



Dear Fellow Employees:

Welcome to the City of Burleson! This handbook will serve as a starting point to answer many employment and conduct related questions. Don't hesitate to go to your Department Manager, Director, or the Human Resources department if you have additional questions.

There are many aspects of the manual that are important. The City's basic employment related policies and a separate City of Burleson safety manual are included here.

Ongoing updates to policies and employee related events can be found on the City's employee webpage - - www.burlesontx.com/employeeforms.

If you have a city-issued email address, be sure to check it regularly for communications from Human Resources about benefits, policies, upcoming events, and other important notices. We look forward to working with you to maximize your employment with the City of Burleson.

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City of Burleson

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***Note: This version of the manual supersedes prior versions of the Human Resources Policy Manual**

Chapter I: Administration and General Information

1.1 Administration. (revised 11/01/16) (01/01/19)

Responsibility: The City Manager is designated as the chief executive officer. As the head of the administrative branch of city government, he/she is responsible to the city council for the administration of all affairs of the city, including the hiring, and when necessary, removal of any employee, per city charter. The Deputy City Managers are appointed by the City Manager and assist the City Manager in administering the affairs of the city by performing assigned functions and providing general oversight to the directors of departments as designated on the city's organizational chart. Throughout this manual when the City Manager is noted, the Deputy City Manager is authorized to make decisions in his/her place, if so designated by the City Manager or if he/she is physically incapacitated and unable to make such related decisions.

The director of human resources is responsible for administering the regulations of this policy in cooperation with department managers and directors. Directors are responsible for the proper and effective administration of this policy within their departments. Routine matters and duties, such as maintaining records and preparing reports may be assigned to another department staff member.

This policy prevails over any individual department policy that may be contradicting.

The City reserves the right to interpret, change, suspend, cancel or dispute all or any part of the policies contained herein.

1.2 Department Policies. (revised 12/31/15)

- (a) It shall be the prerogative of each department director and the Deputy City Managers, with the approval of the City Manager, to develop and implement departmental policies and/or practices which are separate from or in addition to these policies. If a departmental policy is inconsistent, in conflict or incompatible with any provision contained herein, the provision in this manual shall control. Directors shall review departmental policies and correct any inconsistencies, conflicts or incompatible provisions following the approval of any future amendments to this manual.

- (b) Directors may choose to reorganize department operations and assign employees to new job duties and/or positions without posting job openings for City employees or public review, if he/she deems such a reorganization to be in the best interest of the department. Such decisions should be discussed with the City Manager, or designated Deputy City Manager, in advance. After CMO approval, the Director will communicate the circumstances to the Human Resources Director if job openings are not posted and made available for application or transfer.

1.3 Amendments to This Policy.

The City Manager may make revisions to this policy which do not involve a change in benefits offered or changes which would require an amendment to the city's current "Annual Operating Budget." The city council must approve all changes involving employee benefits and/or budget amendments. Any new rules or regulations issued supersede these regulations and are fully binding on all employees.

1.4 Policy Distribution. A copy of this policy shall be made available to all city employees.

1.5 Personnel Records.

- (a) Retention and inspection. The Human Resources Department will maintain the personnel file 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, director, Deputy City Manager or the City Manager. In some instances, information in these files is available to the public, per open records state statutes.
- (b) Information update. Each employee shall report to the Human Resources Department any change in address, telephone number, or family status, to be included in the employee's personnel file.
- (c) 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.

1.6 Fair Employment Practices.

- (a) Responsibility- All City Employees: The city workforce exists to provide essential municipal services to the community. The city organization is committed, within its financial constraints, to maintaining a workforce 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:
in keeping with the respect due each employee, city management is committed to:
 - provide effective and efficient delivery of services;
 - compensate employees fairly for work done;
 - provide safe, healthy, work conditions in accordance with provisions of all applicable law;
 - adequately instruct and train employees in their duties;

- supply necessary tools and equipment (except those customarily provided by employees);
- provide reasonable opportunities for development experience and competitive advancement; and
- actively engage in equal opportunity activities.
- 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, sex, national origin, disability, pregnancy, military status, political opinions, or affiliations.

(c) Employee responsibilities:

An employee shall:

- be loyal to and meet the reasonable expectations of city management and the citizens of the city,
- report to work regularly and at the time specified by their supervisor;
- consistently meet or exceed performance standards established for the employee's job;
- work in a professional, cooperative, safe, and friendly manner; and
- get along well with co-workers and citizens.

1.7 Prohibition of Discrimination and Harassment. (01/01/19)

The City of Burleson does not condone, endorse, or tolerate conduct by employees, vendors, volunteers, elected officials or citizens that would constitute discrimination or harassment (including sexual harassment). Employees who feel there is a problem in this area should refer to Standards of Conduct Chapter for further guidelines on how to address this concern and should report the problem to a member of city management immediately.

1.8 Expressing Breast Milk in the Workplace:

- (a) It is the policy of the City of Burleson to follow mandates issued by the State of Texas (Texas Government Code, title 6, chapter 619) and the Federal Fair Labor Standards Act (Section 7) related to a mother's right to express breast milk in the workplace.
- (b) It is the policy of the City of Burleson to support the practice of expressing breast milk and to make a reasonable accommodation for the needs of employees who express breast milk.
- (c) The City of Burleson will provide;
1. a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk; and
 2. a place, other than a bathroom, that is shielded from view and free from

intrusion from other employees and the public where the employee can express breast milk. The location provided must be functional as a space for expressing breast milk. If the space is not dedicated to the nursing mother's use, it will be available when needed in order to meet the statutory requirements of the Department of Labor/FLSA regulations.

3. Designation of Space: The Department Director or Manager will work with any employee to designate an appropriate space for expressing breast milk in accordance with #2 above.
- (d) Responsibility: It is the responsibility of department management to work with an employee who has a need for accommodation for expressing breast milk. It is the responsibility of the employee to communicate with management regarding the need for accommodation.
 - (e) Breaks for Expressing Breast Milk: The City is not required to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, where departments already provide compensated breaks, an employee who uses that break time to express milk will be compensated in the same way that other employees are compensated for break time. The provision to compensate employee for this break time applies only to non-exempt employees.
 - (f) Per section 619.005 of the Texas Government Code, Discrimination Prohibited. A public employer may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under this chapter.

Chapter II: New Employee Information

2.1 Application and Initial Employment.

- (a) The Human Resources Department will coordinate the process of recruiting employees, posting job openings, testing employees, assisting management with interviews, checking references, and making job offers. Supervisory and management employees should refer to internal written protocols for hiring new employees within the approved guidelines and the budget allocations.

2.2 Probationary Employment Period.

- (a) All new employees will serve a six-month probationary period (note differentiation when the probationary period begins for sworn public safety in subsection (1) below). During this time the employee is working to learn job skills and demonstrate his/her ability to perform the job in an acceptable manner. This is the period of time in which supervisory staff are assessing competency and training the employee. Throughout this handbook various benefits are explained and are made available to qualified employees. Successful completion of the six-month probationary period is required in order to secure these benefits. Employees may be given a brief written evaluation at the end of the probationary period:
 - (1) The six-month probationary period for commissioned peace officers in the Police Department and sworn firefighters working in the Fire Department begins at the conclusion of the departments' field training/orientation period.
- (b) No portion of the probationary period requirement alters the city's right to exercise the "at-will" employment option (see the Federal, State, and Local Law Notices). If an employee elects to quit during the probationary period a two week written notice is still required in order to be rehired, but may be waived by the employee's director following review with Human Resources should it be in the city's best interest.
- (c) New employees (not police officers) are required to complete six months of employment in the department in which they are initially hired before being eligible for consideration for transfer within city employment.
- (d) Completion of the probationary period does not guarantee continued employment or alter the employment "at-will" employment option. See the Federal, State, and Local Law Notices Chapter for more information on conditions of employment.

2.3 Nepotism. (05/13/19)

- (a) City Charter Requirement. In keeping with Section 134 of the Charter of the City of Burleson, no person who is related within the second degree of affinity or within

the third degree of consanguinity to a member of the city council or to the City Manager is eligible for any office, position or service with the city or to the Zoning Board of Adjustment or the Planning and Zoning Commission. This prohibition does not affect an officer or employee within the named degree, who is already serving or employed by the city for 30 days prior to an appointed position and 6 months prior to an elected position from when the member of the city council or the City Manager takes office.

- (b) Supervision. No employee may work in a position which is in the line of supervision of a member of the employee's immediate family. Employees working in the same department who are related by the second degree of affinity or the third degree of consanguinity, will not, to the extent possible, be assigned to the same shift.

Chapter III: Federal, State, and Local Law Notices and Public Information Policy

3.1 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, the existence of a physical or mental disability, pregnancy status, military service status or any other state or federally protected right. The 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.

3.2 Conditions of Employment

(a) These Policies are not a Contract;

At-will employment. 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 all or any part of this policy.

(b) Requirements for continued employment. Although adherence to this policy is considered a condition of continued employment, nothing in this policy alters an employee's status, and this policy shall not constitute 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.

3.3 Compliance with Regulations and Laws.

An employee shall comply with the provisions of the charter and ordinances and resolutions of the city, with this policy and with departmental policies; failure to do so may result in disciplinary measures.

3.4 Public Information Policy.

(a) Policy statement. The city recognizes that the public should have accurate, authentic information concerning events that affect the public welfare or the public interest. This information should be provided, when possible to do so, without interfering with the performance of services and without jeopardizing results of investigations or other pending matters. The city and all its departments are tax supported and must merit and retain public support. The city has the obligation to follow legal guidelines in providing public information as established in the Texas Public Information Act.

(b) Public information coordinator. The City Manager and city council have, by ordinance, designated the city secretary to be Burleson's public information coordinator, responsible

for administering the city's responsibilities under the Texas Public Information Act. The public information coordinator will coordinate requests for information with the various department directors to ensure compliance with all public information laws.

- (c) Referral of requests. Departments shall refer requests for information to the city secretary's office for required legal handling to ensure the city's compliance with open records statutes.

3.5 Media Relations Policy.

- (a) Policy statement. This policy establishes procedures and guidelines for all city employees concerning communication with members of the news media when the employee is on the job or acting as a city employee. The city seeks to provide consistent, accurate, and timely information to the media while keeping city officials informed of emerging media issues. To accomplish this goal, the city maintains a systematic, well-coordinated communications policy.
- (b) Public information officer (PIO). The City Manager shall designate a staff member as the city's PIO. The PIO is the city's official spokesperson for all city departments except the police department or as directed by the City Manager. The PIO promotes and provides background information about city issues, projects, and services to both the news media and the public.
 - (1) The PIO is on-call 24 hours a day in order to facilitate the city's media relations policy, answer questions, respond to developing situations, and offer assistance as needed.
 - (2) The PIO is available to all employees for advice, consultation, and assistance in media relations. Upon request, the PIO can be present for any arranged interviews with media personnel.
 - (3) When the PIO is unavailable to serve as the city's spokesperson, an alternate spokesperson shall be designated by the City Manager.
- (c) Public safety. The Police Chief shall designate a member of that department to serve as the city's official spokesperson for police-related incidents, including but not limited to criminal reports. The city PIO shall serve as the fire department PIO until such time as the Fire Chief chooses to designate a spokesperson from within that department and has such designation approved by city management. The city, police department, and fire department shall jointly coordinate the release of all other material to news media outlets. On the scene of an active police or fire incident, the incident commander shall serve as the media contact until the departmental or city spokesperson is present, or unless an alternate spokesperson is designated by the Chief.
- (d) Application to staff. An employee shall not initiate a contact with the news media relating to city business without permission of the department director and coordination with the public information officer.

- (1) A department director may respond to simple inquiries from the news media, but must immediately notify the public information officer and the Deputy City Manager or the City Manager, whichever is appropriate, of the date, time, subject matter, and news media personnel who made the inquiry.
 - (2) Readily Available Requests. When an employee other than a PIO or department director is contacted by the media requesting readily available information about city operations that is known to be public, the employee shall make a reasonable effort to provide it. Such information includes, but is not limited to, city staff names, titles and extensions; public meeting dates, locations and agendas; provisions of city ordinances or city charter; and copies of materials prepared by the city for public distribution. If the employee is unsure whether the requested information is considered public, he or she shall forward the request to the appropriate department director.
 - (3) Other Requests. When an employee other than a PIO or department director is contacted by the media for information about city operations that is not readily available, the employee shall refer the request to the appropriate department director or the PIO.
 - (4) News media personnel who visit city facilities will not be permitted in controlled access areas without the department director's authorization.
- (e) News releases.
- (1) All departments are encouraged to disseminate news releases that reflect positively on the city and its image. A list of appropriate media contacts will be maintained by the PIO.
 - (2) News releases shall be submitted to the departmental director for approval before being forwarded to the PIO for formal issuance to the news media.
 - (3) The appropriate process for composition and distribution of news releases from the police department will be determined by department general orders.
- (f) Formal media interviews.
- (1) An employee who receives a request from the media for scheduled interviews, tapings or recordings shall immediately forward the request to the PIO, who shall notify the City Manager as needed.
 - (2) Employees shall work with the PIO to provide a timely and thorough response to all interview requests, but the city may ask for and expect to be afforded additional time to research the relevant issues and to prepare for the interview.
 - (3) The PIO is the official spokesperson for the city. However, if it is determined to be more appropriate to have another staff member interviewed, as a subject matter expert, the PIO will be available to advise the employee on interviewing with the media.
 - (4) Upon termination of a formal media interview, the employee shall promptly discuss the topic with his or her departmental director and/or the PIO to determine if any further action should be taken.

- (5) The appropriate process for conduct of a media interview on police matters will be determined by department general orders.

- (g) A city employee violating this policy is subject to discipline up to and including termination.

Chapter IV: Standards of Conduct

4.1 Anti-Harassment Policy And Procedures: (revised 11/01/16) (01/01/19)

The purpose of this policy is to provide all employees a work environment that is free from harassment, including sexual harassment and any other form of illegal harassment or intimidation. Any conduct between a City employee and a volunteer or citizen that may be deemed harassment is also strictly prohibited. See the Administration and General Information Chapter for further policy statements related to this matter.

Director of Human Resources. The director of Human Resources will receive training about harassment and this policy, and will be responsible for investigating harassment complaints.

Distribution of policies. The director of Human Resources will distribute this policy to all employees. Employees are encouraged to read this policy and adhere to its provisions at all times.

Amendments. The City Manager reserves the right to amend this policy at any time. The director of Human Resources will notify employees of changes to this policy.

Training. The city shall provide mandatory training in harassment matters for supervisors.

(a) Harassment Definitions:

(1) Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based on a person's race, color, ancestry, religion, national origin, age, gender, sex (including pregnancy, sexual orientation), marital status, disability, genetic information, or veteran status.

(2) Sexual Harassment consists of unwelcome sexual advances, requests for sexual favors, verbal, visual, or physical acts of a sexual or sex-based nature, or other misconduct directed at a person's sex.

(A) Harassment becomes unlawful where:

- enduring the offensive conduct becomes a condition of continued employment or a submission or rejection of the conduct is a basis of employment decisions
- the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

(b) Prohibited conduct:

The city considers the following conduct to represent the types of acts which violate this policy regardless if the behavior was intended to harass. The conduct listed below is not an all-inclusive list:

- (1) Physical Harassment: Any actual or attempts at intentional physical contact, assault, impeding or blocking movement, leering; or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status. This includes pinching, patting, grabbing, rape, sexual battery, molestation, brushing against another person's body, poking another person's body, or making explicit or implied threats or promises in return for submission to physical acts.
- (2) Verbal Harassment: Inappropriate gestures, rumors, code words, slurs, jokes, unwanted advances, propositions, and other offensive words or comments on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status whether made in general, directed to an individual, or to a group of people.
- (3) Visual Forms of Harassment: Inappropriate gestures, or demeaning, derogatory, prejudicial, stereotypical, or otherwise offensive written documents or publications such as posters, photographs, cartoons, notes, magazines, calendars, graffiti, bulletins, drawings or pictures on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status. A picture is presumed sexually suggestive if it depicts a person who is not fully clothed or in clothes that are not suited to a professional workplace, or displaying or drawing attention to the private portions of the body. This applies to both posted material and material maintained in or on equipment or personal property in the workplace.
- (4) 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 is prohibited.
- (5) Subjecting, or threats of subjecting, an employee to unwelcome conduct when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status; or intentionally making performance of the employee's job more difficult because of that employee's rejection of such misconduct is prohibited.
- (6) Other acts of a similar nature on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status.

(c) Retaliation Prohibited:

Retaliation for harassment complaints, such as disciplining, changing work environments, providing inaccurate work information, or refusing to cooperate or discuss work related matters with an employee because that employee has complained about or resisted harassment, discrimination or retaliation.

(d) General Provisions:

Employees who make repeated, false, or unfounded complaints for the sole purpose of attempting to invoke disciplinary action on another employee or attempting to disrupt the workplace without merit will be counseled and may also be subject to disciplinary action as appropriate.

(e) Complaint Procedure for Harassment:

- (1) 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.
- (2) An employee who experiences or observes behaviors that are or could be construed as harassment or retaliation must report the incident to a supervisor, Department Director, the Director of Human Resources, or the City Manager. See the Disciplinary Action, Appeal, Complaints and Grievance Procedures Chapter for details on how grievances related to protected employee rights are handled.
- (3) The Director of Human Resources will report all harassment and retaliation complaints to the City Manager.
- (4) Each complaint, including anonymous complaints, will be promptly and thoroughly investigated to determine if harassment occurred. To the extent practical and allowed by the Texas Public Information Act, the city will keep complaints and the terms of their resolution confidential.
- (5) An employee will not be subject to retaliation or discipline for reporting or pursuing a harassment complaint. If the employee believes he/she is retaliated against during or as a result of this process, he/she will report this to the Human Resources Department or the City Manager immediately.

(f) 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, Department Director, the Director of Human Resources, the City Manager, or the Deputy City Manager.

(g) Duties and responsibilities of supervisors:

- (1) Supervisors must treat all complaints seriously and confidentially. Each case will be thoroughly investigated to determine whether the harassment complained of occurred.
- (2) All reports or suspicions of harassment, sexual or otherwise, which come to a supervisor's attention must be referred immediately to the Director of Human Resources and/or City Manager.

(h) Discipline for harassment:

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 to enjoy a workplace free of harassment of any type. Reports of harassment will be investigated; however, disciplinary action as a part of resolution of the matter is not automatic nor understood. Each matter will be handled on its own merits, and disciplinary actions taken will depend upon the specific circumstances surrounding the complaint. Validated misconduct that does not meet the criteria of harassment will still be addressed as a policy violation in our Standards of Conduct.

4.2 Replacement and Disposal of City Equipment:

- (a)** If an employee loses or damages city equipment, the employee must make a written report, documenting the circumstances, to the employee's immediate Supervisor who will submit the report for review by the Department Director. Determination of an employee's financial responsibility for replacement or repair of the equipment will be made by the Department Director.
- (b)** All employees are expected to follow specific protocols for disposal of equipment that is being replaced or discarded. Employees do not have authority to claim discarded city equipment without prior written permission. Capital equipment as well as incidental supplies, furniture and equipment will be properly disposed of or stored for auction when they are no longer in service.

4.3 Solicitations: (revised 01/01/13)

Solicitation will be limited to the following. Exceptions or additions to this policy will be brought to the attention of the City Manager's office for approval.

- (a)** Employee solicitations for personal gain or fund-raisers: Solicitation for the purpose of making additional money (i.e. personal product sales) or for fund-raising (i.e. for schools, churches, clubs) during working hours on city property is permitted only with the approval of the appropriate Department Director (or his/her designee). Under no circumstances should employees be approached individually regarding the purchase of products.

However, the Director may approve employees placing items in a break room, on a table in the area, etc. making employee participation voluntary.

- (b) City sponsored events may prompt solicitation to employees who want to voluntarily contribute (i.e. United Way, Heart for Kids, Harvest House, school supplies, diaper drives, etc.). These activities are intended to provide the employee base an opportunity to make a positive impact in the community and are not considered solicitation.
- (c) Community Businesses: Community businesses, charities and churches will not be allowed to solicit to City employees in the workplace. This includes pamphlets, coupons, letters, etc. If a business wants to provide a discount to the entire employee base, they may submit a one-page announcement to the Human Resources Department that will be posted for a designated period of time (not to exceed 90 days) on the City's intranet. Employees can voluntarily visit the appropriate intranet location and opt to participate in the promotional offer.

4.4 Employee Conduct. (revised 01/15/12)

(a) Performance standards.

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:

- (1) an analysis of the problem;
- (2) a determination of needed changes and assistance; and
- (3) implementation of a corrective plan of action and establishment of achievement dates.
- (4) Instruction on the consequences of the employee's failure to correct behavior.

- (b) 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, suspended without pay, or terminated. See the Disciplinary Action, Appeal, Complaints and Grievance Procedures Chapter for more information on protocols for such employment actions.

(c) 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 termination, depending upon the facts and circumstances of each case. These are merely examples of unacceptable conduct. 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) absences or tardiness which lack sufficient justification;
 - (D) 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 for two consecutive work days or refuses a legitimate order to report to work. The employee is considered to have abandoned the employee's job and voluntarily resigned without notice. See Vacation, Sick, Leaves of Absences, and Other Absences from Work Chapter for more information.

- (3) Inability or unwillingness to perform assigned work satisfactorily is exemplified by, but 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 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) excessive use of cell phones or city phones for personal business.
 - (E) interference with the work of others; or
 - (F) discourteous or irresponsible treatment of the public or other employees.

- (5) Sabotage is exemplified by, but 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 or city property;
 - (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) interference with the public use of or access to city services, properties, or buildings; or
 - (G) threats to commit any act of sabotage as defined in this subparagraph.

- (6) Safety violations are exemplified by, but not limited to, failure to follow city or departmental safety regulations.

- (7) Dishonesty is exemplified by, but not limited to, the following violations:
- (A) acceptance of money or anything of value from a person subject to regulatory decision making or supervision of the employee. See the regulations related to gifts described in the Conflict of Interest policy of this manual.
 - (B) cheating, forging, or willful falsification of official city business matters, 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 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 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:
 - if the employee believes an instruction or order is improper, he should obey the instruction or order and file a complaint; or
 - 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 related to any use of illegal drugs, alcohol or controlled substances. Employees should refer to the Substance Abuse Appendix in this manual for details of the rules.
- (11) Disturbance is exemplified by, but 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 rumors;
 - (G) offensive behavior or disruption of the harmonious relations among employees or between employees and the public.
- (12) Harassment, discrimination or retaliation against any employee, volunteer, or citizen, or any other Anti-Harassment policy violations as described in the Administration and General Information and Standards of Conduct Chapters of this manual are strictly prohibited.
- (13) Abuse of city property is exemplified by, but not limited to, the following violations:
- (A) negligent damage or destruction of city equipment or property;
 - (B) waste of materials or negligent loss of tools or materials;
 - (C) improper maintenance of equipment; or
 - (D) damage caused by use of tools or equipment for purposes other than that for which the tool or equipment was intended.
- Administrative Note: 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.
- (14) Misconduct is any criminal offense or immoral conduct, during working hours (or while off duty), which could have an adverse effect on the city or on the confidence of the public in city government.
- (15) Disregard of public trust is any conduct, during working hours (or while off duty), which could impair the public's confidence or trust in the operation of city government.
- (16) Failure to report a violation is exemplified by, but not limited to, failure to report to the proper authority any known violation described in this manual.
- (17) Unauthorized or abusive use of official authority.
- (18) Abuse of sick, vacation, or other leave privileges.
- (19) Violation of rules as described in the Human Resources policy manual (known as employee handbook).
- (20) Inappropriate interactions or conduct with citizens who are participating in Community or Volunteer programs coordinated through the City of Burleson.
- (21) Conduct that is considered prejudicial to good order may result in employment action taken in order to uphold the city's commitment to employees conducting themselves in a manner that is for the good of public service.

(22) Purchasing of personal items through city accounts or vendors is strictly prohibited. All purchases from companies such as ABC Distributing, LTD Commodities, and Oriental Trading Company (and others) are to be for city-related business only (no personal purchases) and are to be directed through the city's purchasing office.

(d) Disciplinary and legal actions. Where the evidence supports a violation of this manual, disciplinary action may be taken independent of and before any legal action or criminal conviction.

(e) Illegal Conduct Charges.

(1) Employees are expected to report any arrests and/or formal charges for illegal conduct (other than minor class C traffic violations) to the appropriate Director within five business days of the arrest or filing of charges. Regular reports of the disposition of the charges or court case will be required by the employee to the Director.

(2) The employee's Director is required to document the employee's circumstances, and submit the written report to the Human Resources Director.

4.5 Social Media Use

The City's social media policy provides employees with guidelines when participating in social networking websites, web pages or message boards.

Definitions:

Social media: a category of internet based resources that enable the user to generate content and encourage other user participation.

Social networks: a platform where users can create profiles, share information, and socialize with others using a range of technologies.

Examples (partial list): Facebook, Twitter, Blogs, Email, Google Plus, LinkedIn, Wikis, any message board, instant messaging, and other related sources of social media.

Post: Content an individual shares on a social media site or the act of publishing content on a site.

Profile: Information that a user provides about him/herself on a social networking site.

(a) On duty and off-duty postings of social media comments (Facebook, twitter, etc.) should be professional and appropriate at all times. Employees are expected to discuss concerns regarding social media with their Director, Manager, the City Manager's Office or the Human Resources Department immediately upon learning of a possible issue. Individual Supervisors do not have the authority to make exceptions to these guidelines. Further,

employees are expected to act responsibly on and off duty and to exercise good judgment when using social media.

- (b)** It is not the intent of the City of Burleson to prohibit employees from participating, accessing, or posting to these sites during off-duty time. However, off-duty conduct related to social media may not infringe upon the integrity or security of the City of Burleson's operations. City personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair or impede the performance of duties, impair discipline and harmony among co-workers, or negatively affect the public perception of the department.
- (c)** No portion of this social media policy will affect the employee's right to engage in concerted protected activities.
- (d)** No portion of this social media policy will affect protections afforded employees under Federal whistle blowing guidelines.
- (e)** No portion of this policy prohibits an employee's written expression regarding a matter of public concern.
- (f)** Posting pictures of yourself or others containing images of City uniforms or insignia, City logos, City equipment or City work sites on personal websites are not allowed if the posting may be interpreted as derogatory or reflect a negative light on the City as a whole or its employees.
- (g)** Posting of any information that may defame, embarrass, insult, demean, or damage the reputation of the City or any employee or retiree is prohibited. Comments posted will not ridicule or disparage others.
- (h)** Posting any information that may be sexual in nature or may be construed as sexual harassment is prohibited.
- (i)** Posting of pornographic pictures of any type on a site that could identify you as an employee of the City or of a particular City department is prohibited.
- (j)** Postings to any social media site of a personal nature is prohibited during work hours (this does not apply to employees who are required to post to the City's social networking websites for city-related business).
- (k)** Employees who post information to city-operated websites must be authorized by the City Manager's office (or their designees) to post information.

4.6 Dress Code: (Revised: 01/01/13) (09/08/16)

(a) **General Policy Statement:** All employees must maintain a clean, neat, and appropriate appearance while on duty and dress in a manner that (i) creates public confidence in the competence of the City and its employees and (ii) is appropriate for the type of services being provided by the employee, consistent with the expectation of customers served, and in keeping with professional practices. Department Directors may implement supplemental dress code requirements for their department(s) based on operational needs and/or regulatory requirements. Supplemental dress codes must be reviewed by the HR Director.

(b) **Responsibilities:**

(1) **Directors / Managers:** It is the responsibility of directors, department managers and front-line Supervisors to ensure employee compliance with this dress code and to treat employees fairly in the enforcement of it. Human Resources will be available to assist with more formal discipline if verbal conversations with employees regarding failure to follow the dress code are not effective.

(2) **Employees:** Employees are responsible for complying with this Policy.

(c) **Dress Code: General Description**

Administrative employees may use casual dress code Monday-Friday. When outside meetings or events are occurring in which the employee is representing the city in a more business formal capacity, the employee is expected to dress in a more professional manner than casual dress as described below. Managers have the option to cancel a casual dress day if a special event or meeting warrants such a change on a given business day.

Samples of appropriate casual dress include:

Slacks, Docker-style pants, jeans, shirts (preference should be given to logo shirts when available), sweaters, athletic shoes, loafers, casual shoes. Athletic shoes should be clean and in good repair.

(d) **Exceptions:**

The City Manager may make an exception to this policy as he/she deems appropriate.

(e) **City Wide Standards:**

(1) **Hygiene:** All employees shall be aware that appropriate hygiene is required at all times. Hair should be clean and appropriately kept. Beards and mustaches should be kept clean and neatly trimmed.

(2) **Jewelry and body art:** Visible tattoos may be required to be covered. No tongue rings, brow rings, facial piercings, ear gauges, or visible belly-button rings are permitted.

Persons who have facial piercings or ear gauges upon hire, will be required to plug or cover these items during work hours. Department management will work with the employee to approve the appropriate cover for such items. Religious accommodations may be made for some form of body jewelry or piercing, but will be discussed with department management and Human Resources should a religious accommodation be requested by the employee.

- (3) City Uniforms/Logo Apparel Off-duty: Clothing with city logos or other uniforms or clothing items that identify a person as a city employee will not be worn to bars, night clubs, adult entertainment establishments, while consuming alcohol in public, or at any off-duty location in which a person of reasonable sensibilities would view as inappropriate for a city employee.
- (4) Boots/Shoes: Foot protection may be regulated as needed and uniform or steel-toe boots may be required to prevent employee injury. Employees who are approved by the Director to purchase city provided boots, may be allowed an allowance equivalent to an entry level model of steel-toe boot by Redwing or equivalent. If additional City funds are spent on boots, Director approval is required and should be documented for the Finance Department.
- (5) Directors who have field personnel that have job duties in which wearing of dress clothes is not functional due to outdoor job duties or duties related to moving heavy equipment may designate positions in which denim is allowed during the week

(f) Prohibited and Restricted Clothing:

Prohibited Items (at all times): No employee may wear sweats, wind-suits, athletic wear (excluding tennis shoes), flip-flops, beach/water shoes, skorts, skirts more than two (2) inches above the knee, overalls/coveralls, leggings/stirrup pants, tank tops, tube/halter tops, midriff tops (or any clothing which exposes the abdomen), “baggy” or “sagging” pants, clothing with holes or tears, clothing which advertises any product or displays writing or logo(s) of any kind other than the official logo/name of the City of Burleson or one of its Departments (note: discreetly placed name/logo of the clothing manufacturer are accepted)

Restricted Items:

- (1) Sleeveless shirts/blouses/tops, sundresses, and spaghetti straps of any variety may be worn only if covered by a jacket, sweater, or top-shirt.
- (2) Shorts, T-shirts and Jeans (Denim): Departmental Directors may permit these items to be worn when the Director determines wearing of such clothing is in keeping with the General Policy Statement above.

(g) Fire and Police Sworn Personnel: Sworn Fire and Police Personnel shall comply with the code established by their respective Chiefs.

4.7 Uniform Policy. (revised 03/09/15)

- (a)** City employees are required to have approval from their respective Directors in advance of spending City funds for any clothing, boots, or uniforms.
- (b)** This policy does not address specifics regarding Personal Protective Equipment (PPE). Employees should refer to the Safety Policy and their department management for directives regarding safety gear.
- (c)** All shirts purchased with City funds will have the City of Burleson name and/or logo printed on them.
- (d)** No undergarments (i.e. thermal underwear) will be purchased by City funds.
- (e)** Jackets and/or rain gear purchased will include the City logo.
- (f)** All employees are required to complete the appropriate uniform/clothing forms. The city grosses up the cost of uniforms/clothes and reports this to the IRS as a taxable benefit in accordance with the law. When the cost of the uniform is deducted from the grossed-up pay, the City has effectively paid a large portion of the tax on behalf of the employee. This amount can vary with each employee's individual tax situation.
- (g)** Employees working in position for which uniforms are required are expected to assure all uniforms are clean and in good repair.
- (h)** The Department Directors will determine which Supervisory positions, if any, in the department are required to wear uniforms.
- (i)** Departmental logos on clothing may be approved in lieu of the logo, pending approval by the Deputy City Manager or City Manager. Directors will work to communicate to the City Manager's office regarding alternative department specific logos that would be used in lieu of the official City logo.
- (j)** Employees are prohibited from wearing City logo clothing in social situations unrelated to City business (i.e. clubs, parties, fund-raising events for political or religious affiliations). Clothing with City logos may be worn to economic development activities. Shirts worn by Hidden Creek Golf personnel that are sold from the pro-shop and do not indicate a person is a City employee do not apply to this restriction.
- (k)** Upon separation from the City, employees may be required to return any shirts, jackets, or hats purchased with City funds.

- (l) Civilian clothing purchases may be approved for the purchase of under-cover police officers and the Chief of Police discretion, within the Police Department operating procedures.
- (m) The Finance Department maintains the written schedule of reimbursement for uniforms. Employees should refer to Finance for the appropriate reimbursement amounts.

4.8 Conflict of Interest. (05/13/19)

(a) **Policy.** It is the policy of the city that the proper operation of democratic government requires that:

- (1) public employees be independent and 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;
- (3) no member of City Council, City Manager, Deputy City Manager, City Secretary, department heads, or deputy department heads of the city shall have a substantial financial interest in any contract with the city or be substantially interested in the sale to the city of any land, materials, supplies or services; except as provided by the City Charter in subsection 132(d). City Charter subsection 132(d) states the prohibition shall not apply to the acquisition of easements for right-of-way for public purpose when fair market value is established and paid for the acquisition. For purposes of this provision, substantial interest is established when:
 - the official owns 10% or more of the total voting stock or shares of the business entity;
 - the official owns either 10% or more or \$15,000 or more of the fair market value of the business entity;
 - the official received more than 10% of his/her gross income for the previous year from the business entity, or;
 - a relative of the official within the second degree by consanguinity or affinity has any of the preceding interests.

(See Section 132 – Burleson City Charter)

- (4) no employee or applicant for employment be delinquent in the payment of taxes or other payment due the city. Any person who becomes delinquent is ineligible to serve the city in any capacity for which compensation is paid if the delinquency continues after reasonable notification and opportunity to pay (see Section 132 - Burleson City Charter).

(b) Ethical Standards. In order to maintain the public trust in city government, an employee of the city shall not:

- (1) accept or solicit a benefit that might reasonably tend to influence the employee in the discharge of the employee's official duties;
- (2) use the employee's official position to secure special privileges or exemptions for the employee 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 employment or as an added incentive to the recruitment or retention 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 city employment for the employee's own personal gain or benefit or for the private interest of others;
- (5) transact any business on behalf of the city in the employee's official capacity with any business entity with which the employee is an officer, agent, or member or in which the employee has a financial interest. In the event that such a circumstance should arise, then they shall make known their interest, and turn the matter over to their 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 in a decision making position;
- (7) accept other employment or engage in outside activities incompatible with the full and proper discharge of the employee's duties and responsibilities with the city, or which might impair the employee's independent judgment in the performance of the employee's 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 an employee from performing the same or other services for a public or private organization that are performed for the city if there is no conflict with the employee's city duties and responsibilities;

- (9) knowingly perform or refuse to perform any act in order to deliberately thwart the execution of 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 without proper authorization; or
- (11) engage in any dishonest or criminal act or any other conduct prejudicial to the government of the city or that reflects discredit upon the government of the city.
- (12) when in a management or supervisory position, engage in any outside business ventures with a subordinate employee within their chain of command or have an intimate, amorous or romantic relationship with a subordinate employee within their chain of command that (a) compromises (or is perceived to compromise) the manager's or supervisor's ability to objectively perform their job duties or (b) demonstrably has a negative effect on the work environment and operations of the City. For specific requirements, see the Employee Business Relationships and Workplace Relationships sections in the Standards of Conduct Chapter.

(c) Gifts policy. (05/13/19)

- (1) Prohibition. Except where otherwise allowed by law, employees are prohibited from soliciting, accepting or agreeing to accept a gift or benefit from any person, firm, corporation, partnership, or association which transacts or solicits business of any type with the city.

Section 133 of the City Charter provides that, "During term of office of a member of the city council or while employed with the city except as may be authorized by state law or ordinance, a member of the city council or employee of the city shall not accept a gift, favor, benefit, nor employment from any corporation, contractor, or franchise who conducts business with the city or a person the officer or employee knows to be subject to regulation, inspection, or investigation by the officer, employee, or his agency. Any officer or employee of the city who violates the provisions of this section is guilty of a misdemeanor and may be punished by a fine that may be prescribed by ordinance for this offense, and upon conviction shall immediately forfeit office or employment."

- (2) Required Protocol: At any time an employee is offered a gift or token of appreciation from a citizen, company, or any other person in contact with the city, he/she is required to report the offering to his/her manager. It will be decided by the appropriate director if such a gift is appropriate or is in any fashion considered of greater than nominal value. In addition, the director is bound to use discretion in discerning if public perception would in any way be affected by accepting the gift,

regardless of value. If the director is uncertain, he/she should discuss the matter with the City Manager's office before allowing the employee(s) to accept the offered gift.

- (d) **Tips/Gratuities:** Tips given to an employee engaged in serving food or beverages to customers at the Hidden Creek Golf Course or in providing any other individualized service related to approved golf course activities are permissible. Golf course employees are expected to communicate with golf course management to fully comply with the standards set by city management regarding tips.
- (e) Employees will review the conflict of interest statement upon hire and sign a confirmation that they are not engaging in a conflict of interest circumstance. On an annual basis, employees will sign a confirmation form to assure that no conflict of interest arrangements (i.e. outside employment) have been (or are being) performed. See Conflict of Interest policy for more details.

4.9 Political Activity.

The city encourages its employees to fully exercise their constitutional rights as citizens to vote and participate in political activities. Except as may be otherwise provided by law, the following restrictions on political activity shall apply to all city employees.

- (a) An employee who becomes a candidate for election to the Burleson city council must take an unpaid leave of absence during the campaign or resign his/her employment.
- (b) If an employee is elected to the Burleson City Council, he/she will be considered to have voluntarily resigned their employment, and it will be considered a resignation in good standing.
- (c) City employees are permitted to hold office in other jurisdictions (i.e. other Cities, school boards, Counties, etc.) as long as such office does not pose a conflict of interest related to his/her job duties, authority, work hours, or other related aspects of employment. Managers and Supervisors may be prohibited from holding some offices in which such an arrangement would impair the employee's ability to conduct the duties of office and the duties of employment without a potential conflict of interest or perception of impropriety. Employees in such positions are expected to contact the appropriate director or the City Manager to discuss the circumstances prior to running for or accepting office.
- (d) City employees shall not perform or be involved in political activities, campaigning, or related activities on behalf of or against any candidate for public office or any referendum or petition on a public issue in any jurisdiction during working hours.
- (e) City employees shall not use city owned equipment, vehicles, computers, uniforms, insignia, city letterhead, or other property on behalf of or against any candidate for public office or any referendum or petition on a public issue in any jurisdiction.

- (f) City employees shall not use their official authority or influence on behalf of or against any candidate for public office or any referendum or petition on a public issue in any jurisdiction. This includes no use of official city logo or letterhead on correspondence related to political activity. In addition, an employee shall not use their job title for the purpose of influencing any political decisions.
- (g) Any employee who is appointed to a board, commission, committee, or task force of a political nature should fulfill such duties of office on his/her own personal time, and he/she is expected to make every effort (real and perceived) to separate the duties of office and the duties of employment.

4.10 Outside employment. (revised 01/01/13)

- (a) Though employees are allowed to have additional employment other than the City of Burleson, employees are responsible for assuring this employment does not create a Conflict of Interest (see the Conflict of Interest Policy in the Standards of Conduct Chapter)
- (b) If at any time the employee engages in outside employment that is deemed to create a conflict of interest, he/she is subject to disciplinary action.
- (c) It is the responsibility of the employee to communicate with the department management regarding any outside employment that may be problematic.
- (d) See the Conflict of Interest policy for the requirement regarding a signed affidavit to assure outside employment is acceptable.

4.11 Possession of Weapons.

- (a) **Concealed weapon.** Employees (other than a peace officer) are prohibited from carrying a concealed weapon on a city work site, even though the employee may be licensed by the State of Texas to carry a concealed handgun. Any exceptions to this requirement will require approval of the City Manager.
- (b) Persons who have a concealed handgun permit and have a weapon in their personal vehicle are required to keep the vehicle locked anytime it is parked on City property or at a City worksite or event.
- (c) Definition. For purposes of this policy, a "city work site" means all buildings or portions of buildings owned, leased, or otherwise controlled by the city, other assigned work locations, and city owned vehicles and equipment.

4.12 Workplace Violence.

- (a) **Prohibition.** The city prohibits any acts or threats of violence by any citizen, visitor, customer, volunteer, employee, or former employee against any other person in or about the city facilities or work sites.

- (b) **Employee responsibility.** Employees have a duty to warn or notify the appropriate management personnel and the police department if they become aware of or suspect any workplace activity, situation, or incident that could lead to a violent confrontation. This would include threats, acts of violence, aggressive behavior, or offensive acts or comments. Employee reports made pursuant to this policy will be held in confidence to the maximum extent possible. Retaliation, in any form, against an employee who makes a report under this policy, will not be tolerated.

- (c) **Supervisor responsibility.** Supervisors must remain alert to behavior that indicates a person is under excessive stress, is contemplating violent action, or is otherwise unduly disturbed. Supervisors must take seriously, reports from employees concerning potential violence and, when they arise, discuss them with the Department Director, the Deputy City Manager, the City Manager, or the director of Human Resources.

- (d) **Management Crisis Team.** In the event of serious actions or threats against individuals or the city, the city's management crisis team may be assembled to take responsibility for handling the situation, including ensuring the safety of the workplace, determining the effect of the incident on the workplace and coordinating appropriate actions in response to the incident. The crisis team will be composed of the City Manager, the Deputy City Manager, the chief of police, the director of Human Resources and the director of the affected department, and other individuals needed as determined by the City Manager (i.e. fire chief, etc.).

- (e) **Disciplinary action.** If violent acts or threats are committed by an employee of the city, depending on the nature of the acts or threats, action taken may include suspension to allow time for fact finding, written warning or other disciplinary action up to and including termination.

- (f) **Documentation.** Any materials relevant to the incident are to be placed in the keeping of the director of Human Resources who will be responsible for maintaining a complete and detailed log of events.

- (g) **Media communications.** All communications with the news media concerning a workplace violence incident will be handled by the City Manager or his/her designee, in coordination with the Public Information Officer, chief of police and the city's legal counsel.

- (h) **Threats:** Threats of physical violence will be taken seriously and will be subject to the same disciplinary procedures and consequences (up to an including suspension without pay or termination) as actual acts of violence.

4.13 **Relations with City Council.**

Employees are expected to be respectful, courteous, and cooperative with the mayor and council members and to do all that is possible to answer their questions. Article III, Section 26(b) of the city charter provides that "...except for the purpose of inquiry the city council and its members shall deal with the administrative service of the city solely through the City Manager and neither the city council nor any council member shall give orders to a subordinate of the City Manager, either publicly or privately."

4.14 **Employee Business Relationships.**

- (a) **With Supervisors.** An employee shall not engage in private employment or business with the employee's supervisor which may adversely affect the normal employee and supervisor working relationship. This prohibition includes the lending of money, the co-signing of bank notes, or any other activity that will distort the accuracy or objectivity of performance evaluations.

- (b) **Small loans.** This policy is not intended to prevent employees from aiding a fellow employee for lunch or gasoline expenses not to exceed \$25.00 loaned not more than once a month.

4.15 **Tobacco in the Workplace. (revised 03/12/12)**

- (a) **Background:** According to the U.S. Government's Centers for Disease Control and Prevention, tobacco use leads to disease and is the leading preventable cause of death. Smoking tobacco products produces "second hand smoke" which credible studies have linked to disease in persons who are not smokers themselves. For these reasons, use of any tobacco products by any employees is strongly discouraged at all times out of concern for (a) the health of employees, their loved ones, and their fellow citizens and (b) the negative impact of tobacco usage by employees on the city's health insurance costs. Employees who would like assistance in quitting tobacco are encouraged to contact their physician or Human Resources

- (b) **Prohibitions:** In an effort to preserve the health of non-smokers, protect private and public property and the public's investment in buildings and equipment owned by the city, employees are prohibited from smoking (or possessing a burning tobacco product).

- (1) inside a building owned, operated, leased, or managed by the city or within 20 feet of an entrance to or exit from said building(s).

- (2) inside or on a vehicle owned or leased by the city;

(3) at any location while on duty in which smoking (or possessing a burning a tobacco product);

(4) causes, or could cause, injury to any person or damage to property, or

(5) exposes a person of ordinary sensibilities to second hand smoke.

(c) Permissible Usage: Employees who use tobacco during working hours must do so:

(1) during their lunch break or at other such times as their departmental Director may allow, provided said usage is in compliance with the Tobacco in the Workplace policy and

(2) in a responsible manner, complying with all applicable ordinances and laws, and with respect for the environment as well as the health, safety, and welfare of fellow employees and the public.

4.16 Fitness for Duty.

(a) Employees may be required to submit to a fitness for duty exam if the Director, Manager, or Supervisor has reason to believe that the employee is unfit to perform essential functions and his/her presence at the workplace may place the employee or others at risk of injury or harm. This will be required if the Department Director has reason to believe that the physical condition of the employee could result in danger to persons or property or that the physical condition interferes with normal work performance.

(b) The initial exam to determine fitness may be done by the employee's physician with documentation providing clearance to work. If, however, it is in the City's best interest, he/she may be required to be examined by a City designated physician/clinic. If the employee and physician find a medical condition that requires additional medical treatment, tests, or follow-up, medical expenses will be the responsibility of the employee. Fitness for Duty exams are for the sole purpose of assuring an employee is safe in the work place, and will be conducted only after careful analysis by senior management, Human Resources and the City Manager's office.

4.17 Animals or Pets in the Workplace. (01/01/13)

(a) Personal animals or pets brought to the workplace by employees need to be approved by the appropriate Director. Any animal brought to the job site should have the appropriate vaccinations, and employees may be required to show current vaccination records upon request. Further, employees will be required to sign a liability waiver holding the City harmless in the event that any person is injured or any property is destroyed by a visiting pet or animal.

- (b) Employees should be mindful of any person who may be uncomfortable around visiting pets or animals. Further employee and visitor allergies may prohibit the visit of some animals to the department.

4.18 Workplace Relationships. (01/01/19)

- (a) The City encourages employees to build camaraderie and become effective team members. However, certain personal relationships can erode that camaraderie, create division among the team, expose the city to liability, and negatively affect the efficiency and effectiveness of City business operations. In keeping with the requirements of the Standards of Conduct Chapter and Conflicts of Interest sections, employees must not allow their personal relationships to create a conflict of interest that demonstrably affects, in a negative way, the City's operations or the City's workforce.

- (b) Certain Personal Relationships Prohibited:
 - (1) An intimate, amorous or romantic relationship that demonstrably exists between a management or supervisory level employee and their subordinate within their chain of command, whether on or off duty, is prohibited. A "subordinate" is an employee in lower rank or position that (a reasonable person of ordinary sensibilities would believe) is within the manager's or supervisor's span of control and influence.
 - (2) Disclosure Required: Should any manager or supervisor be involved in (or wish to become involved in) an intimate, amorous, or romantic relationship with a subordinate, it is the duty of the manager or supervisor to immediately report the relationship to their direct report and to the Director of Human Resources.
 - (3) Disciplinary Action: A manager or supervisor who fails to report an intimate, amorous, or romantic personal relationship as required or chooses to continue such relationship after being directed to terminate the relationship faces disciplinary action up to (and including) termination of employment.
 - (4) Remedial Action: Provided the relationship is disclosed as required, when possible, the City Manager may choose to take action to preserve the employment of the parties involved while eliminating the conflict created by the relationship. Such resolution must be fair and equitable to all parties involved and be in the best interest of the City, as such is determined by the City Manager.

Chapter V: Disciplinary Action, Appeals, and Grievance Procedures. (01/01/19)

5.1 Discipline. (01/01/19)

- (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 director has all necessary information, and in the interest of ensuring that mistakes in judgment are not made due to a lack of information. In all cases the Human Resources Director, City Manager or Deputy City Manager will be notified by the department director or department manager prior to suspensions without pay, demotion, or termination of employment in order to assure all documentation is in proper order before taking action. It is recognized that it may occasionally be necessary to terminate an employee without progressing through lesser disciplinary levels due to the severity of the circumstances.
- (b) Due to the severe nature of events that can occur in the workplace, the supervisor, manager, or director may have a need to immediately clear the work-site. He/She may send an employee home effective immediately on a suspension with pay if doing so would be in the best interest of employee safety or in order to restore a professional work environment. Management should tell the employee what time to report back to work for further discussion of the incident and secure a phone number where he/she can be reached before sending him/her home.
- (c) Types of discipline. The severity of a violation and the appropriate counseling may be determined by the department director, Human Resources Director and City Manager. The following guidelines are used when considering types of discipline:
 - (1) Verbal reprimand (documented) is best suited to the first occurrence of a minor rule infraction, incident of substandard performance, or after continued issues of a minor infraction following informal coaching. The supervisor will compose a memo providing an explanation of incident details, expectations, and consequences for future problems. A record of this counseling should be maintained by the supervisor and the Human Resources Department (in the employee's personnel file). Note: Written notes the supervisor makes for their own files to record informal coaching are not required to be sent to the HR Department, but may be shared if issues continue.
 - (2) Written reprimand is used for the repeated instances of a minor offense or a first occurrence of a more serious incident. The written reprimand is a memo used as a formal warning of suspension or dismissal should the violation recur. The supervisor will compose a memo providing an explanation of incident details, expectations, and consequences for future

problems. A record of this counseling will be maintained by the supervisor and the Human Resources Department (in the employee's personnel file).

- (3) Suspension without pay is used to bring about a change in behavior. The employee is encouraged to use the time away from the workplace to decide whether he/she wishes to correct the behavior or seek employment elsewhere. The length of time for the suspension is determined by the director and is reflective of the seriousness of the circumstances. A written memo will be provided as described in #2 above.
 - (4) Administrative leave may be with or without pay during the investigation, hearing or trial of the employee in any civil matter, on any criminal charge, or for any city policy violation when it is in the best interest of the city.
 - (5) Demotion is an appropriate disciplinary action for a flagrant disregard or violation of personnel rules or policies, or for repeated refusal or inability to improve performance. This action may be taken by a department director after consultation with the director of human resources. Documentation will be signed by both parties and retained in the employee's personnel file. Demotions may be permanent or for a specified period of time. Demotion may be accomplished by reducing an employee's pay within the classification of the position held, by assigning the employee to a position of a lower classification, or both. It is noted that the City of Burleson is not obligated to demote an employee in order to continue the employment relationship.
 - (6) Termination. A director, after consultation with the director of human resources or City Manager, may terminate an employee in accordance with these policies. A written memo will be provided as described above.
- (d) Procedures and notices. The procedures for a disciplinary action including reprimand, suspension, demotion, or termination include the following:
- (1) Suspension, demotion and termination. A department director has the authority to suspend, demote or terminate an employee following review of documentation by the Human Resources Director, City Manager, or Deputy City Manager. When one of these disciplinary actions is taken, the employee should be given written notice stating:
 - (A) the type of disciplinary action taken;
 - (B) the rule violated;
 - (C) the specific acts of the employee which were in violation of the rule or are considered unacceptable;
 - (D) the expectations from the employee for the future, and

- (E) the consequences if the employee makes a choice not to follow the directive.

5.2 Employee Grievance-Guideline

In the interest of employee efficiency and morale, employees have the opportunity to discuss grievances with their employer after decisions are made or actions occur that present a problem. In order to ensure this opportunity, the City has adopted the following protocols:

- (a) Purpose: The purpose of this procedure shall be to settle matters on as low an administrative level as possible, as soon as possible after the applicable event, and to discover, whenever possible, mutually satisfactory solutions to problems which arise.
- (b) Grievance Defined: an allegation that an employee's employment conditions or protected rights have been adversely affected. Example grievances, if unresolved within the department management include (but not limited to);
 - (1) hours of work/schedule,
 - (2) procedures,
 - (3) daily operations,
 - (4) department specific rules,
 - (5) performance evaluations,
 - (6) discriminatory application of a policy or rule,
 - (7) general treatment that rises to the level of a hostile work environment,
 - (8) disagreements among employees that have not been resolved within the department,
 - (9) disciplinary actions taken (including termination),
 - (10) discrimination or harassment based upon a protected right
 - (11) retaliation for participation in an investigation or filing a grievance
- (c) Probationary and Temporary Employees: Probationary and temporary employees may not use this procedure in cases involving their performance evaluation or termination. However, in cases where the employee considers performance evaluations or termination to be improperly based upon one of the employees' s protected rights [age, sex, race, religion, national origin, disability, pregnancy, military service status or harassment (including sexual harassment)], the employee has the right to file a grievance for consideration.
- (d) Unlawful Discrimination/Harassment Grievance: Any employee who feels that he or she has been unlawfully discriminated against or harassed in matters relating to working conditions or other conditions of employment, because of the employee's

age, sex, race, religion, national origin, disability, pregnancy, military service status, or harassment (including sexual harassment) shall have the right to file a grievance directly with human resources or the City Manager. Employees are encouraged to provide a copy of the complaint to the appropriate director. If the director is the person creating the problem, providing a copy of the written complaint to the director is the employee's option.

- (e) Harassment and Sexual Harassment: If an employee feels he/she is subject to harassment (including sexual harassment), an immediate report should be made in order to rectify the problem as soon as possible. Harassment of any kind is strictly prohibited at the City of Burlison.

5.3 Employee Grievance Procedure

The following procedure will be followed in the event an employee elects to present a grievance.

- (a) Timely Initiation: In order to be considered, grievances will be filed promptly after the situation occurs. Grievances must be presented to the employee's immediate supervisor within ten working days from the occurrence, or from the time the employee first became aware (or with the exercise of reasonable diligence should have become aware) of its occurrence. The requirement of presentation of a grievance within ten days may be waived in the case of harassment or discrimination based upon protected rights, at the discretion of the City Manager, Deputy City Manager, or Human Resources Director. Reasons for waiving the ten-day requirement will be documented and become a part of the grievance records.

- (b) Procedural Step One: Oral Presentation

Grievances should be initially presented orally to the employee's immediate supervisor. The grievance will be thoroughly discussed in this step by the parties concerned in order that every effort can be made to resolve the matter to the mutual satisfaction of the employee(s) and supervisor. If resolution does not occur, the employee has the option to file a formal written grievance as explained below.

Discrimination and harassment grievances (as defined above) are to be taken directly to the Human Resources Department and/or City Manager (see 5.2).

- (c) Procedural Step Two: Written Presentation

If verbal discussions do not resolve the matter, the employee has the option to file a formal written grievance with the employee's director. This must be done within ten working days after the discussion with the immediate supervisor.

Though employees are encouraged to make a written report, he/she has the option to report the violation of protected rights verbally. Every effort will be made to work with the employee to prepare a written summary of the concerns, if he/she has not already prepared a written report.

In presenting the written grievance the following information should be stated with reasonable clarity in the written report:

- The identity of the employee making the complaint (name, title, department).
- The nature of the complaint (what happened?).
- The dates in which the problem occurred (or as reasonably close to the date as possible).
- The names of other parties involved, if known.
- The outcome or remedy the employee is seeking. What corrective action is requested?
- The complaint / grievance will be signed and dated.

The director shall meet with the employee and the employee's immediate supervisor, Department Manager, and any other member of management necessary to discuss the matter thoroughly. The decision of the director will be presented in writing to the employee within ten working days of the signed and dated grievance.

(d) Procedural Step Three: Final Resolution.

If the employee is not satisfied with the resolution of the matter related to a grievance, he/she has ten working days to file further appeal to the City Manager. At the City Manager's discretion, a review committee may be appointed to review further details related to the grievance. Appointed committee members may include legal counsel, other directors, or employees as appropriate to achieve a resolution to the grievance.

Further, the City Manager may simply review the initial complaint, related documentation, and discuss the matter with others as needed making a final determination. If the City Manager feels it is prudent, he/she may elect to meet with the employee filing the grievance. A request for an appeal does not automatically result in a meeting with the City Manager.

At any stage the City Manager may review the decision of Directors, request more information, speak with parties involved, or issue another appropriate decision that brings the matter to a close. The decision of the City Manager is considered final, and will be submitted to the employee within ten days of receiving an appeal request.

5.4 Attendees at Grievance Meetings:

City employees and other persons who were directly involved with a grievance are the only persons authorized to be present at grievance related meetings. Though spouses, friends, other family members, or attorneys may join the employee to the meeting, they are required to wait outside the meeting room during meetings/hearings.

5.5 Administrative Notes:

- (a) Documentation related grievances will be maintained in the Human Resources Director's files and retained in accordance with required records retention of such investigations. Should a complaint or grievance result in disciplinary action of any employee, the disciplinary memo will be filed in the employee's personnel file.
- (b) If the Director of Human Resources determines that an employee is abusing the grievance procedure, he/she will provide the grievant with written notice of the finding and the basis for the finding and shall take appropriate action.
- (c) Grievances against directors: In the event that an employee's immediate supervisor is the director and he/she is the subject of the complaint or grievance, the employee should submit the complaint directly to the Human Resources Director and City Manager.
- (d) Failure to Follow Procedures: Failure of an employee to follow the procedures set out above, or failure to appear at meeting(s) related to the grievance, shall result in the loss of further appeal rights by the employee.
- (e) Time Limits: Time limits specified in this procedure may be lengthened if necessary due to holidays, vacations, sick leave, or other similar reasonable delays. The Human Resources Director will make appropriate adjustments if needed for unusual circumstances.
- (f) Failure to Answer Grievance: If a grievance is not answered within the time limits as specified, the employee may proceed to the next step in the process.
- (g) Reprisal or Retaliation: An employee will not be retaliated against or experience any form of reprisal or discipline for exercising his/her good faith efforts under this policy. If the employee believes he/she is retaliated against during or as a result of this process, he/she will report this to the Human Resources Department or the City Manager immediately.
- (h) Effect of Procedure: The existence of and access to this procedure shall not constitute any limitation on the rights of the City of Burlison to manage its affairs. All employees hold their positions at the will and pleasure of the City.

- (i) Failure to Follow Procedures: Failure of an employee to follow the procedures set out above, or failure to appear at a EEO Grievance Committee meeting shall result in the loss of further appeal rights by the employee.

**Chapter VI: Vacation, Sick, Leave of Absence, and Other Absence from Work
revised; (01/01/13) (10/01/14) (12/31/15) (11/15/16)
(02/13/18) (03/28/18) (01/01/19).**

All paid time off/leave benefits are not considered hours worked for purposes of calculating overtime.

6.1 Holidays (does not include Golf employees; see below for Golf policy).

- (a) Worked holiday. As many employees as possible shall be given each holiday off without loss of pay. Employees required to work on the holiday shall be paid as follows;
- (1) Full-time; employees will be paid for the holiday plus all hours worked, unless the time off for the holiday is rescheduled for another regularly scheduled workday. If the full-time employee does not work on the designated holiday, he/she gets paid only for the holiday. A rescheduled holiday must be used within 60 days or be forfeited.
 - (2) Part-time: regular part-time employees working year-round will be eligible to earn holiday pay after five years of service at the Director's discretion. If awarded holiday pay, the employee will earn four hours of holiday pay if the facility is closed for a holiday and the employee does not work.
 - (3) The department director makes the final decision regarding granting holiday pay or rescheduling the holiday.
 - (4) Seasonal and temporary employees; no holiday pay benefit.
- (b) Holiday value: Each designated holiday will be valued as follows. Non-exempt employees scheduled to work more hours than the value listed below will need to either use compensatory time or vacation time to account for the full scheduled day. Upon Director approval, employees may work a different schedule in order to make up the time if it occurs in the same week as the holiday.
- Holiday Values are:
 - Non-Public Safety; 8 hours
 - Fire (those who work a 16 and 8 shift); 12 hours
 - Police; 9 hours
- (c) 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 unpaid leave the work day before or following the paid holiday;
- or

- (3) absent without approved leave on a holiday when the employee is scheduled to work.
- (d) 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 (3rd Monday in January)
 - (3) Memorial Day / September 11th Remembrance (Fourth Monday in May);
 - (4) Independence Day (July 4);
 - (5) Labor Day (First Monday in September);
 - (6) Thanksgiving Day (Fourth Thursday in November);
 - (7) Day after Thanksgiving Day (Fourth Friday in November);
 - (8) Christmas Eve (December 24);
 - (9) Christmas Day (December 25);
 - (10) Personal holiday (1)
- (e) Holidays will be reviewed on an annual basis by the City Manager. Holidays may be flexed to accommodate a four-day weekend during the Christmas Holiday week, if it is deemed advantageous by the City Manager. Appropriate announcements will be made as far in advance as possible, if such a change is made.
- (f) Personal holiday.
- (1) The use of the Personal Holiday will be coordinated through the Department Director, Department Manager (or their designee). Those employees who desire to use Good Friday as their personal holiday should be allowed to do so.
 - (2) Maximum value of the personal holiday is equal to one work shift off.
 - (3) The Personal Holiday can be used in partial day increments, depending on Department Director/manager approval and business needs of the department.
 - (4) All personal Holidays will be forfeited on September 30th each year if not used during the prior fiscal year (October-September).
 - (5) Part-time employees: The Directors may elect to grant the Personal Holiday to the regular part-time employees (does not include seasonal or temporary) in their department. 4 hours (or 50%) will be granted, if approved. If the holiday is granted to one regular part-time employee, it should be consistently granted to all regular part-timers in that Department. It is the Director's responsibility to notify Human Resources if the part-time employees will be granted the personal holiday in their area.
 - (6) The Personal Holiday is not paid when an employee leaves the City of Burleson employment.
- (g) Golf Holiday Plan: Employees of the Hidden Creek Golf Course (HCGC) will follow the holiday plan as listed below:

- (1) The full-time and part-time employees of the Hidden Creek Golf Course will earn 10 paid holidays each year. The following holiday pay plan goes into effect on October 1, 2007 (as revised 7/1/2010) for all full-time and part-time paid employees, based upon holidays approved by City Council for each fiscal year (October – September).
- (2) Benefit:
 - (A) Full-time Golf employees will be credited with 56 hours of holiday pay at the beginning of the fiscal year. Time off requested (not for sick) will be deducted from holiday pay.
 - (B) Part-time Golf employees with benefits will be credited with 4 hours of Holiday leave time for each city holiday which occurs during the time they are employed with the City (maximum 40 hours annually), after six months of employment. Part time employees with benefits may utilize their holiday leave time in accordance with the terms of paragraphs 4-6 below.
- (3) Designated Golf Holidays: Thanksgiving Day, Christmas Eve and Christmas Day will be designated holidays (included in the ten approved holidays), and the golf course will be closed.
- (4) Employee Scheduled Holidays: The Golf course is closed for Thanksgiving Day, Christmas Eve, and Christmas Day. Employees will be required to schedule the seven remaining holidays with prior management approval. Employees will be expected to request the holidays off in writing in advance with a form as designated by the Director and should be used in increments of not less than four hours at a time. Advance approval of the time off is required. In general, no more than two holiday shifts may be used at one time.
- (5) Failure to schedule and use holidays: Holidays do not accumulate or carry over from year to year. Failure to use holidays by the established cut-off date, as set by Human Resources, will result in loss of the holiday benefit.
- (6) Holidays used in advance during the year the employee leaves the employment of the City of Burlison will deducted from available vacation hours when calculating the final paycheck.
- (7) New Hires: New full time employees will be allowed to schedule however many holidays remain on the actual city holiday calendar for the fiscal year once they join the organization. No holidays will be scheduled for the fiscal year for employees hired after July 4th each year. For example, an employee

who joins the organization on May 15, will be allowed to schedule two holidays between hire date and September 30th of the same year.

- (8) Exiting Employees: Full time employees who leave the employment of the City prior to the end of the fiscal year (September 30th) and have used more holiday hours than have passed on the calendar, will have those excess hours deducted from their vacation balance.
- (h) Fire Department Holiday Plan: Shift personnel of the Burleson Fire Department will follow the holiday plan as listed below:
- (1) The full-time and part-time shift (A, B, C shifts) employees of the Burleson Fire Department will earn 10 paid holidays each year. Each holiday is valued at 12 hours with a total annual bank of 120 hours (12 hours X 10 holidays).
 - (2) Benefit:
 - (A) Full-time Fire shift employees will be credited with 120 hours of holiday pay at the beginning of the fiscal year. The Fire Department may require advanced scheduling of holidays for proper staffing plans.
 - (B) Part-time Fire shift personnel may be credited with 50% of the full-time benefit after six months of service, with the Fire Chief's approval. Part time employees with benefits may utilize their holiday leave time in accordance with the terms of paragraphs 4-6 below.
 - (C) If requesting Holiday leave on another date, the Holiday leave time off must be requested in minimum 12 hour increments, and up to 24 hour increments are acceptable. Holiday leave hours requested will be deducted from holiday pay, and in lieu of scheduling a holiday for another calendar date, Fire shift personnel will be given the option to be paid for the holiday, if they work on the designated holiday.
 - (D) It is the responsibility of the Fire personnel to accurately document the use of the holiday hours bank (paid when worked or scheduled for another day).
 - (3) Failure to schedule and use holidays: Holidays do not accumulate or carry over from year to year. Failure to use holidays by the established cut-off date, as set by Human Resources, will result in loss of the holiday benefit.
 - (4) Holidays used in advance during the year the employee leaves the employment of the City of Burleson will be deducted from available vacation hours when calculating the final paycheck

- (5) New Hires: New full time employees will be allowed to schedule however many holidays remain on the actual city holiday calendar for the fiscal year once they join the organization. No holidays will be scheduled for the fiscal year for employees hired after July 4th each year. For example, an employee who joins the organization on May 15, will be allowed to schedule two holidays between hire date and September 30th of the same year.
- (6) Exiting Employees: Full time employees who leave the employment of the City prior to the end of the fiscal year (September 30th) and have used more holiday hours than have passed on the calendar, will have those excess hours deducted from their vacation balance. Employees that leave employment with more holiday hours in their bank than what is left with holidays remaining in the year, forfeit the holidays since holidays were made available for payout at the holiday, but were elected to be used.
- (i) Religious holidays. An employee wishing to observe a religious holiday not designated in Subsection (c), shall, at the employee's option, be given leave without pay or have the time charged to other appropriate leave.
- (j) Substitute holidays. If a designated holiday falls on a Saturday or Sunday, the City Manager will determine when the holiday will be observed.
- (k) Fire Department – 16 and 8 Shift Personnel: For holiday purposes, a firefighter's day is considered 12 hours. All city employees receive 10 days of holiday per year. This equals a total of 120 hours for firefighters (including the personal holiday). A firefighter will be paid this 120 hours as holiday pay, and a firefighter is allowed to request holiday time in accordance with the Fire Department leave scheduling SOP.

6.2 Vacation Leave.

- (a) Eligibility. A full-time employee accrues vacation leave in accordance with this section, but vacation leave may not be taken until the employee has completed at least six months of service with satisfactory performance. Vacation leave does not vest during the first twelve months of employment, and vacation leave is forfeited if the employee terminates employment before completing twelve months of service.
- (b) Vacation accrual. Full-time employees up to and including assistant directors, accrue vacation leave as follows:

Police/Fire/Fire Marshal Department Employees (Working equivalent 8 hours shift):

Tenure with City Service (years)	Hours Accrued Per Year	Maximum Paid Upon Exit
0-9	120	180
10-19	160	240
20 +	200	300

All Other City Employees (except Police/Fire/Fire Marshal Department/Directors):

Tenure with City Service (years)	Hours Accrued Per Year	Maximum Paid Upon Exit
0-4 years	80	120
5-9	120	180
10-19	160	240
20 +	200	300

(c) Director vacation accrual. Director level positions, and above, accrue vacation leave as follows:

Tenure with City Service (years)	Hours Accrued Per Year	Maximum Paid Upon Exit
0-4 years	120	180
5-9	160	240
10-19	200	300
20 +	240	360

(d) Fire Department - 16 and 8 Shift Personnel: A firefighter's day is considered 12 hours. The following outlines hours accrued by the firefighters with relationship to their tenure:

Tenure w/ City in Years	Days Accrued Per Year	Maximum Paid Upon Exit
0-9	15 (12X15)=180 hours	270
10-19	20 (12X20)=240 hours	360
20+	25 (12X25)=300 hours	450

(e) Taking vacation leave.

(1) Vacation leave may be taken in the following increments:

- (a) Fire Shift – 12 Hour increments (0800-2000 or 2000-0800) except as follows:
 - i. Paid intermittent or reduced schedule leave under a qualified, approved FML reason may be taken in one hour increments.

- ii. Short duration urgent/emergency leave can be approved by the staffing officer on a case by case basis depending on circumstances.

(b) All Other City Employees - not less than one-quarter hour, unless the department director establishes a greater minimum increment of no more than one hour

- (2) Vacation leave shall be taken only at a time approved by the department director.
- (3) Directors are to advise the City Manager or Deputy City Manager if an employee requests the use of more than one year's accrual of vacation in consecutive days.
- (4) Accrual: The accrual of vacation time is unlimited during active employment. All hours accrued are available to be used while actively employed.
- (5) Payment upon separation. An employee who has completed at least twelve months of service with the city, upon separation from employment in good standing having given the required notice, will be paid for accrued vacation leave in accordance with the maximum paid upon exit (see 6.2, b and c).
- (f) Accrual of vacation hours will not occur during a pay period in which the employee is on disciplinary suspension without pay.
- (g) Those employees on leave of absence do not accrue vacation after all vacation has been exhausted and employee is on leave without pay status.
- (h) Employees who had a vacation hours balance in excess of annual maximum accrual on 01/01/2008, had those excess hours set aside in a one-time vacation overage account. These hours are available to be used by the applicable employees for time off in the future, but will not be paid when the employee leaves.

6.3 Sick Leave. (revised 12/31/15, 10/6/17)

- (a) Eligibility. Sick leave is intended to provide full-time employees with accrued leave to assist them, when needed, in keeping with the provisions of this policy. All full-time employees accrue sick leave in accordance with this section.
- (b) Accrual
 - (a) Non-Fire Personnel. Four hours of sick leave accrues each pay period for a total of 104 hours (13 eight hour days) per year. There is no maximum number of hours of sick leave which may be accrued.

- (b) Fire Department – 16 and 8 Shift Personnel: Each employee of the fire department assigned to an A/B/C shift schedule earns 6.0 hours of sick leave every two weeks for a total of 156 hours (13 twelve hour days) per year. The accrual of 6 hours of sick leave will begin the first full pay period following the effective date of this policy.
- (c) Taking sick leave. After an employee has been employed for two months, the employee may take (use) their accumulated sick leave, with pay, when:
 - (a) the employee is unable to work due to an illness, surgical procedure, or injury;
 - (b) a medical, dental, or optical examination or treatment is necessary, provided that approval of the supervisor is obtained;
 - (c) the employee is unable to work due to pregnancy, miscarriage, or childbirth;
 - (d) the 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;
 - (e) the employee needs to remain with a sick family member living in the employee's household; or
 - (f) any member of the employee's immediate family is hospitalized (**includes hospitalization for outpatient surgery**).
- (d) Increments taken. Sick leave may be taken in the following increments:
 - (a) Fire Shift – 12 Hour increments (0800-2000 or 2000-0800) except as follows:
 - (1) Paid intermittent or reduced schedule leave under a qualified, approved FML reason may be taken in one hour increments.
 - (2) Short duration urgent/emergency leave can be approved by the staffing officer on a case by case basis depending on circumstances.
 - (b) All Other City Employees - not less than one-quarter hour, unless the department director establishes a greater minimum increment of no more than one hour
- (e) Use of other leave. Upon request of the employee and approval by the director, accrued paid leave may be used when absence due to reasons described above, exceeds the amount of accrued sick leave. When on approved leave after exhaustion of sick benefits, employees are required to use available vacation, or earned compensatory benefit time.
- (f) No available leave hours: Non-exempt employees who have no available sick or vacation hours and who call in absent or do not report to work, will be docked. Should this event

occur repeatedly, the employee, whose absence is not due to a previously approved FMLA qualifying event, is subject to disciplinary action in accordance with the Standards of Conduct policy for unsatisfactory attendance. Supervisors are responsible for documenting this event on the time sheet to assure pay is docked and recording the incident.

- (g) Undocumented Sick Leave: Subject to section (i) below, an employee may take (use) up to 40 hours (60 hours in the case of Fire shift personnel) of sick leave during a calendar year without the need to provide any documentation. A supervisor has discretion to count the sick leave as documented when sending an employee home or other objective knowledge as to the validity of the sick leave.
- (h) Documented sick leave: Employees must provide documentation for sick hours taken (used) in excess of 40 hours (60 hours/Fire shift). Documentation must be from an attending medical professional (Doctor, Nurse Practitioner, Physician's Assistant). In the case of sick time taken for the care of dependent children, documentation from the School Nurse is acceptable. It shall be an exception to this documentation requirement if the sick leave is taken (used) for a previously documented FMLA qualifying event.

If the required documentation is not provided, the undocumented leave will be taken from other available leave (vacation, compensatory time, etc.). If no such leave is available, the time will be taken without pay.

- (i) Physician's statement. 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 illness;
 - (b) the employee's safety or ability to work is in question; or
 - (c) when the employee is initiating Family Medical Leave. See Appendix F for information on Family Medical Leave.

- (j) Payment upon separation. An employee, in good standing, who has completed at least five years of service with the city, upon voluntary separation (i.e. resignation or retirement) from employment, is entitled to be compensated for their accumulated unused sick leave (“sick balance”) based upon the amount of sick leave used (taken) during their employment with the City in accordance with the table below:

% of sick leave used	% of Sick Balance Paid Upon Separation	% of sick leave used	% of Sick Balance Paid Upon Separation	% of sick leave used	% of Sick Balance Paid Upon Separation	% of sick leave used	% of Sick Balance Paid Upon Separation
0%	92.0%	26%	68.1%	52%	44.2%	78%	20.2%
1%	91.1%	27%	67.2%	53%	43.2%	79%	19.3%
2%	90.2%	28%	66.2%	54%	42.3%	80%	18.4%
3%	89.2%	29%	65.3%	55%	41.4%	81%	17.5%
4%	88.3%	30%	64.4%	56%	40.5%	82%	16.6%
5%	87.4%	31%	63.5%	57%	39.6%	83%	15.6%
6%	86.5%	32%	62.6%	58%	38.6%	84%	14.7%
7%	85.6%	33%	61.6%	59%	37.7%	85%	13.8%
8%	84.6%	34%	60.7%	60%	36.8%	86%	12.9%
9%	83.7%	35%	59.8%	61%	35.9%	87%	12.0%
10%	82.8%	36%	58.9%	62%	35.0%	88%	11.0%
11%	81.9%	37%	58.0%	63%	34.0%	89%	10.1%
12%	81.0%	38%	57.0%	64%	33.1%	90%	9.2%
13%	80.0%	39%	56.1%	65%	32.2%	91%	8.3%
14%	79.1%	40%	55.2%	66%	31.3%	92%	7.4%
15%	78.2%	41%	54.3%	67%	30.4%	93%	6.4%
16%	77.3%	42%	53.4%	68%	29.4%	94%	5.5%
17%	76.4%	43%	52.4%	69%	28.5%	95%	4.6%
18%	75.4%	44%	51.5%	70%	27.6%	96%	3.7%
19%	74.5%	45%	50.6%	71%	26.7%	97%	2.8%
20%	73.6%	46%	49.7%	72%	25.8%	98%	1.8%
21%	72.7%	47%	48.8%	73%	24.8%	99%	0.9%
22%	71.8%	48%	47.8%	74%	23.9%	100%	0
23%	70.8%	49%	46.9%	75%	23.0%		
24%	69.9%	50%	46.0%	76%	22.1%		
25%	69.0%	51%	45.1%	77%	21.2%		

- (1) Sick leave usage shall be rounded to the nearest whole percentage. Any sick leave balance remaining after payment of the percentages outlined above is forfeited.

- (k) Employees who do not voluntarily separate from the City or who are not in good standing when they voluntarily separate from the City will not be paid for accrued sick leave upon separation.
- (l) When an employee has a need to use sick leave he/she will be allowed to use only hours worked and available sick leave to total the regular scheduled work day (i.e. 8 hours, 10 hours, or 12 hours only – depending upon regular work day schedule). For example, an eight-hour employee may work 3 hours and go home sick; sick time used will be 5 hours for a total of 8.
- (m) Those employees on leave of absence do not accrue sick after all sick has been exhausted and employee is on leave without pay status.

6.4 Compensatory Leave.

- (a) Eligibility. Nonexempt employees, at their option, may take accrued compensatory leave.
- (b) When taken. Compensatory leave may be taken only when approved by the department director. Leave requests must be submitted in compliance with established departmental guidelines. The department director may refuse the leave request if it would be unduly disruptive to departmental operations. The city reserves the right to require nonexempt employees to use compensatory leave.
- (c) Payment. Payment for accumulated compensatory leave shall be paid to a nonexempt employee or nonexempt employee's estate upon separation or death in accordance with the retirement system protocols related to beneficiary payouts. The city may pay a nonexempt employee anytime for all or part of accumulated compensatory leave upon approval of the City Manager. In the event a non-exempt employee transfers to an exempt position, the accrued compensatory time will be automatically paid out to the employee at the time of the classification change unless there is an arrangement to take the compensatory time prior to the effective date of the change. If not all compensatory time is taken, the remaining time will be automatically paid out. At Department Director discretion, an exception may be granted to employees with a specific plan to use compensatory time within a reasonable future time period after the classification change, however, any excess compensatory time beyond what is approved for the specific purpose will be automatically paid out at the time of the classification change. It is the employee's and Department Director's responsibility to notify Human Resource and Payroll about such arrangements for proper handling.
- (d) Exempt employees. Extra hours of work are generally common for exempt employees, but these employees do not record overtime hours nor accumulate

compensatory time. Exempt employees may take time off from work in recognition of extra hours worked, upon approval of the City Manager or Deputy City Manager, whichever is applicable. As such, compensatory leave payments are not applicable to an exempt employee nor to an exempt employee's estate upon separation or death.

- (e) Records. Records of compensatory leave taken are kept by staff accountant overseeing payroll and the Human Resources Department.
- (f) Maximum accruals: Fire personnel working 16 and 8 Hour Shifts may accumulate a max of 72 hrs of compensatory hours. SRO/CRO/Task Force in PD may accumulate up to 80 hrs. All other employees may accumulate up to 48 hrs.

6.5 Injury Leave.

Note: For more information on work related injury leave, see Appendix A in this manual.

6.6 Military Leave. (revised 02/15/2018)

In accordance with USERRA and Texas Government Code, employees are eligible for Military Leave; one or both regulations provide employment protection, income protection and a means to secure time off when called to any form of military training and service including duty performed on a voluntary or involuntary basis. All provisions of the Federal rules (USERRA) and State Local government code will be followed to afford employees full rights and responsibilities for military leave.

- (a) Eligibility: An employee who joins or is a reserve member of the state's military forces, National Guard or United States armed forces shall, upon notification to the department director and submission of appropriate documentation, be granted leave for the period required to perform any military training, duty, or service including days needed to complete military pre-induction physical examinations.
- (b) Paid Military Leave: Employees will be eligible to receive up to 15 paid military leave days a year with carry over allowed from one year to the next for unused days up to 45 days net accumulated leave including the current year's accrual. Paid military leave days will be paid out in hours based on shift hours the employee typically works. Paid military leave may only be granted to an employee for the days the employee would otherwise have worked and received pay. Military orders are required to be turned in for payment. The employee's Director will work with Human Resources and Payroll to ensure the employee's paid military leave days are documented and paid correctly.
- (c) Notice to department director: An employee shall give as much advance notice as possible to his supervisor regarding dates for military leave, as well as provide

copies of the orders. Annual or quarterly training schedules should be given to the department director as the schedules become available to the employee.

- (d) Extended Military Leave: An employee eligible for military leave who is ordered or authorized to participate in training or other duty for more than the number of days indicated in 6.6 (b), will be placed on unpaid military leave with appropriate written military orders.
- (e) Use of Military Leave and Vacation Leave: While serving military duty, an employee may use any accrued vacation once paid military leave exhausts.
- (f) Rescheduled work days: With the approval of the department director, a full-time 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 period.
- (g) Re-employment: In accordance with '4312, Title 38, United States Code, an employee may serve, in most cases, a total of five years on active duty in the armed forces and still be eligible for reemployment. An employee's right to reemployment is not protected for cumulative periods of military active duty longer than five years, in most cases.
 - (1) Temporary Fill-in for Absent Employee: The Director and/or Department Management will work with the Human Resources Department to determine if there is a need to hire a temporary employee to fill-in for the absent employee. Any arrangements for fill-in employees will be on a temporary basis.
 - (2) Position and Benefits Reinstatement. An employee who returns from active duty in the armed forces of the United States is entitled to reemployment in the same position held upon entrance to active duty, or in a position of comparable status and pay, as well as restored benefits the employee would have attained had they not been absent due to military service (generally health plans will not have waiting periods or exclusions), 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) the cumulative length of all absences from employment with the city by reason of service in the uniformed services does not exceed five years, in most cases; and
- (D) makes written application for reemployment within required USERRA guidelines based on military service period after discharge, separation, or release from military active duty and presents evidence of the discharge, separation, or release from military active duty:
- Service of 1 to 30 days - Employee must report to his or her employer by the beginning of the first regularly scheduled work period on the day following completion of service, after allowing for safe travel home and eight hours of rest.
 - Service of 31 to 180 days - An application for reemployment must be submitted no later than 14 days after completion of a person's service. If submission of a timely application is impossible or unreasonable through no fault of the person, the application must be submitted as soon as possible.
 - Service of 181 or more days - An application for reemployment must be submitted no later than 90 days after completion of a person's military service.
 - Injury or illness occurring or aggravated during a period of service - The reporting or application deadlines are extended for up to two years from the date of completion of service for persons who are hospitalized or convalescing because of an injury or illness occurring or aggravated during a period of service. The two-year period will be extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two-year period impossible or unreasonable.

6.7 Inclement Weather Policy.

- (a) Essential employees. In the event of a natural disaster, severe weather conditions, or other extraordinary weather conditions beyond the employee's control, certain employees will be assigned to perform essential duties. These employees will be paid for all hours worked in accordance with standard payroll procedures.

- (b) Employees sent home. Employees who report to work, but are sent home prior to the end of their normal work day, will be paid for their scheduled time for that day without having to use accrued leave time.
- (c) Unable to report. Except as provided in Subsection (d), employees who are unable to report to their work station due to severe weather or other extraordinary conditions, will be paid only for those hours actually worked. Accrued vacation, compensatory, or holiday leave may be used to cover the lost time, or, when possible, employees will be allowed to work extra hours during the same and following pay period to make up for hours missed. Hours worked in excess of the maximum hours per work period, will be credited at the overtime rate.
- (d) Non-essential city operations closed. If the City Manager determines that due to the severity of the conditions, it is necessary to close non-essential city operations, this decision will be reported in keeping with protocols set by the City Manager's office and the director of communications. Employees are expected to check with the appropriate director and/or manager for clarification on closing protocols, dependent upon weather conditions. When the City Manager closes non-essential city operations, and the media announcement is made, employees in the closed operations will be paid for their scheduled time for that day without having to use leave time.
- (e) Closure Protocol. In general, the closure protocol will be handled as follows;

The City Manager will use two primary methods for informing citizens and employees of changes to city non-essential operational hours. In cases of inclement weather, city management will post a notification on the website and on the telephone system prior to the start of non-essential operations for the day in question. This notification will be posted no later than 6:30 a.m. on the day in question. Absent a notification on the website and the phone system by 6:30 a.m., citizens and employees should conclude normal operational hours will occur.

While the official notification will be posted on the website, secondary notifications will also be provided via:

- an automated telephone call to each employee at the phone number provided by the employee to the Human Resources Department. It is important that employees make sure Human Resources has current telephone number(s) in order for this method to be effective.
- the City's Facebook page.

- An “Everybody” email sent to all city email accounts. Employees can access city email from home by going to <https://mail.burlesontx.com> and entering domain name, username and password (bur\your first initial + last name).
- A “Tweet” from the City’s Twitter account. This is available to Twitter subscribers who “follow” the ‘CityofBurleson’. These “tweets” can be received as a text message on a cellular device.

NOTE: These secondary notifications are provided to employees as a secondary means of notification and should not be relied on for official notification. Employees should always go to the city’s website or call the main number to learn the official status of non-essential operations.

If the City Manager does not close or delay non-essential operations, employees should use their best judgment on whether it is safe to drive to work. Section 6.8 (c) of the Policy Manual will be followed in such circumstances.

6.8 Other Leave with or without Pay. (Revised 11/01/16)

- (a) Family Medical Leave. Employees who qualify will be afforded Family Medical Leave benefits in accordance with Federal statute. See Appendix F in this manual for a detailed policy on this benefit.
- (b) Jury service and court appearances. An employee formally summoned to serve on jury duty or to appear in court on a scheduled work day, shall be excused from work and receive pay for the hours required for the jury duty or court appearance not to exceed 40 hours in any one week. Proof of jury service or court appearance satisfactory to the city, must be produced upon request. This benefit does not extend to employees summoned to court for testimony, domestic court appearances, witness to a civil or criminal case, related to non-work related personal business. The employee is required to use available compensatory time or vacation leave for these court appearances. Court appearances by police, code enforcement, and animal control personnel which are required in the scope of their duties are not included in this provision.
- (c) 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. It is the responsibility of the employee to notify the employee's immediate supervisor of the time chosen to vote. The supervisor and employee may select another time if the one chosen conflicts with departmental duties.
- (d) Bereavement Leave. Bereavement leave may be used for those relatives of employees related by affinity (within the second degree) and by consanguinity (within the third degree). See the glossary for more detailed definitions of these

relationships. 24 hours per qualifying incident may be approved for non-Fire personnel. Fire personnel that work a 16 and 8 Hour Shift may be approved for 36 hours per qualifying incident. Department Directors and Managers will work with the employee to complete needed forms.

- (e) Safety Leave. In keeping with the city's safety policy, non-sworn personnel will be required to be off the clock at least six hours for each 24-hour period. If a director needs to authorize safety leave for the express purpose of allowing sleep time for an employee who is assisting during Public Works or other related emergencies, he/she may do so. Safety leave is for non-exempt employees who are called back to work outside of the scheduled work hours and who are on duty for an extended period of time. The affected employee(s) will be paid straight time for up to six hours. This time period will be classified as Safety Leave, and coded as such on the employee's time sheet. This will be used on a limited and select basis for the express purpose of addressing emergencies while still assuring adequate rest for essential personnel.

- (f) Administrative Leave With or Without Pay: The City Manager or Deputy City Manager may grant up to four weeks of Administrative leave (with or without pay) when such leave is in the best interest of the City of Burlison. Examples (not an exhaustive list) of use of such leave would be to allow senior management time to investigate a matter of employee conduct, or to allow an employee time to resolve a matter of significant personal business.

A Director who wishes to request administrative leave with or without pay should make a written request to the City Manager's office stipulating the amount of leave requested and the reasons for the request.

It is the responsibility of the Director and City Manager's office to advise Human Resources when administrative leave has been granted and the related circumstance. The Human Resources Director will assure related documentation is made and the Staff Accountant in Payroll is notified, if necessary.

No portion of the administrative leave with or without pay policy will disrupt or affect the absence control policy below. This policy is intended for the convenience of City management in order to address specific issues in which administrative leave maybe the most appropriate option.

- (g) Wellness Day. Employees may earn a paid day off if they meet certain criteria outlined each year in the Wellness Program. Wellness days may be used in partial or whole day increments, depending on Department Director/manager approval and business needs of the department. Wellness days, amounts, and criteria are subject to change each year at City discretion and/or based on budgetary funding. Wellness

days not taken by the end of the calendar year will be lost. Wellness days are not eligible for pay out in the event an employee leaves the City.

6.9 Absence without Leave and Job Abandonment.

Unauthorized absence without leave for two or more working days or failure to return for a period of two or more working days at the expiration of authorized leave is considered job abandonment. A job abandonment may be rescinded by the department director if the employee presents satisfactory reasons for the absence within two working days of the date the job abandonment became effective.

6.10 Absence Control Policy (effective 10/01/2012).

With full recognition that a leave of absence may occur for a variety of reasons, the City has an absence control policy. Employees who have accumulated sick or vacation hours may use them with approval.

- (a) Employment may be terminated if the following circumstances exist:
 - (1) The employee has exhausted all Family Medical Leave (480 hours), vacation, and sick leave. See appendix F for Family Medical Leave policy.
 - (2) An application for Shared Sick Leave is made, but the employee does not meet the policy requirements for such leave.
 - (3) The employee is eligible for Shared Sick Leave and the donated hours are exhausted.
 - (4) An employee's physician has not issued a medical release to return to work (for illness or on-the-job injury).
- (b) Circumstances that may lead to termination of employment under the Absence Control Policy will be reviewed by the employee's Department Director, the Human Resources Director and the Deputy City Manager or City Manager. A decision related to termination will be issued in writing to the employee after such review.
- (c) For employees who do not have accrued vacation or sick hours of their own that exceeds six months, the total of Family Medical Leave, sick leave, vacation, compensatory time, and Shared Sick Leave will not exceed six months (180 days).
- (d) Employees terminated under the absence control policy are considered terminated in good standing, and may apply for employment in the future, if they are qualified for jobs posted and can perform the essential functions of the job. This policy does not guarantee reemployment or reinstatement of employment.
- (e) Employees with qualifying conditions under the Americans with Disabilities Act (ADA) will be evaluated on an individual basis.

- (f) This policy does not apply to those serving in the United States military (see military leave).

6.11 Return from Leave (revised 11/2009)

Modified Duty.

- (a) Purpose. The purpose of this section is to provide a process by which employees who have been on leave due to illness or injury 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 director and the director of human resources. An examination and evaluation conducted by the attending physician or the city-designated 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 employee's director and the director of human resources to determine if an assignment is available which matches the injured or ill employee's training, skills and 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) 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; and

 - (2) the employee's department director determines that modified duty is available. If no modified duty can be found within the department, the employee may be temporarily assigned to work in another department, if there is an existing opening for which the employee is qualified and that meets the employee's work restrictions. A temporary assignment does not constitute the creation of regular or long-term employment in the assigned position. The salary of an employee on modified duty will be paid by the employee's department and the employee will be returned to the original position and department when released for full duty. If modified duty cannot be found, the city will not create a position and the employee will remain on leave.

- (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 or until temporary work duties are completed, 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:
 - (A) the employee is found performing beyond the modified duty restrictions;
 - (B) the work assignment is completed;
 - (C) the employee performs unsatisfactorily in the position;
 - (D) budgetary constraints do not allow continuation of the position;
or
 - (E) the employee's medical condition worsens.

- (g) 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 director of human resources in conjunction with the employee's director 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.

Chapter VII: Performance Evaluations

7.1 Purpose.

Performance evaluations are used to acknowledge good performance and recognize areas in which improvement is needed. Evaluation aids in more effective planning of the work of city departments and enables supervisors to identify common training and development needs. Evaluations promote fair treatment of employees by supervisors and provide increased communication between employees and supervisors.

7.2 Procedures, Method, and Forms.

Employee evaluations shall be conducted following procedures prescribed by the Director of Human Resources.

7.3 Rating Period. (revised 01/01/2013)

(a) Each full-time employee's work will be evaluated annually.

(b) Part-time employees may be evaluated annually, at Director's discretion.

(c) At the Director or department manager's option, a six month evaluation may be conducted for any employee.

7.4 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.

7.5 Use of Evaluation Results. (01/01/19)

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

(a) making salary adjustments;

(b) giving merit pay increases;

(c) grounds for promotions, demotions, and support for re-assignment; and

(d) to determine whether disciplinary action is warranted against an employee (not intended to present a disciplinary notice to an employee during a performance evaluation, but merely to review past evaluations to see if issues were documented prior to determine if a disciplinary matter is new or ongoing; what efforts had been taken to make the employee aware of the issues).

7.6 Employee Coaching

As frequently as necessary, a supervisor may conduct an employee counseling interview. The supervisor should communicate frankly the supervisor's assessment of the employee's conduct and performance. The supervisor should offer positive assistance in correcting any deficiency. This informal conference requires no communication with the director of human resources.

Chapter VIII: Transfers, Promotions, Training

8.1 Promotions and Transfers.

Policy. It is the policy of the city to allow the transfer of employees between positions and departments to promote from within, where possible, when filling vacant or newly created positions. Employees that meet the following criteria are eligible to apply for another open position within the City:

- have been with the City and in current position at least 6 months,
- are satisfactorily performing their duties,
- no documented verbal reprimands within ninety (90) days,
- no written reprimands within six (6) months,
- no documented final written reprimands, suspensions, or disciplinary demotions within last twelve (12) months.

Employees interested in available opportunities for promotion or transfer should review job postings as available on area bulletin boards, the city's web-site or in the Human Resources Department. A letter of interest and an updated resume should be turned in to human resources prior to any posted closing date for openings.

This policy statement does not, in any manner, guarantee an employee promotion or create a contract of employment (expressed or implied).

Notice to department. If selected for transfer or promotion, the employee must give at least two weeks' notice to the employee's current department, unless waived by the employee's department director.

Unless there are extenuating circumstances, managers who are considering a transfer or promotion of another employee from another department should contact the manager who is subject to losing the employee and advise them of the application status as a professional courtesy. Managers are expected not to retaliate against employees who are striving to change or better their employment circumstances.

Employees that are selected or placed in a different position within the City will be on a six (6) month evaluation period to ensure adjustment and adaptation to the new position in terms of learning the job requirements and department. This evaluation period does negate any provisions employees obtained once successfully completing their new hire probationary period.

The City may make exceptions to these standards to meet the business needs of the City, as it deems appropriate with Department Director(s), Human Resources, and Deputy City Manager review and approval.

8.2 Training and Development.

The city endeavors to provide training and development programs to meet specific organizational needs. Training programs will encourage high quality performance, prepare employees for new or increased responsibilities, and extend opportunities for job-related growth and development. The Human Resources Department will assist departments in developing and conducting training programs to meet specific departmental needs and will identify resources and programs to increase employee productivity, knowledge, and safety and departmental efficiency and effectiveness.

Chapter IX: Compensation and Wage Administration

9.1 Work Periods. (revised 12/2014); (12/31/15; 11/01/15)

- (a) Standard work periods. Standard work periods are established for purposes of compliance with the Fair Labor Standards Act. For payroll purposes the following work periods are established for city employees:
- (1) Civilian personnel (non-public safety) working a 9/80 schedule: the work period begins at noon on Friday and runs through 11:59 a.m. Friday morning.
 - (2) Civilian personnel (non-public safety) not working a 9/80 schedule: the work period begins at midnight on Monday and ends at 11:59 p.m. on Sunday.
 - (3) Sworn employees of the police department: the work period shall begin at 6:00 a.m. Monday and end at 5:59 a.m. 14 days later.
 - (4) Sworn employees of the fire department: the work period shall begin at 12:00 a.m. Monday and runs 28 consecutive days until 11:59 p.m. Sunday. Details of the two 14-day pay cycles are documented within the Burleson Fire Department standard operating procedures.
- (b) Meal periods. Except for sworn employees of the fire and police departments, the standard work day does not include approved meal periods. Meal periods for nonsworn employees are time off without pay. Meal periods for Police Department telecommunications staff are considered hours worked.
- (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 not guaranteed and is considered a privilege. Breaks shall not interfere with proper performance of the work responsibilities and schedules of a department. Rest periods or breaks do not accumulate if not taken.
- (d) 40-Hour Work Schedules: In general, Directors and Managers may set hours of work most appropriate to assure job tasks are performed and the work week remains 40 hours per week (except Fire Department). Work schedules may include combinations such as:
- Schedule A: 8 hours per day; 5 days per week.
 - Schedule B: 10 hours per day; 4 days per week.
 - Schedule C: A combination of 9 hour and 8 hour and 4 hour shifts to equal 40 hours per work period.

9.2 Hours of Work.

Department directors may establish working schedules to meet their specific needs; provided the standard schedule is for no more than 80 hours per work period for sworn employees of the police department, 212 hours per work period for sworn employees of the fire department, or 40 hours per work period for all other employees. The hours during which city offices are open for business shall be determined by the City Manager.

The fire department 24-hour personnel work 2912 hours per calendar year. All other full-time employees work 2080 hours per year.

9.3 Job Sharing.

Some full-time positions may be approved for job-sharing. Job sharing includes two employees sharing the duties and benefits of one full-time position. Directors and Managers will have the authority to determine which positions will be approved for this work arrangement. A more detailed policy regarding Job Sharing is available in Human Resources for management and employee review.

9.4 Compensation. (Revised 12/31/15) (01/01/19)

- (a) Salaries. All wage ranges of city employment shall be identified in the wage schedule approved by the city council. Generally, changes in the schedule are made through adoption of the annual operating budget.
- (b) Exempt Employees-Function and pay. An employee who performs an executive, administrative, or professional function is an exempt employee. In keeping with Fair Labor Standards Act – Department of Labor guidelines positions are determined to be exempt or non-exempt by the Human Resources Department. This designation is based on work performed, not job title or job class. An exempt employee is paid on a weekly wage 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 requests to use leave without pay (requires approval by director).
 - (4) in order to record the use of benefit time, exempt employees are required to complete an exempt employee leave form reporting their vacation and sick usage and submit it to the Payroll Staff Accountant following approval by the appropriate Director or City Manager.
- (c) Prorated Wage. If part of a week is taken as leave without pay, a proportionate part of the weekly wage will be paid to an exempt employee for the part of the week worked. A proportionate part of the weekly wage will also be paid to an exempt employee for the part of the week worked in the initial or last week of employment.
- (d) Compensation for Overtime Work.
 - (1) Overtime pay. Nonexempt employees, other than sworn employees of the fire and police departments, are entitled to overtime pay or overtime compensatory leave for all hours worked in excess of 40 during a seven-day work period. Sworn employees of the police department are entitled to overtime pay or overtime compensatory leave for all hours worked in

excess of 80 hours in a 14-day work period. Sworn employees of the fire department are entitled to overtime pay or overtime compensatory leave for all hours worked following a 28-day work cycle as permitted under the Fair Labor Standards Act. This policy is adopted pursuant to Section 207(k) of the Fair Labor Standards Act. Working of overtime hours must be approved in advance by the appropriate supervisor.

- (2) Compensatory leave. Nonexempt employees will be granted compensatory leave at the rate of one and one-half times the actual overtime hours worked, upon approval of the employee's supervisor, if the supervisor determines the leave will not be unduly disruptive to the department. Compensatory leave may be accrued to a maximum of: 48 overtime hours worked unless special arrangements are made by the department director, 16 and 8 Hour Shift Personnel in the Fire Department may accrue up to 72 hours, and school resource officers, task force staff, and community resource officers in the Police Department may accrue up to 80 hours.

Compensatory leave may be taken in increments of not less than one-quarter hour, unless the department director establishes a greater minimum increment of no more than one hour. The city may, at its discretion, pay a nonexempt employee at any time for all or part of accumulated compensatory leave or may require that a nonexempt employee take accumulated compensatory leave. The accrual of compensatory leave is governed by the Fair Labor Standards Act.

- (e) Exempt employees. Exempt employees do not receive overtime pay nor accrue compensatory leave. However, Exempt employees may take time off from work in recognition of extra hours worked, upon manager approval.
- (f) Recording compensatory leave. If an employee works in excess of the number of hours in the employee's shift during the same work period as the employee takes compensatory leave, the amount of time the employee worked in excess of the shift on all worked days, is subtracted from the amount of time the employee actually took compensatory leave, when the compensatory leave taken is recorded in the leave records.
- (g) Paid Time Off/Paid Leave in Calculating Overtime Hours.
Paid time off benefits/paid leaves are not considered hours worked for purposes of calculating overtime hours,
(1) An employee is charged with paid time off/paid leaves only on days the employee would otherwise have been scheduled to work. No more than 40 hours paid time off/paid leave may be charged in one seven-day work period.

- (h) Fire Department personnel: Overtime is paid based on the standard 24 hours on duty (a 16 and 8 Hour Shift) /48 hours off duty schedule, which is permissible by the Department of Labor, Fair Labor Standards Act provisions. For more information, Fire Department personnel should refer to the payroll section of the finance department and/or the fire chief. Holidays are not included in the calculation of overtime for fire department personnel. See the Vacation, Sick, Leave of Absences, and Other Absences from Work Chapter for more information.
- (i) Police Department Commissioned Personnel: Overtime is paid based upon a 14-day duty schedule, which is permissible by the Department of Labor, Fair Labor Standards Act. Holidays are paid as straight time and are not included in the calculation of overtime.
- (j) 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 and stand-by pay.
- (l) Authorization for Overtime. An employee shall not be permitted to work overtime unless authorization has been given by the department director in advance. The department director or his/her designee has the responsibility to determine that funds are available before authorizing overtime work. A department director may authorize overtime under the following circumstances:
 - (1) hours worked in excess of the number of regularly scheduled hours for the work week;
 - (2) a call back for an emergency, if otherwise off duty; or
 - (3) attendance at an approved training class or city sanctioned meeting, required by the department director, if time for attendance is in addition to the employee's regular work schedule.
- (j) Documentation of Overtime.
The Human Resources or finance department (staff accountant-payroll) shall keep records of all overtime worked and compensatory time accrued and taken by nonexempt employees. Department directors should report overtime hours worked in their departments, 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;
 - (3) number of compensatory hours accrued and used each work week or work period;
 - (4) number of compensatory hours compensated monetarily, the amount paid, and the date of payment; and
 - (5) any written understandings or agreements with respect to the accrual and use of compensatory time.
- (k) Call Backs and Scheduled Overtime. (revised 12/31/15) (01/01/19)
- (1) This policy applies to all departments for their on-call or standby pay practices except the Fire Department:
 - (2) Responsibility:
 - (A) Directors/Managers: Oversee the record keeping, assignment of on-call or standby status, and the other procedural decisions related to paying an employee to be on-call or in a standby status in order to respond to emergencies, repairs, etc.
 - (B) Employees: Accurately record incidents of call-back assuring that department management is kept informed when situations arise warranting an on-call or call-back status.
 - (3) 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 department director. 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. However, employees will receive a flat rate of on-call pay for each week they are in "on-call status."
 - (4) Policy Elements.
 - (A) Designation of "on call": An employee will be considered to be officially scheduled and designated as "on-call" when an on-call need has been identified by the department director, instructions have been communicated by the supervisor to the employee concerned and the employee has

acknowledged the on-call status and availability instructions; and the employee indicates to the supervisor how the employee can be contacted by phone.

(B) Timeline for On-call Status: Employees are in “on-call status” for a calendar week.

(5) Pay for Call Backs.

- (A) Employees called out 1 or fewer times per week will be paid \$100 for being in an on-call status.
- (B) Employees called out 2 or more times per week will be paid \$200 for being in an on-call status.
- (C) When an employee who is designated as “on-call” is called back to work, they will receive a minimum of one-hour of pay. When an employee is not in an “on-call” status but is called back to work, he/she will get a minimum of two hours of pay. Time worked during the call backs will be at overtime rate even if hours worked during the week had not reached 40 hours (or differing overtime period as permitted by law), provided the employee had actually left work for the day and was required to return back to work.
- (D) Holidays/Weekends - No additional pay or arrangements are paid for holidays or weekend.

(l) Longevity Pay.

- (1) Fire and police departments. In accordance with the requirements of state law, 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.
- (2) Other employees. All other full-time employees shall be paid longevity pay after five years of service at the rate of \$4.00 per month for each completed year of full-time service to a maximum of 25 years.

(m) Incentive or Certification Pay.

An employee who obtains a specialized certification that is recognized by the City Manager as beneficial to performance of the employee's duties, may be paid a flat monthly rate, in addition to the employee's regular pay. The rate of payment for incentive pay and eligibility to receive incentive pay will be established through adoption of the annual operating budget. Director level positions and above are not eligible to receive incentive pay. Human resources will maintain the official list of positions and employees qualifying for incentive pay.

9.5 Payment of Compensation upon Employee's Death.

- (a) Compensation due a beneficiary of a deceased employee for sick and vacation benefits will be paid in accordance with the Texas Municipal Retirement System's protocol for paying life insurance benefits.

9.6 Compensation Plan Design

- (a) All employees of the city are compensated on the basis of one or more position classification and compensation plans. These pay plans are based on wage schedules adopted annually by the city council as part of the budget. The wage schedule consists of a series of pay grades to which city positions are assigned according to the type of work, difficulty, and responsibility entailed.

9.7 Temporary Assignments. (revised 01/01/13) (10/01/18)

- (a) Non-public safety personnel: A department director may designate an employee to fill a position on a temporary basis. A person temporarily filling a position in a higher classification shall be paid the base wage of the higher position or a wage that would provide at least five percent increase, during the time the employee performs the duties of the higher position. The wage paid will be dependent upon the scope of temporary duties and the length of time the temporary assignment is in place.
- (b) Public Safety commissioned staff who are responsible for serving as Officer in Charge (OIC) during a shift(s) will be paid in accordance with the Public Safety Step Plan- see Public Safety Step Plan for OIC pay matrix. (effective 12/1/12) (10/01/18)
- (c) Officer In Charge (OIC) compensation is subject to budgetary review on an annual basis. This compensation is subject to change.

9.8 Temporary and 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 Wage or hourly rate will be determined during the budget process.

9.9 Wage upon Promotion or Demotion.

- (a) **Promotion:** Non-sworn personnel who are promoted to a position in a classification with a higher wage range shall be placed in the higher classification and be paid at least the minimum of the pay grade. Any additional compensation above the minimum of the pay grade will be at the discretion of the Director, subject to the approval of the Deputy City Manager or City Manager. Sworn personnel who are promoted are paid based upon a pre-determined matrix.
- (b) **Demotion:** Employees who are demoted (voluntarily or involuntarily) will be paid no more than the maximum of the pay grade to which the employee demotes.

9.10 Wage upon Transfer.

If an employee is transferred from one position to another in the same classification or the same wage range, the wage and merit eligibility date shall not change.

9.11 Maximum Base Wage.

Newly-hired employees are generally brought in at the entry level in the pay grade for the employee's position. At director discretion an employee may be hired at a base pay higher than entry level if he/she documents the experience, skills, qualifications that warrant a higher pay and advise the Human Resources Director of the pay structure planned. Internal equity for other employees will be taken into consideration during these decisions.

An employee shall not be compensated at a base rate higher than the maximum for the position unless the employee was above the maximum wage for the position at the time the plan was adopted.

9.12 Additional Taxable Benefits.

Some city-provided benefits are subject to being taxed on the value of the items. The Internal Revenue Service considers this benefit a form of compensation. As a result, applicable employees receiving city-issued clothing will be required to document the items received on a form (generated by the Finance Department), and the appropriate taxes will be deducted from employee wages. Other items provided to employees for their use, as designated by the Internal Revenue Service, may fall under this provision. When this occurs, the employee will be notified as soon as possible.

9.13 Safety Leave Pay.

In keeping with the city's safety policy, non-sworn personnel will be required to be off the clock at least six hours for each 24-hour period. If a director needs to authorize safety leave for the express purpose of allowing sleep time for an employee who is assisting during Public Works or other related emergencies, he/she may do so. Safety leave is for non-exempt employees who are called back to work outside of the scheduled work hours and who are on duty for an extended period of time. The affected employee(s) will be paid straight time for up to six hours. This time period will be classified as Safety Leave, and coded as such on the employee's time sheet. This will be used on a limited and select basis for the express purpose of addressing emergencies while still assuring adequate rest for essential personnel.

9.14 Pay Periods.

Wages shall be paid on alternating Fridays with 26 paychecks per year. If a scheduled payday falls on a holiday or weekend, paychecks will be issued on the last work day preceding the holiday or weekend.

9.15 Pay Methods

All employees will be paid their wages via direct deposit.

9.16 Separation Pay. (revised 12/31/15) (01/01/19)

(a) Employees that terminate from City employment will be eligible for certain payments in their final check, which is paid in the next normal pay schedule, as follows:

(5) accrued, unused compensatory time, if applicable, regardless of length of service or reason separating employment with the City.

(6) accrued, unused vacation time if employee completes one year of employment with the City and leaves in good standing unless Vacation Overage applies:

(a) Employees who had vacation hours set aside on January 1, 2008 as excess unused vacation hours that exceeded annual limits will not be paid for unused hours upon separation. Hours are available to be used for time off purposes only.

(3) accrued, unused sick leave according to the payment table amounts in the Vacation, Sick, Leave of Absences, and Other Absences from Work Chapter, if employee completes five years of employment with the City and leaves in good standing.

(4) Good Standing is qualified as employees that leave the City voluntarily or are laid off. If voluntary, the following applies:

(A) Non-exempt employees must give a written, two week notice and be available to work during the notice period. All city issued keys, equipment, uniforms, materials, or other items must be returned.

(B) Exempt employees must give a written 45-day notice and be available to work during the notice period. All city issued keys, equipment, uniforms, materials, or other items must be returned.

(C) The Department Director, City Manager, or Deputy City Manager may adjust the notice period or waive a notice requirement as described in #3A and B above after receiving a written resignation should such an adjustment be mutually beneficial. The City shall determine if the notice period is waived if the employee is still considered to have left in good standing depending on the circumstances.

(D) An employee who fails to leave in good standing shall not be paid for unused vacation leave or sick leave for which the employee may have been previously eligible.

(3) Notice periods are paid as long as the employee works the notice period in accordance with normal pay practices and provisions. Pay in lieu of working the notice period is not typical and will be determined by the City. Pay in lieu of a working a notice period requires Department Director, Deputy City Manager or City Manager, and HR Director approval.

(4) Any indebtedness to the City, which the employee has incurred in the course of employment, shall be deducted from the final paycheck, in accordance with the limitations of the Fair Labor Standards Act (FLSA).

9.17 Payroll Records.

Nonexempt employees shall prepare an accurate record of all hours worked, to be submitted to the Finance department, on the schedule established with human resources and the staff accountant for payroll functions.

9.18 Education Assistance.

As budget funds allow, employees may have the benefit of Education Assistance for accredited college courses. Eligibility depends upon the guidelines published by the Human Resources Department and availability of budgetary funds as approved in the budgetary process.

9.19 Reporting Questions or Errors.

Employees who have reason to believe an error has been made in calculation of time or payment of wages should contact the Finance Department (Payroll Staff Accountant) or the Human Resources Department. Every effort will be made to correct errors and update records accurately.

9.20 Use of City Vehicles After Hours. (01/01/19)

Management has adopted the following policy regarding personal use of City-owned vehicles:

(a) For business reasons, certain employees have been designated to drive a City-owned vehicle to and from their residence. This shall be the only authorized personal use of the vehicle. Individuals driving City vehicles may have occasions where an incidental stop is necessary between business stops. Such use shall not be considered to be in violation of this policy.

(b) Unless required in the course of conducting official city business (i.e. police department transfer of an individual), no employee may transport any other person

- in a city vehicle. As an exception to this policy for special or unique circumstances, an employee may, in advance of transporting another person for non-business reasons, sign an insurance waiver in a form acceptable to the City's insurance carrier. These forms are available in Human Resources.
- (c) City vehicles cannot be used for supplemental income purposes, and only incidental personal items may be stored in the vehicle.
 - (d) When applicable, the City will compute a daily value for the commuting which will be included in the employee's biweekly pay and reported on Form W-2 for the fringe benefit at the end of the calendar year. Such amount will be the minimum allowed by federal income tax laws.
 - (e) In general, company vehicles allowed to be driven home are considered a convenience to the employee and the normal time commuting home to work and work to home at the beginning and ending of the shift is not considered hours worked for payroll compensation. There are exceptions when travel time is outside normal commute and when this occurs, such travel time will be paid according to federal and state pay regulations. Contact Human Resources for further guidance.
 - (f) Note: Internal Revenue Service regulations require the City to maintain evidence which would enable the Internal Revenue Service (IRS) to determine whether use of the vehicle is in accordance with policy maintained by the City.

9.21 Work Related Training. (01/01/19)

- (a) If an employee receives approval for training including those offsite or out of area, which are required for their position or some other continuing education for the City and City related business, the pay will be considered regular hours worked (using training pay code for hourly employees) and will be paid according to federal and state wage and hour regulations. Actual expenses to attend such training, professional conferences, conventions or short schools, or to visit other cities for the benefit of the City will be paid or reimbursed at Director discretion based on approved budgeted expenses and in accordance with expense policies. All training costs and time must be approved in advance.
- (b) In the event a training or conference is not approved, employees that wish to attend may do so at their own cost and time by requesting vacation or comp time subject to manager approval as normal.

Chapter X: Travel

10.1 Purpose and Penalty.

- (a) Purpose. The purpose of this travel policy is to regulate expenses for out-of-town travel, local meetings, entertainment, personal car mileage, and other travel related expenses. The policy applies to all employees of the city who are authorized to officially represent the city at various conferences, meetings, conventions, seminars, and other functions. The policy:
 - (1) governs and regulates the financing and reimbursement of allowable expenses incurred by city employees in their official capacity as a representative of the city; and
 - (2) provides uniform guidelines and procedures for submission and processing of allowable expenditure requests and establishes proper accounting for approved, allowable expenses, including travel advances and cash expenditures, made for the purposes authorized by this policy.
- (b) Penalty for Non-Compliance. Failure to comply with all provisions of this policy may result in disciplinary action up to and including termination.
- (c) At all times employee conduct while on travel will be exemplary and will reflect positively on the city. This includes conduct at parties and dinners, decisions related to what establishments will be frequented and other related behavior.

10.2 Responsibility for Administration of this Policy.

- (a) City Manager. By city charter, the City Manager is designated as the employee who has financial responsibility for administration of funds. He/She may designate the Finance department to oversee daily administration of this policy. However, questions that arise related to expenses for travel outside the scope of what is covered here will ultimately be resolved by the City Manager.
- (b) Department director. The department director is responsible for communicating and administering the provisions of this regulation to employees and approving expenses as legitimate business related items. Directors may delegate the on-going administration of this policy to managers and other subordinate personnel. However, each director is ultimately responsible for the proper administration of the policy. Furthermore, any recommended deviation or exception to the provisions of the policy may not be delegated and must be specifically submitted in writing by the department director.
 - (1) Prior to allowing any employee to register for training, schedule business related trips, make accommodations for lodging, or otherwise incur

financial obligation as a representative of the city, directors shall require employees to be advised that they are expected to understand the entire travel policy. These employees shall be provided reasonable opportunity to review the policy and ask questions regarding its content, as they determine necessary. Furthermore, all employees must acknowledge such understanding and opportunity before traveling on behalf of the city. Finally, upon completing travel, employees are expected to acknowledge in writing, that they have in fact, complied with the terms of the policy.

- (2) For purposes of this policy, whenever the employee requesting the reimbursement or advance, is a director, the term “department director” shall refer to the Deputy City Manager or the City Manager, whichever is applicable. Likewise, whenever the employee requesting reimbursement is the Deputy City Manager, the term “department director” shall refer to the City Manager. The City Manager's reimbursement or advance requests shall be submitted to the Deputy City Manager for policy compliance review only.
- (c) Director of Finance. The Director of Finance is responsible for the overall administration of the provisions of this travel policy. The Director of Finance and the department director, as well as any other employee, shall have the responsibility to report any abuse or misuse of travel and training funds to appropriate members of management.

10.3 Expenses and Documentation.

- (a) Expenses must be reasonable. The allowance for expenses shall consist of the actual costs which a reasonable and prudent person incurs related to travel and local meeting attendance. Employees are expected to be conservative in their expenditures; as if such costs were being paid by themselves.
- (b) Extraordinary costs. The city recognizes that the “cost of living” in some regions of the country may be sharply greater than corresponding prices typical throughout the Metroplex and the State of Texas. It is beyond the scope of this policy to detail or index a set of specific guidelines appropriate for all locales, at all times, in all circumstances. Whenever trips to such destinations (typically in the large northern metropolitan areas and along either coast) are anticipated, the department director may arrange for increased spending limits, by obtaining in advance, the written authorization of the City Manager or Deputy City Manager.
- (c) Department restrictions. Due to budgetary constraints or unique situations existing within the various operations of the city, department directors may adopt more restrictive allowances and practices than those specified within this policy.

These directives may be imposed within the departments on either a “standing” or “case-by-case” basis. Otherwise, the general guidelines outlined in this policy shall apply. (Each department has the sole responsibility to monitor compliance with any special, more restrictive procedures which they may impose from time-to-time. The finance department monitors only the requirements of this policy and the exceptions appropriately authorized.)

- (d) Meal expense documentation. In general, employees will be allowed a per diem amount to cover meals during travel. Any circumstances that fall out of the norm as described in meal allowance below will require receipts and/or documentation.

- (e) Documentation of hotel, transportation or extraordinary expenses. Requests for reimbursement shall be returned to the originating department for further clarification whenever acceptable documentation is not provided. Acceptable documentation is a service provider name or logo printed receipt, where available. No reimbursement will be made for costs in excess of the maximum allowances except for “extraordinary expenses” as covered by this policy. Expenses in excess of maximum allowances are the responsibility of the employee. If receipts are lost or otherwise unavailable for submission with the claim for reimbursement, claimed expenses are subject to denial at the discretion of the Deputy City Manager or the City Manager, if applicable.
 - (1) Employees are expected to exert reasonable efforts to obtain and turn in original receipts for hotel, transportation, and extraordinary expenses. If a receipt is lost or otherwise unavailable, the employee may in some cases, be reimbursed. Such reimbursement may be granted if the employee provides adequate, reasonable, persuasive, and detailed documentation addressing the absence of the items. Reimbursement will be denied to the extent that the absence of receipts results from the carelessness or inattention of the employee. If a service provider does not present a receipt, the employee is expected to request documentation. An employee who asserts that documentation was "unobtainable" will be presumed to have performed such attempts and the supporting documentation should specifically refer to the employee's unsuccessful efforts.

Note: Most service providers will produce receipts and itemize charges (although some must be specifically requested to do so).

- (2) Although employees are not expected to go to unreasonable measures to obtain detailed receipts for hotel, transportation or extraordinary expenses, extra effort is expected when documenting items which cannot be supported by receipts or other vouchers created by service providers.

In no case, should an employee ever personally create and submit documents which:

- (A) have the appearance of material provided by a service provider;
or
- (B) could reasonably be presumed by a reviewer of the reimbursement request to be the documentation provided by a service provider when in fact, the item was created by the employee.

- (3) Without exception, such activity will be viewed as deceptive and a violation of this policy. Reviewers of reimbursement requests presume that items bearing the appearance of documentation typically obtained from service providers were in fact obtained from the service providers. Employees should take care that their own personal record keeping efforts will not reasonably be confused with the documentation of service providers.

10.4 Allowable Travel Expenses.

- (a) Generally. Actual, reasonable, and appropriate living expenses, within the specified limits, may be claimed by all city employees when they are representing the city on official business away from the city. Living expenses that will be reimbursed include the items listed and explained in this section.
- (b) Lodging. Employees must seek reasonably priced hotel rooms of acceptable quality. Employees must consider transportation costs, time, and other relevant factors in selecting the most practical and economical accommodations. This provision should not deter an employee from staying in a hotel where the meeting or convention to be attended is held. Overnight accommodations for conferences and training sessions and other meetings within the Metroplex must be justified in writing and approved by the department director.
- (c) Meals. Employees will be authorized a maximum per diem allowance for overnight travel only as stipulated in the most current Internal Revenue Service publication #1542, "Per Diem Rates" for meals during travel. The correct rate will be the meal and incidental expense (MandIE) per diem amount under the high-low substantiation method effective for the fiscal year in which the travel occurred. Any per diem allowed above the maximum as published in the IRS regulations will be itemized and substantiated with receipts.

The daily per diem is intended to cover the costs of meals, snacks, and gratuities. The amount allowed per diem is determined by the time of day of travel (see below). In some cases, advances will be given for meal per

diems, and in some cases the city credit card will be used. If a city credit card is used for per diem expenses, receipts should not exceed the daily per diem rate.

- (d) Partial day Allowance (over-night travel only). Partial per diem rates shall be provided based on the time of travel. Per diem is based on the quarter system for computing the allowance for days or fractions thereof. Each quarter is six hours beginning at midnight, 6:00 a.m., Noon, and 6:00 p.m. The traveler is allowed one fourth of the allowance published by the IRS for each period of six hours or fraction thereof.
- (e) Allowances (same day round trip travel). Advance issue of funds for meals for same day round trip training or travel may be approved at director discretion. These funds will be subject to withholding for income tax purposes and are considered compensation/income. See the Travel Chapter for procedures on securing advance funds.
- (f) Receipts: Receipts are not required to be turned in for meals, snacks and tips when cash is used. Receipts are required when the city credit card is used in keeping with the city's purchasing card processing policies.
- (g) Allowances at Training and Seminar Events (overnight travel only). A per diem allowance will be given for conference/seminars that do not include meals as a part of the registration fee. If meals are included, per diem will be reduced accordingly for each meal provided.
- (h) Ground Transportation. Employees may claim reasonable actual ground transportation expenses, including shuttle services and taxis, if documentation for these expenses is submitted along with the written approval of the department director.
- (i) Parking. Employees may claim actual parking expenses. Whenever possible, receipts should be submitted for parking fees. For parking meters or parking lots where receipts are not offered, the employee should submit a handwritten, signed, accounting of the expense.

10.5 Non-allowable Travel Expenses.

The cost of alcoholic beverages, laundry, dry cleaning, in room movies, limousines, tours, personal entertainment, or other recreational activities that are not included in the cost of the registration or that are not an integral part of the conference or training session will not be reimbursed by the city. When an employee is accompanied by a spouse, family member or other guest, the employee will be responsible for all the guest's expenses and will be reimbursed only the expenses the employee would have incurred traveling alone.

10.6 Transportation.

- (a) Selecting transportation. Employees shall be flexible as to time of day, carrier selection, and routing in order to minimize total travel costs. Reimbursement may be made for travel performed by public motor vehicle, common carrier, chartered vehicle or privately owned vehicle. The principal mode of travel shall be approved in advance by the department director, taking into account such factors as parking, distance to and from airports, and the location of the event. The department director should generally designate the most economical mode of travel, taking into consideration the following factors:
- (1) the nature of the business;
 - (2) the time of the travel, cost of transportation and meals, lodging, and incidental expenses required; and
 - (3) the number of persons traveling and the equipment and material to be transported. Whenever an employee, for the employee's own convenience, chooses a mode of transportation which is not the most economical option, the city will reimburse only the amount of the least expensive alternative.
- (b) Airline. Except for reasons of time, or extenuating circumstances, trips of 200 miles or less (one way) shall be by city or personal vehicle, not air travel. Exceptions must be approved in writing by the department director. Airfare will generally provide more economical transportation between more distant destinations. If an employee chooses to travel by personal vehicle, the total mileage reimbursement may not exceed the price of a coach airfare ticket for the same distance traveled. The price of airfare used for mileage comparison should be the rate listed as of at least two weeks prior to the first day of travel. Exceptions may be made if the employee can demonstrate that notwithstanding the fact that the mileage reimbursement rate exceeded the price of coach airfare, that all factors considered, the total cost to the city was lower when using a personal vehicle as opposed to air travel.
- (c) Passenger Car. Whenever practical, employees traveling within the Metroplex, are encouraged to use a vehicle assigned to their department or if necessary and practical, arrange for the use of another city vehicle. Otherwise, the employee's personal car may be used. For purposes of this policy, the Metroplex is composed of two Primary Metropolitan Statistical Areas (PMSA). Dallas PMSA (Collin, Dallas, Denton, Ellis, Henderson, Hunt, Kaufman, Rockwall) and Fort Worth PMSA (Hood, Johnson, Parker, Tarrant).
- (1) Mileage will be reimbursed at the rate established by the Internal Revenue Service.

- (2) When travel is by indirect route for the traveler's own convenience, reimbursement for expenses shall be based only on such charges as would have been incurred over the most direct route.
 - (3) Employees who receive a car allowance will not receive mileage reimbursement for travel within the Metroplex.
- (d) Rental Cars. Under ordinary circumstances, the cost of rental cars will not be reimbursed except when ground transportation is not available or economical. Approval of a rent car must be obtained from the department director prior to making the trip. Documentation must be provided to support this request. Employees should waive the liability/collision option typically offered at an additional cost, by the rental agency as this coverage is provided under the city's insurance coverage.

10.7 Extraordinary Expenses

There may be isolated occasions when extraordinary expenses beyond ordinary living costs can be justified as having a direct bearing upon city programs or which otherwise could be of benefit to the city. Expenses not specifically addressed in this policy that are incurred by an employee are allowable when determined by the department director to be reasonable and necessary for the conduct of city business. These expenses must be individually reviewed by the director and recommended as reasonable and proper and incurred in the pursuit of city business. In such cases, approval for reimbursement of expenditures may be secured if adequate written justification is submitted to the finance department. Notwithstanding the responsibilities and duties of the department director, the finance director may forward expenditures which, in the finance director's judgment might be questionable, to the Deputy City Manager or the City Manager for approval.

10.8 Fraudulent Claims

The city will fund or reimburse reasonable expenses as described in this policy, that are incurred by employees at conferences, meetings, conventions, seminars, and other functions, to the extent that the amounts are: 1) authorized, 2) incurred, and 3) documented. Every claim submitted pursuant to this policy shall be substantiated by a receipt or voucher and shall contain a statement that the expenses are actually incurred by the traveler as necessary in the performance of their official duties. Each claim shall be accompanied by a written declaration that the claim is true and correct as to every material matter and that the employee has read and understands the city's entire travel policy. Any person who willfully makes and subscribes to any claim which they do not believe to be true and correct as to every material matter or who willfully aids or advises others in falsifying claims, will themselves be in violation of this policy. Whomever shall receive an allowance or reimbursement by means of a false claim shall be personally liable in the amount of the fraudulent payment for the reimbursement to the public funds from

which the claim was paid. Fraudulent claims may also result in additional disciplinary procedures up to and including termination.

For a definition of fraud, see the glossary in this manual.

10.9 Requests for Travel Advances.

- (a) When requested. When it becomes necessary that an employee travel in the interest of the city, the department director may request an Advance Payment Request Form from the finance department. The request should be prepared and submitted at the earliest practical time but preferably no less than seven full working days prior to departure.
- (b) Authorization. The Advance Payment Request Form shall include information indicating the name of the prospective traveler, amount requested, purpose of the trip, date(s), account number to be charged, and any other pertinent information. The employee shall sign the form indicating that the employee understands and agrees to follow this policy. The form shall then be signed by the department director and the City Manager or the Deputy City Manager of administration.

10.10 Filing Expense Reports.

- (a) Complete the Expense Report Promptly. Upon return from travel, the employee shall fill out an expense report for approval by the department director within 10 working days. If additional time is taken, it must be approved in writing by the department director, and the department director's approval must accompany the expense report at the time it is ultimately submitted.
- (b) Itemized Expenses. Each claim for expenses must be supported with an acceptable receipt. Miscellaneous items, such as pay telephones and parking meters, for which no receipt is available require hand written justification. Do not use guest receipts which are not original items provided by third party service providers or forms or vouchers which might reasonably appear to have been provided by third parties. Use only hand written documentation which is specifically acknowledged to have been produced by the employee. If an employee fills in an amount on a pre-printed "guest receipt", that figure should be initialed by the employee. Expense claims not supported by pre-printed receipts will be rejected unless written justification initiated by the department director is submitted. If a credit card is used for payment, whenever possible, the provider's bill/receipt/ticket should be submitted instead of the credit card receipt.

Whenever personal credit card receipts are used for documentation, employees should take care to fully obscure credit card numbers (for reasons of personal financial security).

- (c) Expenses of non-employees. Only department directors will be allowed to pay an expense not incurred directly by a city employee. Even in these instances, the directors must provide a detailed written explanation supporting the “business purpose” of the expense. Exceptions to this general rule must be documented by advance written approval of the department director.
- (d) Submit to department director for approval. The department director shall review, sign, and submit the expense report to the finance department within five working days of its receipt from the employee. When payment or documentation is not received within the required time, the finance department will discontinue any advances to that employee, and will provide a list to the Deputy City Manager or City Manager, of employees who are delinquent and whose privileges have been revoked. The department director is also responsible for ensuring that all expense reports are completed in accordance with this policy.
- (e) Return of Unused Funds. In instances where an advance of city funds was made and not entirely used, or if the trip was not taken, the employee shall return the unused funds to the finance department for credit to the proper fund. The original receipt of this refund transaction must be attached to the expense report and submitted to the finance department.
- (f) Finance department review. The finance department shall review the items submitted and determine their mathematical accuracy and compliance with this policy. The finance department will make any corrections under this policy determined necessary by its review.
- (g) Petty cash. Expense reports submitted for reimbursement of expenses \$50 and less shall be reimbursed through petty cash.
- (h) Appeals. Disagreement as to whether an expenditure is allowed, may be appealed by the employee or the department director, the Deputy City Manager, or the City Manager, if applicable. The provisions of this policy will be the guideline in the final decision.

**Chapter XI: Employment Separation, Reduction in Force and Rehire/Reinstatement
(01/01/19)**

11.1 Separation Requirements.

- (a) An employee who leaves in good standing shall be entitled to payment of certain accrued benefits as outlined in the chapter Vacation, Sick, Leave of Absence, and Other Absence from Work. If an employee fails to leave in good standing, they shall not receive those payments for which they would have been eligible for otherwise. Unless other arrangements are made by the City Manager's office, department director, employee, and director of human resources, to leave in good standing, an employee must:
 - (1) leave the employment of the city voluntarily, except in a reduction in force;
 - (2) return city-issued equipment, uniforms, or other items.
 - (3) non-exempt employees must give at least ten working days written notice of the intention to separate from employment.
 - (4) exempt employees must give at least 45 working days written notice of the intention to separate from employment; and return city-issued equipment, uniforms, or other items.

- (b) For final pay provisions, see the Compensation Chapter under Separation Pay.

11.2 Reduction In Force (Layoffs). (01/01/19)

- (a) Procedures. Layoff of employees may occur when changes in duties, organization, or lack of work or funds necessitates such action. The order of layoff shall be determined by multiple factors to include the current operating needs of the City, employees' knowledge, skills, abilities, performance patterns, disciplinary history, and compliance with the City's guideline and standards. Length of service may be used as a determining factor when a decision needs to be made between employees of equal standing on those varying factors. When possible, employees to be laid off will be given 30 calendar days' notice. The Human Resources Department will coordinate all layoff actions with the affected departments.

- (c) Placement. When layoffs are required, every effort shall be made to place affected employees in other open positions for which they are qualified. A laid-off employee may elect to officially terminate employment with the City versus accepting reassignment with all of the rights of an employee resigning in good standing.

- (d) Re-Employment After Layoff. Employees are eligible for rehire when laid off. The City does not have recall rights. An employee may reapply with the City for open positions and will be considered along with other qualified applicants.

11.3 Rehire/Reinstatement. (01/01/19)

- (a) Rehire. Rehire of a former employee may be granted to applicants who can demonstrate acceptable prior service and meet current qualifications for the position. Rehire is at the sole discretion of the City.

- (b) Rehire when laid off. Providing an employee was laid off and accepts the first offer of rehire with the City, they will be reinstated with full service credit up to the time of layoff for purposes of longevity pay and vacation/sick accrual benefits. The accrual amount will be based on the new position for which rehired. Retirement benefits are managed at reinstatement in accordance with the policies of the Texas Municipal Retirement System regardless of rehire provisions above. Group health or other benefit eligibilities will be based on the re-employment date.

- (c) Other Rehires. Providing an employee left in good standing and rehires within ninety (90) days of separation, they will retain the same level of seniority for purposes of accruing vacation/sick benefits. The accrual amount will be based on the new position for which rehired. Employees rehired after (90) days of separation will not maintain seniority for purposes of accruing vacation/sick benefits. Retirement benefits are managed at reinstatement in accordance with the policies of the Texas Municipal Retirement System regardless of rehire provisions above. Group health or other benefit eligibilities will be based on the re-employment date.

12.1 Benefits – Regular Employees (excluding Retirement). (revised: 8/2013)

- (a) Employees who are in positions that are budgeted for benefits (full-time and some part-time employees working 20 or more hours per week) receive a core benefits package inclusive of health, dental, LTD, life, employee assistance programs, vacation, sick, holiday pay, and other paid time off leaves as described in the Handbook. Other supplemental benefits may include options to purchase additional life for self and dependents, vision insurance, participation in deferred compensation and other related benefits.
- (b) Benefits are not guaranteed, and no part of the employment arrangement affords an expressed or implied guarantee of benefits. The availability of any and all benefits is contingent upon available budgeted funds and the approval of that budget by the City Council following recommendations by the City Manager and Human Resources office.
- (c) A summary of benefits is available for all employees to review in the Human Resources Department.
- (d) All full-time employees are required to be covered on the health plan. Some employees may be eligible for an opt-out provision if he/she has coverage from another employer-based plan (i.e. spouse's plan), the United States military, or retiree coverage provided from a prior employer/military.
- (e) Employees that leave City employment and are re-employed, will be required to meet the normal group health waiting period from the re-employment date.

12.2 Retirement Benefits.

- (a) Retirement system. The city participates in the Texas Municipal Retirement System (TMRS). All employees regularly scheduled 1000 hours per year or more are required to be members of and contribute to TMRS. Employee contributions to TMRS are deducted from the employee's paycheck each payroll period. The city also makes a contribution on behalf of the member employee. All retirement activities are governed by the Texas Municipal Retirement System Act.
- (b) Retirees' Health coverage. Some insurance and discount benefits may be provided for retirees. Retiring employees should request detailed information from the Human Resources Department related to insurance products available and other benefits available at the time of retirement.
 - (1) Policy may be changed. The policy related to retiree benefits may be repealed or modified at any time.

Chapter XIII: Fraud

13.1 Purpose

The purpose of this policy is to establish a fraud policy to convey, both internally and externally, the intent and conviction that all City business is conveyed with integrity using the highest ethical standards possible. To accomplish this purpose, this policy seeks to establish rules that clearly define unacceptable behavior, prevent fraud and outline the appropriate response to allegations of fraud in connection with City programs, functions or activities. This policy applies to all City employees.

13.2 Scope

This policy establishes three key expectations of the City of Burleson:

- (a) Since to “guard the public’s trust” is one of the core values of the city’s ethics mission statement, it is important to discourage and prevent fraudulent activity and report suspected fraud.
- (b) Strong procedures, outlined in this policy, will respond to allegations of fraud.
- (c) Investigation procedures ensure objective review of each situation.

13.3 Definitions

(a) Fraud: The intentional misappropriation of City assets by any act including, but not limited to, theft, embezzlement and intentional misrepresentation. Acts constituting fraud include but are not limited to:

- (1) Forgery or alteration of any document or account belonging to the City.
- (2) Forgery or alteration of a check, bank draft or any other financial document representing funds belonging to the City.
- (3) Misappropriation of funds, securities, supplies or other assets of the City.
- (4) Impropriety in the handling or reporting of money or financial transactions involving the City and any other entity.
- (5) Profiteering as a result of insider knowledge of City activities.
- (6) Disclosing confidential and proprietary information to outside parties.
- (7) Accepting or seeking anything of material value from contractors, vendors or persons providing services/materials to the City in return for a referral of business.

- (8) Unauthorized destruction, removal or personal use of records, furniture, fixtures and equipment belonging to the City.
 - (9) Embezzlement, larceny or any other misapplication of City funds.
 - (10) Any official misconduct including the misapplication or misuse of City funds, property or information.
- (b) Appropriate law enforcement authority: A part of a state or local governmental authority or of the federal government that an employee in good faith believes is authorized to:
- (1) Regulate or enforce the law alleged to be violated in the report; or
 - (2) Investigate or prosecute a violation of criminal law.

13.4 Policy

Fraudulent activity is prohibited. All allegations of fraudulent activity will be investigated. If it is determined that any employee has engaged in fraudulent activity, the employee will be subject to discipline, up to and including termination of employment, and referral may be made to an appropriate law enforcement authority.

Retaliation against any employee for reporting what is believed to be fraudulent activity or for participating or cooperating in an investigation of an allegation of fraud, is prohibited.

13.5 Roles and Responsibilities

(a) City Manager:

The City Manager has overall responsibility for compliance with this policy. As a public official, the City Manager has a duty to disclose all evidence of fraud. For this reason, when determined necessary, the City Manager, in consultation with an appointed Investigation Committee, if set up under Sec. 13.5 (g) below, will refer information to the appropriate law enforcement authorities on items that may result in criminal prosecution. Where it does not impede or interfere with a criminal investigation or prosecution, the City Manager may provide information to the City Council concerning a particular fraud investigation.

In the event that allegations of fraudulent activity involve the City Manager, the allegations shall be reported to the Mayor and City Attorney. The City Council will investigate allegations of fraudulent activity involving the City Manager in the manner as set out in the City of Burleson Home Rule Charter.

(b) Department Directors:

Department Directors have a responsibility to uphold the City's policy and to communicate the organization's values. They are expected to initiate

appropriate preventative measures, implement necessary controls, encourage employees to attend training sessions and initiate investigations.

Department Directors will promptly report allegations or suspicions to the Director of Human Resources and will cooperate in investigations. This will be done prior to taking personnel action toward the employee(s) involved. Failure to report allegations or initiate investigations will result in disciplinary action.

Department Directors are responsible for conducting reviews/investigations of alleged fraud when the Human Resources Director feels it is appropriate for the Department Director to do so. If the Human Resources Director conducts the investigation, Department Directors will provide all necessary assistance.

Department Directors are responsible for determining and enforcing disciplinary action with the aid of the Human Resources Department.

- (c) Supervisors and Managers:
 - (1) Supervisors and Managers have a responsibility to uphold the City's policy. In consultation with the Department Head's they are expected to initiate
 - (2) Appropriate preventative measures, implement necessary controls and initiate investigations by promptly reporting allegations to the department director or Director of Human Resources when they observe behavior that violates this policy and/or when they receive complaints alleging fraud.
 - (3) Supervisors and Managers are also expected to cooperate in all investigations.

- (d) Director of Human Resources:
 - (1) The Director of Human Resources has the responsibility to ensure allegations of fraud are investigated in a timely manner.

 - (2) The Director of Human Resources is also responsible for conducting reviews/investigations of alleged fraud or notifying the Department Head that the Department Head should proceed with the review/investigation.

 - (3) The Director of Human Resources will develop and implement training programs designed to educate employees about this policy.

- (e) Human Resources Department:
 - (1) The Human Resources Department will track cases and their disposition. However, if the case is a criminal investigation, no information made confidential by law or by discretion of the investigating officer will be maintained in the Human Resources Department to avoid impeding the criminal investigation. All criminal case information and documentation

will be maintained by the investigating law enforcement authority. All administrative investigation case files will be maintained by the Human Resources Department.

(2) The Human Resources Department is responsible for advising City personnel in the determination and enforcement of disciplinary action.

(f) Employees:

(1) Employees will not engage in fraudulent activity;

(2) Employees who are contacted by citizens with evidence or written allegations of fraud shall immediately report it to their department director, the Human Resources Department, a Deputy City Manager or the City Manager

(3) Employees who suspect fraud shall immediately report their suspicions to their supervisor for appropriate action, or as provided in 3.a or 3.b below. Immediately shall mean as soon as the employee has the means to contact their supervisor or the alternatives, but shall be no longer than twenty-four hours after the employee becomes aware of the suspected fraud.

(A)As an alternative, City employees can go outside the normal chain of command and report suspected fraud directly to their department director, the Human Resources Department, the Police Chief, a Deputy City Manager, or the City Manager.

(B)Employees may also make anonymous reports via the employee anonymous reporting hotline. Details of the anonymous reporting will be placed in this Handbook as an addendum and distributed to all employees. In order to assure that this type of report may be appropriately responded to, employees are discouraged from making anonymous reports via means other than the reporting hotline (notes, phone message, letters, etc.).

(C)Employees are required to cooperate fully during any City review or investigation of an allegation of fraud. Anyone informed of an investigation in progress shall ensure that strict confidentiality is observed so as to not prejudice the investigation. During an investigation, any employee contacted by the media should refer all questions to the Director of Marketing & Communications. Employees should be aware that:

(1) They are to maintain the confidentiality of the information they

receive (except in the event of a public information request, court order or otherwise authorized by law).

- (2) They will not be subject to retaliation for cooperating.
- (3) The Human Resources Department is available to provide advice related to the City's personnel policies.
- (4) If they have questions concerning legal consequences to them personally, they should consult with a personal attorney at their own expense.
- (5) Failure to comply with this policy could result in disciplinary action pursuant to the City of Burleson Employee Handbook.
- (6) Employees who intentionally or knowingly make false accusations and/or provide false information concerning instances of fraud will be subject to disciplinary action up to and including termination.

13.6 Investigation Committee:

- (1) Many issues may be handled through normal disciplinary procedures; however, when warranted, the City Manager may appoint an Investigation Committee to respond to fraud allegations.
- (2) The Investigation Committee could include but is not limited to the:
City Attorney, Deputy City Manager, Department directors, Representatives from the Human Resources Department, and/or a third-party consultant with expertise in the area of concern.
- (3) The committee's responsibilities will be to:
 - (A) Respond to fraud allegations through coordination of necessary resources in determining future actions regarding the investigation.
 - (B) Communicate all committee findings and recommendations to the City Manager.
 - (C) Refer all allegations suspected to be criminal in nature to the appropriate law enforcement authority.
 - (D) Maintain accurate records of all matters related to the investigation.

13.7 Investigation Types

Depending on the seriousness and scope of the allegation, three types of investigations could be conducted. Some allegations may be considered less serious and can be handled by a Department Director while others may touch multiple departments and require an Investigation Committee.

If at any point within an investigation it becomes suspected that criminal activity may have occurred, whomever is leading the investigation shall promptly notify the appropriate law enforcement authority as well as the City Manager who will determine if the case should still be pursued as an administrative investigation in addition to any criminal investigation.

The three types of investigations are:

(a) Department Director Review

- (1) The Department Director, or his/her designee, shall initiate an investigation within five (5) working days after the allegations have been received. All allegations shall be reported to the Director of Human Resources. The Human Resources Department will initially determine if a Department Director Review is appropriate and, if so, may assist in the investigation if the Department Director deems it necessary.

(b) Human Resources Review

- (1) The Director of Human Resources, or his/her designee, shall initiate an investigation within five (5) working days after an allegation has been received. The Director of Human Resources or his/her designee shall meet with the Department Director or designee to discuss the allegations and shall promptly report the allegations to the City Manager. The City Manager will make a final determination as to whether or not an Investigation Committee is warranted and if so, who will serve on that committee.

(c) Investigation Committee Review

- (1) When deemed necessary, an Investigation Committee appointed by the City Manager will prepare an investigation plan and coordinate with the individuals necessary to conduct different areas of the investigation.
- (2) If the committee suspects the conduct to be criminal in nature, the committee will forward all information to the appropriate law enforcement authority to take charge of any criminal portion of the investigation. If necessary, the Investigation Committee will serve as a resource.

- (3) The Investigation Committee will notify the Department Director of any allegations submitted to them that require an on-site investigation, when appropriate, unless it is determined that such notification will harm the investigation. When the investigation requires the inspection of City facilities and for equipment, the City may initiate a search in compliance with federal and state law.

13.7 Investigation Procedures

- (a) The following procedures apply to all investigations, regardless of whom is leading the investigation:
 - (1) An investigation shall be planned in coordination with the Human Resources Department and initiated within five (5) working days after the allegations have been received.
 - (2) After all relevant information has been collected, a written report of findings regarding the allegations of fraud shall be completed. The Director of Human Resources and Department Director shall meet to confer about the findings and discuss the nature of appropriate action. Provided the investigation is not related to the City Manager the findings will be reviewed with the City Manager prior to final determination of disciplinary actions to be taken.
 - (3) A determination regarding the reported conduct will be made and communicated to the complainant, if necessary, and the accused employee.
 - (4) Based on the findings, the appropriate supervisor will administer the appropriate disciplinary action, including but not limited to, counseling, mandatory training, reprimand, suspension or termination of employees violating the provisions of this policy.
 - (5) Any disciplinary actions resulting from the application of this policy will be handled in accordance with the City's Employee Handbook.
 - (6) A copy of the findings report shall be provided to the accused employee(s), the appropriate department director, the Human Resources Director, the Deputy City Manager, the City Manager and the complainant, if deemed appropriate. A copy shall also be placed in the personnel file(s) of the accused employee(s).
 - (7) To the extent allowed by law, all documentation and matters regarding the investigation shall be handled with due sensitivity and confidentiality appropriate to the circumstances.

Appendix A: Work Related Injury or Illness (Revised 11/01/16)

A.1 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) Assure that first aid is given, if qualified personnel are available.
 - (2) Call for emergency medical assistance, if the injury is serious, as may be indicated by, but not limited to, profuse bleeding, broken bones, unconsciousness, or shock; or
 - (3) Transport the employee to the emergency care facility designated by human resources or an approved physician, if the injury requires medical care but does not warrant emergency transport.
- (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 Human Resources Department for inclusion in the employee's personnel file:
- (1) Employee's First Report of Injury or Illness: must be filed within 72 hours of the occurrence of injuries resulting in medical treatment or lost time;
 - (2) Supervisor investigation report: an incident report to be filed within 72 hours of the occurrence of an injury, regardless of severity.
- (c) Family Medical Leave and Injury Leave: Employees with a serious work related injury or illness that results in a physician authorized absence of greater than three days, will have the absence designated as Family Medical Leave. Injury leave and Family Medical Leave will run concurrently.
- (d) Physical Exam; Fitness for Duty
- An employee who has been injured at work shall obtain a physical examination from an approved physician if the employee has received emergency treatment at a hospital; or) the department director 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 director instructs the employee to report for examination.
- (e) Employees who receive treatment (non-emergency) from a doctor are required to seek care from a physician that is approved through the City's workers'

compensation insurance carrier, Texas Municipal League (TML). TML has formed an "Alliance" with numerous area doctors, and employees are to see one of the designated doctors in the Alliance. If a specialist is needed, the employee will be referred through the Alliance physician. More information is available in Human Resources, and employees will work with department management and Human Resources and the TML carrier to follow required protocols.

- (f) Physician's release. If an employee receives treatment from a clinic or doctor, the employee must obtain a written release from the attending physician or the city-designated 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.
- (g) Physician Determination. If the 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.
- (h) Modified Duty.
 - (1) Purpose. The purpose of this section is to provide a process by which employees injured at work may receive temporary work assignments that will benefit their full recovery. It is not intended nor to be used as a disability program.
 - (2) 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 director and the Director of Human Resources. An examination and evaluation conducted by the attending physician or the city-designated 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 employee's director and the director of human resources to determine if an assignment is available which matches the injured or ill employee's training, skills and capabilities, as determined by the physician.
 - (3) Work assignment. A modified duty work assignment will be offered to an injured or ill employee if:
 - (A) 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; and

- (B) the employee's department director determines that modified duty is available. If no modified duty can be found within the department, the employee may be temporarily assigned to work in another department, if there is an existing opening for which the employee is qualified and that meets the employee's work restrictions. A temporary assignment does not constitute the creation of regular or long-term employment in the assigned position. The salary of an employee on modified duty will be paid by the employee's department and the employee will be returned to the original position and department when released for full duty. If modified duty cannot be found, the city will not create a position and the employee will remain on leave.
 - (C) Employees who receive a bona fide offer of temporary employment within a light duty assignment that complies with the physician's medical orders, may not refuse the work assignment. Refusal of the assignment will be considered insubordination and will subject the employee to disciplinary action. Failure to report to duty for a light duty assignment will be considered absence without approved leave and further subjects the employee to disciplinary action.
- (4) 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 or until temporary work duties are completed, but not to exceed three months unless the City Manager gives written approval for a longer period.
- (5) Conditions of modified duty. As a condition of continuing in a modified duty work assignment, an employee must:
- (A) adhere to prescribed treatment and make reasonable efforts toward rehabilitation;
 - (B) accept progressively more demanding assignments as the employee's condition improves; and
 - (C) make visible progress in returning to full performance capability.
- (6) Termination of modified duty. An employee's modified duty work assignment will be terminated if:

- (A) the employee is found performing beyond the modified duty restrictions;
 - (B) the work assignment is completed;
 - (C) the employee performs unsatisfactorily in the position;
 - (D) budgetary constraints do not allow continuation of the position;
or
 - (E) the employee's medical condition worsens.
- (7) 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 director of human resources in conjunction with the employee's director 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.

A.2 Wages During Work Related Injury Leave (revised 01/01/2013)

- (a) Eligibility. A full-time employee, injured in the course of employment with the city is eligible for injury leave for 60 calendar days during the period of time the employee is unable to work due to the injury.
- (1) The Texas Workers' Compensation Commission will approve the workers' compensation insurance carrier to pay wages only for serious injuries. In general, a serious injury is one that a physician documents the employee is unable to work for more than eight calendar days. The City of Burleson relies on the physician to determine any physical work restrictions and when the employee can return to a full-duty status.
 - (2) It is the responsibility of the designated supervisor or timekeeper to code all timesheet records appropriately during missed time.
 - (3) The City of Burleson pays the injured employee's wages as a benefit on the day of injury and the first eight calendar days, if the above conditions apply.
 - (4) If the employee is approved to receive wages from the Texas Worker's Compensation Commission, the salary continuation benefit (see A.2, b, below) may apply, if the employee is unable to work after the eighth calendar day.

- (b) Salary Continuation Benefit. An employee who takes injury leave receives the following benefits:
- (1) The employee continues to receive the employee's current rate of pay, exclusive of overtime, for not to exceed the number of work periods in 60 calendar days. In exchange for salary continuation, the employee must endorse the employee's workers compensation wage benefits over to the city. It is the responsibility of the employee to turn in state issued workers' compensation wage to the Finance department. If an employee is unable to come to the department due to injury, alternative arrangements will be made via the Human Resources Department to assure the wages are exchanged.
 - (2) If at any time the employee abuses the privileges related to the salary continuation benefit, his/her employment may be terminated immediately.
 - (3) At the end of 60 calendar days, the employee may elect to supplement workers' compensation wage benefits by using accrued vacation, compensatory leave, or sick leave to make up the difference between workers compensation payments and the employee's full rate of pay.
 - (4) After all accrued leave has been exhausted the employee shall receive only workers' compensation benefits as authorized by state law.
- (c) Responsibility. An employee on injury leave is responsible for contacting the employee's supervisor, either in person or by phone, at least once every workweek.
- (d) Benefits and Accrual. An employee on injury leave is not eligible for merit raises or promotions. However, during the first 60 calendar days of injury leave, the employee will continue to accrue vacation and sick leave at the normal level. After 60 days, the accrual will continue only as long as the employee is using other available leave. When all available leave is exhausted, the employee will cease accruing vacation and sick leave until the employee returns to work.
- (e) Return to work. Before an employee returns from injury leave or Family Medical Leave (FML), the employee must present a written release to work to the director of human resources from the employee's treating physician.

A.3 Life-Threatening Illness and Injury:

- (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 practical.

- (b) Confidentiality 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) 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 the department director and/or supervisor only when necessary.

Substance Abuse Policies – City of Burleson:

Administrative Note: The City of Burleson’s substance abuse policy for active employees is reflected in the following three appendices (Appendix B, C, and D).

Employees should carefully review the “Applicability” section of the policy to determine which policy is applicable for their position. In addition, should an employee transfer or change positions, the applicable substance abuse policy for their position will change.

It is the responsibility of department management, in concert with the Human Resources Department staff, to assist an employee in determining which policy is applicable to their job description.

In all cases, the City’s objective is to prohibit the use of prohibited substances and illegal drugs in the work place in order to provide a workplace that is safe for not only the City employees, but also the general public. The City’s policy is to maintain a drug-free work place, prohibiting 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/on a city vehicle.

Appendix B: Applicable to all administrative employees and employees who do not have a specific requirement to drive a city vehicle or operate heavy equipment in order to fulfill their assigned job duties.

Appendix C: Applicable to all employees who hold a Class C Texas Driver’s License and whose job duties include driving of a city vehicle or operation of heavy equipment.

Appendix D: Applicable to all employees who hold a Commercial Driver’s License and are regulated by the Department of Transportation.

Appendix B: Substance Abuse Policy (revised 01/01/13)

Applicable to all administrative employees and employees who do not have a specific requirement to drive a city vehicle or operate heavy equipment in order to fulfill their assigned job duties, regardless of rank or position and includes temporary and part-time employees, and city volunteers.

B.1 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 establish rules providing for 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.

B.2 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/on a city vehicle.

B.3 Application of Policy.

Applicable to all administrative employees and employees who do not have a specific requirement to drive a city vehicle or operate heavy equipment in order to fulfill their assigned job duties, regardless of rank or position and includes temporary and part-time employees, and city volunteers.

B.4 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 seek employment with the city will be required to submit to a pre-employment post-offer drug test. 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. An offer of employment is conditioned on successfully completing the pre-employment drug screen.
- (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.

B.5 Reasonable Suspicion Testing of Current Employees.

- (a) Test required. When a supervisor, manager, or director 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 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, the odor (or smell) of alcohol, 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 director, 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, Deputy City Manager, or Director of Human Resources for a review of the documentation. The City Manager, Deputy City Manager, or director of human resources must concur with the department official's recommendation

before a drug and/or alcohol test is performed. Outside of regular working hours, or at times when the City Manager, Deputy City Manager, or director of human resources are not available for consultation, a department director may order an employee to submit to an immediate drug and/or alcohol test, pursuant to the guidelines of this article. The City Manager, Deputy City Manager, or director of human resources must be notified of the testing at the earliest opportunity, and all records relating to the incident will be maintained by the Human Resources Department.

- (e) Refusal: See section B.8 below.

B.6 Post-accident testing.

- (a) Basis for testing. Occurrence of a work related accident that results in serious injury, loss of human life, or major property damage will create a basis for testing of the employee responsible for the accident. If the actions of one employee result in an injury to another employee, only those employees whose actions contributed to the injury will be tested.
- (b) Exceptions. Employees will not be tested for environmental injuries, such as insect stings or bites, heat-related injuries or illnesses, or allergic reactions.
- (c) Determination of testing. When an accident occurs, the employee or employees involved shall immediately notify the supervisor, who shall determine the necessity of drug or alcohol testing. If an exception to testing may be applicable, the decision whether or not to test shall be made by the department director. If the department director is unable to determine whether testing is required, then the Director of Human Resources must be consulted. The decision to test or not test must be documented.

B.7 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 Department. Refusal to sign the consent form shall be considered a refusal to take a drug or alcohol test and is considered a voluntary resignation.
- (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 breath specimen, urine specimen, 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).

- (c) Establishing positive results. Determination of positive results will be made using guidelines established by the provisions of the Mandatory Guidelines for Federal Work Place Drug testing programs. A two-stage process will be used to establish positive test results.
- (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 Medical Review Officer (MRO), and to present a current prescription for a medication that caused the positive test result. If the MRO 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.

B.8 Pre-test procedure

Department managers should review items 1 and 2 below with employees prior to a test.

- (a) Refusal. Employees who refuse to submit to a drug and alcohol test required pursuant to this article who do not elect to resign (see #2 below) will be terminated. He/She will not be paid for accrued vacation or sick leave upon resignation, unless written authorization to do so is given by the City Manager.
- (b) Resignation prior to reasonable suspicion testing. Employees who desire to resign in lieu of a test will be allowed to do so. A two week notice may be given, but may also be waived if appropriate (as determined by the City Manager or Deputy City Manager). Such resignation will be considered in good standing, and applicable exit benefits may be paid, in accordance with policy (i.e. vacation/sick hours).

B.9 Test Results.

- (1) **Positive Results** – Illegal Drug Use
A positive result for the use of illegal drugs will result in immediate termination.
- (2) **Positive Results** – Alcohol and Illegal Use of Prescription/Over the Counter Medications:
 - (a) Persons who test positive for illegal use of legal drugs or alcohol use at a level of .08 or greater will be terminated.
 - (b) Persons who test positive for illegal use of prescription/over the counter medications or alcohol at a level less than .08 (or the current State of Texas legal driving limit, whichever is less) are subject to disciplinary action up to and including termination. Circumstances (including prior warnings, other discipline, employee performance) will be taken into consideration and will be reviewed on an individual basis.

- (c) The disciplinary action administered to employees whose test result is positive, as explained B9.2b, will be reviewed by the Director, the Human Resources Director, and the City Manager's office prior to discussions with the employee.
- (d) Any referral to the City's Employee Assistance Program will be documented by management as a part of the employee's coaching efforts.
- (e) Employees who receive non-terminating disciplinary action for alcohol and illegal use of prescription or over-the-counter medications on their first offense will be automatically terminated if he/she tests positive, for any reason, from a future alcohol/drug test.

B.10 Security of Data.

Test results will be held in the strictest confidence. The personal identification of the employee failing to pass the test will not be communicated to anyone other than the employee's chain of command, the employee, the appropriate staff member in Human Resources and the City Manager's office (City Manager or Deputy City Manager). Other employees, on a need to know basis, may be made aware of test results, as determined by the City Manager's office and Human Resources. The information may be released, if required, by court order from any court of competent jurisdiction. 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 test 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.

B.11 Self-Declaration as a Substance Abuser.

- (a) Participation in city employee assistance program. Any employee may identify himself or herself at any time (prior to a reasonable suspicion incident or an accident) as an abuser of drugs or alcohol and, voluntarily, through a recognized treatment program, seek counseling and rehabilitation. In these instances, the employee will be permitted the use of available leave subject to the provisions of Family Medical Leave. Employees undergoing treatment will be required to authorize disclosure of their progress in treatment to the Director of Human Resources. 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 termination of 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.

B.12 Drug or Alcohol Arrests.

- (a) Notification required. Any employee who is arrested for criminal activity involving the illegal use or possession of drugs must notify the employee's supervisor no later than five days after the arrest. Failure to do so may result in disciplinary action, including termination.
- (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.

B.13 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 or compensatory leave and family medical leave. Available leave may be taken as needed with advance arrangements made with the director for the absence.

B.14 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 a 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.

B.15 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.

B.16 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 termination.
- (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 and may decline calls for emergency duty. In this event, the employee will not be subject to any disciplinary action or penalty.

B.17 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 termination, 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.

B.18 City Social Functions.

This article does not prohibit the moderate use of alcoholic beverages at city sponsored social functions when available as part of the function, if the social function does not involve the use of a city vehicle to or from the event.

B.19 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, and the grounds for suspicion must be described in writing prior to the search. Employees who refuse to cooperate during unannounced searches shall be subject to disciplinary action, including termination.

Appendix C: Substance Abuse Policy (revised 01/01/13)

Applicable to all employees who hold a Class C Texas Driver's License and whose job duties include driving of a city vehicle or operation of heavy equipment.

C.1 Applicability.

Applicable to all employees who hold a Class C Texas Driver's License and whose job duties include driving of a city vehicle or operation of heavy equipment.

City employees whose job duties require the operation of a City vehicle or heavy equipment. Throughout this policy when the phrase driver/operator is used, it applies to those persons who operate heavy equipment for the City. The title of the position need not include the words, "heavy equipment" or "operator" for this policy to be applicable.

C.2 Prohibitions Regarding Alcohol.

A driver / heavy equipment operator (operator) shall not:

- (a) report for duty or remain on duty when the driver's or operator's ability to perform assigned functions is adversely affected by alcohol or when the driver/operator's blood alcohol concentration is 0.04 or greater;
- (b) possess or use alcohol while on duty, or within four hours before reporting for duty;
- (c) refuse to submit to a post-accident, reasonable suspicion, return-to-duty or follow-up alcohol test. See refusal protocol outlined later in this policy.

C.3 Prohibitions Regarding Drugs.

- (a) report for duty or remain on duty when the driver / operator 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/operator's ability to safely perform safety-sensitive functions;
- (b) report for duty, remain on duty, or perform a safety sensitive function if the driver/operator tests positive for drugs; or
- (c) refuse to submit to a pre-employment, post-accident, reasonable suspicion, return-to-duty or follow-up drug test. See refusal protocol outlined later in this policy.

C.4 Disciplinary Action.

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

- (a) 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;
- (b) fails to report a conviction (before returning to duty) for operating a motor vehicle while under the influence of alcohol or drugs;

- (c) fails to report a conviction (before returning to duty) 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;
- (d) fails to report that he/she has been convicted of violating a statute related to drugs (before returning to duty);
- (e) obstructs or interferes with the administration of any drug or alcohol test;

C.5 Positive Test Results / Consequences of Failing a Test.

(a) Positive Test Result:

- (1) Level greater than 0.02 but 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;
 - (A) for a minimum of 24 hours; and
 - (B) until the driver has undergone a return-to-duty alcohol test with a test result less than 0.02.
- (2) 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:
 - (A) the driver undergoes evaluation by a substance abuse professional;
 - (B) a substance abuse professional determines that the driver has successfully complied with any required rehabilitation; and
 - (C) 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.
- (3) Salary.
A driver shall not be paid for the period of time the driver is prohibited from performing safety sensitive functions.
- (4) 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. Persons with an alcohol concentration of 0.04 or greater shall be terminated.

C.6 Notice of Results

The City Designated Representative (CDR) 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. The CDR shall notify a driver of the results of reasonable suspicion and post-accident tests, and notify driver of the results of random tests, for drugs conducted under this policy if the test results are verified positive. The CDR shall also inform the driver which drugs were verified as positive.

C.7 Notice to Contact Medical Review Officer (MRO).

The CDR shall make reasonable efforts to contact employees and assist them with making contact with the city designated medical review officer (MRO) if necessary.

C.8 Testing Requirements.

Pre-employment Testing.

- (a) An applicant driver/operator shall not perform job duties of any kind until the driver/operator has undergone testing for alcohol / drugs and has achieved a result from the MRO indicating a verified negative result.

C.9 Pre-test procedure

Department managers should review items (a) and (b) below with employees prior to a reasonable suspicion test.

- (a) Refusal. Employees who refuse to submit to a drug and alcohol test required pursuant to this article who do not elect to resign (see item b below) will be terminated. He/She will not be paid for accrued vacation or sick leave upon resignation, unless written authorization to do so is given by the City Manager.
- (b) Resignation prior to reasonable suspicion testing: Employees who desire to resign in lieu of a reasonable suspicion test will be allowed to do so. A two week notice may be given, but may also be waived if appropriate (as determined by the City Manager or Deputy City Manager). Such resignation will be considered in good standing, and applicable exit benefits may be paid, in accordance with policy (i.e. vacation/sick hours).

C.10 Reasonable Suspicion Testing

- (a) Promptly comply. A driver/operator 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/operator has violated the alcohol or drug prohibitions of this policy.
- (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, the odor (or smell) of alcohol, 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) 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/operator shall be subject to reasonable suspicion drug testing later than 32 hours following the determination that reasonable suspicion exists to require the driver/operator to undergo such test. If the test is not administered within 32 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/operator.
- (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 24 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.

C.11 Post Accident Testing.

- (a) When tested. A driver/operator shall be subject to post-accident alcohol and drug testing as soon as practicable following an accident;
 - (1) involving loss of life;
 - (2) or the city driver/operator was cited for a moving violation and;
 - (3) one or more of the vehicles involved in the accident was towed from the scene;
 - (4) or someone involved in the accident required medical treatment away from the scene.
- (b) Time limit for testing. A driver/operator 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. If a test is not administered within the above time frames the trained supervisor or trained city official shall cease attempts to administer the tests and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
- (c) Report on delayed testing. If an alcohol and/or drug 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.
- (d) Availability for testing. A driver/operator who is subject to post-accident testing shall remain readily available for such testing or shall be presumed to have refused to submit to testing. Nothing herein shall be construed to require the delay of necessary medical attention or to prohibit the driver/operator 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.

C.12 Return-to-Duty Testing.

A driver/operator who has return-to-duty alcohol test result indicating an alcohol concentration of 0.04 or greater will be terminated.

C.13 Alcohol Test Procedures.

- (a) Persons who are tested under the policy will be tested in a manner that aligns with the procedures used by a certified testing center and laboratory whose credentials include testing for commercial driver's license. Similar protocols will be followed.
- (b) Testing device for alcohol. A Breath Alcohol Technician (BAT) shall administer alcohol tests using an Evidential Breath Testing device (EBT) except that if the City of Burlison 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.
- (c) Testing procedures. Alcohol testing shall be conducted in accordance with the following:
 - (1) A driver/operator directed to undergo alcohol testing shall proceed to the designated test site as instructed.
 - (2) A driver/operator shall follow all procedures and instructions given by the BAT including completing, signing, initialing, or dating any required forms or log books.
 - (3) The testing site shall provide visual and aural privacy to the driver/operator, 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/operator shall be provided visual and aural privacy to the greatest extent practicable.
 - (6) The BAT shall supervise only one driver/operator's use of the EBT at a time and shall not leave the alcohol testing location while the testing procedure for a driver/operator is in progress.
 - (7) Upon entering the test site, the driver/operator 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/operator, the BAT shall provide positive identification to the driver/operator.
 - (8) If a screening test of a driver/operator indicates a breath alcohol concentration of less than 0.02, no further alcohol testing of the driver/operator 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/operator indicates a breath alcohol concentration of 0.02 or greater, the driver/operator shall be required to undergo a confirmation test.
- (10) The driver/operator 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.
- (11) The confirmation test shall be conducted within 20 minutes of the completion of the screening test.
- (12) Refusal of the driver/operator to sign forms as requested by the testing facility shall be deemed a refusal to test.
- (13) The driver/operator's refusal 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/operator 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.
- (14) 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.
- (15) If the driver/operator 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/operator to attempt to provide an adequate amount of breath.
 - (A) If the driver/operator refuses to make the attempt, the BAT shall immediately inform the CDR.
 - (B) If the driver/operator 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/operator attempts and fails to provide an adequate amount of breath, the CDR shall direct the driver/operator 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/operator'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/operator from providing an adequate amount of breath, the driver/operator'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/operator from providing an adequate amount of breath, the driver/operator'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.

C.14 Drug Test Procedures.

- (a) Persons who are tested under the policy will be tested in a manner that aligns with the procedures used by a certified testing center and laboratory whose credentials include testing for commercial driver's license. Similar protocols will be followed.
- (b) Testing for alcohol or drugs. The assigned collection and testing clinic will administer drug tests in accordance with standard protocols for a certified laboratory except that if the City of Burlison approves administration of tests by persons other methods or technologies for detecting the presence of drugs, then the administration of tests by such other persons or the use of such other methods or technologies shall be permitted under this policy.

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:

- (1) A driver/operator directed to undergo a drug test shall proceed to the designated collection site as instructed by the supervisor.
- (2) A driver/operator 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/operator in accordance with Federal Highway Administration procedures.
- (4) A driver/operator shall provide at least 45 ml of urine for testing. A driver/operator who fails to provide at least this amount shall be subject to the provisions of Department of Transportation regulations related to what to do if a specimen is less urine than required.
- (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/operator that the driver/operator 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/operator 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 test confirms positive for the presence of drugs, the driver/operator 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/operator having been notified of a verified positive test result. The driver/operator shall be responsible for any and all costs associated with having the split specimen tested.
- (12) If the driver/operator has not contacted the MRO within 72 hours, the driver/operator 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/operator from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the driver/operator'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/operator 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/operator 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, and the driver/operator.
- (17) A driver/operator whose primary specimen tests confirmed positive for the presence of drug and who requests, 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/operator shall be paid his wages for all regularly-scheduled shifts the driver/operator 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/operator is unable to provide the required 45 ml of urine, the driver/operator shall be instructed to drink not more than 24 ounces of fluids, and, after a period of up to two hours, again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded.
- (19) If the driver/operator 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/operator's inability to provide an adequate sample.
- (20) The MRO will then refer the driver/operator for a medical evaluation to develop pertinent information concerning whether the driver/operator'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/operator's inability to provide an adequate sample is not genuine, the driver/operator shall be deemed to have refused to test and shall be deemed to have tested positive for drugs.

C.15 Confidentiality of Records of Drug and Alcohol Testing.

Records of drug and alcohol testing of driver/operators are subject to the following:

- (1) All records required to be maintained for drug or alcohol testing shall be maintained in a secure location with controlled access.
- (2) Except as required or permitted by law, 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/operator, the city shall make records available to a subsequent employer.
- (4) Upon written request, a driver/operator is entitled to copies of any records pertaining to the driver/operator'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 to human resources and the employee tested. Other persons may receive test results on a need-to-know basis.
- (6) The city may disclose information pertaining to the drug or alcohol testing of a driver/operator to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the driver/operator, and including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver/operator and arising from the results of an alcohol or drug test.

C.16 Referral to Substance Abuse Professional.

Though driver/operators with a positive drug test or a blood alcohol concentration test level of 0.04 or greater, shall be terminated, a referral to area substance abuse professionals may be made. A listing of substance abuse professionals will be provided in training or posted in work sites for active employee reference.

C.17 Definitions.

Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol Concentration (Or Content): 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: 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: the consumption of any beverage, mixture, or preparation, including medication, containing alcohol.

Breath Alcohol Technician (Bat): an individual who instructs and assists individuals in the alcohol testing process and operates the evidential breath testing device.

City-Designated Representative (CDR): 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 also the designated contact person for inquiries regarding this article. The CDR for the city is the director of human resources. The Deputy City Manager will serve as deputy CDR in the absence of the director of human resources.

Commercial Motor Vehicle: 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. Part 172, Subpart F).

Confirmation Test:

- (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.
- (2) 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.
- (3) 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/Operator: any employee who holds a Commercial Driver's License or whose job duties require that he/she operate a City vehicle (commercial or non-commercial) at the direction of, or with the consent of the city including, but not limited to, full-time, part-time, regularly employed driver/operators, casual, intermittent or occasional driver/operators, or any person applying to the city for a position, the duties of which include driving a Motor Vehicle.

Drug: includes 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: 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. Part 40.

Employee: a person employed by the city.

Evidential Breath Testing Device (EBT): 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: an alcohol or drug test administered to a driver/operator 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.

Heavy Equipment Operator: a person whose job duties require the operation of heavy equipment including, but not limited to, mowers, back-hoes, dump trucks, front-end loaders, power equipment used in water and street projects, excavators, dozers, lifts, cranes, bucket trucks, cherry pickers, recycling equipment, compressors, graders, and tractors.

Medical Review Officer (MRO): 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: an alcohol or drug test or both, administered to a driver/operator 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, one or more vehicles involved in the accident was towed from the scene, or someone involved in the accident required medical treatment away from the scene.

Pre-Employment Test: a drug test administered to a person prior to employment in a safety-sensitive function upon being conditionally hired for a position requiring the person to drive a city vehicle or operate city equipment.

Reasonable Suspicion Test: an alcohol and/or drug test administered to a driver/operator as a result of a trained supervisor's or trained city official's reasonable belief that the driver/operator/operator 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/operator. The observations may include indications of the chronic or withdrawal effects of drugs 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: occurs when 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/or drug testing, at a collection site as required.

Return-To-Duty Test: an alcohol and/or drug test administered prior to a driver/operator being permitted to return to duty, when the driver/operator has violated this policy.

Safety-Sensitive Function: a function performed by a driver/operator whenever the driver/operator:

- (1) begins work until the time the driver/operator 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/operator 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):

- (1) in alcohol testing, an analytical procedure to determine whether a driver/operator 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): 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: a management or supervisory employee of the city.

Trained Supervisor Or Trained City Official: 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.

Appendix D: Substance Abuse Policy: (revised 01/01/13)

Applicable to all employees who hold a Commercial Driver's License and are regulated by the Department of Transportation.

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

D.2 Applicability.

This article applies to:

- (a) City employees who drive a commercial vehicle of size and description requiring a Texas Commercial Driver's license;
- (b) 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
- (c) 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.

D.3 Prohibitions Regarding Alcohol.

A driver shall not:

- (a) 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;
- (b) possess or use alcohol while on duty, or within four hours before reporting for duty;
- (c) 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;
- (d) use alcohol for eight hours following an accident or until the employee undergoes a post-accident alcohol test, whichever occurs first; or
- (e) refuse to submit to a 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.

D.4 Prohibitions Regarding Drugs.

A driver shall not:

- (a) 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;
- (b) report for duty, remain on duty, or perform a safety sensitive function if the driver tests positive for drugs; or
- (c) 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.

D.5 Disciplinary Action.

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

- (a) 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;
- (b) fails to report a conviction (before returning to duty) for operating a motor vehicle while under the influence of alcohol or drugs;
- (c) fails to report a conviction (before returning to duty) 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;
- (d) fails to report that he/she has been convicted of violating a statute related to drugs (before returning to duty);
- (e) obstructs or interferes with the administration of any drug or alcohol test; or
- (f) has an alcohol test result indicating an alcohol concentration of 0.02 or greater or tests positive for one or more drugs.

D.6 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. Persons with an alcohol concentration of 0.04 or greater shall be terminated.

D.7 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.

D.8 Notice of Results.

The City Designated Representative (CDR) 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. The CDR shall notify a driver of the results of reasonable suspicion and post-accident tests, and notify drivers of the results of random tests, for drugs conducted under this policy if the test results are verified positive. The CDR shall also inform the driver which drugs were verified as positive.

D.9 Notice to Contact MRO.

The CDR shall make reasonable efforts to contact employees and assist them with making contact with the city designated medical review officer (MRO) if necessary.

D.10 Testing Requirements.

Pre-employment Testing.

- (a) Safety-sensitive function. An applicant driver shall not perform a safety-sensitive function until the driver has undergone testing for drugs and has achieved a result from the MRO indicating a verified negative result.
- (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 a pre-employment drug test. The drug test result from the MRO must indicate a verified negative result. If the test result does not meet this standard, 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.
- (e) Return to duty. 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 re-certified and tested negative in return-to-duty testing.

D.11 Random Testing.

The city will conduct random drug and alcohol tests on at least the minimum percentage established by the Federal Highway Administration Administrator.

- (a) 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.
- (b) Unannounced. Random alcohol and drug tests shall be unannounced and shall be spread reasonably throughout the year.
- (c) 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.
- (d) Either test may be given. A driver, when randomly selected, may be required to submit to either an alcohol or drug test, or both.
- (e) Not present at work. In the event a driver who is selected for a random test is not at work that day, he/she may be tested on the next available work day, at the discretion of the testing coordinator in Human Resources.
- (f) When required. A driver shall be subject to random 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.

D. 12 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) 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, the odor (or smell) of alcohol, 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) 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 32 hours following the determination that reasonable suspicion exists to require the driver to undergo such test. If the test is not administered within 32 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 24 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.

D.13 Post Accident Testing.

- (a) When tested. A driver shall be subject to post-accident alcohol and drug testing as soon as practical following an accident;
 - (1) involving loss of life;
 - (2) or the city driver was cited for a moving violation and;
 - (A) one or more of the vehicles involved in the accident was towed from the scene;
 - (B) or someone involved in the accident required medical treatment away from the scene.
- (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. If a test is not administered within the above time frames the trained supervisor or trained city official shall cease attempts to administer the tests and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
- (c) Report on delayed testing. If an alcohol and/or drug 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.
- (d) Availability for testing. A driver who is subject to post-accident testing shall remain readily available for such testing or shall be presumed to have refused to submit to testing. Nothing herein shall be construed to require 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.

D.14 Return-to-Duty Testing.

A driver who has an alcohol test result indicating an alcohol concentration of 0.04 or greater will be terminated.

D.15 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.

D.16 Drug Test Procedures.

- (a) 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:
 - (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 Department of Transportation regulations related to what to do if a specimen is less urine than required.
 - (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, 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 24 ounces of fluids, and, after a period of up to two 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.

D.17 Confidentiality of Records of Drug and Alcohol Testing.

- (a) 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 to Human Resources and the employee tested.
- (6) The 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.

D.18 Referral to Substance Abuse Professional.

Though drivers with a positive drug test or a blood alcohol concentration test level of 0.04 or greater, shall be terminated, a referral to area substance abuse professionals may be made. The City provides an Employee Assistance Program (EAP) to be used as needed for alcohol and drug addiction issues.

D.19 Definitions.

Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

Alcohol Concentration (Or Content): 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: 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: the consumption of any beverage, mixture, or preparation, including medication, containing alcohol.

Breath Alcohol Technician (Bat): an individual who instructs and assists individuals in the alcohol testing process and operates the evidential breath testing device.

City-Designated Representative (CDR): 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 also the designated contact person for inquiries regarding this article. The CDR for the city is the

director of human resources. The Deputy City Manager will serve as deputy CDR in the absence of the director of human resources.

Commercial Motor Vehicle: 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. Part 172, Subpart F).

Confirmation Test:

- (4) 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: 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: includes 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: 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. Part 40.

Employee: a person employed by the city.

Evidential Breath Testing Device (EBT): 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: 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.

Medical Review Officer (MRO): 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: an alcohol or drug test or both, 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: a drug test administered to a person prior to employment in a safety-sensitive function upon being conditionally hired for a position requiring the person to hold a Commercial Driver's License.

Random Test: an alcohol and/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: an alcohol and/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 drugs 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: occurs when 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/or drug testing, at a collection site as required.

Return-To-Duty Test: an alcohol and/or drug test administered prior to a driver being permitted to return to duty, when the driver has violated this policy.

Safety-Sensitive Function: 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):

- (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): 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: a management or supervisory employee of the city.

Trained Supervisor Or Trained City Official: 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.

Appendix E: Information Technology – Computer User’s Policy

I. Purpose:

The city provides computer resources for the purpose of accomplishing tasks related to the City of Burleson’s (‘city’) mission. The purpose of this policy is to establish guidelines to derive the benefits of increased efficiency through the use of the Internet, e-mail, and the City’s Home Page, while ensuring the protection of information assets and city integrity. It also provides guidelines for accessing and using publicly accessible networks such as the Internet and the World Wide Web (WWW) using the City of Burleson’s computer resources, gateways, and accounts. The city believes the proper use of this technology saves time and money, reduces administrative overhead, and improves service to the community.

This policy is also enacted to preserve the integrity of the city’s internal information, ensure compliance with anti-harassment and discrimination policies, and prevent workplace violence.

II. **Policy Administration:** This policy is administered by the Information Technology department.

III. Applicability:

This policy applies to all City of Burleson employees, elected officials, volunteers, and other affiliates or persons (collectively, ‘users’) who use City-provided accounts to access the Internet or WWW, or any other intranet, extranet, or other network (or access to these) provided by the City that may exist now or in the future, regardless of the user’s location when accessing the Internet or WWW. This policy uses the following definitions:

- A. Computer resources include hardware, software, communications networks, electronic storage media, electronic mail systems, and manuals and other documentation, including those systems administered centrally or within a department, in whatever form, model, or configuration, and using whatever operating systems, platforms, or interfaces, and whether single or multi-user, mainframe, or network server, etc.
- B. Data includes all files of any kind, regardless of size, format, or on what media stored or written, including but not limited to e-mail messages, systems logs, databases, documents, and commercial and locally developed software. This term also includes handwritten or printed material in paper form.
- C. Users include employees, elected officials, volunteers, and any other affiliate or individual with access to use the City’s computer resources. User does not include, however, the public use of the Internet through the Burleson Public Library.
- D. Provider includes an entity that provides Internet, e-mail, or other computer

resources over a network. An example of a public provider is AOL. An example of a private provider is the City of Burleson.

- E. Network includes Internets, intranets, extranets, local- or wide-area networks, and other networks of any kind.

Nothing in this policy should be understood to prohibit public use of the Internet for informational purposes as provided by the Burleson Library.

IV. Condition of Employment:

- A. Users must agree to comply with this policy as a condition of their employment or continued employment with the City of Burleson.

This policy shall be distributed to newly elected, hired, and other users. Each new user will be required to sign a statement acknowledging receipt of this policy. For newly hired employee users, human resources will maintain the statement in the employee's personnel file.

- B. For other users, information technology will maintain the statement of receipt. Refusing to sign the statement acknowledging receipt of this policy or refusing to comply with any provision of this policy are grounds for disciplinary action, up to and including termination.

V. General:

Activities of a business nature dealing with the Internet or World Wide Web (WWW) such as home page development, training, setting up Internet accounts and problem resolution, will be coordinated through and approved by the information technology (I.T.) department, prior to being performed. Input from the communications director regarding web content should also be anticipated. Normal day-to-day Internet access is excluded from this provision. An Internet e-mail address will be assigned by the I.T. department to authorized users on the city's computer network. This internet e-mail address is for e-mail purposes only and will not provide the user with browser-based capability on the Internet. Users desiring browser access to the Internet must complete the Internet Access and Justification form.

VI. Justification:

Each internet user will be required to justify why access to the internet / WWW or internet e-mail is needed. The user will be required to complete the Internet Access and Justification form stating how internet access and e-mail relate to the user's job description and further the city's mission. Users must forward the form to their department director. After review and approval, the director will then forward the request to the information technology department.

VII. Policy:

- A. Internet access is provided by the city for use in attaining departmental objectives and goals. Use of Internet to perform job and/or enhance job effectiveness is permitted. The city may tolerate incidental and occasional personal use of the Internet and e-mail, provided that such use does not adversely affect business uses and/or productivity and does not involve prohibited uses as explained in this policy, but the city reserves the right to prohibit personal use upon a finding that a user has abused this policy. Users are required to delete personal or non-business related e-mail on city computers weekly. Users do not have an expectation of privacy in city-provided network (including Internet) access or e-mail.
- B. Users shall be responsible for any personal charges of any kind arising from use of the city-provided Internet access.
- C. The user in whose name the Internet account is issued shall be responsible at all times for its proper use. Users shall not reveal their password or otherwise breach security of the Internet account.
- D. I.T. shall maintain a directory of all city internet accounts and monitor the use of such accounts, including URLs (websites) visited by each user. Audits may be performed at any time.
- E. Users of city-provided Internet accounts should not assume any level of anonymity. Outside users wishing to identify users associated with the city can do so easily.
- F. Utilizing virus software provided by the I.T. department, users shall virus scan all data files downloaded from the Internet. The discovery of viruses must be reported promptly to the I.T. department. Deliberate attempts to degrade or disrupt system performance on any computer system shall be subject to disciplinary action or termination.
- G. Users must contact Information Technology to request downloading of any software applications (i.e. programs) from the Internet. All software installations must be performed by the I.T. Department. Users may not install personal software on city equipment without the express written authorization from the I.T. Department. Only

city-approved browsers may be installed or used. The city reserves the right to uninstall any unauthorized software.

- H. All electronic messages, files, programs, software, or other computer information are the property of the city and therefore are not considered private. As a routine, the city may monitor electronic mail messages and Internet use. The city reserves the right to monitor such usage and to access messages, files, programs, software, or other computer information related to the user's computer use as allowed under this Policy and applicable laws, at any time without prior notice. Communications deleted by users may be retrieved and reviewed by the city.
- I. Users shall contact I.T. regarding all training needed for accessing the Internet, use of the city's approved Internet browser, or home page development.
- J. Departments using the Internet will have one person designated as the Internet Contact person. All requests within a department shall be channeled through the contact person.
- K. Use of city computer resources is a privilege, not a right. When using these resources, users must agree to abide by the applicable policies of the city, as well as federal, state and local laws.
- L. The city reserves the right to limit, restrict, or deny access to its computer resources at any time, as well as to take disciplinary action, up to and including termination, and/or legal action against anyone who violates city policies and/or applicable laws.
- M. This policy shall not be interpreted to require authorization for individual employees for the purpose of gaining access to Internet-based training, when that training is approved by the employee's department director and is completed under the supervision of an authorized user within said department. In such cases, both the department director and the person administering the training will be accountable for any violation. Further, the person administering the training must have signed the city's internet policy prior to engaging in the Internet-based training.
- N. Users have an obligation to report violations of this Policy.

VII. Prohibited Use:

Prohibited uses of the city's computer resources include, but are not limited to, the following:

- A. Downloading, uploading, posting, reproducing, retransmitting or distributing material protected by copyright or trademark without permission of the copyright owner.
- B. Unauthorized access, use, alteration, duplication, destruction, or disclosure of any of the city's computer resources or proprietary information that compromises the integrity of the city and its business in any way. Confidential or sensitive information should not be sent over the Internet or e-mail system without supervisory approval.
- C. Use of Internet access or the electronic mail system for "moonlighting", job searches, playing interactive games, gaming, gambling, using "Internet chat" programs, solicitation, and/or sending chain letters or pyramid schemes.
- D. Use of city computer resources to send e-mail, communications, files, or programs that contain messages or images which are intended to or that in effect do harass, intimidate, disparage, offend, threaten or otherwise inflame another person or group of persons on the basis of race, color, national origin, gender, sexual orientation, age, disability, political beliefs, pregnancy, religion, or any legally protected status.
- E. Use of city computer resources to view send or receive email, communications, files or programs that contain text or images which are sexually explicit, racially discriminatory, overtly religious, or messages or images that are otherwise inconsistent with the city's equal employment opportunity and anti-harassment policies.
- F. Personal use of the Internet and e-mail that adversely affects business uses and/or productivity as determined by the user's supervisors, city management, and/or I.T.
- G. Downloading of games and other software applications from the Internet except as provided for by this policy.
- H. The utilization of personal Internet accounts on city-owned equipment is strictly prohibited. All such personal accounts and access will be removed. Users shall access the Internet, WWW, and/or e-mail systems solely through the city file server unless approved by a department director or city management. Locally installed modems to access personal internet service provider accounts or services are strictly prohibited. The user is subject to disciplinary action, up to and including termination for violation.
- I. Proxy servers for Internet access, unless configured by authorized personnel in the I.T. Department.

- J. Falsifying or actively concealing one's identity in an e-mail message.
- K. Intentionally allowing unauthorized access to a password or Internet account.
- L. Any transmission that constitutes or encourages a criminal offense or violates any local, state, federal, or international law.
- M. Any intentional transmission that contains a virus, worm, or other harmful component.
- N. Use of computer resources to assist with, support, conspire to or commit any criminal or otherwise illegal acts, or fraud or deceptive practices, solicitations, or representations.
- O. Use of city computer resources for personal financial gain or personal commercial purposes, including the transmission of commercial or personal advertisements, solicitations, promotions, or political material except as may be approved in writing by city management through the director of information technology.
- P. Attempting to circumvent, evading, compromising, assisting someone else, or requesting that someone else circumvent any security measures or administrative access control that pertains to city computer resources.
- Q. Transmitting confidential, personal, or sensitive information of other persons or the city, on the Internet or e-mail system, except for lawful and authorized city business purposes.
- R. Any act that endangers, compromises, or damages specific computer software, hardware, programs, data, networks or the system as a whole, whether located at the city or elsewhere on the global Internet.
- S. Creating or intentionally allowing a computer or network malfunction or interruption of operation.
- T. Sending a message with the intent to disrupt computer city operations or the operations of outside entities, including spam, etc.
- U. Use of city computer resources for the unauthorized disclosure of confidential or privileged information. By virtue of their relationship with the city, some users are in a position to obtain documents that may contain information protected by the attorney-client privilege, or otherwise privileged. This information should not be disclosed without the approval of the City Manager. These documents are the property of the city. See TEX. LOC. GOV'T CODE ANN. Chapters 201 and 202. Users are

hereby notified that it is an offense under the Texas Public Information Act to distribute information considered to be confidential. TEX. GOV'T CODE ANN. § 552.352. Such an offense is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) and/or confinement in county jail for not more than six (6) months. Such a violation also constitutes official misconduct and may subject users to disciplinary action up to and including termination.

- V. Failure to comply with internal policies and procedures that pertain to the use of city

VIII. Privacy Issues:

The City of Burleson desires to notify users of privacy-related issues as follows:

- A. A user has no expectation of or right to privacy when using the city's computer resources. A user does not have a privacy right in any matter involving the creation, receipt, or distribution of information and communications through the Internet or e-mail provided through city computer resources. Communications made through the city's computer resources and equipment is not confidential.
- B. As provided by the Electronic Communications Privacy Act (18 USC Chapter 119), the city, as a provider of computer resources, is allowed to intercept, disclose, or use a user's communications in the normal course of business while engaged in any activity which involves the protection of rights or property of the city.
- C. A user expressly consents to having all computers use monitored. If such monitoring reveals possible evidence of criminal activity, the city may provide that evidence to law enforcement officials without notice to the user.
- D. A user's e-mail, electronic communications, and other data that is any way tied to the city's computer resources are company-owned resources of the city of Burleson.
- E. All users should understand that the city is unable to guarantee the protection of electronic files, data, or e-mails from unauthorized or inappropriate use, and that the city expressly disclaims any representations or guarantees the integrity or confidentiality of any such files, data, or communications are or will be maintained.
- F. A user required to use a unique password to protect access to the city's computer resources shall not constitute or be deemed an implied right to privacy or confidentiality.
- G. A user of the city's computer systems should be aware that computer information may be subject to review or disclosure in accordance with, but not limited to, the following:
 - 1. Response to a public records request, administrative, or judicial order, or request

for discovery in the course of litigation.

2. Audits and administrative review of computer use for security purpose or in regard to policy or legal compliance concern.
3. Repair, maintenance, or upgrade of computer system and related equipment.
4. Investigation of improper or illegal use of resources where there is reasonable suspicion to believe there is use for unauthorized or personal financial gain; threatening, harassing or illegal e-mail or communications; use which interferes or threatens to interfere with city operations; copyright, trademark, or other intellectual property violations; unlawful activity or criminal acts; or other use/conduct prohibited in this Policy.
5. Suspected use/conduct that is prohibited in this Policy.
6. Any reason that is necessary or appropriate to protect the reasonable interests of the city and other users of the computer system.

IX. Responsibilities:

A. Management

1. Directors, division heads, elected officials, and any other management and supervisory personnel who oversee employees or volunteers who have Internet access shall be responsible for implementing this Policy.
2. Directors, division heads, and/or I.T. are empowered to deny, limit, prohibit, and regulate internet and e-mail access if they determine that the user's activity adversely affects the conduct of the city's business and/or the user's or other employees' productivity, or otherwise interferes in carrying out the department's or city's mission.
3. Each supervisor should contact I.T. to report any suspected misuse of computer resources.

B. Users

1. Users of the city's computer resources shall be individually liable for implementing this Policy. It is the user's responsibility to read, understand, and implement this Policy. Failure to abide by this Policy may subject the user to disciplinary action up to and including termination.
2. Access to the internet is discretionary with the city. The ability to access the

Internet is not license to access without regard to the priorities set by city management.

3. Any user who becomes aware of misuse of the city's computer resources, including the internet and e-mail systems, must promptly contact his/her supervisor and report the misuse.
4. The user is encouraged to send messages to the sender of a non-business message that violates this policy, requesting them to cease. Information Services can assist with this activity.
5. A user must comply with requests made by I.T. in relation to the implementation and enforcement of this Policy.
6. A user is responsible for all usage on their computer account. A user must maintain the secrecy of their password(s).
7. When communicating with others using the city's computer system, the user's communications should reflect high ethical standards, mutual respect and civility.

C. Information Technology

1. I.T. is responsible for receiving and investigating any complaints and/or alleged violations of this policy. Legal counsel and other management personnel may be involved.
2. I.T. reserves the right to audit, monitor, retrieve, and/or distribute communications or information obtained related to the user's use of the city's computer resources as necessary to comply with external investigations, internal compliance audits, or other reason as allowed under this policy.
3. All activities of a business nature dealing with the internet or world wide web (WWW) shall be coordinated through and approved by the Information Technology (I.T.) department prior to being performed.
4. I.T. will establish the necessary rules, policies, and procedures to enforce this policy.
5. I.T. will notify public providers, or other network entities, if a non-city user sends inappropriate communications to a city user.

X. Consequences of Violating This Policy:

- A. Violation of this policy may result in disciplinary action up to and including termination

of employment or removal from office or duty.

- B. Violating this policy may result in the withdrawal or restriction of all or a part of the user's computer privileges.
- C. Violating this policy may result in a violation of state, federal, or local laws and may be referred to the appropriate law enforcement agency for investigation and prosecution under applicable criminal provisions and may also subject the user to civil liability.

XI. Procedures:

- A. Any city employee requesting internet access or internet email will be required to complete the *Internet Access and Justification – Form IT-1*. The employee shall be required to sign the form stating he/she has reviewed, understands, and will comply with the city's policies on internet/WWW and/or internet email access and usage. The employee shall then forward the completed request to their director. After review and if approved, the director will then forward the form to the applicable member of city management (for internet access) for final approval.
- B. Upon receipt of an approved *Internet Access and Justification* form, I.T. will provide the employee with the necessary hardware and software to access the internet and WWW.
- C. All departments requesting home page or website creation or development shall forward a completed *Request for Internet Services – Form IT-2* to I.T. All requests must be approved by the director prior to being sent to I.T. The content of all home pages and other website materials is subject to city guidelines. The city's communications director will be involved as required.
- D. All departments shall be charged for all fees associated with their city-owned dial-up internet accounts for use when traveling or conducting city business outside city offices.
- E. When an employee leaves the city, the director shall notify I.T. immediately, at which point internet access will either be terminated or transferred.
- F. Departments that do not have internet access may utilize the Information Technology department to obtain information from the internet at any time.
- G. Existing internet users are required to sign Form IT-3.

XII. Training:

Any authorized internet user needing training on the city's approved WWW browser or for home page development will contact I.T. via the *Request for Internet Services – Form IT-2* to arrange for a training session.

XIII. Home Page:

- A. All requests to develop a new home page or substantially modify portions of an official city home page (or other website materials) shall be approved by the director, the applicable City Manager and forwarded to the communications director. A copy of the request will be forwarded to the I.T. director. All such requests should be submitted via the *Request for Internet Services – Form IT-2*.
- B. All departmental home pages and other website content that is approved for individual department websites, separate from the city's official home page, will be maintained solely by a designated departmental webmaster.
- C. Each departmental internet contact person will be responsible for ensuring information provided is current and accurate.
- D. The I.T. web design technician shall provide city management with monthly reports on website activity.
- E. All city-related home pages, including department websites, must reside on the city's home page. All system changes shall be performed by the information technology department.
- F. All home pages that are maintained by a designated departmental webmaster must be coordinated with the Information Technology webmaster. Failure to do so will result in removal of departmental webmaster duties.
- G. All website materials shall be verified by the communications director to be free of materials that may constitute a copyright, trademark or other intellectual property infringement.

XIV. Information Technology Forms Used:

- A. Acknowledgement of Receipt and User Agreement Form: IT-3

**Appendix F: Family Medical Leave Act Benefits (FMLA); revised (02/23/09) (12/31/15)
(11/01/16) (01/01/19)**

This policy is a guideline for administration of federally mandated benefits through the Family Medical Leave Act. No part of this policy is intended to contradict the Federal act. If at any point (due to legislative changes or errors in this guideline language) Burleson's protocol conflicts with Federal law, Federal law will prevail.

- (a) Federal law. Family Medical Leave (FML) is provided in compliance with the Family and Medical Leave Act of 1993 (as amended 2008). When questions arise concerning FML that are not answered in this section, the department director or director of human resources 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 FML if the employee has been employed by the city:
 - (1) for at least 12 months; and
 - (2) has worked at least 1,250 hours during the previous 12-month period.
The 12-month period an employee must have been employed with the City to be eligible for FMLA leave need not be consecutive months. However, prior service which occurred more than seven years prior to the request for leave will not be considered in determining whether the employee worked for the City for at least 12 months.

- (c) Expiration of entitlement to leave. Entitlement to FML leave 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.

- (d) Leave taken intermittently or on a reduced leave schedule.
 - (1) Although the City is not required to allow an intermittent or reduced schedule leave for the birth or placement of a child, the Department Director may approve such an arrangement if conducive to business needs.
 - (2) Other forms of medically necessary leave may be taken intermittently or on a reduced leave schedule according to federal regulations.

- (e) Entitlement and reasons for leave-Medical. An employee who is eligible for FML leave is entitled to take a total of 480 (672 Fire shift personnel) work hours of leave during a 12-month period for one or more of the following reasons:
 - (1) the birth of a child of the employee, in order to care for the child;
 - (2) the placement of a child with the employee for adoption or foster care;
 - (3) to care for the spouse, child, or parent of the employee, if the spouse, child, or parent has a serious health condition; or

- (4) a serious health condition, as documented by an approved licensed healthcare provider, that makes the employee unable to perform the functions of the employee's position.

(f) Entitlement and reasons for leave – Military status:

- (1) Military Personnel: Those called for deployment and the serviceperson's family will be granted family medical leave in keeping with the National Defense Authorization Act (NDAA) and the Family Medical Leave Act (FMLA) which together govern the regulations related to FML for military purposes.
- (2) Military Caregiver Leave: an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered Servicemember who is undergoing medical treatment, recuperation, or therapy, is on out-patient status, or is on the temporary disabled list for injury or illness is entitled to up to 26 weeks of leave in a single twelve-month period to care for the Servicemember.
- (3) Military Exigency Leave: Up to 12 weeks (480 hours or 720 for Fire shift personnel) of exigency leave may be granted to an eligible employee whose spouse, son, daughter, or parent is on active duty, or has been notified of an impending call to active duty status in support of a contingency operation.
- (4) Qualifying exigency leave includes but is not limited to:
 - (A) Short notice deployment – seven or fewer days' notice of deployment.
 - (B) Military events and related activities – official ceremonies
 - (C) Childcare and school activities – arrange alternative childcare/meet with teachers;
 - (D) Financial and legal arrangements – powers of attorney/banking authority.
 - (E) Counseling-provided need arises from call to active duty;
 - (F) Rest and recuperation – up to five days to spend time with Servicemember.
 - (G) Post deployment activities – arrival ceremonies and similar activities.
 - (H) Additional activities – to address other events which arise out of active duty.

(g) Calculation period.

- (1) Medical Leave (All Employees Except Fire Personnel Assigned to an ABC Shift): The 12-month period during which an employee is eligible for 480 work hours of leave, will be measured forward from the date the employee takes the first day of FML.
- (2) Medical Leave (Fire Employees Assigned to an ABC Shift): The 12-month period during which an employee assigned to an A, B, or C shift schedule in the Fire Service is eligible for 672 work hours of leave, will be measured forward from the date the employee takes the first day of FML.
- (3) Military Caregiver Leave: An eligible employee is entitled to a combined total of 26 workweeks (1040 hours) of leave for any FMLA qualifying reason during a single 12 month period. However, the employee is not entitled to more than 480 (672 for Fire shift personnel) hours for a traditional family medical leave, even if less than 14 weeks (560 hours) are taken to care for a covered Servicemember.
- (4) Exigency Leave: Eligible employees may take up to 12 weeks (480 hours) of leave because of any qualifying exigency arising from a call to active duty of the employee's spouse, son, daughter, or parent, or has been notified of an impending call to active duty status, in support of a contingency operation. The calculation begins on the first day leave is taken.

(h) Effect of workers compensation leave. FML shall run concurrently with leave taken by an employee as workers compensation leave, if the injury meets the criteria for a serious health condition.

(i) Effect of workers compensation leave; Fire Work Shift Switching. The City of Burleson's Fire Department policy related to allowing employees to switch shifts does not affect eligibility or calculation of time away for a qualifying FML purpose. Management of the Fire Department will make the usual and customary notification of absence (regardless of switching) so that timely Federal Family Medical Leave regulations are followed regarding notice and calculation of leave time.

(j) Use of paid benefit hours accrued. An employee who takes FML must substitute and exhaust all accrued vacation, sick and compensatory leave as part of the 480 work hours (672 hours for Fire shift personnel) of FML, before beginning leave without pay status.

(k) Duties of employees.

- (1) When the necessity for FML under Subsection (c)(1) or (c)(2) is foreseeable because of an expected birth or placement, the employee shall provide the director of human resources 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 practical.
- (2) When the necessity for FMLA leave is foreseeable because of planned medical treatment or qualifying exigency arising from active duty or call to active duty, the employee:
 - (A) shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the city, subject to the approval of the health care provider; and
 - (B) shall provide the employee's department director with not less than 30 days' notice, before the date the leave is to begin. However, if the date of the treatment or qualifying exigency requires leave to begin in less than 30 days, the employee shall provide the notice as soon as practical.
- (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 director 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 the FMLA. If the employee states a reason that qualifies for FML, the employee has met the obligation of giving notice.
- (5) In the absence of unusual circumstances, nothing herein excuses an employee from complying with the requirement to notify his/her supervisor of an absence as required.

(l) City's notice to employee.

- (1) Upon receipt of an employee's notice requesting FML, the department director shall notify the director of human resources (or his/her designee):
- (2) Within five business days of receipt of notice from an employee requesting paid or unpaid leave, the director of human resources, or designee, shall notify the employee of the employee's eligibility to take FML and the employee's rights and responsibilities for taking FML. This written

information must be provided to the employee in a language in which the employee is literate. Leave taken before the date of the director of human resources' notice may be counted against an employee's FMLA entitlement hours.

- (3) Within five business days of receipt of enough information to determine whether the leave is being taken for an FMLA-qualifying reason (e.g. after receiving certification) the City must notify the employee whether the leave will be designated and counted as FML. For unusual circumstances involving notice and designation of FML, the Human Resources Director should refer to 29 C.F.R., Part 825.

(m) Spouses employed by the city. If a husband and wife are both employed by the city, the combined number of hours of FML to which both are entitled is limited to:

- (1) 480 work hours (672 hours for Fire shift personnel) during any 12-month period for the birth (or placement) of a child or the care of a child or parent with a serious health condition (employees are not qualified to use FML for the care of parent in-laws); or

- (2) 1040 work hours during a single 12-month period to care for an injured or ill Servicemember.

(n) Certification – Medical FML. The Director of Human Resources may require, by giving a written request to an employee, that FML 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.

- (1) FMLA – medical certification must state:
 - the date on which the serious health condition commenced;
 - the probable duration of the condition;
 - the appropriate medical facts within the knowledge of the health care provider regarding the condition;
 - when leave is requested due to the serious health condition of the employee's child, spouse or parent, 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.

- (2) In the case of certification for intermittent leave, or leave on a reduced leave schedule, 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 is required.

(3) If the City determines that a certification is incomplete or insufficient, the City will provide the employee with seven calendar days to cure any deficiency. If the deficiency is not cured, the City has the right to either deny FMLA leave or contact the health care provider for purposes of clarification and authentication of the medical certification. Any contact with a health care provider will be made only by a health care provider, the Director of Human Resources, or the City Manager, and when necessary, upon receipt of a HIPAA authorization provided by the employee. If an employee refused to provide a necessary HIPAA authorization and does not otherwise clarify the certification, the City may deny FML leave.

(4) If the second opinion differs from the opinion in the original certification provided, 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 need for leave. The opinion of the third health care provider is final and binding on the city and the employee.

(n) Certification-FML-Servicemember Care:

- (1) the eligible employee is required to provide certification of the need for leave to be provided by the Servicemember's health care provider. The Department of Labor form WH-385 may be used.
- (2) invitational travel orders issued by the military branch to join an injured or ill Servicemember at his or her bedside may be used in lieu of form WH-385.

(o) Certification – Exigency Leave:

- (1) Employees are required to provide certification of the need for leave. The Department of Labor form WH-384 may be used for this purpose.

(p) Group Health/Dental/Life Insurance Premiums: During approved FML, the city will continue to provide group health, dental and life insurance on the same terms and conditions as provided other employees. The employee must pay for his/her share of the dependent health, dental and life insurance premiums during his/her absence. If the employee cannot financially afford the premiums due to unpaid leave status, he/she is required to make arrangements with the Human Resources Director (or her designee) for payment of premiums. Such arrangements will be placed in writing, and should an employee fail to return from leave and resign his/her employment voluntarily, he/she is still responsible for the financial arrangements. If the employee's payment of health benefits premium is more than thirty (30) calendar days late, the obligation for the city to maintain the related insurance ceases.

(q) Delay or denial of FMLA benefits.

- (1) The city may delay the taking of FML under the following circumstances:

- (A) if an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, FML 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 FML, fails to provide clarification, or cooperate in the City's efforts to seek clarification, the continuation of FML leave may be delayed or denied.
 - (C) An employee makes it known prior to or during the course of the leave, they do not intend on returning from FML or resigns during the course of approved FML.
- (2) If an employee fails to provide a requested fitness-for-duty certification to return to work, which addresses the employee's ability to perform the essential functions of the employee's job, the city may delay restoration until the employee submits the certificate.
 - (3) If the employment relationship terminates, an employee's rights to continued leave, and restoration cease under FML.
 - (4) If an employee fraudulently obtains FML leave, the city may deny job restoration.
- (r) Definitions:
- (1) qualified employee: one who has been employed at least 12 months and who has worked at least 1250 hours during the 12 months. The 12-month period may include time previously worked for the City so long as the time worked was no more than seven years back.

Related Forms:

Federal Form WH-381-Eligibility Notice to Employee Under FMLA

Federal Form WH-382-Designation Notice Under FMLA

Federal Form WH-384- Military Exigency Leave

Federal Form WH-385-Military Care of Servicemember

Appendix G: American With Disabilities Act Grievance Process Via Risk Management (for citizens) (12-1-15)

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of Burleson. The City of Burleson's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Matt Ribitzki
ADA Coordinator and Deputy City Attorney
141 West Renfro
Burleson, TX 76028
Phone: 817-426-9664
Email: mrribitzki@burlesontx.com

Within 15 calendar days after receipt of the complaint, Matt Ribitzki or his designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Matt Ribitzki or his designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City of Burleson and offer options for substantive resolution of the complaint.

If the response by Matt Ribitzki or his designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the City Manager or his designee.

Within 15 calendar days after receipt of the appeal, the City Manager or his designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the City Manager or his designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by Matt Ribitzki or his designee, appeals to the City Manager or his designee, and responses from these two offices will be retained by the City of Burleson for at least three years.

**City of Burleson - Human Resources
Policy Manual - Glossary**

AFFINITY WITHIN THE SECOND DEGREE (RELATED TO NEPOTISM): includes an employee's spouse, stepparent, 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: 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: Title 42 U.S.C. '12101, et seq., as amended.

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

BENEFIT: 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: 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.

CHARTER: the Home Rule Charter of the City of Burleson.

CHILD: a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is: under 18 years of age; or 18 years of age or older and incapable of self-care because of a mental or physical disability.

CITY: the City of Burleson, Texas.

CITY MANAGER: the City Manager of the city or the City Manager's designee.

COMPLAINT: A "complaint" is an allegation that an employee's nonspecific employment conditions have been adversely affected. Examples include complaints about work schedule, hours of work, procedures, daily operations, department specific rules, performance evaluations, general treatment or disagreements among employees.

CONSANGUINITY WITHIN THE THIRD DEGREE (related to nepotism): includes an employee's great grandparents, grandparents, parents, children, grandchildren, great-grandchildren, brother, sister, nieces, nephews, half-nieces, half-nephews, and aunts and uncles who are sister/brother of a parent of the individual.

DEMOTION: the movement of an employee to a different classification having a lower maximum rate of pay.

DEPARTMENT DIRECTOR: an employee who is designated as a department director and is responsible for the administration of one or more city departments or the department director's designee.

DISMISSAL: involuntary termination of employment with the city.

DRUG PARAPHERNALIA: 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: 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 the specimen or administration of a breath test.

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

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

FAIR LABOR STANDARDS ACT: Title 29 U.S.C. '201, et seq., as amended.

FRAUD: "An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Any kind of artifice employed by one person to deceive another. A generic term, embracing all the multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage of another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated." – Black's Legal Dictionary

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

GRIEVANCE: A "**grievance**" is an allegation that rights or benefits specifically provided by law, policy, personnel rule, or employer action (such as overtime pay, fringe benefits, pay rate, protected employment rights) has been denied or misapplied.

HEALTH CARE PROVIDER:

- (1) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;
- (2) 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;
- (3) Nurse practitioners, nurse-mid-wives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice;
- (4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
- (5) 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: 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: the employee's brother, sister, mother, father, grandchildren, grandparents, child, stepparents, spouse and the spouse's immediate family.

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

INTERMITTENT LEAVE (related to FMLA): leave taken in separate blocks of time due to a single qualifying reason.

JOB: (see POSITION)

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

ON-CALL STATUS: a circumstance in which a department director or supervisor anticipates the need for an employee to report for work at some time other than the employee's regular working hours and in which the employee is expected to respond to a call to work at any time.

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

PART-TIME EMPLOYEE: 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."

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

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

REASONABLE SUSPICION: a belief based on objective, particular 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: a leave schedule that reduces the usual number of hours per work period or work day of an employee.

REINSTATEMENT: the rehiring of an employee who was reduced in classification or separated from employment as a result of a position being vacated or abolished through the annual budget process.

REINSTATEMENT LIST: a list of persons who have been reduced or separated from a particular classification as a result of positions being vacated or abolished through the budget process, ranked in the order of seniority.

REPRIMAND: 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.

RETIREE: an employee who leaves the employment of the city at a time when the employee is entitled to receive retirement benefits under the Texas Municipal Retirement System (TMRS).

SEPARATION: any termination of employment with the city.

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

- (1) inpatient care in a hospital, hospice, or residential medical care facility; or
- (2) continuing treatment by a health care provider, including one or more of the following:
 - (A) a period of incapacity of more than three consecutive calendar days that requires:

- 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
 - 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;
- (B) any period of incapacity due to pregnancy or for prenatal care even if no treatment is received during the absence;
- (C) 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;
- (D) a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective;
- (E) 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.

SMOKING: the combustion of any cigar, cigarette, pipe, or similar article, using any form of tobacco or other combustible substance in any form

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

STAND-BY: an employee who is assigned to be available during off hours to respond to emergencies.

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

SUSPENSION: an involuntary absence with or without pay imposed by a director for disciplinary purposes.

SWORN EMPLOYEE: an employee of the police department who is certified by the Texas Commission on Law Enforcement Officer Standards and Education or an employee of the fire department who is certified by the Texas Commission on Fire Protection Personnel Standards and Education.

TEMPORARY EMPLOYEE: a person

- (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.

TERMINATION: the end of employment with the city.

TEXAS MUNICIPAL RETIREMENT SYSTEM (TMRS): the retirement system established under the Texas Municipal Retirement System Act, Title 8, Subchapter G, Texas Government Code.

TOBACCO PRODUCT: a cigarette, cheroot, stogie, cigar, snuff, smoking tobacco, chewing tobacco and any article or product made of tobacco substitute.

TRANSFER: 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: 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: one shift during which a department is open for business or for which an employee is scheduled to work.

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

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