provisions Concerning Use of City Vehicles.

- (a) **Alcohol and drugs.** An employee shall not operate a city vehicle while under the influence of alcohol or drugs which impair the employee's ability to operate the vehicle. An employee shall not permit an alcoholic beverage or illegal drug inside a city vehicle; except when a police officer is transporting alcoholic beverages or illegal drugs in the course of his official duties.
- (b) **Revocation of authorization.** The authorization for an employee to drive a city vehicle or receive a car allowance will be revoked if:
 - (1) the employee becomes disqualified to be a city driver under Section 12.08;
 - (2) the employee fails to comply with Article XII, Safety Regulations, or the provisions of this Article XIII; or
 - (3) there is a change in the employee's job assignment and the new assignment does not require the use of a city vehicle.
- (c) **Enforcement.** Department heads are responsible for enforcement of this article and Article XII as they relate to their departments. Employees shall report violations to the appropriate department head and the city manager.
- (d) **Tax matters.** Employees receiving a car allowance or take-home vehicle benefits are subject to income taxation as required by the regulations of the Internal Revenue Service. The city shall provide income statements to employees in accordance with the applicable regulations.

Sec. 13.06. Travel and Training Policy.

- (a) **Authorization.** The city will pay reasonable expenses incurred during the course of authorized city business meetings and trips. Prior approval is necessary and the employee is responsible for all expenses incurred without prior approval.
- (b) **Transportation.** Employees must use city vehicles when possible, especially for trips of longer duration involving several employees. The following guidelines shall be followed:

- (1) Commercial Airlines - The city will pay the round trip airfare, applying all discounts. Private airplanes or charters will not be paid for by the city.
 - (2) City Vehicles - Direct expenses, such as gasoline and oil associated with use of the vehicle will be reimbursed.
 - (3) Personal Vehicle - With the prior approval of the department head, employees may use a personal vehicle. The city will not pay for vehicle repairs or towing expenses.
- (c) **Accommodations.** Lodging expenses will be allowed. Receipts are required and must show a detailed breakdown of the daily charges. Personal items must be marked “personal” and deducted from the bill.
- (d) **Other Expenses.** Telephone calls to city hall offices will be reimbursed. Meeting registration fees will also be reimbursed.
- (e) **Direct Payments.** Direct payments for travel must be requested on the appropriate city form fifteen (15) working days prior to the expected departure date. Payments will be sent for registration, lodging and airfare expenses. City staff will make all travel arrangements for lodging and airfare to secure the best price.
- (f) **Reimbursement.** Following a trip, employees must account for their travel expenses within 10 days of the completion of the trip. No expenses will be paid by the city for spouses or children or persons accompanying an employee. No expenses for alcoholic beverages will be paid by the city.
- (g) **Maximum Daily Expenses.** The maximum daily expense allowed for meals and gratuity will be \$35.
- (h) **Cancellations.** The employee participant will be required to refund the city any amount paid for travel and training expenses if the person cancels or is unable to attend the conference or meeting.
- (i) **Probationary Employees.** Employees on probation will reimburse the City for training costs if they leave city employment during the probationary period. If a city employee terminates employment (either voluntary or involuntary) within one year form the hiring date, then the employee will reimburse the city for all certification expenses.
- (j) **Advances.** No cash advances will be paid for travel arrangements. Expenses will be paid from receipts after returning form the conference or training session.
- (k) **Out-of-State Travel.** The city manager may approve out-of-state travel related to authorized training and city business meetings and trips.

ARTICLE XIV SALARY ADMINISTRATION

Sec. 14.01. Temporary Assignments.

A department head may designate a person from the next lower classification to fill a position in a higher classification temporarily, with the approval of the city manager. A person temporarily filling a position in a higher classification shall be paid the base salary of the higher position plus the employee's own longevity pay during the time the employee performs the duties of the higher position.

Sec. 14.02. Original Appointment.

The minimum rate of salary for a classification shall ordinarily be paid upon original appointment. With the approval of the city manager, a new employee may be started above the minimum rate of salary for a classification, based upon circumstances such as experience, unique skills, or other factors determined to be important by the appointing authority.

Sec. 14.03. Part-time Employees.

An employee who regularly works less than the established hours of employment for each month, may be paid by the hour or pursuant to a wage scale proportional to the amount of time worked. The salary rate or the hourly pay must be determined by the compensation plan.

Sec. 14.04. Salary Increases.

Salaries will be considered and reviewed annually in accordance with Article IX, Performance Evaluations..

Sec. 14.05. Salary upon Promotion.

An employee who is promoted to a position in a classification with a higher salary range shall receive the recruiting step for the higher classification.

Sec. 14.06. Salary upon Demotion.

- (a) **Disciplinary demotion.** If a regular employee is demoted for disciplinary reasons, the employee's salary shall be reduced one step or to the maximum step of the range of the new classification, whichever is lower.
- (b) **Non-disciplinary demotion.** If a regular employee is placed in a lower classification for non-disciplinary reasons, the employee shall receive the highest salary in the new range that does not exceed the rate of pay immediately prior to demotion and shall retain his former increase eligibility date.

Sec. 14.07. Salary upon Transfer.

If a regular employee is transferred from one position to another in the same classification or another classification with the same salary range and same or lower recruiting step, the salary and increase eligibility date shall not change.

Sec. 14.08. Salary upon Reappointment.

A person who is reappointed in the same classification or in a lower classification within one year of separation and who was separated for non-disciplinary reasons, may upon request of the department head and approval of the city manager, be reappointed at a salary level not to exceed five percent above the minimum level of the salary range for that classification.

Sec. 14.09. Maximum Base Salary.

An employee shall not be paid a base salary that is more than the maximum for the position's classification.

Sec. 14.10. Pay Periods.

Salaries shall be paid in 26 pay periods a year. Paychecks will be released to employees every two weeks on Friday. If a scheduled pay day falls on a holiday, paychecks will be issued the day preceding the holiday.

Sec. 14.11. Separation Pay.

An employee who leaves the service of the city shall receive all pay which may be due with the following qualifications:

- (1) Only regular employees who have completed six months of employment with the city shall be paid for unused vacation time; and

- (2) Any indebtedness to the city which the employee may have incurred shall be deducted from the final paycheck.

Sec. 14.12. Advance Pay.

No advance payment of salary shall be made to an employee.

Sec. 14.13. Payroll Records.

Department heads shall submit an accurate payroll report of all employees to the Human Resources Director reflecting the pay status for each employee each day during the payroll period. The Human Resources Director shall review all payroll reports and, if approved, shall submit them for issuance of salary paychecks.

ARTICLE XV. REDUCTION IN FORCE

Sec. 15.01. Vacated or Abolished Positions.

- (a) **Demotion based on seniority.** If the city council vacates or abolishes a position by ordinance, the employee holding the position shall be separated from employment with the city. If more than one employee holds a position in the same classification and department as the position that is vacated or abolished, the employee with the least seniority shall be separated.
- (b) **Not applicable to department heads and assistants.** Subsection (a) does not apply to department heads and assistant department heads. The city manager has jurisdiction over these positions.

Sec. 15.02. Reinstatement List.

Employees who are separated pursuant to Section 13.01 and against whom no charges have been filed for violation of the personnel policy, shall be placed on a reinstatement list in order of seniority.

Sec. 15.03. Reinstatement.

If a position which has been vacated or abolished is filled or re-created within one year, the position reinstatement list shall be exhausted before an applicant or employee not on the list is placed in the position. Appointments from the reinstatement list shall be in order of seniority.

Sec. 15.04. Duration of Reinstatement List.

A person whose name has been on a reinstatement list for three years shall be removed from the list. A name may be returned to the list by the city manager upon request.

**CITY OF EVERMAN
PERSONNEL POLICY**

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