

# Personnel Rules and Regulations

## Preface

The Personnel Rules and Regulations of the City of Fort Worth are authorized under Chapter 2 of the Code of the City of Fort Worth, Article V, entitled "Human Resources", by Ordinance No. 11921. The Personnel Rules and Regulations were approved by the City Manager and became effective February 1, 1999. *(revised October 9, 1999)*

The Personnel Rules and Regulations are based upon the merit principles as outlined in Article V of Chapter 2 of the Code of the City of Fort Worth.

THE POLICIES DO NOT CONFER LEGAL RIGHTS TO EMPLOYEES.

The Personnel Rules and Regulations have been established in good faith and are intended to be in full compliance with all applicable federal, state, and local statutes.

From time to time amendments to the Personnel Rules and Regulations will be made in the interest of good and efficient business practices and, to comply with changes in applicable federal, state or local statutes. To this end, amendments will be made in accordance with the procedures set forth in Section 9, Article V, of Chapter 2 of the Code of the City of Fort Worth.

The City Manager or an Assistant City Manager may modify the personnel rules and regulations by signing a written employment contract. Otherwise, no City representative may modify the personnel rules and regulations for any employee or applicant either orally or in writing, expressed or implied.

## Hiring

### Anniversary Dates

An anniversary date is the date on which an employee becomes eligible to receive a performance increase. *(Revised October 9, 1999)*

### Exempt Employee Anniversary Dates

New employees hired into exempt positions will have anniversary dates set according to the following policy: *(Revised October 9, 1999)*

- Persons hired from April 1st through the end of fiscal year will have an initial anniversary date of six (6) months after their date of hire.
- Upon successful completion of their initial probationary period, these employees' anniversary dates will become October 1st of the next fiscal year, and will remain October 1st thereafter (see examples below).
- Persons hired from the beginning of fiscal year through March 31st of a year will have an anniversary date of October 1st of the next fiscal year (the same calendar year), and will remain October 1st thereafter (see example below).
- Other personnel transactions such as promotions, demotions, reclassifications, special merit increases, etc. will not affect an exempt employees' anniversary date. *(Revised October 9, 1999)*

Examples:

Hire Date (examples)	Initial Anniversary Date	Final Anniversary Date
05/07/99	11/7/99	10/1/00
09/20/99	3/20/00	10/01/01
11/8/99		10/1/00
2/10/00		10/01/00

### Non-Exempt Employee Anniversary Dates

Non-Exempt employee anniversary dates are based upon the effective date of personnel transactions which affect their salary, e.g., date of hire, extended initial probationary period, promotion, demotion, reclassification. Special merit increases do not result in an anniversary date change. *(Revised October 9, 1999)*

Employees at the "A" or "B" step will have anniversary dates six months after the effective date of their placement at the "A" or "B" step. Example: A or B step is effective 9/15/00, anniversary date is 3/15/01. *(Revised October 9, 1999)*

Employees at the "C" thru the "L" steps will have anniversary dates 12 months after the effective date of their placement at a step.

Example: Placement at any step between "C" and "K" is effective 11/15/00, anniversary date is 11/15/01. (Revised October 9, 1999)

### **Condition of Employment for Direct Deposit or Pay Card**

(new policy effective April 19, 2004)

As a condition of employment for all employees, including S01's, hired on or after April 19, 2004, their pay will be distributed either through Direct Deposit at an appropriate financial institution of their choice or via a Pay Card. Employees must make this selection on their first day of work when completing their new hire paperwork packet. Employees who do not have an appropriate account for direct deposit will need to complete the paperwork for a pay card.

### **Criminal Records Check**

A criminal records check will be conducted on all new hires normally after the new employee orientation session. Upon request, departments may have criminal records checks conducted prior to extending a job offer. Out-of-state checks may also be conducted when requested by departments. Contact the Human Resources Department for additional information.

Falsification or the omission of information regarding an individual's criminal history will result in an interview with the individual to determine the reason(s) for the falsification and/or omission. The decision to disqualify or terminate the individual will be based upon the following considerations: 1) nature of conviction(s) as it relates to the position sought; 2) recency of conviction(s); 3) number of conviction(s); 4) indication of rehabilitation or lack of rehabilitation (spotty employment record, recurring violations, clean record over a long period of time, etc.); and 5) potential liability if the individual is retained or not retained.

Falsifications may result in removal from consideration for position sought or termination, if hired.

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### **Diversity and Equal Employment Opportunity**

The City values diversity in its workforce and to that end, all persons have equal access to employment. All artificial, arbitrary, and non-job-related barriers to employment such as race, color, national origin, gender, gender identity, religious affiliation, age, sexual orientation (Revised January 26, 2001)(Revised January 8, 2010) veteran and disability status [including contagious diseases such as tuberculosis (in the non-contagious state) and HIV] shall be eliminated to ensure equal access to employment.

Employment decisions shall be based solely on the basis of job-related merit and ability to do the job.

To achieve diversity in the workforce, a voluntary, results-oriented affirmative action policy, "affirmative recruitment and competitive hiring," is being implemented. This policy will be in compliance with all federal and state laws and regulations which address diversity, affirmative action, and equal employment opportunity.

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### **Driver's License Verification And Record Check**

Employees occupying positions which require the operation of city vehicles or personal vehicles in the performance of their duties, must possess a valid Texas Driver's License to operate the vehicle. Persons hired who do not possess an appropriate and valid Texas Driver's License must obtain one within 30 days after being hired (typically within the probationary period).

Employees will not be permitted to operate city or personal vehicles in the performance of their duties if they have: 1) a DWI or DUI conviction or three moving violations in the preceding 24 month period (city and personal vehicles); or 2) lost State of Texas driving privileges by reason of revocation, suspension, withdrawal or denial of license to drive; or, 3) any combination of four chargeable vehicular accidents and violations of the Drivers' Safety Training and Certification Program policy. Violations of the City's Alcohol Misuse and Drug Abuse policy may also prohibit employees from operating vehicles for the City.

The Human Resources Department will conduct a driver's license check on all persons selected for employment in positions that require the operation of city vehicles or personal vehicles in the performance of their duties (Revised 2-10-06). If the check reveals a violation of this policy, appropriate action will be taken by the employee's department.

Periodic driver's record checks may be conducted to verify employees' compliance with this policy.

The City may waive the requirements of this policy if deemed in the best interest of the City. Department Directors should discuss waiver requests with the Director of Human Resources. (Revised 2-10-06)

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### **Effective Date of Personnel Transactions**

All personnel transactions which involve the completion of a Personnel Action Request form should be assigned an effective date which is the beginning of a pay period (a Saturday). Exceptions include new hires and terminations. (New Policy effective January 26, 2001)

### **Eligibility To Work In The USA (Immigration Reform and Control Act of 1986)**

The Immigration Reform and Control Act of 1986 requires persons to verify their eligibility to work in the USA. Persons seeking employment with the City must provide documentation showing they are a citizen or national of the U.S., an alien lawfully admitted for permanent residence or an alien authorized to be employed in the U.S.

Form I-9 will be completed during new employee orientation. Form I-9 requires that original documents establishing identity and employment eligibility be shown at the time employees complete their new hire paperwork. Form I-9 lists acceptable documents for establishing eligibility to work in the United States on the back of the form. (Revised Nov. 15, 2004)

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#### **Employee Identification Badges** (New Policy May 8, 2007)

All City employees are issued an Employee Identification Badge with photo and employee number when they are hired.

For the purpose of security and identity, Employee Badges must be worn whenever an employee is engaged in official city business unless working conditions make wearing the badge a hazard or impractical.

Exceptions to wearing an Employee Identification Badge can be made by a Department Director based on working conditions and the location of the employee. In certain facilities, a Department Director may authorize wearing identification badges other than the City issued Employee Badge.

Employees wearing a department issued uniform will not be required to wear an Employee Identification Badge, but shall have their badge in their possession. This applies to Police Officers, Marshals, Code Officers, Traffic Control Technicians and Fire Fighters.

Badges must be worn in all City facilities and buildings and when employees are dealing with the public.

It is preferred that Identification Badges be worn above the waist. If an Identification Badge is worn at the waist, it must be clearly visible without being obstructed by clothing or other objects. The Identification Badge must be worn so that the employee's name and photo are clearly visible. When outdoor coats are worn, the badge should be readily available for inspection upon request. Old, faded or damaged badges should be replaced as soon as possible.

When an employee terminates, the department must retrieve the Employee Identification Badge as well as other City property. In the event an employee terminates without notice, the department shall contact TPW immediately to have all access codes associated with the Identification Badge canceled. The department shall attempt to contact the terminated employee to retrieve the Identification Badge and other City property in the ex-employee's possession. (New Policy May 8, 2007)

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#### **Employment Policy**

The City of Fort Worth is committed to providing quality service to all of our customers. To accomplish this goal, the City seeks to hire and retain competent persons who are honest, technically competent, and show respect for fellow members of the City team and recognize the responsibility public employees have to our customers.

The City utilizes valid, job-related selection procedures and methods, hiring persons on the basis of their qualifications. Employment applications and other City approved forms are used in the selection process and are available in the Human Resources Department.

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#### **Employment References**

All requests for information about current or former employees should be referred to the Job Verification number, 1-800-367-5690 or [www.theworknumber.com](http://www.theworknumber.com). (Revised 2-10-06) Non-Human Resources Department employees should not release any information about current or former employees without proper authorization.

The information given to prospective employers will be limited to dates of employment, department, job title, and salary. Additional information will not be released without a signed authorization from the person who is the subject of the inquiry.

City officials and hiring authorities are encouraged to cooperate with and to provide employment related information to one another upon request. Such requests are not limited to the information noted above.

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#### **Employment Of Relatives**

A person shall not be employed or promoted if such employment will place him/her in a position of supervising or being supervised by a member of his/her immediate family; or where an immediate family member occupies a position which could affect the other's employment, promotion, salary administration, and other related management or personnel transaction.

No Department Director, Assistant Department Director, or Division Head shall appoint or employ any person within his/her immediate family, nor use his/her position to influence another City employee to hire a member of his/her immediate family.

For the purposes of this policy, immediate family is defined as wife, husband, mother, father, brother, sister, son, daughter; mother / father / brother / sister / son / daughter-in-law; grand-mother / father / son / daughter; step-mother / father / son / daughter; uncle, aunt, niece or nephew. These familial relationships include both blood and marriage based relationships.

In addition to familial relationships, personal relationships and/or associations, the nature of which would lend themselves to favoritism, are also prohibited in employment and promotion decisions.

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### **Employment Testing**

The Human Resources Director has the authority to establish examinations and/or selection procedures for all classifications. All tests must be developed or approved based on appropriate federal guidelines or test development professional practices, by the Human Resources Director. Departments shall not develop or administer any type of examination without the review and approval of the Human Resources Director or designee.

For examinations conducted or arranged by the Human Resources Department, test candidates must show a picture identification at the examination site prior to the examination. If a staff member administering an examination must repeatedly warn a candidate of suspected cheating and/or inappropriate disruptive behavior, the candidate will be removed and receive a failing score. Candidates removed from an examination may retest three (3) years after their removal.

Candidates who fail a written examination will not be allowed to test again for the same class unless an alternative form of the examination is available and thirty (30) calendar days have passed. The same written examination may be taken four (4) months after the date of the first exam.

Examination scores for persons who successfully pass an employment examination shall remain on a rank-ordered list of eligible candidates applicable for the classification(s) to which they apply for three (3) months (this applies to all applicants including City employees).

Open Continuous Examinations – Open continuous examinations may be conducted for some classifications.

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### **Eligibility of Temporary Employees to Apply for Promotional Positions**

Employees in temporary City positions (S Key Codes) are not eligible to apply for positions that are opened as "Promotional Only" until they have been employed with the City for six months or more. (revised June 1, 2004)

### **Employment Verification**

Employment verification inquiries should be referred to the Job Verification number, 1-800-367-5690 or [www.theworknumber.com](http://www.theworknumber.com) Information given in response to requests to verify employment will be limited to an employee's hire date, job title, and salary range. (Revised 2-10-06) Additional information will not be given without a signed release from the employee.

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### **Hiring Below Minimum Salary Rate**

Department Directors may hire or promote persons below the entry level of a position in lieu of a "trainee" position or when qualified persons cannot be hired or promoted, and consequently, persons who do not meet minimum qualifications are hired.

Persons hired below the entry level of a salary range will remain at the rate hired until they acquire the qualifications they lacked (skills, knowledge, abilities, experience, education, licensing, certification, etc.) They are eligible for cost of living (across-the-board) salary increases, and are eligible for merit increases provided such increases do not place employees at or above the entry salary level.

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### **Minimum Employment Age**

Persons 16 to 18 years of age may be employed in non-hazardous positions. Occupations declared to be hazardous to persons between 16 and 18 years of age by the Department of Labor include: motor vehicle driver and outside helper, operating power-driven machines, operating elevators and power-driven hoisting equipment, chain saws, operating circular saws and guillotine shears, roofing, and excavation labor.

Federal and state child labor laws are the City's policy. Persons under the age of 16 years will not be employed by the City. However, special programs approved by the City Manager are exempt from this prohibition.

Persons between the ages of 16 and 18 years must provide a copy of their birth certificate to verify their age. The birth certificate must be attached to the person's application and retained in his/her personnel file.

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### **New Employee Processing And Orientation**

All approved Personnel Action Request forms and accompanying paperwork must be received by the Human Resources Department's HRIS Section by 4:00 PM on the Thursday before the 8:30 AM Monday orientation session, at the Human Resources Department in the annex Building, 608 Monroe. (Revised 2-10-06)

Persons moving from a temporary/seasonal status to regular status, part-time to full-time, on-site hires, and new hires are required to attend an orientation session. Photo identification (e.g., driver's license, military I.D., etc.), social security card, and other documents to verify one's eligibility to work in the USA must be available to be verified and (Revised 2-10-06) photocopied.

City of Fort Worth employee handbooks will be distributed at the orientation and basic employee policies will be discussed. Employee benefits including retirement, leave privileges, and group health benefits will also be discussed. A city identification card will be prepared during orientation.

Departments must notify employees where they are to report for work after the full (Revised June 1, 2004) day orientation session is completed.

After six (6) months employment, a follow-up orientation session will be scheduled to discuss organizational culture, the City's expectations of employees, and additional benefits which are available after successful completion of the initial probationary period.

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### **On-Site Hiring**

Departments may use the on-site hiring process when filling S01, extra help, and seasonal positions. With the Human Resources Department's approval, departments may fill regular positions on site when recruitment efforts have not been productive, the positions being filled have limited minimum requirements, the positions experience high turnover or other situations justifying on-site hiring.

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### **Over Filling Positions for Training Purposes**

(new policy effective Nov. 15, 2004)

The City recognizes the value of allowing staff to receive training for a promotional or lateral position from that incumbent's position. Subject to budget limitations, departments can over fill positions for the purposes of providing such training on the job. Such positions can be over filled for a maximum of 6 months, after which approval from the Human Resources Department is needed to continue the overage.

### **Privacy Of Employee Records**

In accordance with State law, all information contained in City employee personnel files is public with the exception of information that is, by law, considered to constitute a clearly unwarranted invasion of personal privacy or falls under a specific statutory authorization of confidentiality.

Examples of information that are a matter of public record and, upon official request, must be released for public inspection: Name, sex, ethnicity, age of an officer or employee; date of employment or appointment to the City service or, if applicable, the termination date; position title; salary; and, department to which the employee is currently assigned.

The information described as public record is maintained in the Human Resources Department. Any person may have access to this information for the purpose of inspection and review during regular business hours. Any person desiring such information may submit a written request to the Human Resources Department's Records Section, or to the City Manager's Office.

Confidential information contained in a City employee's personnel file shall be open for inspection by the employee or his/her duly authorized agent.

An employee of the City who objects to material in his/her personnel file on the grounds that it is inaccurate or misleading may seek to have the material removed from the file by filing a formal grievance with the Human Resources Director or designee. The employee may be permitted to place a statement in his/her personnel file relating to the material.

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### **Probationary Periods**

#### **Initial Probationary Periods**

An initial probationary period is the period of time during which a new employee becomes familiar with his/her new job. The new employee will determine whether or not he/she can perform the duties of the job and if he/she wants to keep the job. Likewise, the City uses this time to determine whether or not the employee can perform assigned tasks satisfactorily and, whether or not the employee can and is complying with work rules and policies.

Employees cannot be transferred, promoted, demoted or reclassified during their initial probationary period. (Revised January 26, 2001) Employees may not apply for other positions within the City during their initial probationary period. (Revised 2-10-06) A probationary employee may be dismissed at any time during the initial probationary period. Initial probationary period employees are "at will" employees.

All full time, regular employees (non-Civil Service) are in a probationary status for the first 6 months of employment. All part time, regular employees are in a probationary status for the first 6 months of employment. (Revised January 26, 2001) Civil Service employees serve a one (1) year probationary period except those former police officers reappointed by the Police Chief who serve a six (6) month probationary period. (Revised October 9, 1999)

Initial probationary periods may be extended up to 3 months (full time positions) or 1 1/2 months (part time positions) at the discretion of the Department Director or designee. (Revised October 9, 1999) Extensions must be in writing, issued prior to the end of the initial probationary period, identify the reasons for the extension and what the employee must do to successfully complete the probationary period. (Revised 5-8-07) A copy of the extension must be signed by the employee (if the employee refuses to sign note on notice) and submitted to the HRIS/Records Division. If the employee is off work for an extended period of time (weeks) the dates of the extended probation will be adjusted accordingly. (Revised 02/23/2009)

A formal performance evaluation session will be conducted at the end of an employee's initial probationary period.

Following completion of probation, accrued leave benefits are available for use with supervisory approval; leave becomes available when the employee receives the paycheck for the pay period in which he/she completed probation. (Revised 02/23/2009)

Non-Exempt Employees at the "A" Step are eligible for a performance step increase after completion of their six month probation if their overall performance rating is Competent or higher, subject to the budget approved by the City Council (revised June 1, 2004). Exempt employees are not eligible for an increase after 6 months of employment.

Initial probationary period employee may access funeral leave if approved by the Department Director. (Revised Oct. 9, 1999)

### **Other Probationary Periods**

Employees who transfer, promote, or demote from one position to another will serve a six (6) month (Revised Oct. 9, 1999) probationary period (employees have access to accrued leave during these probationary periods). These probationary periods may be extended up to an additional three (3) months. Such extensions must comply with the provisions presented above. (Revised Feb. 23, 2009) A formal performance evaluation session will be conducted at the end of the employee's probationary period. Transfers which are temporary assignments or reassignments where there is no significant change in job duties and the move is within the same department are exempt from the six (6) month probationary period requirement.

If a probationary employee cannot satisfactorily perform the assigned duties of the position into which he/she promoted or transferred, the Department Director or designee has the discretion to place the employee back into his/her former position or another comparable position if such a position is available.

### **Disciplinary Probationary Periods**

Any employee may be placed into a probationary status because of unsatisfactory work performance and/or because of work rule violations. Disciplinary probationary periods may be up to six (6) months in duration and may not be extended beyond six (6) months.

Promotion, Demotion, Transfer Employees who receive an overall performance evaluation rating of Unsatisfactory or Needs Improvement (Revised Feb. 23, 2009) will be placed in a probationary status. If their overall job performance does not improve to a satisfactory level, they will be terminated or demoted.

Refer to the Disciplinary Action policy (Employee Conduct Section) for further guidance.

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### **Promotion, Demotion, Transfer**

A promotion is the movement into a classification having a salary grade with a higher entry pay level (revised Nov. 15, 2004) than the previously held classification. (Revised January 26, 2001)

A demotion is the movement into a classification having a salary grade with a lower entry pay level (revised Nov. 15, 2004) than the previously held classification. (Revised January 26, 2001)

A transfer is the movement into a classification with the same entry pay level (revised Nov. 15, 2004) as the previously held classification. (Revised Jan. 26, 2001)

A lateral transfer is the movement from one position to another position within the same classification (no change in key code). Lateral transfers may be intra- or inter-departmental. (Revised May 8, 2007)

#### **Job Family Transfer:**

1. Change in key code and job duties are similar – A transfer within the same job family is the movement from one classification into a different classification with the same entry pay level and the job duties and minimum qualifications of the two classifications are similar. The employee must meet the minimum qualifications for the new classification. (Revised May 8, 2007)
2. Change in key code and job duties are dissimilar – A transfer from one classification into a different classification with dissimilar duties and qualifications (different job families) with the same entry pay level requires the approval of the Human Resources' Staffing Services Division Head before the transfer takes place. The employee must meet the minimum qualifications for the new classification. (Revised May 8, 2007)

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#### **Recruitment Policy**

The City of Fort Worth is committed to providing employment opportunities to all persons who are interested and eligible to work for the City. The City values diversity in its workplace, therefore, recruitment activities will be inclusive so all persons regardless of race, color, national origin, gender, gender identity, religious affiliation, age, sexual orientation (Revised 2-10-06) (Revised 1-8-2010) veteran or disability status will have an equal opportunity for employment.

This policy is practiced in all personnel actions and conditions of employment, including but not limited to: recruitment, employment, training, promotion, transfer, demotion, termination, layoff, discipline, compensation, and benefits. (Added 1-8-2010)

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#### **Re-Employment**

##### **Voluntary Separations**

Persons who desire to be re-employed by the City within one year after leaving in good standing (voluntary separation with acceptable work record) may be rehired by their former departments on a non-competitive basis, if a vacant position in the classification is available. Rehired persons will have the same status as a new employee and will not have previously accrued, unused leave time restored. (Revised October 9, 1999)

Persons re-employed will receive adjusted service dates to reflect their previous service with the City.

##### **Involuntary Separations**

Persons involuntarily terminated for work rule violations (disciplinary reasons) are not eligible for rehire in accordance with the following provisions: (Revised May 8, 2007)

1. Absolute ban (cannot work for the City) – If terminated for engaging in serious illegal activities such as selling, buying or distributing drugs at work; violence in the workplace that resulted in physical injury or property damages; identity theft; theft of money or property; illegal harassment; negligence resulting in personal injury and/or substantial monetary loss. (Revised May 8, 2007)
2. Three (3) year ban for terminations based on work rule violations (disciplinary reasons). (Revised May 8, 2007)
3. A positive drug test or second alcohol test or second prescription drug misuse results in a three (3) year ban and, if re-employed after three (3) years, required EAP unannounced testing for a 24 month period. One (1) positive test or any violation of EAP requirements any time during the 24 month testing period following re-hire will result in termination and an absolute ban from future employment. (Revised May 8, 2007)

Persons involuntarily terminated for non-disciplinary reasons (e.g., resignations, inability to do job, health, etc.) are eligible for re-employment. (Revised Jan. 26, 2001) Such cases will be considered on a case-by-case basis by the Human Resources Director or designee.

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#### **Regular Employees Working Temporary Second Jobs For The City**

Regular City employees (including sworn personnel in Police and Fire) shall not be employed in temporary, seasonal or less than half time City positions (S key code positions). (Revised 02/23/2009)

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## Reinstatement

Reinstatement refers to those instances where a non-civil service employee who appeals an involuntary termination is put back to work as a result of the appeal. The service record of reinstated employees will reflect a break in service when full back pay is not awarded. Accrued leave benefits will be reinstated and immediately available to the employee, unless the terms and conditions of the reinstatement specify otherwise. If the reinstatement provisions are silent on relevant reinstatement matters, those matters will be processed in accordance with standard procedures.

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## Temporary, Seasonal and Less than Half Time (S Key Code) Positions and Employees (New Policy Effective 02/23/2009)

Temporary, seasonal and less than half time positions also known as S key code positions may be used to hire personnel to compensate for staffing shortages, provide additional help in times of emergency, assist in completing time sensitive projects, perform work that does not justify the creation of a permanent position and perform work that will be completed in a short or defined period of time. S key code positions may also be used for work that is seasonal or sporadic, e.g., Umpires, Lifeguards, and School Crossing Guards. S key code positions are short term; they augment existing staffing levels and are not intended to serve as regular, authorized positions.

Persons may not be hired as S key code position employees to perform the duties and tasks of existing regular, authorized positions on a long term basis. S key code positions are not a substitute for a regular, authorized position.

### Limited Duration of S Key Code Positions

No S Key Code position will be permitted to be continuously filled for more than two (2) years unless it remains under 1040 hours in a rolling 12 month period. An S key code position that has been filled continuously or for a majority of the time within a two year time period must be evaluated for conversion to a regular, authorized position. A decision package should be submitted to add the S key code position as a regular, authorized position during the appropriate budget cycle.

S key code positions are linked to "shadow classifications" - Shadow classifications are classifications that are similar to the level and scope of the work required of the S key code position. The "shadow classification" is used to determine an appropriate level of pay for the position and to determine the FLSA status of the S key code position. Individuals selected for an S key code position must meet the minimum qualifications for the "shadow classification".

Hiring a retired City of Fort Worth employee into an S key code position – Permission to hire a retired City of Fort Worth employee into an S key code position must be given by the Human Resources Director. A request to hire a retiree must include: 1) the reason for the hire; 2) the salary the retiree will receive as an S key code employee; 3) the period of time the retiree is expected to work in the position; and 4) an explanation of the job duties the retiree will be performing and how those duties differ from the job duties the retiree performed as a regular employee. Other factors may be considered to insure that the intent for hiring a retiree into an S key code position is for the appropriate reasons. A retiree must be separated from the City for at least three (3) months prior to being hired as an S key code employee.

Benefits - Persons hired to fill S key code positions are not entitled to full regular employee benefits. S key code employees are eligible for the benefits which are available under the Workers' Compensation Act, FICA Alternative Plan, Medicare, the Fair Labor Standards Act, and the Family and Medical Leave Act.

Rate of pay for S key code employees shall be at the discretion of the Department Director. Typically, due to the limited or temporary nature of the work assignment, the starting rate of pay will be less than the entry rate for the "shadow classification". Factors which may be considered in determining the appropriate salary include; 1) the entry rate of pay of the classification which is comparable to the temporary position; 2) whether the S key code employee will be performing some or all of the tasks assigned to incumbents in the comparable classification; 3) the current market salary for such positions (realizing the City's salary structure is not based solely on outside market salaries); 4) whether the position is part time, full time or seasonal; 5) the employee's past tenure and performance with the City (if applicable); and, 6) whether the position is a training type assignment.

Exemptions from this policy include positions in the City's Temporary Services Pool, job carve positions, interns, elected officials and their staff.

See Appendix 11 for additional information on S key code positions and employees.

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## Verification Of Employment Application Information

The information provided on employment applications and resumes will be subject to verification. The City values personal honesty and integrity in its employees. Individuals who falsify and/or omit significant information may be disqualified from further consideration for employment or if discovered after employment, may be terminated.

Verification of Educational/Certification/License Qualifications: It is the applicant's responsibility to submit all required documents such as high school/GED diplomas, college degrees/transcripts, professional/technical certifications and licenses with employment



applications. Failure to submit verification documents will not, however, disqualify an applicant for consideration of employment. If hired, however, individuals who did not present required documents with their application must submit those documents before the expiration of their initial probationary period.

Departments are responsible for ensuring that all required qualification verification documents are submitted and sent to the Human Resources Department's HRIS Section. (Revised 2-10-06)

Employment and Personal References: Departments are encouraged to contact previous employers to verify employment histories. The City's employment application contains a consent statement to release information to the City upon request which applicants must sign.

Departments are encouraged to contact any personal references provided by applicants.

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### Waiver Requests

Department Directors may request waivers of personnel rules and regulations. Written waiver requests should be sent to the Human Resources Director who will review and approve or deny the request. requests should identify the rule or regulation to be waived and the reason for the requests. If a request is denied, the Department Director may appeal to the Personnel Committee who will decide whether to approve, deny or approve amended or alternative waiver. Requests and responses will be processed as expediently as practicable. (New policy effective January 26, 2001)

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## Employee Classification System

### Classification System

Every budgeted position is allocated into a classification that includes positions with similar duties and responsibilities. Substantial similar positions are grouped together and treated as equivalent with regard to personnel and salary administration.

Class specifications prepared by the Human Resources Department describe the range of duties performed by employees in the class. Specifications include essential and marginal function statements, qualifications, and working conditions of the class. Class specifications are generic, describing major duties and functions. They are not intended to describe specific positions in detail.

Official class titles are used in all personnel, payroll, accounting, budget appropriations and functional records and transactions. "Working" or "functional" job titles may be used at the discretion of individual departments. However, official class titles must be used when processing transactions.

A coding system (e.g., A81, B25, J18, etc.) is used to designate each class in the system.

The Human Resources Director is responsible for the administration and maintenance of the classification system and may initiate studies of individual positions, series of positions, classes, occupational groupings or organizational units to ensure and maintain the integrity of the classification system. When the need for a new class arises, the Director will recommend a new class title and develop class specifications for the new classification.

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### Reclassification

The Human Resources Director is responsible for the approval of reclassifications and the establishment of new classifications. This responsibility includes conducting classification reviews, evaluating and classifying new positions, determining the appropriate classification whenever duties of an existing position change, and reviewing the Classification Plan to ensure equitable classification of positions.

Allocation of positions to a classification will be made on the basis of a whole job analysis to include but not limited to consideration of required expertise, decision-making, supervisory responsibilities, management control, contacts, physical effort and working conditions.

Department Directors assist in this process by identifying any changes in the organization which include changes in function, organizational relationships, work methods; proposed new positions; changes that have been or are to be made, in the duties and responsibilities of any departmental positions.

When incumbents do not meet the minimum qualifications of the classification their position has been reclassified to, they must have been performing the essential functions of the position at a satisfactory level for at least six (6) months (Revised October 9, 1999). If they do not meet the six (6) month requirement, the Department Director may request a waiver of this provision.

Classification and position reviews will be conducted upon the request of a Department Director in a manner that is fair, equitable and objective, taking into consideration not only the needs of the individual department but the needs and requirements of the City

as a whole.

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### Reclassification Appeals

Department Directors may appeal classification recommendations made by the Human Resources Department. Written appeals providing specific information explaining the basis of the appeal must be submitted to the Human Resources Director within ten (10) working days after receipt of the reclassification recommendation.

The Human Resources Director will convene the Classification Appeals Committee as soon as practicable. The committee is a three-member ad hoc committee appointed by the City Manager. The committee will consider the Department Director's appeal and the Human Resources Department's reclassification study. Representatives from the appellant department and Human Resources may present their respective positions to the committee.

The committee will issue its decision in writing as to the proper classification of the position at issue. A copy of the decision will be sent to the Department Director. The original will be sent to the Human Resources Director.

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## Pay

### Acting Pay

Employees who are temporarily assigned to work in a position with a higher salary grade or entry-level salary than his/her position may be paid at the entry level of the higher position. (Revised 02/23/2009) If an employee's salary is higher than the entry of the higher position, the acting pay increase will be at least 5%. (Revised October 9, 1999)

To receive acting pay a Request for Acting Pay form must be completed and approved by the Human Resources Department. (There are no back pays for acting pay) (Revised 02/23/2009) Employees must meet the minimum qualifications reflected in the job description of the higher position. Employees who act in a non-supervisory position and act in the higher position for at least one (1) work week (Revised 5/8/2007), must perform most, if not all, of the duties of the position. Employees who act in a supervisory position may not have the opportunity to perform all the duties of the position (e.g., disciplinary actions, performance evaluations, leave request reviews, etc.), but they must satisfactorily perform all the duties which arise. (Revised October 9, 1999)

Managers must decide when acting pay is appropriate based upon the circumstances of each situation. Qualifications, duration of assignment, and actual duties performed should be considered to determine when acting pay is appropriate. (Revised October 9, 1999)

Employees engaged in on-the-job training in a higher position are not eligible for acting pay. Departments which provide on-the-job training should develop a method to determine when an employee qualifies to move out of the on-the-job training status into an acting pay status. All qualified employees should be given an opportunity to receive on-the-job training.

Employees will receive acting pay only for the time they are at work performing the duties of the higher-level position; they will not receive the higher rate of pay when off work using accrued leave time. (Revised 5-9-07) However, employees who have served in an acting capacity for more than six (6) consecutive months and who have been performing all of the job functions and responsibilities of the higher position will receive the acting rate for leave time and compensatory time. (Revised 02/23/2009)

A non-exempt employee (Revised May 8, 2007) who is receiving Acting Pay in an exempt position, and who is performing in the exempt position for more than 80% (Revised May 8, 2007) of his or her time will accrue compensatory time at straight time after forty (40) hours in a work week. (Revised Nov. 15, 2004)

Acting pay for Civil service personnel in Police and Fire is governed by Chapter 143 of the Local Government Code.

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### Advance Pay

To address unforeseen emergency situations, employees may receive an advance payment on their salary. Only two (2) advances per calendar year will be granted. The amount of advance shall be equivalent to at least twenty-four (24) hours (revised June 1, 2004) salary, but no more than 50% of the salary already earned but not yet paid to the employee. Advance pay is not available to S01 employees.

Advance Pay requests must be submitted before 12 noon, on the Friday of a pay ending week. Typically, advance pay checks will be available by the end of the day on which a request is received.

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### Bilingual Skills Pay

Employees whose job duties require the use of their bilingual skills may be eligible for additional compensation (verbal skills \$100

(Revised 02/23/2009) per month ; written skills \$125 (Revised 02/23/2009) per month). A language proficiency test administered by the Human Resources Department must be taken and passed to be eligible for bilingual skills pay.

The Human Resources Department has a list of employees who receive bilingual skills pay. This list is available on the [intranet](#).  
(Revised 2-10-06)

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## Compensation

The pay of City employees shall be in accordance with the Salary Schedules approved by the City Council.

This compensation policy is applicable to all City employees except Civil Service employees in the Police and Fire Departments unless otherwise stipulated by contract or agreement. (Revised March 8, 2010)

Department Directors are given latitude in setting the salaries of their employees, but ensuring consistency and fairness continues to be a goal in that process. Therefore, the following policies are established to provide guidance. (Revised October 9, 1999)

The City's Compensation system includes a [Performance Step Plan](#) for non-exempt employees and a [Performance Pay Plan](#) for exempt employees. Both plans are designed to provide salary increases based upon performance, but the non-exempt plan also recognizes tenure. (Revised October 9, 1999)

### Non-Exempt Employees' Performance Step Plan

#### Steps

Non-exempt employees will be compensated using a Performance step Plan. There are twelve (12) steps in the plan, A through L. Entry level is Step A and the top of the range is Step L. The step increase are: A to B, 2.5%; B to C, 2.5%, C to D, D to E, E to F, 5%; and F to G, G to H, H to I, I to J, J to K, K to L, 2.5%. (Revised October 9, 1999)

Movement from step-to-step is based upon the following increments: A B, 6 months; B C, 6 months; movement from Step C thru Step L is 1 year between steps. (Revised October 9, 1999)

Movement from one step to another step is contingent upon an employee's performance evaluation. Movement from Step A thru Step F requires an overall performance rating of Competent or above subject to the budget approved by Council (revised June 1, 2004). An overall rating of Unacceptable or Improvement Needed results in no step increase. (Revised October 9, 1999)

Movement from Step F thru Step L requires an overall performance rating of excellent to move one step and an Outstanding rating results in a two step movement, subject to the budget approved by Council (revised June 1, 2004). An overall rating of Competent does not result in movement between Steps F thru L. (Revised October 9, 1999)

An employee will be eligible for a step increase at the beginning of the pay period in which his or her anniversary date occurs.  
(Revised 2-10-06)

(Additional implementation guidelines for non-exempt employee performance salary increases are provided at the end of this policy.) (Revised January 26, 2001)

#### Anniversary Dates

Anniversary Dates under this plan are based upon the effective date of the most recent personnel transaction which affects an employee's pay (date of hire, promotion, demotion, reclassification, delay in performance pay increase due to extended initial probationary period or an extended absence from work) (Revised January 26, 2001). In addition, anniversary dates of non-exempt employees will change when eligibility for a step increase occurs while the employee is under a disciplinary probationary period. See Pay for details. (Revised July 1, 2003).

[Special merit](#) increases do not result in an anniversary date change. (Revised October 9, 1999)

Lateral transfers do not affect an employee's anniversary date unless there is a change in pay. (Revised January 26, 2001)

Movement from Step A to Step B results in a new anniversary date which is 6 months after the effective date of Step B. Movement from Step B to Step C results in a new anniversary date which is 12 months after the effective date of Step C. Movement between Steps C thru L results in a new anniversary date which is 12 months after the effective date of each step movement. (Revised October 9, 1999)

Extension of (Revised 2-10-06) Initial Probationary Periods: At the request of a Division Head, the initial six-month probationary period of a non-exempt employee may be extended up to a maximum of an additional three months if sufficient information is not available to adequately evaluate performance or if performance or conduct issues exist. A Personnel Action Request (PAR) form must be completed to extend the probationary period because the employee's anniversary date will change. The employee will not be eligible for movement to the next step until successful completion of the extended probation.

The Rate of Pay for New Employees will normally be at the entry level, Step A for the classification occupied by the employee.

Department Directors may appoint a new employee at a higher rate up to and including the "F" Step, based on qualifications beyond the minimum qualifications listed on the class specification. Placement at a step above the "F" Step requires the approval of the Human Resources Director or designee. (Revised October 9, 1999)

Starting Rate of Pay for Re-employment into the same class or a classification with a lower salary grade within the same classification series (after separation from City service which has not exceeded one (1) year) shall be at the department director's discretion, not to exceed the same rate of pay when the person left the City. (Revised October 9, 1999)

Starting Rate on Return from Active Duty. Any employee who has left the City service to enter active duty for the Armed Forces of the United States at the time he/she entered active duty shall be entitled to receive a rate of pay equivalent to the rate previously held provided the employee has been granted a leave of absence and returns within prescribed time limits to a position in the class previously held. (Revised October 9, 1999)

The Rate of Pay after a Transfer (the movement of an employee to a classification with the same salary grade as the previously held classification) will not change.

The Rate of Pay after a Promotion (movement into a classification having a salary grade with a higher entry rate than the previously held classification) will be to a step in the new salary grade that is at least approximately (Revised January 26, 2001) a 5% increase in pay and no greater than approximately (Revised January 26, 2001) 10%, unless movement to the entry level step provides an increase greater than 10% or unless the promotion occurs following competitive recruitment in which the employee competed. (Revised October 9, 1999)

Competitive recruitment includes newspaper ads, internet advertising, job fairs, national journal advertising, etc., in the market in which the City competes for employees for that job. The Human Resources Department will decide the appropriate market, in conjunction with the hiring department, and the appropriate recruitment activities. If an employee is promoted after competing for the position, the department director may place the employee at a step that results in more than a 10% increase in pay, up to the "F" step, to reflect the market value, job conditions and the employee's qualifications. (Revised October 9, 1999)

Promotions above the "F" step that result in an increase greater than 10% must be approved by the Human Resources Director or designee. (Revised October 9, 1999)

The Rate of Pay after a Demotion (movement into a classification having a salary grade with a lower entry rate than the previously held classification) is determined by the reasons for the demotion.

- Disciplinary demotions must involve movement to a step which results in approximately (Revised January 26, 2001) a minimum 5% reductions in pay. Reductions greater than 5% may be appropriate and will be determined on a case-by-case basis by the department director or designee. (Revised October 9, 1999)
- Performance-based and voluntary demotions within the first year after a promotion will result in a reduction equal to the increase received at the time of promotion. (Revised October 9, 1999)
- Other voluntary demotions: Departments must consult with the Human Resources Director or designee to determine the appropriate compensation in cases of voluntary demotions if at least a 5% decrease is not given. Sometimes it is inappropriate to use salary ranges as the sole determinant of whether a job change is a demotion. For example, transfers from the trades career track into the clerical track may result in more responsibility, but the salary range may be lower because of the market for the clerical job. Consultation with the Human Resources Department will provide for an evaluation of the reasons for the demotion and the differences in the salary ranges and job responsibilities, so an appropriate salary rate can be determined. (Revised October 9, 1999)
- When an exempt employee is demoted into a non-exempt position and when a non-exempt employee is demoted into an exempt position, the resultant salary must constitute at least a 5% reductions in pay. (Revised January 26, 2001)

In any demotion, an employee's salary may not exceed the top of the salary range so that an employee could not move into a classification and remain at a salary above the range. (Revised October 9, 1999)

The Rate of Pay after a Reclassification: If the reclassification results in a promotion, an employee will be placed at a step where the pay is increased by approximately (Revised January 26, 2001) at least 5% and no more than approximately (Revised January 26, 2001) 10%. If a transfer or demotion occurs, there is no change in the rate of pay unless, if the incumbent's rate of pay exceeds the top of the range of the new classification, in which case the rate of pay will be reduced to the top of the new range. (Revised October 9, 1999)

A non-exempt employee promoted or reclassified to an exempt position will serve a probationary period of six months. Upon successful completion of the probationary period the employee's anniversary date will be changed to an October 1st date as is currently done for new hires in exempt positions. (Revised October 9, 1999)

Pay increases due to reclassifications are effective at the beginning of the pay period in which the date of the reclassification occurs. Back pay will not be paid prior to the effective date (Revised 2-10-06).

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**Exempt Employees' (Revised 2-10-06) Performance Pay Plan**

(Deletion of paragraph 2-10-06)

The Rate of Pay for New Employees will normally be at the entry level of the First Quintile for the classification occupied by the employee. Department Directors may appoint a new employee at a higher rate up to the maximum rate for the Second Quintile, based on qualifications beyond the minimum qualifications listed on the class specification.

Starting Rate of Pay for Re-employment into the same class or a classification with a lower salary grade within the same classification series (after separation from City service which has not exceeded one (1) year) shall be at the department director's discretion, not to exceed the same rate of pay when the person left the City. (Revised October 9, 1999)

Starting Rate on Return from Active Duty. Any employee who has left the City service to enter active duty for the Armed Forces of the United States at the time he/she entered active duty shall be entitled to receive a rate of pay equivalent to the rate previously held provided the employee has been granted a leave of absence and returns within prescribed time limits to a position in the class previously held. (Revised October 9, 1999)

The Rate of Pay after a Transfer (the movement of an employee to a classification with the same salary grade as the previously held classification) will not change.

The Rate of Pay after a Promotion (movement into a classification having a salary grade with a higher entry pay level (Revised 2-10-06) than the previously held classification) will be a minimum increase of 5% and no greater than 10%. The Department Director, on a case-by-case basis, may increase the rate of pay beyond 10% up to the top of the Second Quintile if the employee was promoted through a competitive recruitment process. (Revised October 9, 1999)

Competitive recruitment includes newspaper ads, internet advertising, job fairs, national journal advertising, etc., in the market in which the City competes for employees for that job. In conjunction with the hiring department, the Human Resources Department will decide the appropriate market and the appropriate recruitment activities. If an employee is promoted after competing for the position, the department director may give the employee more than a 10% increase in pay, to reflect the market value, job conditions and the employee's qualifications, up to the top of the Second Quintile. (Revised October 9, 1999)

The Rate of Pay after a Demotion (movement into a classification having a salary grade with a lower entry rate than the previously held classification (Revised 2-0-06)) is determined by the reasons for the demotion.

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Disciplinary demotions must involve a minimum 5% reduction in pay. Reductions greater than 5% may be appropriate and will be determined on a case-by-case basis by the department director or designee. The Human Resources Director or designee should be consulted for guidance. (Revised October 9, 1999)

Performance-based and voluntary demotions within the first year after a promotion will result in a reduction equal to the increase received at the time of promotion. (Revised October 9, 1999)

Voluntary non-performance related demotions must be determined on a case-by-case basis in consultation with the Human Resources Director or designee. Departments must consult with the Human Resources Director or designee to determine the appropriate compensation in cases of voluntary demotions if the department wants less than a 5% decrease. Sometimes it is inappropriate to use salary ranges as the sole determinant of whether a job change is a demotion. Transfers from one career track into another track may result in more responsibility, but the salary range may be lower because of the market for the job. Consultation with the Human Resources Department will provide for an evaluation of the reasons for the demotion and the differences in the salary ranges and job responsibilities, so an appropriate salary rate can be determined. An employee's salary may not exceed the top of the salary range so that an employee could not move into a classification and remain at a salary above the range. (Revised October 9, 1999)

The Rate of Pay after a Reclassification: If the reclassification results in a promotion, the rate of pay is increased by at least 5% and no more than 10%. If a transfer or demotion occurs, there is no change in the rate of pay unless, if the incumbent's rate of pay exceeds the top of the range of the new classification, in which case the rate of pay will be reduced to the top of the new range. (Revised October 9, 1999)

Pay increases due to reclassifications are effective at the beginning of the pay period in which the reclassification occurs. Back pay will not be paid prior to the effective date (Revised 2-10-06)

**Back to Top****S01 Employee's Pay Plan (Revised 2-10-06)**

Rate of Pay for S01 Employees shall be at the discretion of the Department Director. Factors which may be considered in determining the appropriate salary include; 1) the entry level of the classification which is comparable to the temporary position; 2) whether the S01 employee will be performing some or all of the tasks assigned to incumbents in the comparable classification; 3) the current market salary for such positions (realizing the City's salary structure is not based solely on outside market salaries); 4) whether the position is part time, full time or seasonal; 5) the employee's past tenure and performance; and, 6) whether the position

is a training type assignment.

At the discretion of the Department Director (Revised 2-10-06), S01 employees who have completed at least one (1) year of service from the date of hire (anniversary date) in their current position and are performing at a satisfactory level will be eligible for: 1) any "cost of living" across-the-board pay raise granted by the City Council and 2) any meritorious percentage increase within the matrix established for all regular full time City employees if a performance evaluation is conducted. Evaluation intervals will be every 12 months thereafter. These raises are not automatic; they are made at the discretion of the department director.

Compensation for short term seasonal employees (i.e. lifeguards, summer groundskeepers, etc.) returning from previous year(s) service with a documented satisfactory work history, shall be determined according to the factors listed above and the availability of funding.

### Exceptions

Exceptions to these guidelines may be requested by submitting a written waiver to the Human Resources Director, "if in the best interest of the City." Waivers denied by the Human Resources Director may be appealed to the Personnel Committee for final disposition upon Department Director request. (Revised October 9, 1999)

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### Performance Pay Increases (New Guidelines effective October 2000)

Performance step increases (non-exempt) and performance increases (exempt employees) are monetary rewards (increases in rate of pay) given to eligible employees who receive job performance ratings which qualify them for an increase. The availability of increases is contingent upon City Council approval of monies to be budgeted for increases. (Revised October 9, 1999)

Special Merit increases may be awarded by Department Directors with the concurrence of the Human Resources Director. See "Special Merit Increase" policy.

For procedures regarding Performance Pay Increases, see Appendix 10. (Revised 2-10-06)

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### Education/Certification/Assignment Incentive Pay Plan for Civil Service Personnel

To provide the incentive to Fire Fighters and Police Officers to upgrade their own professionalism by education or training, education/certification/assignment incentive pay is authorized in addition to regular pay for Civil Service employees in the Fire and Police Departments. In limited instances non-civil service employees may receive assignment pay

**Fire Fighter** – A sworn member of the Fort Worth Fire Department who is covered by the Firemen's and Policemen's Civil Service Act of the State of Texas.

**Police Officer** – A sworn member of the Fort Worth Police Department who is covered by the Firemen's and Policemen's Civil Service Act of the State of Texas.

Education incentive pay shall relate to pay authorized for successful completion of course semester hours at an accredited college or university in fire or police science or other related fields of study, such as courses dealing with administrative staff or technical support services.

Certification incentive pay shall relate to pay authorized for successful completion of training courses that are certified by the Texas Commission on Fire Protection Personnel Standards and Education (TCFPPSE) or the Texas Commission on Law Enforcement Officers Standards and Education (TCLEOSE).

Education/certification incentive payments are based upon the following criteria:

1. Completion of basic or advanced fire science or law enforcement related courses at an accredited college or university.
2. Attainment of higher level state certification and/or assigned to clearly designated positions.
3. Semester hours on any college subjects earned as part of an approved degree plan from a four-year college or university are acceptable. College courses must be directly related to an approved degree plan or must be part of an approved degree in order to qualify for education incentive pay.
4. Work experience semester hours will be accepted for education incentive payment only if they are part of an approved degree or an approved degree plan from a four-year college or university.
5. Examination-type semester hours and correspondence course hours are acceptable for education incentive pay only if they are part of an approved degree plan or an approved degree.

6. Education (Revised 2-10-06) reimbursement rules governing courses taken at colleges and universities outside of Tarrant County will apply to the education incentive pay program. The only exception shall be those cases wherein a Fire or Police Officer resides close to the school and shall require prior approval of the Human Resources Department.
7. Repeat or duplicate courses will not be accepted for credit towards education incentive pay, nor will the duplication of training be accepted for credit towards certification incentive pay. Some basic courses taught on a more advanced level may be deemed acceptable after review by the Human Resources Department.
8. Credit for courses that are held on the same day(s) at the same time(s) will be granted for only one of the courses.

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### **Processing Procedures**

When an individual officer qualifies for certification incentive pay, proof of accomplishment must be submitted by the appropriate Training Academy to the TCFPPSE for certification of Fire Training or TCLEOSE for certification of Police Training. After the certificates are sent to the Training Director from TCFPPSE or TCLEOSE, they will be forwarded to the Human Resources Department along with the IPA forms.

When an individual officer qualifies for education incentive pay, he/she must submit to the Fire or Police Training Director (as appropriate) the Incentive/Assignment Pay Authorization (IPA) form along with an official copy of his/her transcript(s). These documents must then be submitted by the Fire or Police Training Director to the Human Resources Department within ten (10) working days after the officer notifies the Training Academy.

The IPA form must show the 1) date of qualification, 2) the level of qualification, 3) the amount of education/certification incentive pay, and 4) the date payment shall begin.

It will be the responsibility of the Fire or Police Department to notify the Human Resources Department of any changes in an officer's education or certification level.

The Fire and Police Departments will receive a Master Control listing of all commissioned officers in their respective departments by the 15th of each month. Any additions, changes, or corrections regarding the officers who are receiving education/certification/assignment incentive pay should be made on the master listing and a new IPA form submitted. The master listing and IPA form shall be returned to the Human Resources Department no later than the 25th of the month, or five (5) working days after the Department receives it if it arrives after the 15th.

The Human Resources Department will be responsible for documenting, checking, and coding all corrections and changes on the Master Control listing.

The Human Resources Department enters changes into the payroll system. After verification of information and entry into the payroll system has been completed, the copies of transcripts and certificates will be filed in the officers' folders.

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### **Payment of Education/Certification/Assignment Incentive Pay**

Education/certification/assignment incentive payments are made to Fire and Police Officers on a monthly basis by check. This payment shall be included in the pay check distributed on the first payday of each month with appropriate retirement and tax deductions withheld.

Fire and Police Officers may draw either education incentive pay or certification pay but not both.

Education/certification/assignment incentive payments will commence within one month after the Human Resources Department is notified of an officer's qualification for such pay. In the event there is a time lapse between qualification and notification, there will be no retroactive payments.

If an officer retires, dies or terminates their education or certification pay will be paid based on the total amount of sick leave hours paid, up to 90 days

Education/certification/assignment incentive payments will not be paid for termination leave time, i.e., accrued leave for which an employee is paid at the time of termination.

### **Investigations and Audits**

Investigations of the Education/Certification/Assignment Incentive Pay Plan and the administration of same may be performed and reported upon by the Firemen's and Policemen's Civil Service Commission of Fort Worth. In the course of such investigation, the Civil Service Commission shall have the power to administer oaths, subpoena and require the attendance of witnesses, require witnesses to bring books, papers, documents, and accounts pertinent to the investigation.

Investigations or audits may be performed when deemed necessary by the Civil Service Commission, the Internal Audit Department, the Human Resources Director, or any other party designated by the City Manager.

**Education/Incentive Pay Plan for Civil Service Personnel**

**Education/Certification Incentive Pay Schedule**

Amount Incentive Pay	Eligibility Required for Fire Officers	Eligibility Required for Police Officers
Level I \$ 30	TCFPPSE Intermediate Certification	TCLEOSE Intermediate Certification
Level II \$ 60	TCFPPSE Advanced/Master Certification OR Associate Degree or 60 semester hours in an approved degree plan from a four-year accredited college or university and one year's service as a sworn officer with the Fort Worth Fire Department.	TCLEOSE Advanced Certification  Associate Degree or 60 semester hours in an approved degree plan from a four-year accredited college or university and one year's service as a sworn officer with the Fort Worth Police Department.
Level III \$120	Approved Bachelor's or Master's Degree and one year's service as a sworn officer with the Fort Worth Fire Department.	Approved Bachelor's or Master's Degree and one year's service as a sworn officer with the Fort Worth Police Department. OR TCLEOSE Master Certification (Revised January 26, 2001)

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**Education/Certification Pay Plan for Marshals** (Revised January 26, 2001, and July 1, 2003)

To provide incentive to Marshals to upgrade their own professionalism by education or training. Education/Certification pay is authorized (in addition to regular pay) for Marshals (employees who are state certified peace officers in accordance with the rules of the Texas Commission on Law Enforcement Standards and Education (TCLEOSE)) in the City Marshal's Office. Marshals must complete their initial probation to be eligible for education/Certification pay. S01 Marshals become eligible after six (6) months of employment. (Revised January 26, 2001)

Education incentive pay shall relate to pay authorized for successful completion of course semester hours at an accredited college or university in police science or other related fields of study, such as courses dealing with administrative staff or technical support services.

Certification pay shall relate to pay authorized for successful completion of training courses that are certified by the Texas Commission on Law Enforcement Officers Standards and Education (TCLEOSE).

Certification – Confirmation that a Marshal in the City Marshal's Office has met the State requirements of varying levels of competency to qualify for Education/Certification Pay.

**Requirements for Eligibility for Education/Certification Pay** (Revised January 26, 2001)(Revised July 1, 2003)

The requirements for certification established by TCLEOSE are used as guidelines for education/certification pay. Pay is based on the number of college hours or a degree plus years of service or the level of certification plus years of service.

Education/certification payments are based upon the following criteria:

1. Completion of basic or advanced law enforcement related courses at an accredited college or university.
2. Attainment of higher level state certification.
3. Semester hours on any college subjects earned as part of an approved degree plan from a four-year college or university are acceptable.

College courses must be directly related to an approved degree plan or must be part of an approved degree in order to qualify for education incentive pay.

4. Work experience semester hours will be accepted for education payment only if they are part of an approved degree or an approved degree plan from a four-year college or university.
5. Examination-type semester hours and correspondence course hours are acceptable for education payment only if they are part of an approved degree plan or an approved degree.
6. Education (Revised 2-10-06) reimbursement rules governing courses taken at colleges and universities outside of Tarrant County will



apply to the education incentive pay program. The only exception shall be those cases wherein a Marshal resides close to the school and shall require prior approval of the Human Resources Department.

7. Repeat or duplicate courses will not be accepted for credit towards education incentive pay, nor will the duplication of training be accepted for credit towards certification pay. Some basic courses taught on a more advanced level may be deemed acceptable after review by the Human Resources Department.
8. Credit for courses that are held on the same day(s) at the same time(s) will be granted for only one of the courses.

(Revised July 1, 2003)

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### Processing Procedures

When an individual Marshal qualifies for education or certification pay (Revised July 1, 2003), he/she must submit to the City Marshal the Incentive Pay Authorization (IPA) form along with an official copy of his/her transcript(s) or TCLEOSE certificate. (Revised July 1, 2003) These documents must then be submitted to the Human Resources Department within ten (10) working days after the Marshal makes notification.

The IPA form must show the 1) date of qualification, 2) the level of qualification, 3) the amount of education/certification pay, and 4) the date payment shall begin.

Proof of eligibility for education incentive pay must be established by the Marshals. The responsibility for notifying the appropriate official rests solely with the individual Marshal.

All courses or degrees completed by Marshals establishing eligibility for education incentive pay must be documented. Documentation must be in the form of official transcripts submitted to the Human Resources Department at the time a Marshal is eligible for education incentive pay at any level.

It will be the responsibility of the City Marshal's Office to notify the Human Resources Department of any changes in a Marshal's education or certification level.

The Department will receive a Master Control listing of all Marshals by the 15th of each month. Any additions, changes, or corrections regarding the Marshals who are receiving education or certification (Revised July 1, 2003) incentive pay should be made on the master listing. The master listing shall be returned to the Human Resources Department no later than the 25th of the month, or five (5) working days after the Department receives it if it arrives after the 15th.

The Human Resources Department will be responsible for documenting, checking, and coding all corrections and changes on the Master Control Listing.

The Human Resources Department enters changes into the payroll system. After verification of information and entry into the payroll system has been completed, the copies of transcripts and certificates will be filed with the City Marshal's Office for filing in the Marshals' folders.

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### Payment of Education/Certification (Revised Jan. 26, 2001, and July 1, 2003) Pay

Payments (Revised Jan. 26, 2001) shall be included in the pay check distributed on the first payday of each month with appropriate retirement and tax deductions withheld.

Marshals may draw either education incentive pay or certification pay but not both.

Payments (Revised Jan. 26, 2001) will commence within one month after the Human Resources Department is notified of qualification for such pay. In the event there is a time lapse between qualification and notification, there will be no retroactive payments.

### Investigations and Audits

Investigations of the Education/Certification (Revised July 1, 2003, and Jan. 26, 2001) Pay Plan and the administration of same may be performed and reported upon by the City. In the course of such investigation, the City shall have the power to administer oaths, subpoena and require the attendance of witnesses, require witnesses to bring books, papers, documents, and accounts pertinent to the investigation.

Investigations or audits may be performed when deemed necessary by the Internal Audit Department, the Human Resources Director, or any other party designated by the City Manager.

### Education/Certification Pay Schedule For Marshals (Revised July 1, 2003)

\$ 60.00 per month – Associate Degree

\$120.00 per month – Four Year Degree

OR

\$ 30.00 per month – TCLEOSE intermediate certificate

\$ 60.00 per month – TCLEOSE advanced certificate

\$120.00 per month – TCLEOSE master certificate

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### Emergency Callback

Emergency callback pay eligibility is limited to those employees who are eligible for overtime compensation. Emergency callback pay may be paid in compensatory time or overtime pay. (Revised May 8, 2007) Employees eligible for 1½ time overtime, receive 1½ time for emergency callback overtime. Employees eligible for straight time overtime, receive straight time overtime for emergency callback overtime.

Whenever an employee is called back on an emergency basis to work after regular working hours and after having left the job site, or to work a double shift (for emergency situation) (Revised 02/23/2009), the employee will be eligible for Emergency Callback pay.

Non-Civil Service employees will be paid emergency callback pay (Revised June 1, 2004) for all hours worked, with a minimum of two (2) hours at time and one-half for each callback occurrence. If an employee is called out and another call comes in within the two (2) hour time period, regardless of the reason for the second call, the second call is not another emergency call out. Any call outs while an employee is on the clock is considered extensions of the original callout. (Revised July 1, 2003).

Civil Service employees and Deputy City Marshals (Revised May 8, 2007) will be paid emergency callback pay (Revised June 1, 2004) for no less than four (4) hours for each callback.

Documentation stating the need for the emergency callback must be maintained in the department for possible review.

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### Final Paycheck

Final paychecks of employees who leave the City's service (Revised 2-10-06) will be sent via certified mail to the employee's permanent address on the following regular pay day after the termination PAR is processed (Revised 02/23/2009).

Employees who terminate during a payperiod will not be paid for Vacation and Short Term Sick Leave (Revised December 16, 2000) accrued during their final payperiod. Employees who terminate at the end of a payperiod (who worked the entire payperiod) will be paid for Vacation and Short Term Sick Leave (Revised December 16, 2000) accrued during that payperiod.

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### Holiday Pay

Only employees in regular positions are eligible for paid holidays. Extra help, S01, seasonal, and other similarly-situated employees are not eligible for paid holidays. A holiday is defined as 8 hours (Revised 2-10-06).

Employees on approved leave such as old sick leave, short term sick leave/family leave, (Revised December 16, 2000) major medical sick leave, vacation, family illness or sick leave, jury duty, military leave and compensatory time, will receive holiday pay. Employees who are on leave due to an occupational injury will accrue a holiday (K8). (Revised 2-10-06)

Employees may not accrue a K day for a holiday if they use other leave such as Vacation, Sick, Major Medical or compensatory time for the holiday. (Revised 2-10-06)

Employees eligible for holiday pay (S key code employees are not eligible) and (Revised 02/23/2009) who are required to work on a holiday may be compensated as follows

1) Non-exempt employees may receive pay for the holiday (H8) (Revised 2-10-06) and holiday overtime for the time worked; or accrue a holiday (K8) (Revised 2-10-06) and receive holiday overtime for the time worked; (total holiday overtime will never be more than 2 1/2 times regular pay); 2) exempt employees may receive pay for the holiday and straight time pay for the hours worked; or accrue a holiday (K8) (Revised 2-10-06) and receive straight time for the hours worked.

If an employee's regular day off falls on a holiday, his/her holiday will be moved to their last work day immediately prior to the holiday or their first workday immediately after the holiday or employees may accrue a holiday at the department's discretion. (Revised 2-10-06)

Accrual of holiday time and/or payment of holiday overtime will only occur on the day that the City recognizes the holiday and not the actual holiday if the dates differ. (Revised 2-10-06)

If a non-exempt employee has an unscheduled absence of a full day (revised Nov. 15, 2004) on the workday immediately before or after a holiday, he or she will not be eligible for holiday pay. The employee should use appropriate leave such as Vacation, Sick or

Compensatory time for the holiday. If no leave is available, a non-exempt employee will need to go without pay for the holiday. An unscheduled absence is defined as one that has not been approved in advance by the supervisor. Supervisors may make exceptions for unscheduled absences due to emergency situations or illnesses. Employees who terminate employment with their last day of employment being the day before a holiday will not receive pay for the holiday. New employees who begin employment on the day after a holiday will not receive pay for the holiday. Unscheduled tardies or unscheduled partial-day absences should be handled through the City's disciplinary system (revised Nov. 15, 2004). If a holiday falls within an approved vacation period, the employee will receive holiday pay for the scheduled holiday. (revised June 1, 2004)

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### **Incentive and Bonus Pay/Award Plans**

Incentive and Bonus Pay/Award Plans may be established for the following reasons: 1) to recognize, encourage, and reward employees who provide a service or work on mission critical projects (of a temporary nature) beyond the normal scope of their job or achieve results for their department that is deserving of a one time compensatory or other type award; 2) to address critical recruitment/retention problems; 3) to provide opportunity for gainsharing and, 4) to address other issues as appropriate.

Incentive and Bonus Pay/Award: compensation may be in the form of a one time sum of money; additional compensation for a limited, specified duration; leave time added to an employee's account; or an award such as, hat, T-shirt, certificate/plaque of recognition or any other award deemed appropriate and reasonable. Compensation will not be added to base pay.

Department Directors may submit proposals for incentive, bonus pay/award plans to the Human Resources Director for review and consideration. Proposed plans must include the following information:

1. Justification for the proposed plan; why is it necessary?
2. Describe the service, project or achievement to be provided by covered employees and the benefit to be realized by the department/city.
3. Describe the type of the compensation/award being considered.
4. Describe the criteria utilized to include employees in the plan or program.
5. Explain how an employee is eligible or qualifies to receive the pay/award.
6. Describe procedures, guidelines, and mechanisms to administer the plan ensuring equity, fairness and safeguards against its misuse. Identify the expected duration of the plan, e.g., completion of project, annual, on going, etc.

The Human Resources Director or designee will review the proposal, then submit it with appropriate comments and analysis to the Personnel Committee for review and implementation consideration. The Personnel Committee's decision is final.

Employees receiving compensation under an approved plan must be directly responsible or in control of outcomes; no one should be a passive recipient of other's efforts.

All approved plans will be subject to periodic review (no less than once annually) to assess the feasibility and appropriateness of its continuance. Approved plans may be eliminated at any time if deemed appropriate by the Department Director or the Personnel Committee.

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### **Longevity Pay**

#### **Longevity Pay for Non-Civil Service Employees** (Revised 2-10-06)

Longevity pay is additional compensation paid to eligible employees (all classifications except "F" key code positions and appointed officials) (Revised January 21, 2002) for long-term continuous service. After the 3rd, 4th, and 5th year of continuous service, eligible employees receive \$300 each year. After the 6th, 7th, and 8th year of continuous service, eligible employees receive \$600 each year. After the 9th and each subsequent year of continuous service, eligible employees receive \$900 each year. Longevity pay is included in pay checks issued on the first payday in June and December. Employees receive one-half of the year's longevity pay on these paydays.

(Paragraph deleted on 5-8-07)

To receive longevity pay, an employee must have completed the required years of service by September 30th or March 31st of each year.

Departmental HR Coordinators will receive a report in April and November listing all eligible employees and their respective longevity amounts. Departments will review the lists for accuracy and make any adjustments according to policy and return them to the Human Resources Department. (Revised 5-8-07)

Employees who are in a without pay status should be removed from the report. Employees with absences (includes ALL absences from work - vacation, sick, major medical sick, without pay, etc., except holidays and personal holidays) of more than 90 consecutive calendar days must be prorated. Prorating longevity should apply consistently for all absences greater than 90 consecutive calendar days in a department. (Revised 5-8-07)

Interrupted service will affect the amount of longevity pay received. The terms and conditions of reinstatement directives will determine the impact, in any, upon longevity pay for regular employees. (Revised 5-8-07)

Regular part-time employees will receive longevity pay based on their authorized position percentage (e.g., .5, .75, .80, etc.). Examples: .5 = 50% of longevity, .75 = 75% of longevity, etc. (Revised 5-8-07)

Employees with interrupted service will establish eligibility from the latest date of employment.

Employees who terminate employment after establishing eligibility, but before longevity checks are issued, will not receive longevity pay. An employee must be on the active payroll to receive a longevity check. However, if an employee's service ends because of layoff, disability retirement, normal retirement or death before the check is issued, the employee or beneficiary will be eligible to receive the earned pay.

Department Directors may submit an exception request to the Human Resources Director in those instances where they believe the longevity amount should be prorated due to extended absences from work. (Revised January 26, 2001).

(Deleted Paragraph effective 2-10-06)

### **Longevity Pay for Civil Service Employees** (New section 2-10-06)

Longevity pay is additional compensation paid to Civil Service employees after completion of one (1) year of service. Employees will receive \$4 per month for each year of service, not to exceed 25 years. Employees in a without pay status for the last pay period of the month will not receive longevity pay for that month. (Revised May 8, 2007)

Interrupted service will affect the amount of longevity pay received. Civil Service employees' longevity pay is calculated based on their adjusted commission date. (Revised May 8, 2007)

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### **On-Call or Stand-By Duty** (New policy effective Oct. 9, 1999)

On-call or Stand-by duty is covered under the Fair Labor Standards Act (FLSA). The FLSA requires "on-call" pay when an employee is so restricted by such duty that he/she does not have control over his/her time. Four (4) factors are used to determine eligibility for on-call pay: 1) whether the employee has a beeper (thereby permitting mobility); 2) the required response time after receiving a call; 2) whether the duty is absolutely mandated (no trade-offs and no consideration of emergencies); and 4) disciplinary consequences, if any, for failure to respond to a call.

Department managers are expected to establish their on-call policies so they are not restrictive enough to require compensation.

### **Overtime Pay/Compensatory Time**

All overtime work must be approved by a supervisor. Unauthorized overtime work is grounds for disciplinary action. Departments should limit overtime work. Opportunities to work overtime should be distributed as evenly as possible among qualified employees.

Non-exempt employees are eligible to receive time and one half for compensatory time or overtime pay. Exempt employees are eligible to earn compensatory time for overtime worked. In rare instances, exempt employees below the division head level (D Key Code) may receive (Revised July 1, 2003) straight time pay for overtime worked. A few exempt employees, as designated by the City Manager, are eligible to receive 1 1/2 time pay for overtime worked.

### **Definitions**

"Overtime work" is the hours worked in excess of 40 hours in a workweek.

"Inactive hours" are those hours an employee is released from work by a supervisor because it is not possible for the employee to perform his/her work (equipment breakdown, inclement weather, etc.) and the employee has not leave tie or compensatory time available to cover the hours off work (Revised January 26, 2001). The regularly scheduled work hours after an employee has been released from work will be recorded as "inactive hours." Departments must maintain accurate records of "inactive hours."

A "workweek" is a regularly recurring period of 168 hours in the form of seven (7) consecutive 24-hour periods.

"Regular Employee" refers to employees who are required to join the Retirement Fund.

A "pay period" is a regularly recurring period of 336 hours in the form of 14 consecutive 24-hour periods.

"Hours worked" includes all the time an employee is required to be on duty, on the employer's premises or at a prescribed work-

place. "Holiday time off" and "Personal Holiday time off" are considered "hours worked."

Leave time (Short Term Sick Leave/Family Leave, Old Sick Leave (Revised December 16, 2000), Major Medical, Sick, Vacation, Family Illness, Compensatory time, inactive hours, (Revised January 26, 2001) etc.) and time off without pay is not counted as "hours worked."

Employees returning to work on light duty status must not be allowed to work overtime until returned to full duty status. (Revised Nov. 15, 2004)

Non-exempt employees who work over 40 hours in a work week will be compensated at the rate of 1 1/2 times the number of hours worked. Compensation may be either pay or compensatory time. The supervisor decides which type of payment is appropriate.

Non-exempt employees may not accrue more than 120 hours of compensatory time. Overtime hours accrued beyond the 120 hour limit will be compensated with pay.

Exempt employees may not accrue more than 120 hours of compensatory time.

Department Directors may pay exempt employees straight time overtime pay if they have accrued 120 hours of compensatory time, hold a position below the division head level (D key code), and would not be able to use accrued compensatory time in the foreseeable future.

Non-exempt employees who leave the City will be paid for all accrued compensatory time. Exempt employees will not be paid for unused, accrued compensatory time when they leave the City.

If an employee uses leave time during a pay period and also works overtime, only those hours actually worked in excess of 40 hours worked will be compensated at the 1 1/2 overtime rate (either pay or compensatory time). If the hours worked are less than 40 hours, the extra hours are not considered overtime. (Revised 2-10-06).

Straight time shall be paid for all "inactive hours" and for hours of actual work except for the following:

- hours worked in excess of 40 hours worked for any workweek;
- hours worked during a regularly scheduled holiday; and,
- hours worked on an emergency callback basis.

Departments must maintain accurate records which reflect an employee's actual hours worked. Hours not recorded on Time and Attendance sheets will not be compensated and employees will not be entitled to time off for unreported hours worked.

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#### **Mandatory Use of Compensatory Time** (New Policy January 26, 2001)

**Required Use of Compensatory Time.** Under appropriate circumstances, a supervisor may require an employee to use accrued compensatory time. Required use of compensatory time should be utilized to control overtime expenses and to effectively utilize employee time. When productive work is not available or it is not essential that the employee be at work, the supervisor may release the employee from work. If the employee has available compensatory time, this time will be used to cover the hours not at work. If the employee does not have compensatory time available, the time will be charged to "inactive time".

The required use of compensatory time should be planned in advance where possible. A supervisory may release an employee for a partial work day, but should consider the amount of time the employee has already worked and the convenience of the employee.

Required use of compensatory time is especially appropriate for those jobs that tend to have periodic cycles of work volume. During certain periods, employees may be required to accrue large amounts of compensatory time. In other parts of the cycle, the work volume is such that the employee has considerable non-productive time on the job. Required use of compensatory time can be used to even out the hours work in this cycle. An example would be work crews that must put in considerable hours during cold periods in the winter. Then in the summer, the workload is considerably less. Another example is an employee who is required to work considerable hours due to special events. When the event is over or at interim times, there may be insufficient productive work for the employee.

In some cases, it may be appropriate for a supervisor to require use of compensatory time instead of vacation leave when an employee requests use of vacation leave. The supervisor should first check to determine if the employee is in a "use or lose situation" in regards to vacation leave. If the employee has already used the required number of vacation leave hours in a year or is otherwise in no danger of losing vacation leave, use of compensatory time can be required rather than vacation leave. If the employee is in a "use or lose situation" with vacation leave, the supervisor must evaluate the probability that the employee will have sufficient opportunity to use the required number of vacation leave hours during the remainder of the year.

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#### **Recovery of Pay and/or Benefits** (New Policy January 26, 2001)

<http://www.fortworthgov.org/hr/prr/full.aspx>

9/15/2010

It is the employee's responsibility to review their payroll information and deductions for accuracy (Revised 02/23/2009). In the event that an employee is over paid, given excessive leave benefits or receives any other benefit and/or compensation in error, through an employee's misrepresentation or through the misapplication of a policy or an error in processing, (Revised 2-10-06), the employee is expected to notify management and the City will take steps to recover those benefits and/or compensation. This also includes any form of payroll deduction that results in an underpayment. (Revised 02/23/2009)

Attempts will be made to establish an agreed upon method to recover the resources. Failure to agree on a method will result in appropriate actions (such as payroll deduction, reduction in leave time accrual rate, reduction in rate of pay, etc.) to recover the City's resources. An employee's failure to cooperate in the recovery process could result in disciplinary action up to and including termination.

Upon notification of an error employees will be expected to repay the City. Employees will be given the same amount of time to complete repayment to the City as the time period during which the error was made. For example if an employee received too much pay for three (3) pay periods the employee will have three (3) pay periods from the date of notification to complete repayment to the City. (Revised 02/23/2009)

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### **Release Of Employee's Payroll Check**

An employee who is unable to pick up his/her paycheck, may designate an individual to pick up his/her paycheck. A written, signed authorization from the employee must be presented and the person picking up the paycheck must present valid identification. An Employee Payroll Check Release form should be completed.

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### **Shift Differential Pay**

All employees (excluding S key codes) are eligible to receive shift differential pay, except Civil Service Fire personnel. (Revised October 9, 1999)

Employees whose assigned shift has a majority of its time between the hours of 4 p.m. and 12 midnight or between the hours of 12 midnight and 6 a.m. shall receive shift differential pay.

Eligible Civil Service Police employees (X key code up through Lieutenant) and Deputy City Marshals working a shift with the majority of its time between 4 p.m. and 12 midnight receive shift pay at the rate of 3% of hourly step rate of pay in addition to their hourly step rate of pay (Revised July 1, 2003). Those working a shift with the majority of its time between 12 midnight and 6 a.m. receive 5% of their hourly step rate of pay in addition to their hourly step rate of pay. (Revised July 1, 2003).

A temporary assignment means an employee is removed from his/her regular shift and is temporarily assigned to work a different shift. An assigned shift means an employee is assigned to work a particular shift. Employees temporarily assigned to a shift will receive shift differential pay for the hours worked. Employees who work continuously beyond their shift and into another shift and employees who work an emergency call back will not receive shift differential pay. (Revised October 9, 1999)

Employees receiving shift pay who work overtime will be paid for the overtime hours based on their regular shift rate. The shift rate will be subject to the time and one half multiplication for overtime work.

Shift pay will be paid only for time worked. Holiday pay and any leave pay will not include shift pay.

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### **Special Merit Increases**

A Special Merit Increase is a monetary reward given to an employee for consistent performance above and beyond that level of performance required for their level and position. A Special Merit Increase may be granted to an employee with the approval of the Department Director and in concurrence with the Human Resources Director. (Revised Oct. 9, 1999) In addition, employees being considered for a Special Merit increase should embrace, model, and encourage the City's values of customer service, diversity, and communication in all of their work activities. They should also exhibit the City's five (5) (Revised May 8, 2007, and June 1, 2004) core competencies in their daily work and serve as a model for others. (Revised July 1, 2003)

Employees still in their initial probationary period are ineligible for Special Merit Increases.

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### **Wage-Hour Policy**

#### **FLSA: Fair Labor Standards Act**

This law establishes "standards" for minimum wages, maximum hours, overtime pay, and child labor. All employees at every level in the City are responsible for compliance with the FLSA, as amended.

The Human Resources Department is responsible for the administration and interpretation of the FLSA. These responsibilities include: determining the existence of an employer-employee relationship; determining an employee's exempt or non-exempt status under the FLSA; interpreting and applying minimum wage, work time, coded hours, overtime, work schedules, special residency agreements, and other FLSA provisions such as child labor standards.

The Human Resources Department is solely responsible for negotiations and serves as the liaison with the Wage and Hour Division of the U.S. Department of Labor, on FLSA matters affecting employees.

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#### **Wage-Hour Policy: Adjusting Work Schedule For Budget Reasons**

Department Directors are expected to minimize the need for overtime worked in their respective departments.

Adjusting work schedules within a workweek may be done to reduce overtime hours. Supervisors may require an employee to be off without pay to offset "extra" hours worked during the same workweek. For instance, if an employee works three extra hours on a Monday, the supervisor may adjust the employee's work schedule by reducing his/her work time by three hours on Tuesday.

Overtime compensation is mandatory for all non-exempt employees who work over 40 hours in a workweek. Adjusting an employee's work schedule can keep work time at 40 hours, thereby avoiding overtime pay.

Adjusting work schedules within a pay period may be done to reduce overtime hours. For instance, if an employee works 4 hours overtime during the first week of a pay period, the number of hours the employee works during the second week of the pay period can be reduced by six (1 1/2 times 4 = 6) so the amount of the employee's pay check remains unchanged (constant) pay period to pay period. (The "without pay" time during the second week of the pay period is called "budget time off.") In this example, the employee's 4 hours of overtime is offset by the six hours of budget time off.

The FLSA permits departments to "pay" employees for overtime work in one workweek with paid time off (compensatory time) in another workweek. Compensatory time is earned at a one and one-half time rate for non-exempt employees.

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#### **Wage-Hour Policy: Declaration Of Police And Fire Civil Service Work Periods**

Work periods for Police civil service personnel shall have a maximum work hours standard of 171 hours in a 28-day cycle.

Fire civil service personnel shall have a maximum work hours standard of 212 hours in a 28-day cycle. Police and Fire civil service personnel are subject to state civil service statutes; where those statutes are more restrictive than the FLSA, those statutes will be followed.

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#### **Wage-Hour Policy: Definition Of "Time"**

Department Directors are responsible for ensuring that employees adhere to and comply with established work schedules. Unscheduled work should be performed only with proper authorization.

Work time or hours worked is all time an employee "is suffered or permitted to work" regardless of where the work is performed.

Work time includes all time spent in physical or mental exertion controlled or required by the City and pursued primarily for the City and its business.

"Incidental time" is time an employee spends at work, which is 7 minutes or less in duration. Incidental time is not compensable. Examples would include coming to work early or staying late.

Work time is referred to as "Hours Worked," it is all time the City requires, suffers, or permits a non-exempt employee to be on duty.

A workday is, for most employees, the standard period of twenty-four hours, which begins at 12:01 a.m. and ends at midnight. Any schedule that is so unusual it will not allow the tracking of leave will be handled as an 8-hour day for purposes of determining leave. Alternate work schedules must be approved by the Human Resources Department. (revised June 1, 2004)

A workweek is the time span of seven consecutive twenty-four hour periods within which the City calculates overtime hours and corresponding compensation for Non-Exempt employees, i.e., hours "over 40." The workweek begins at 12:01 a.m. on Saturday morning and ends at midnight on the following Friday, for most employees. This must not be confused with the "work schedule."

Departments may adjust the workweek definition in order to adequately cover the work to be performed and to minimize overtime costs. Changes in the workweek definition must be approved by the Human Resources Department.

Overtime work is time worked "over 40" in a workweek.

A work schedule is the work schedule for a full time non-exempt employee, which is usually 40 duty hours in each workweek.

Coded hours is non-work time charged to vacation leave, short term sick leave/family leave, old sick (Revised December 16, 2000), major medical sick leave, vacation, sick, family illness leaves, occupational injury, jury or court duty, military leave, inactive time, compensatory time or holidays that fall on an employee's regular day off (Revised January 26, 2001).

Coded hours are not considered as hours worked for overtime purposes, except holidays, personal holidays, business time and training time.

"On-Call" time occurs when an employee is not required to remain on the City's premises but is asked to leave work at his/her home or with his/her supervisor as to where and how he/she might be reached for callback. Employees assigned to an "On-Call" status may be required to wear pagers. On-Call time is not work time, therefore, it is not paid time.

Travel time may or may not be work time. Travel from home to work and from work to home is not work time.

Time spent by an employee in travel as part of his/her normal activities, such as travel from job site to job site during the employee's regular working hours, is work time and must be recorded.

Travel performed outside an employee's normal work schedule as a result of assigned duties may constitute work time. The Human Resources Director or designee must be consulted to determine whether or not such travel time is work time.

Time spent resolving issues under the City's grievance, complaint, and appeal procedures, during regular hours of work, is work time. Such time spent outside regular hours of work is work time only if the employee's attendance is required by the City.

Attendance at Training Sessions and Other Meetings -- Time spent in attending training required by an employer is normally considered compensable hours of work.

Voluntary attendance at training or other meetings outside of an employee's regular work schedule, is not work time. Attendance is "voluntary" only where an employee is not led to believe that his/her working conditions or chance of continued employment would be adversely affected by non-attendance.

Voluntary attendance outside of regular working hours at specialized or follow-up training, even if required by law for certification of employees does not constitute compensable hours of work, even if the training is paid for by the City. However, at the discretion of the Department Director, employees may be compensated for the training time.

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#### **Wage-Hour Policy: >Employee Rights**

All employees are guaranteed the right to be employed in accordance with the City's Wage-Hour policy and in compliance with the FLSA, as amended. All employees are encouraged to ask questions about their status and rights under the FLSA. Questions should be directed to the employees' departmental staff person(s) who handles payroll matters. The Human Resources Department may also be consulted on such matters.

The FLSA states that no one can take action against an employee who "... files a complaint and/or initiates any proceeding under or related to ... the Act."

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#### **Wage-Hour Policy: Recording Work Time (Hours Worked)**

Work time (hours worked) must be recorded exactly the way it is worked. The dates worked and the number of hours worked each day must accurately reflect what actually occurred.

Employees who fail to accurately record work time or who falsify time records are subject to disciplinary action, up to and including termination.

Recorded work time must accurately reflect the actual time worked, what actually occurred.

(Revised October 9, 1999, deleted paragraph)

Examples of inappropriate practices in recording work time which are violations of this policy and the FLSA include:

1. Not recording work performed at home with proper authorization.
2. Not recording work performed during a meal period.
3. Permitting employees to arrive "early" and work or to stay "late" and work, and not recording the time worked.
4. Permitting an employee to leave early on a day in one workweek and permitting the employee to report early, stay late or



work during meal periods as "make up" in another workweek, without recording the partial day absence or the overtime work.

5. Maintaining dual time records, such as, one set for pay purposes and another set for actual time worked.
6. Permitting an employee to record "coded hours" (vacation, sick, holiday, etc.) as "hours worked."
7. Permitting an employee to record "hours worked as "coded hours".

Employees who fail to record on a Time and Attendance record sheet time worked in excess of forty (40) hours per week are subject to disciplinary action, up to and including termination.

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## Benefits

### Benefit Coverage For Off-Duty Employees

(New October 9, 1999)

This policy addresses those rare instances where an off-duty non-civil service employee may have the opportunity to save a person's life or to limit personal injury to a person. This policy does not create a duty to take action. Employees should carefully consider other alternatives prior to taking action that might result in their injury and death.

Employees who respond to an imminent threat to life or physical well-being, while off duty, will be considered acting within the course (Revised June 1, 2004) and scope of their employment with City of Fort Worth, and therefore, will be eligible for compensation and/or benefits, in the event of their injury or death while taking such action, as deemed appropriate by the City Manager, if: 1) the activity engaged in involves duties performed during their regularly assigned duties with the City; 2) the activity engaged in is not being performed while serving another entity, whether compensated for such service or not; and 3) the activity is performed within the corporate city-limits of Fort Worth.

City Marshals, because of their peace officer certification, have a broader coverage in their off-duty activities, as outlined in the City Marshal's Office General Orders. In general, off duty City Marshals will be considered to be within the course and scope of their employment with the City of Fort Worth if they are:

- Performing law enforcement actions required or permitted pursuant to State law and consistent with General Orders, directives and training of the Fort Worth Marshal's Office; or,
- Responding to imminent threats to life or physical well-being in a manner that is the same or similar to that provided by the Fort Worth Marshal's Office and consistent with General Orders, directives and training of the Fort Worth Marshal's Office.

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## Clothing Allowance

Some City departments require their employees to wear uniforms. In some cases uniforms are provided, otherwise, a clothing allowance is provided to purchase uniforms. A Uniform Agreement must be completed by each non-Civil Service employee receiving uniforms.

- **Non-Civil Service Employees**

Typically, non-Civil Service, full time, regular employees must work a minimum of 90 days before uniforms are issued. Some exceptions exist based on the duties initially performed by the new employees.

If a non-Civil Service employee terminates within (6) months after uniforms are issued, he/she must turn in his/her uniforms or one-half of the cost of the uniforms will be deducted from his/her final paycheck.

- **Police Civil Service Employees**

Police Civil Service Trainees are issued two (2) full sets of shirts and pants upon entering the academy. Upon graduation, the balance of the uniform and equipment will be issued.

Police Civil Service employees must be in an active status to receive a clothing allowance. Such employees will receive a base clothing allowance every six (6) months (periods ending on April 1<sup>st</sup> and October 1<sup>st</sup>) after the cost of the initial issue of uniforms is made up.

Police Civil Service employees on extended leaves of absence of six (6) months or longer are not eligible for a clothing allowance until the next regular payment after they return to work. (Revised January 21, 2002).

- **Fire Civil Service Employees**

Fire Civil Service employees do not receive a clothing allowance. Replacement uniforms will be provided by the Fire Department upon request and with proper authorization.

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## Crisis Intervention Program

See Appendix 8

## Employee Assistance Program

The City's Employee Assistance Program (EAP) provides professional services to help employees and/or their dependents resolve personal or behavioral problems which may adversely affect the employees' job performance. Issues such as physical illness, mental/emotional distress, marital/family discord, alcoholism, drug abuse, legal/financial difficulties or other personal/family concerns can be addressed and resolved through the EAP. The EAP also administers the City's alcohol and drug testing program.

All employees (including SO1's and initial probationary period employees) with the City, and their dependents and immediate family members may use the EAP services.

Employees may make appointments to visit the EAP Coordinator on their own time or on city time. Supervisory approval must be obtained to visit the EAP Coordinator on city time.

Supervisors may recommend and encourage employees to use the services of the EAP or make mandatory referrals when deemed appropriate (e.g., inexplicable deterioration in job performance and/or behavior).

Employees receiving help through the EAP remain responsible for performing their work at acceptable standards. Appropriate disciplinary actions will be taken if warranted.

Services may be provided by the City's EAP Coordinator and/or through various agencies to whom employees may be referred. Employees are responsible for the payment of services rendered by outside agencies. Appropriate accrued leave and other benefits may be used to address time off work and medically related expenses. Authorized approval to be off work must be obtained by employees.

EAP records are maintained separate and apart from employee personnel files.

Participation in the EAP cannot be a basis for taking any adverse action against an employee. Reprisals for seeking help from the EAP are strictly prohibited.

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## Holidays

The City of Fort Worth observes the following holidays: New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day/September 11 Remembrance Day, Thanksgiving Day and Thanksgiving Friday, and Christmas Day. Employees required to work on holidays, may accrue holiday time to be used at a later date. Beginning in 2009, the first Monday in September is designated as Labor Day/September 11 Remembrance Day for all employees.

In addition to these holidays, regular employees are given one (1) Personal Holiday at the beginning of the payroll year. Upon the successful completion of their initial probationary period, employees are given one (1) Personal Holiday (Revised January 26, 2001) of 8 hours regardless of work schedule (Revised 2-10-06). (Revised January 26, 2001) The Personal Holiday must be taken in a full 8-hour increment (Revised 2-10-06). The Personal Holiday can be taken on any day of the year with supervisory approval. The Personal Holiday must be used before the end of pay period 26. If it is not used, the holiday is forfeited. There is one exception – Firefighters in Operations (on 24 hour shifts) may accrue up to 24 hours of Personal Holiday time. If a Firefighter fails to use accrued holiday time in the second calendar year, he/she will lose 12 accrued hours of holiday time at the end of that year, prior to accruing another 12 hours. Employees whose probationary periods end during pay period 26 will not receive a personal holiday until the next calendar year. Employees (Revised 2-10-06) who terminate employment will not receive unused personal holiday pay upon termination. (revised November 15, 2004)

Maximum holiday accrual is limited to 128 hours accrual. Maximum payment upon retirement or death will be limited to 128 hours accrual (revised Nov. 15, 2004). Fire Civil Service employees are excluded from the maximum accrual limit. (Revised January 26, 2001)

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## Leave Sell Back -- Fire Civil Service

Civil Service personnel in the Fire Department may sell back accrued vacation leave and/or accrued holidays once annually. Requests to sell back accrued leave must be submitted on or before November 15<sup>th</sup> of each year. Payment will be made on the first regular pay check in December.

Eligibility to sell back accrued leave is based upon sick leave use in a payroll calendar (Revised 2-10-06) year, which will be calculated from the first full pay period to the last full pay period of the fiscal year.

(Sell back of accrued leave will not count toward the vacation leave usage requirement as specified in the "Vacation Leave" policy.)

The tables below show the amount of accrued vacation leave and/or holidays that may be sold back.

**Table A**

Firefighters who work an average 56 hour work week in Fire Operations.

Number of Sick Leave	Number of Sell-Back Hours
0-2 (24 hours)	60
3-4 (48 hours)	54
5-6 (72 hours)	36
More than 6	0

**Table B**

Firefighters who work an average 40 hour work week in Fire Operations.

Number of Sick Leave Days Used - 8-hour Days	Number of Sell-Back Hours
0-2 (16 hours)	40
3-4 (32 hours)	32
5-6 (48 hours)	24
More than 6	0
<b>10-hour days</b>	
0-2 (20 hours)	40
3-4 (40 hours)	32
5-6 (60 hours)	24
More than 6	0

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**Payroll Deductions**

See Appendix 9

**Rest Periods**

Rest periods are a privilege, not a right, and should not interfere with proper performance of work responsibilities and schedules. If workflow permits and if authorized by their immediate supervisors, employees may take two 15-minute rest periods each workday. (Revised 2-10-06)

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**Seasonal And Temporary Employee Benefits**

Persons hired to fill temporary, seasonal, extra help, SO1 positions (including School Crossing Guards) are not entitled to full regular employee benefits. Regular employees are members of the City's retirement fund and entitled to accrue paid leave benefits and to participate in City's group health plan and life insurance plan.

Temporary, seasonal, extra-help, SO1 employees are eligible for the benefits which are available under the Workers' Compensation Act, Social Security/Medicare, the Fair Labor Standards Act, and the Family and Medical Leave Act.

If a temporary, seasonal, extra-help, SO1 employee is hired into a regular position, the employee's date of employment for retirement, longevity, and leave accrual purposes will be the date the individual became a regular employee.

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**Time Off For Promotional Examinations And Employment Interviews**

Employees may take time off with pay to apply and compete for other positions with the City. Up to 10 hours per calendar year may be used to take examinations, interview for positions, and/or meet with City staff to discuss career opportunities with the City. These hours should be coded as "B" on the employee's time sheet. (Revised 2-10-06) Prior supervisory approval must be obtained to take time off.

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### Time Off To Vote

The City of Fort Worth encourages its employees to participate in the political process by voting in federal, state, and local elections. Due to the early voting opportunities afforded citizens, employees should usually not need time off work to vote. However, supervisors may approve time off in unusual circumstances - verification of need to be off may be required by departments.

Under state law, if the polls are open for two (2) consecutive hours outside of an employee's working hours, an employer is not required to release the employee from work in order to vote. Otherwise employees will be allowed to leave work to vote. Their time off will be without pay or they may use appropriate accrued leave time or compensatory time. (Revised January 21, 2002)

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### Employee Development & Training

The City of Fort Worth recognizes and appreciates the fact that its employees are the City's most valued asset. The development and training of our employees is critical to meet our goal of providing quality service to all our citizens.

Incentives such as [Education](#) (Revised 2-10-06) [Reimbursement](#), certification pay, and assignment pay are available to assist those employees who desire to enhance their productivity and effectiveness in performing their assigned duties.

In-house and on-site training are provided by the Human Resources Department. Funds are made available in departmental budgets so employees may attend seminars, workshops, and training opportunities to develop and increase their work skills and abilities.

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### Performance Appraisals

The City's performance appraisal process is designed to improve communication between supervisors and employees to align employees' work efforts with City and department goals.

All employees occupying regular, authorized positions will have their (Revised 5-8-07) performance reviewed at least twice each year. Supervisors and employees are encouraged to establish the objectives to be rated during the coming year, the performance standards to be utilized, and the way their job should be accomplished. All new employees' (Revised 5-8-07) performance shall be reviewed at the completion of their initial 6 month probationary period (Revised January 26, 2001)

Employees who successfully completed their initial probationary period may appeal annual (not mid-year) performance appraisal ratings (within 5 working days after receiving the appraisal) (Revised January 26, 2001) which they believe do not accurately reflect their job performance to the Department Director or designee. (Revised October 9, 1999) Employees placed into a probationary status because of overall rating of Unsatisfactory or Needs Improvement (Revised 5/8/2007) on a mid-year appraisal can not file a grievance. (Revised January 21, 2002) (Revised 02/23/2009)

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### Education Reimbursement Policy (Revised Nov. 15, 2004)

#### Statement of Purpose

The City of Fort Worth is committed to employee growth and development. To support this commitment, the Education Reimbursement program (ER) has been established. The program is designed to meet organization goals by assisting employees who elect to improve job performance or increase skills through education. Participation should be mutually beneficial to both the employee and the City of Fort Worth.

#### General Eligibility Requirements

1. Regular, full-time employees who are participants in the City's retirement fund, and who have successfully completed their initial probationary period, are eligible to receive Education Reimbursement.
2. An employee who is interested in participation in the Education Reimbursement program must have the approval of their supervisor and Human Resources before attending the course.
3. In any graded course, an employee must attain a course grade of "C" or higher. In circumstances where the course is non graded, a "pass" grade must be earned to be eligible for reimbursement.
4. All course work must be taken on the employee's own time. When there is an unavoidable conflict between class and job responsibilities, a supervisor may make a reasonable effort to accommodate the class schedule. Any accommodation of an employee's class schedule is at the supervisor's discretion.

5. College programs such as mini-terms/sessions, distance learning or quarters that are not set on a semester basis will be considered for reimbursement if they are job related or part of a degree program and are taken for credit. The employee must meet the established application deadline for the spring, fall or summer semester that precedes the course.
6. Courses must be taken at an accredited school, junior college, college, university, technical or trade school. School accreditation shall be through the Southern Association of Schools or its regional counterparts, or technical training by the Accrediting Commission of Career Schools or Colleges of Technology.
7. An employee may receive reimbursement for only one degree at each level: high school diploma or GED, associate, undergraduate (bachelor's) and graduate (master's). A Doctorate degree (PhD, JD, etc) may be eligible for Education Reimbursement when the program is mutually beneficial to the employee and the City of Fort Worth and is a part of the employee's Individual Growth Plan. Department Head or Assistant City Manager and Human Resources approval is required prior to attending any doctorate level studies.

#### **Not Eligible for Reimbursement**

1. Temporary or part-time employees are not eligible for Education Reimbursement.
2. Seminars and conferences that meet for the short duration of two weeks or less, are not eligible for education reimbursement. Seminars, training and review courses that deal with professional certifications or licensing are not eligible for tuition reimbursement. Individual departments may reimburse for short seminars, review courses or certifications.
3. Reimbursement shall not be paid for audited courses or for non-credit, continuing education courses for which there is no grade.
4. Credits obtained by the College Level Examination Program (CLEP) are not eligible for Education Reimbursement.
5. Fees and expenses other than tuition and mandatory, course-related fees are excluded from reimbursement. Although not limited to the following, excluded expenses are: books, supplies, parking fees, health insurance fees, room & board.
6. Incomplete forms or forms without all required documents attached will not be processed. Forms and requests turned in more than ten working days beyond the published deadline will not be approved, processed or paid.

#### **Administration, Payments & Maximum Reimbursement**

Human Resources shall administer and oversee the program. All applications and paperwork shall be submitted by the deadlines set by Human Resources. Education Reimbursement shall be paid only once for each approved course. Payments will be made as soon as practicable after receipt of all required paperwork.

The total maximum reimbursement amount for tuition and mandatory, course related fees is \$1,500 per semester (Spring, Summer and/or Fall). Maximum reimbursement in a semester, or corresponding time period, shall not exceed the amount paid by the employee or \$1,500, whichever is less. In no case shall the yearly maximum reimbursement exceed \$4,500. These conditions will be reviewed periodically.

An employee who receives financial assistance for their education from another source must disclose the source and amount on the Education Reimbursement Application. The City shall not pay the cost of tuition and mandatory fees that are paid by other sources such as scholarships, grants, Veterans benefits or other subsidies. In all instances, total financial assistance and Education Reimbursement shall not exceed the educational expenses incurred by the employee.

#### **Continuation of Employment & Reimbursement Payback Provisions**

If an employee resigns or is terminated for any reason prior to course completion, the City shall not be obligated to pay reimbursement.

An employee who terminates or retires from the City of Fort Worth after receiving reimbursement shall pay back 100% of all reimbursement received during the twelve (12) months immediately preceding termination and 50% of all reimbursement received during the 13-24 month period prior to termination.

Employees terminated due to a reduction in force, medical disability or as a result of occupational injuries or illnesses shall not be required to pay back the monies received for educational reimbursement and are not subject to the payback provision.

#### **Education Reimbursement Appeals**

The City's Personnel Committee shall hear appeals regarding education reimbursement matters. The committee shall consider matters submitted by a Department Director, upon which the requesting Department Director and the Human Resources Department have been unable to reach consensus. The Personnel Committee shall render final decisions on the appeal in accordance with the provisions of this policy.

For more information regarding Educational Reimbursement, please see Appendix 7. (Revised 2-10-06)

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## Leave

### Blood Bank Donation Leave Accrual (New Policy Effective 2-10-06)

Employees may earn up to six (6) (Revised 02/23/2009) hours of vacation leave in a payroll year by donating blood to the Carter Blood Center during City sponsored blood drives or by presenting proof that a donation has occurred at an external site. One (1) hour of leave will be accrued for each pint of blood donated by an employee. Proof of donation at external sites should be sent to the Wellness Division (Revised 02/23/2009) of the Human Resources Department for credit to be given. The Wellness Division will request the HRIS/Records to (Revised 02/23/2009) credit donations given during City sponsored blood drives to the employee upon receipt of the list of donors from the Carter Blood Center.

### Business Leave

Business Leave is used when an employee is required to leave the city limits of Fort Worth to conduct approved city business. Attendance at seminars and/or training courses whose primary purpose is education/training and which are outside the city limits is recorded on T&A sheets as "T" for training; otherwise, business meetings/functions are (Revised October 1999) recorded as "B" for business. The amount of time recorded should be the employee's normal work hours. Travel time may or may not count as time worked, depending upon the FLSA status of the employee. Consult the Human resources Department for guidance. Days off with pay associated with pending disciplinary actions and customer service awards are also recorded as "B" days. (Revised January 26, 2001) (Revised 2-10-2006).

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### Family and Medical Leave Act of 1993 and 2008 Amendments (Revised 2-15-2009)

The Family and Medical Leave Act of 1993 provides eligible employees with up to 12 weeks of unpaid leave in a 12-month period. The Support for Injured Servicemembers Act of 2007 (Military Family Leave) provides eligible employees up to 26 weeks of leave in any 12-month period in compliance with the expansion of FMLA. (Revised 2-15-2009) This policy is intended to provide an overview and is not a substitute for the Federal Regulation that is linked. If there is a conflict, the Federal Law and Regulations take precedence.

To qualify to take family or medical leave under this policy, the employee must meet the following conditions: (Revised 2-15-2009)

1. The employee must have worked for the City for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive; and
2. The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. Time spent on paid or unpaid leave during the previous 12 months does not count as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA. This includes temporary and S01 employees who meet the eligibility requirements.
3. The employee must be an active employee. If the employee's employment with the City is interrupted (such as with a layoff), the employee must be re-employed by the City before being eligible for FMLA leave.

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the six reasons listed below and complete a family medical leave request form and the appropriate certification (Revised 2-15-2009):

1. The birth of a child or to care for that child.
2. The placement of a child for adoption or foster care and to care for the newly placed child.
3. The employee is needed to care for a spouse, child or parent with a serious health condition.
4. The serious health condition of the employee. This serious health condition makes the employee unable to perform the functions of his or her job.
5. Due to a qualified exigency from a covered family member's call to active duty in the Armed Forces from the National Guard, Reserves, retired Reserves or retired Regular Armed Forces. Employees whose family member is a member of the Regular Armed Forces are eligible to take leave because of a qualifying exigency. (Revised 6-18-2010) The rules define qualifying exigency as one involving: (a) short-notice deployment (seven or less calendar days prior to deployment) (Revised 6-18-2010); (b) military events and related activities; (c) child care and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post-deployment activities; and (h) additional activities in which the City and the employee agree to the leave.
6. To care for an injured or ill servicemember on active duty in Regular, Reserve, National Guard Military Service, or a Veteran (who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the

Armed Forces including National Guard or Reserves at any time during the 5 year period preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy) if the employee is the spouse, son, daughter, parent, or next of kin (nearest relative) of the servicemember. (Revised 6-18-2010)

A serious health condition under the FMLA includes:

1. Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical facility (inpatient care is defined as an overnight stay); or
2. Any period of incapacity requiring absence from work, of more than three consecutive calendar days that also involves: 1) treatments 2 or more times within 30 days of the first day of incapacity (Revised 2-15-2009) by a health care provider; or 2) treatment by a health care provider on at least one occasion in-person which results in a regimen of continuous treatment, such as prescription medication or therapy requiring special equipment. The first treatment visit must take place within seven days of the first day of incapacity. Whether additional treatment visits are necessary within the 30-day period shall be determined by the health care provider (Revised 2-15-2009). Common colds, flu, ear aches, headaches, etc. are not serious health conditions; or
3. Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or
4. Chronic or long-term health condition, which, if left untreated, would result in a period of incapacity of more than three days. It also requires periodic visits to a health care provider at least two times a year as determined by the health care provider (Revised 2-15-2009); OR
5. Any period of incapacity due to prenatal care or pregnancy (Revised 2-15-2009); OR
6. Treatment for substance abuse when, inpatient treatment is required. Absences due to an employee's use of a substance, without treatment, do not qualify for leave. (Revised 2-15-2009)

Voluntary or cosmetic treatments which are not medically necessary are not serious health conditions and are not covered by the Act, unless complications from the treatment develop. (Revised 2-15-2009).

Immediate Family Members are limited to an employee's spouse, children, and parents.

Spouse: A husband or wife as defined or recognized under State law for purposes of marriage or a common-law spouse as recognized by the State of Texas. Unmarried domestic partners do not qualify.

Son or Daughter: A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent, who is under 18 years of age or is 18 years or older and is incapable of self-care because of a mental or physical disability.

Parent: The biological parent of an employee or an individual who stands or stood in place of a parent to the employee when the employee was a child. This does not include "parents-in-law". (Revised 2-15-2009)

Covered Servicemember: A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

Next of Kin: the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter. This may include brothers and sisters, grandparents, aunts and uncles, and first cousins under Military Family Leave.

Family Leave includes leave taken for the birth of a child and to care for such child; for placement of a child for adoption or foster care program; or leave taken for the care of a seriously ill spouse, child or parent. Care includes psychological comfort, making arrangements for third-party care or to provide the necessary care personally.

Serious Injury or Illness (for military caregiver provision): An injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. This includes pre-existing conditions that were aggravated by service in the line of duty while on active duty and those incurred in the line of duty while on active duty. (New 6-21-2010)

Serious Injury or Illness for Veterans: An injury or illness incurred by the member in line of duty on active duty in the Armed Forces and that manifested itself before or after the member became a veteran. This includes pre-existing conditions that were aggravated by service in the line of duty while on active duty and those incurred in the line of duty while on active duty. (New 6-21-2010)

The 12-month period begins with the first day of approved FMLA leave. The 12-month period is not based on the calendar year. The City will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks (or 26 weeks for the care of an injured or ill servicemember) of available leave, with the balance remaining being the amount the employee is entitled to take at that time. The

leave may be paid, unpaid or a combination of paid and unpaid leaves (Revised 2-15-2009).

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### City Leave Benefits and the FMLA

Employees who request FMLA leave are required to use accrued City leave benefits (Vacation, Vacation Leave (Revised 2-10-06), Short Term Sick Leave/Family Leave (Revised December 16, 2000), Major Medical Sick, Sick and Family Illness Leave, Compensatory Leave) which are applicable to the leave request. Therefore, FMLA leave will be used concurrently with appropriate, accrued city leave.

Employees approved for FMLA leave who do not have accrued City leave benefits will be carried in a without pay status. Employees must use all appropriate, accrued city leave before they will be permitted to be off on FMLA without pay, with the exception of employees who are eligible for Major Medical Sick Leave. (Revised 02/23/2009)

Employees who are off work for more than three (3) consecutive calendar days must be notified that their time off is being designated as FMLA leave. A Notification of Family and Medical Leave form should be completed and sent to the employee.

### Intermittent or Reduced Leave Schedule

Intermittent leave is leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. Employees taking intermittent leave are required to comply with their department's call-in procedures before taking unscheduled intermittent leave, except in certain emergency cases. (Revised 2-15-2009)

Reduced leave is a leave schedule that reduces the usual number of hours per work week, or hours per work day, of an employee. (Revised 2-15-2009)

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently or, under certain circumstances, may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks (or 26 work weeks to care for an injured or ill servicemember over a 12-month period). (Revised 2-15-2009)

Employees scheduling FMLA leave on an intermittent or on a reduced leave schedule are expected to consult with their department prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the department and the employee. If this is not possible, then the employee must prove that the use of the leave is medically necessary. If the intermittent leave or reduced leave schedule occurs after the birth of a child or the placement of a child for adoption or foster care, the leave must be agreed upon by the Department Director. (Revised 2-15-2009)

Only the time actually taken as FMLA leave may be charged against the employee's entitlement when leave is taken intermittently or on a reduced leave schedule. Leave charges shall be in hours. The hours charged should be cumulative until such time as the total is equivalent to 12 normal workweeks. (Revised 2-10-06)

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule. The temporary transfer may occur in instances when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care (Revised 2-15-2009).

### Recording FMLA Leave

The leave code "Z" is assigned to FML. This code should be used in conjunction with other appropriate T&A codes for recording time. (Revised 2-10-06)

If an employee's work schedule varies from week to week, the average weekly hours worked during the twelve (12) weeks prior to the start of the leave shall be used to calculate the employee's "normal" work schedule. The department HR Coordinator will enter the start date and the end date for the employee's FMLA leave into Genesys. (Revised 2-10-06)

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### FMLA Leave Designation

Employees must submit a completed Family Medical Leave Request form to the department's Medical Records Custodian (MRC). The MRC will provide to each employee a Notice of Eligibility and Rights and Responsibility and a certification form (if applicable) within five business days. For employees on intermittent or recurring leave for the same incident, this notice will be provided every six months. Once the certification or supporting information is received, the MRC will provide the employee with a Designation Notice. This notice shall inform employees if their leave is designated as FMLA protected. The notification should be given within five business days from the time it is determined that the employee's absence would qualify under FMLA. If the certification or supporting information submitted by the employee is incomplete or insufficient, the MRC will use the Designation Notice to state in writing what additional information is necessary to make the certification complete and sufficient. Failure to submit adequate certification may result in a denial of leave. (Revised 2-15-2009)



The MRC's responsibilities regarding the protection of medical information are outlined in Administrative Regulation D-10. (Revised 2-15-2009)

FMLA leave may (revised June 1, 2004) be charged retroactively, that is, if an employee has been off for a FMLA-qualifying event and the department fails to send a notification, when the oversight is realized, a notice needs to be sent, and the time off charged to FMLA leave begins on the date the employee's absence began. (revised June 1, 2004)

### Notice

If the FMLA-qualifying event is foreseeable, the employee must give at least 30 calendar days notice before the leave is to begin. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the City's operations. (Revised 2-15-2009)

If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the City receives notice. While on leave, employees are requested to report periodically to the City regarding the status of the medical condition and their intent to return to work. (Revised 2-15-2009)

If the FMLA-qualifying event is not foreseeable, the employee must give notice as soon as practicable.

The initial request may be verbal, by phone or in person, to the person within the employee's department who is designated to maintain medical information (revised June 1, 2004). Such requests shall satisfy the notification requirements. The employee must explain the reasons for the requested leave in order for the City to determine if the leave qualifies under the FMLA. Written certification, as designated below, must be received by the person within the employee's department who is designated to maintain medical information (revised June 1, 2004).

In many instances, employees will not refer to FMLA leave per se. It is the supervisor's responsibility to ensure proper notification is made once it is determined that an absence is a FMLA-qualifying event.

### Certification (Revised 2-15-2009)

In order to determine whether the leave qualifies under FMLA, an employee's request for leave shall be supported by certification or supporting information. The request for a medical certificate or supporting information must be made in writing as part of the City's response to the employee's request for leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

Family Leave: Formal certification in the case of the birth, adoption or placement of a foster child shall be by memo or letter notification from the employee to the person within the employee's department who is designated to maintain medical information (Revised June 1, 2004).

If the employee is needed to care for a child, spouse or parent a certification of condition issued by the health care provider of the child, spouse or parent must be provided. The Medical Leave Request form may be used for this purpose. The notification documents shall be retained in the employee's departmental file.

Notification is required thirty (30) days prior to the event if possible.

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Medical Leave: A certification of a serious health condition issued by the health care provider of the eligible employee is required. If the City does not receive the required certification, the leave may not be approved under FMLA. If the City receives an incomplete or unclear certification, the employee shall be given 7 additional calendar days after being notified to provide more complete information. If the certification is still insufficient, the department's Medical Records Custodian may contact the employee's health care provider for clarification and/or authentication of the employee's medical certification. The Certification of Health Care Provider for Employee's Serious Health Condition or Certification of Health Care Provider for Family Member's Serious Health Condition (Revised 2-15-2009) form shall be used for this purpose.

The certification shall be considered sufficient if it states:

1. The date the condition commenced.
2. The probable duration of the condition.
3. A brief statement of treatment. (Revised 2-15-2009)
4. If applicable, a statement that the employee is unable to perform the essential functions of their position due to a medical condition.
5. As appropriate, a statement that the employee is needed to care for the child, spouse or parent and an estimate of the time such care is needed. And that the patient, the family member, requires assistance and that the employee's presence would

be beneficial or desirable. (Revised 2-15-2009)

6. As appropriate, a statement of the medical necessity for intermittent leave, or reduced work schedule. The statement should also include dates and duration of treatment. (Revised 2-15-2009) The City may elect to have a second physician's opinion at the City's expense. The physician shall be chosen by the City, but shall not be employed by the City.

If the second opinion differs from the original certification provider's opinion, the City may require the employee, at the City's expense, to obtain the opinion of a third health care provider approved jointly by the City and the employee. This physician's opinion shall be final and binding on both the City and the employee.

The City shall require employees to obtain subsequent re-certification on a reasonable basis and continue communications with the City regarding their status and intention to return to work.

The City shall not request re-certification more often than every 30 days unless the employee requests an extension of leave; a change in circumstances has occurred regarding a serious health condition; or the City receives information which casts doubt upon the validity of the most recent certification. Instances involving workers' compensation are not subject to this 30-day provision. The state workers' compensation statutes supersede the FMLA provisions.

All employee medical records must be kept in a locked file separate from the employee's personnel files. Supervisors shall not have access to employee medical information. (Revised June 1, 2004)

#### **Certification of Qualifying Exigency for Military Family Leave** (Added 2-15-2009)

A qualifying exigency arises out of the fact that the spouse, or son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation or deployment to a foreign country. (Revised 6-18-2010)

Exigency leave applies to servicemembers called to active duty in the National Guard, Reserves, retired Reserves or retired Regular Armed Forces. Employees whose family member is a member of the Regular Armed Forces are eligible to take leave because of a qualifying exigency. (Revised 6-18-2010) Leave includes emergencies such as a servicemember's short notice deployment, attending official military events, arranging urgent childcare and school activities for a deployed servicemember's children, financial and legal arrangements for the deployed servicemember, attending counseling sessions for the servicemember and/or children, a servicemember's rest and recuperation leave, and post deployment activities such as arrival ceremonies and funeral arrangements.

Employees requesting this type of Military Family leave under FMLA must provide proof of the qualifying family member's call-up to active military service. This documentation may be a copy of the military orders or other official Armed Forces documentation. (Revised 6-18-2010)

#### **Certification of Serious Injury or Illness of Servicemember for Military Family Leave** (link). (Added 2-15-2009)

An employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember shall be entitled to a total of twenty-six (26) workweeks of leave during a 12-month period of care for the servicemember.

Employees requesting this type of Military Family leave under FMLA must provide documentation of the family member's or next-of-kin's injury, recovery or need for care. This documentation may be a copy of the military medical information, orders for treatment, or other official Armed Forces communication pertaining to the servicemember's injury or illness incurred on active military duty that renders the member medically unfit to perform his or her military duties. This is also the only type of FMLA leave that may extend an employee's leave entitlement beyond 12 weeks to 26 weeks in a 12-month period. This leave is available to an eligible employee whose spouse, son, daughter, parent, or next-of-kin is in the Regular Armed Forces, Reserve Armed Forces, or National Guard.

#### **Employment Restoration**

An employee who takes leave under this policy will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or virtually identical in terms of pay, benefits and working conditions. (Revised 2-15-2009)

An employee's time off approved under FMLA may not be considered when evaluating an employee's attendance pursuant to a performance appraisal or when considering disciplinary action pursuant to a department attendance policy. (Revised 2-15-2009)

Employees who exhaust all appropriate leave and FMLA benefits and are unable to return to full duty status work may be terminated. (Revised January 26, 2001) In those instances where an employee fails to report to work, and management has no knowledge of his/her whereabouts, the department may initiate a pre-termination meeting after consulting with the Employee Relations Division in Human Resources. (Revised 2-15-2009)

Any salary increases or benefit changes which are not dependent on accrued service time shall be made effective on the date which the employee returns to work.

#### **Light-Duty Assignments** (Revised 2-15-2009)

Employees eligible for both FMLA and workers compensation may be offered a light duty assignment. Employees may elect to stay out on full-time FMLA leave until they are fit for full duty as long as they do not exceed their FMLA protected time. However, they may lose their workers compensation disability payments for failure to accept a suitable light duty assignment. Any time an employee spends performing light-duty work does not count towards their 12 weeks of FMLA entitlement.

### Accrual of Leave Benefits

An employee taking family or medical leave without pay shall not accrue hours toward short term sick leave/family leave, vacation, sick, major medical or holiday leave during the period which he/she is on leave without pay (Revised December 16, 2000).

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### Spouses Employed by the City

If both spouses are employed by the City, and each wishes to take leave (Revised 2-15-2009), the combined total amount of leave they can take for the birth or adoption of a child, placement of a child in foster care, or to care for a parent (but not a parent in-law) with a serious health condition, may be limited to 12 weeks.

This limitation does not apply to leave for either the husband's or wife's own serious health condition or the serious health condition of a child.

If a husband and wife both work for the City and each wishes to take leave to care for a covered injured or ill servicemember, the husband and wife may only take a combined total of 26 weeks of leave. (Revised 2-15-2009)

### Health Care Benefit Continuation

The City shall maintain coverage under any City paid group health plan for the duration of an FMLA eligible leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of the leave. The City and the employee shall continue their same contribution responsibilities as when the employee began the leave period.

If an employee is on leave under the terms of this policy, the employee is expected to remain current with the required contributions to keep group medical coverage in effect for the employee and covered family members. Employees should make arrangements with the Benefits Division of the Human Resources Department (revised June 1, 2004) for the required payment. Failure to make required contributions to keep coverage in effect will result in cancellation of the employee's and dependent's (if any) coverage.

The employee is also solely responsible for making payment arrangements directly with any other entity (dental coverage, optional life insurance, employee association dues, Credit Union, etc.) for which payroll deductions are in place.

If the employee fails to return from FMLA leave, the City may recover the balance of all costs paid for maintaining health care coverage during the period of absence from the employee's final payroll or termination check or by direct mail billing if the employee fails to return to work for a reason other than the continuation, recurrence or onset of a serious health condition or other circumstances beyond the control of the employee.

Circumstances not addressed by this regulation should be referred to the Human Resources Department's Employee Relations (Revised 2-10-06) Division.

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### Family Illness Leave

Family Illness Leave benefits are accrued by Civil Service personnel in the Police and Fire Departments.

Family Illness Leave is provided to allow employees time off with pay when their presence is required to assist an immediate family member due to an illness and/or injury, doctor's, dentist's or other medical appointments, or for a death in the immediate family.

For the purpose of this policy, immediate family member is defined as wife, husband, mother, father, grandmother, grandfather, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandson, granddaughter, stepmother, stepfather, stepson, stepdaughter, stepbrother, step sister, sister-in-law, brother-in-law, grandmother-in-law and grandfather-in-law.

After one (1) year of continuous service employees are eligible to use Family Illness Leave.

The leave is non-accrual. At the beginning of each payroll year, any unused leave from the previous payroll year is deleted from the records new Family Leave is allotted to each eligible employee in accordance with the table below.

Supervisors may require proof of the need to use leave. Misuse or misrepresentation of the need to use leave may result in disciplinary action.

<b>Maximum per Year (hours)</b>
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(Revised 2-10-2006)	
1 year service	56
5 years service	40
10 years service	32
15 years service	16
20 years service	0

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#### **Furlough Policy** (Revised March 29, 2010)

Employee furloughs may be declared by the City Manager when necessary for financial issues or other reasons that may require a monetary reduction in the City's expenses. A furlough may be declared for all employees or for specific groups of employees. Furloughs can be declared by the day or partial days.

When a mandatory furlough is implemented, all furloughed employees shall be paid on an hourly basis during that workweek. Subject to the exceptions described below, furloughed employees shall neither be required nor allowed to work more than the number of allowable work hours in that workweek. If an employee works more than the number of allowable hours during a furlough week, the number of hours worked over the allowable hours, up to 40 hours, must be taken as a furlough during another workweek.

Employees whose regular day off falls on a furlough day will be furloughed on a different day during that workweek. If an employee's wages are reduced in lieu of a furlough day, those wages shall not fall below the federal minimum wage.

**Definition** – A furlough is a temporary layoff from work, during which an employee is without duties or pay because of a lack of work or funds or for other non-disciplinary reasons. For the purpose of calculating deadlines under the Personnel Rules and Regulations, a day that has been declared by the City Manager as a mandatory furlough day shall not be considered a working day. Allowable work hours are determined by reducing a 40 hour workweek by the number of mandated furlough hours for that week.

**Non-exempt Employees** – During the week in which a furlough is mandated, non-exempt employees shall have their normal workweek reduced to the allowable number of hours in the workweek.

**Exempt Employees** – When a furlough is mandated, exempt employees will be considered non-exempt during the week in which a furlough has been ordered and shall work only the allowable hours in that workweek. A mandatory furlough and the resulting deductions from pay shall not disqualify an exempt employee from being paid on a salary basis except in the workweek during which the furlough occurs and for which the employee's pay is accordingly reduced.

**Exceptions** – Situations may arise which will require exceptions to the furlough policy. Department directors are authorized to use their discretionary authority to require employees to work more than the allowable work hours during a furlough week. In addition, certain departments may need to modify an individual employee's furlough schedule because of operational needs.

If a situation occurs that requires an employee to work more hours than the allowable work hours in a workweek in which a furlough has been mandated, the additional hours will be compensated at straight time for hours worked up to 40 and at time and one-half for hours over 40.

During a furlough week, an employee who is called back to work on an emergency basis after regular working hours and after having left the job site, or to work a double shift, shall earn callback pay at 1½ times for a minimum of 2 hours. The employee must limit total hours worked during the furlough week, including emergency callback hours, to the maximum allowable work hours if at all possible. If the emergency callback causes the employee's total hours worked to exceed the allowable hours, the number of hours worked over the allowable hours and up to 40 must be furloughed in another workweek.

Supervisors and managers need to closely monitor and approve emergency callback to control unnecessary overtime costs.

**Leave Benefits** – Benefit leave accruals shall be reduced during the pay period in which a furlough is taken in proportion to the reduction in the number of hours worked. If an employee's wages are reduced in lieu of a furlough day, the employee's leave accruals shall similarly be reduced in proportion to the reduction in pay. Accrued leave benefits, such as vacation or compensatory time, cannot be taken or used in lieu of a furlough.

**Major Medical Sick Leave** – Furlough days can be used to access Major Medical Sick Leave and shall not be considered a break in service for employees who are on Major Medical Sick Leave.

**Worker's Compensation Benefits** – Worker's compensation weekly benefits (temporary income benefits) will not be affected by furlough days. Worker's compensation supplements will not be paid on furlough days.

**Violations of Policy** – Intentional violations of this policy may result in disciplinary action, up to and including a prospective reduction in pay, days off without pay, and discharge.

**Cancellation of Furlough Days** – The City Manager or designee has the right to cancel a scheduled furlough day and reschedule it for another day as necessary.

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#### **Inclement Weather/Disaster Policy** (New Policy 2/10/06)

Most city services are provided to citizens on a 24-hour, 7-day basis. Sometimes it is in the best interest of employees and citizens to limit the services provided by the City due to inclement weather/disaster. In these situations the ACM responsible for Emergency Management will make the declaration. If an official declaration isn't made, employees should use their discretion when bad weather or disaster strikes and consider their own safety and the safety of others when deciding whether to report to work or not. If it is not possible or advisable for the employee to report to work, their departmental absentee procedures should be followed.

If inclement weather, natural or man-made disasters prevents an employee from reporting to work or requires the employee to leave work, appropriate leave (vacation, comp time, Personal Holiday, accrued holiday, wellness leave) must be used. The employee may, with supervisory approval, work additional hours within the same work week to make up for the lost time. If a probationary employee is affected, time may be deducted from the employee's current leave accrual. When the options noted above are not possible, leave without pay may be used. However, before placing an exempt employee in a without pay status the Human Resources' Compensation Division must be contacted.

**Employees will only be paid for actual hours worked or leave used during periods of inclement weather or disaster.**

#### **Jury Duty And Court Duty**

Regular full-time, part-time, temporary (S01) (Revised 2-10-06) and probationary employees (revised Nov. 15, 2004) called to jury duty shall receive regular pay ("C" Court time on T&A's). Employees must verify their time spent on jury duty.

Employees who initiate legal action against the City and (Revised January 26, 2001) who are subpoenaed or required to participate in a City-related legal matter will be compensated for their time ("C" Court time on T&A's). Employees will not be compensated to conduct personal or private legal business.

#### **Leave Of Absence Without Pay**

A leave of absence without pay may be granted by a Department Director (Revised 2-10-06) for reasons that will benefit both the City and the employee. EX: An employee takes a leave of absence for a year to achieve an advanced degree that is of benefit to the City. (Revised 2-10-06) Written requests for leaves of absence without pay must be submitted to the Department Director or designee outlining the reasons for the request and the amount of time off requested. In the event of extenuating circumstances, emergency leaves of absence may be requested verbally.

The Department Director or designee shall either approve or disapprove the request and explain the reason for the decision in writing.

Departments must be mindful that the Family and Medical Leave Act provides for up to 12 weeks of unpaid leave for circumstances covered by the Act (e.g., child birth, adoption or foster care, elder care, personal or family illness). The availability of FMLA must be considered when reviewing requests for leaves of absence without pay.

**Revocation of Leave of Absence** may occur if the reason for requesting the leave was misrepresented.

Employees are encouraged to keep their supervisors informed of their status and should discuss any changes in their circumstances with their supervisors to make adjustments to their leave of absence.

**Failure to Return to Work** at the expiration of a leave of absence without pay shall result in disciplinary action, up to and including termination.

**Employee Requests for "time off without pay" status** - employee requests to be off on "W" time, time off without pay (other than a request for a leave of absence without pay that is granted by a Department Director for the mutual benefit of the employee and the City) (Revised 2-10-06), will be denied if the employee has accrued leave or compensatory time on the books. (This provision does not apply to employees who are off on Military Leave in a without pay status.) (Revised 2-10-06)

Supervisors must deny an employee's request to be off on "W" time if the employee has accrued leave or compensatory time on the books. If the supervisor wants to approve time off work, the employee must use his/her accrued leave to do so. In such cases, the employee must decide whether to use accrued leave or come to work.

If the supervisor denies the request and the employee does not come to work, the employee's time off will be coded "D" time, disciplinary time off without pay.

Without Pay for Absences of Less Than One Day. Both exempt and non-exempt employees may be carried in a without pay status for less than one day due to personal reasons or illness or injury when accrued leave is not used for one or more of the following reasons:

- permission to use leave time was not requested,
- the use of leave time was requested and denied; or
- there was no accrued leave time available. (Revised January 26, 2001)

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#### **Leave For Representative Of Fort Worth Police Officers Association**

The President of the Fort Worth Police Officers Association (the Association) shall be eligible to take leave, without loss of pay or benefits, to perform work related to business of the Association. Such leave shall be known as Association Leave. It shall not be mandatory that the President of the Association take such leave.

When released on Association Leave, the President must use 2080 hours of such leave per calendar year unless otherwise approved by the Chief of Police. Any vacation, sick leave or family leave that the President takes while on Association Leave shall be included in the 2080 hours.

Before the President is eligible for Association Leave, the Association must sign an agreement to reimburse the City for 2080 hours for the President's hourly step rate of pay (Revised July 1, 2003) while the President is on Association Leave. The City shall remain responsible for and shall pay all benefits and additional pay that the Association President is entitled to receive as an active duty member of the Fort Worth Police Department. The City shall also be responsible for payment of the City's share of his or her retirement fund contributions.

While on Association Leave, the President will continue to accrue his or her usual vacation, sick leave and family leave. Likewise, the vacation, sick leave or family leave that he or she uses shall be charged against his or her available leave balances. The President shall be placed on special assignment at the discretion of the Chief of Police for the purpose of maintaining the time and attendance report. The President shall continue to file time and attendance reports with the Police Department.

The Chief of Police retains the right to recall the Association President to duty during an emergency or special event involving overriding need for the protection of the citizens of Fort Worth. No overtime or compensatory time shall be accrued while the President is on Association Leave except in the event the President is recalled to duty by the Chief of Police and required to labor in excess of the normal 40 hour week. If the President is recalled to such duty, the City shall deduct, credit or offset hours worked by the President from the 2080 hours reimbursement of the hourly step rate of pay (Revised July 1, 2003).

The President shall not use Association Leave for political activities that are prohibited by Section 143.086 of the Texas Local Government Code. Association Leave shall not be paid if the President is under a suspension without pay.

This policy shall not be considered as a limitation upon the Chief of Police's discretion to allow other employees of the Police Department time off without pay to attend to Association business.

Association Leave shall not be treated as a break in service and the President shall not lose seniority, promotional opportunity, sick leave, vacation, retirement or any other benefits, including mandatory T.C.L.E.O.S.E. training, while on such leave. While on Association Leave, the President will retain the privileges of his or her employment and shall be maintained by the Police Department as a Commissioned Peace Officer in the State and a classified Civil Service Employee of the City of Fort Worth (Effective 4-13-99).

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#### **Major Medical Sick Leave** (Revised December 16, 2000)

The City of Fort Worth provides Major Medical Sick Leave (MMSL) to any non-civil service employee who occupies a full-time or part-time non-elected position, is a member of the Retirement fund, and has completed their initial probationary period (Revised December 16, 2000) to recuperate from serious medical conditions (Revised July 1, 2003) (Revised June 1, 2004) keep medical appointments, and to attend funerals. MMSL cannot be used to take care of family members. (Revised 2-10-06) These benefits are available to employees after they successfully complete their initial six (6) month probation period. (Revised October 9, 1999) (Actual accrual of leave time begins at the end of the first full pay period of employment.)

Major Medical Sick Leave is provided for these situations where an employee must be off work for more than 56 consecutive work hours due to a medical condition which prohibits the employee from returning to work. (Revised October 9, 1999) To access accrued MMSL, employees must use 56 work consecutive hours of Vacation (Revised December 16, 2000) accrued leave time (vacation, short term sick/family, old sick, personal holiday, compensatory time, etc.) and/or time off without pay (Revised July 1, 2003), then MMSL may be used. A Medical Leave Request form must be completed before MMSL can be used. (Revised October 9, 1999)

An employee who is out on Major Medical may be required by the supervisor or department to contact the Medical Records Custodian (MRC) for his or her department on a regular basis to update the MRC on his or her condition and expected return date. The frequency of this notification will be determined by the business needs of the department in terms of planning schedules, work assignments and staffing levels (Revised 2-10-06). The MRC will in turn notify the employee's supervisor of the employee's status. (Revised November 15, 2004)

(Paragraph deleted on 5-8-07)

Employees who return to work after being on MMSL and then must be off work within the next 12 month period for continuation of care that is directly related to the initial medical condition have immediate access to MMSL. An example where immediate access to MMSL is allowed includes therapy sessions(physical, chemotherapy, radiation therapy, etc.) directly related to the initial medical event; follow-up corrective surgery; complications from the initial medical event; etc. An example where immediate access would not be allowed includes chronic health condition episodes such as seizures, asthmatic and diabetic episodes, etc. (Revised 5-8-07)

Accrual of MMSL is not limited.

Employees will not be paid for unused MMSL at the time of retirement, resignation or termination. However, if an employee retires, accrued MMSL will be added to the formula to calculate an employee's length of service.

Funeral Leave – Up to twenty-four (24) hours (Revised 2-10-06) of accrued MMSL per payroll calendar (revised Nov. 15, 2004) year may be used for funeral leave. Funeral time will be coded "G" on the T&A sheets. Funeral leave may only be used only in the event of the death of an immediate family member. Immediate family is defined as wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandson, granddaughter, stepmother, stepfather, stepson, stepdaughter, stepbrother, stepsister, sister-in-law, brother-in-law, grandmother, grandfather, grandmother-in-law, and grandfather-in-law.

Department Directors may approve initial probationary period employees to access funeral leave and (Revised January 26, 2001) employee requests to use additional "G" time in the same year if multiple deaths occur.

**Independent Medical Examinations**

A physician of the City's choice may be consulted to verify an employee's need and eligibility to use MMSL. The City may require an employee to undergo an independent medical examination (IME) by a physician selected by the City when deemed warranted (e.g., an inexplicable recovery from an injury or illness). Refusal to undergo an IME is grounds for termination. If the IME results and the employee's physician's assessment are significantly different, another mandatory IME may be required. In such instances, the City and the employee must agree upon a physician to do the final IME. The results of this IME will be the final status of the employee's condition. Employees who fail to cooperate in the selection of a physician may be terminated for insubordinate behavior. (Revised January 26, 2001)

The City will pay for all IMEs. The requesting department will be charged for all IME costs. (Revised January 26, 2001)

Accrual rates for MMSL for general employees are as follows:

**Major Medical Sick Leave**

<b>*Tenure w/City (Years)</b>	<b>Accrual Rate Per Pay Period (Hours)</b>	<b>Accrual Rate Per Year <b>**</b>(Days)</b>
0-15	4.62	15
16-25	3.70	12
26+	2.16	7

\*An Employee's Major Medical Sick Leave accrual rate will change at the beginning of the 16th and 26th year of service with the City.

\*\*Based on 8 hour work days.

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**Old Sick Leave**

Prior to the implementation of Personal Leave and Major Medical Sick Leave in 1983, employees accrued sick leave, now referred to as "old sick leave", which can be used for illness or injuries off the job. At the time of retirement employees can be paid for up to 720 hours of old sick leave. Any accrued old sick leave above 720 hours will be added to an employee's length of service for purposes of pension calculation. Employees who resign or terminate are not paid for old sick leave.

**MMSL Accrual Rates**

Part-time employees accrue MMSL in the proportion that their work time compares to a regular 40 hour workweek. (Revised December 16, 2000)

Family and Medical Leave (FMLA)

If an employee is off on leave (Revised 2-10-06) for an FMLA qualifying event (revised June 1, 2004), all of the time an employee is off (including the 56 hours off prior to accessing MMSL (Revised 2-10-06) due to illness for more than 3 consecutive working days will count toward the 12 weeks of unpaid leave provided for by the FMLA, no matter what type of leave the employee uses (Revised 2-10-06). Employees must be given notice by their departments that their time off is FML time (Revised 2-10-06).

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**Military Leave**

The Uniformed Services Employment and Re-Employment Rights Act (USERRA) became effective on October 13, 1994. The Act is designed to encourage non-career military service by minimizing employment problems resulting from military service, to minimize disruption of the lives of service members, and to prohibit discrimination against service members.

**EMPLOYERS HAVE NO RIGHT TO DENY ABSENCES UNDER USERRA**

Persons protected under the Act include persons absent from work serving in the uniformed services including all military branches and respective reserve affiliates; Army and National Guard personnel; commissioned members of the Public Health Service; and, any other category of persons designated by the President.

**Paid Military Leave**

Regular full-time, part-time, temporary (S01) (revised June 1, 2004) and probationary employees will be given paid leave for military duty covered by USERRA. A maximum of 120 or 180 hours (180 hours for Fire Civil Service Operations Employees) during the City's payroll year (Revised 2-10-06) will be paid military leave. Employees absent for more than 120 or 180 hours (Revised January 21, 2002) shall be considered on leave of absence without pay for all days in excess of those 120 or 180 hours (Revised January 21, 2002). An employee may use accumulated vacation (Revised December 16, 2000) or compensatory time, if eligible. If an employee has no available leave time and is placed on approved leave without pay the employee will not accrue any leave benefits during this time period.

Military duties covered by the Act include any and all service and training conducted under the auspices of Armed Forces Reserves and the National Guard. This includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty and absence from work for a physical fitness examination to determine fitness for duty.

Both voluntary and involuntary duty is covered.

State service performed by National Guard personnel is not covered.

**Re-employment Entitlements**

1. Prompt re-employment of service members.
  - a. If absence is less than 90 days, the service member is entitled to placement into the exact job held prior to absence.
  - b. If absence is 91 days or more, the service member is entitled to placement into the exact job previously held or another job of "like seniority, status, and pay."
2. Continuation of seniority benefits as if service member had been continuously employed (no break in service).
3. Train or re-train service member (if necessary) to permit re-entry into the workplace.
4. Reinstate personal and family health insurance coverage.
5. Make reasonable efforts to accommodate service members disabled during duty.

**Re-Employment Rights Eligibility Criteria**

Service personnel seeking re-employment under the Act must meet the following criteria:

1. Held a civilian job when commenced military duty covered by the Act.
2. Give notice to civilian employer regarding absence for military training or service.
  - o All requests for leave under the Act must be verified by presenting a copy of the order, directive, notice or other document(s) requiring the employee's absence from work.
  - o The amount of advance notice is not specified by the Act. Advance written or verbal notice to the employer is required, unless precluded by military necessity or is otherwise impossible or unreasonable. As much advance notice as possible is preferred.
3. Must not exceed the 5-year cumulative limit (per employer) on service. Military service or training excluded from the 5-year



cumulative limit includes:

1. unable to obtain release from service/training before expiration of 5-year period;
  2. determined and certified by the Secretary of the service to be necessary for professional development or for completion of skills training or retraining.
  3. involuntary active duty in wartime, national emergency, critical persons during time of crisis, operational mission, and involuntary duty of retired and reserve Coast Guard personnel;
  4. active duty service during a war or a national emergency;
  5. active duty service in support of a critical mission or requirement of the uniformed services; and
  6. service performed when called in Federal service as a member of the National Guard.
4. Must be released from service under honorable conditions.
  5. Must report back to civilian job in a timely manner or make timely application for re-employment.
    1. If training/service is up to 30 consecutive days, the deadline is completion of training/service plus travel time to residence plus 8 hours.
    2. If training/service is 31 to 180 days, the deadline is 14 days after completion of training/service.
    3. If training/service is 181 days or more, the deadline is 90 days after completion of training/service.

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### **Pregnancy Leave**

The City does not provide pregnancy leave per se. Employees affected by pregnancy or related conditions must be treated in the same manner as other employees who are similarly able or unable to perform the essential functions of their job (per the Pregnancy Discrimination Act of 1978). Pregnancy is considered a temporary disability and is treated as such. The attending physician determines an employee's ability to perform the essential functions of her position.

Pregnancy-related absences are governed by the particular leave policies which are applicable; these policies could include: Major Medical Sick Leave; Sick Leave; Vacation (Revised 2-10-06); Vacation Leave; Family and Medical Leave; Voluntary Leave Bank; and, Leave Without Pay

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### **Lactation** (New policy effective June 1, 2004)

Lactation is the expression of breast milk to store for a baby's later use.

Employees who plan to perform lactation during work hours need to let their supervisor know in advance of their space and scheduling needs. Employees who need to perform lactation should be permitted flexibility in the scheduling of breaks and lunch periods, dependent upon the individual needs of the worksite. Supervisors should work with employees to provide a regular place where they can perform lactation in a secure and private location. The needs of each employee as to lactation will differ and there is no one schedule for lactation that will fit every employee. Specific guidelines for setting up a temporary lactation center can be obtained from the Wellness Program or Public Health Department.

Employees performing lactation shall not use City time for this activity, but should use the amount of time normally allotted for breaks and lunch periods. There may occasionally be times when employees need more than the allotted amount of time to perform their lactation. On such occasions supervisors may, dependent upon the needs of the individual worksite, allow some flexibility as to the time allowed for lactation; however, employees who regularly require more than the allotted amount of time should plan to either make up the additional time used or use Vacation or Compensatory time to make up the difference. If issues regarding lactation scheduling arise, contact the Wellness Program Coordinator at 817-392-8556.

### **Short Term Sick Leave/Family Leave** (New Policy, December 16, 2000)

Short Term Sick Leave/Family Leave (STS/F) is a benefit which is available to any non-civil service employee who occupies a full-time or part-time non-elected position, is a member of the Retirement fund, and has completed their initial probationary period.

STS/F is leave time which can be used by an employee: 1) who is not able to perform assigned duties because of an illness or injury; 2) who has a medical, dental, ocular, or other health care provider appointment; 2) who needs to access major medical sick leave or workers' compensation benefits; or 4) who needs to provide care for an immediate family member who has a serious health condition requiring the assistance or care of the employee.

STS/F leave accrual is unlimited.

Immediate family member under this policy is defined in the Major Medical Sick Leave policy.

Supervisors may or may not require documentation to verify the need to use STS/F leave. If documentation is requested, failure to provide documentation could result in the denial of leave and disciplinary action up to and including termination. Whenever possible, completion of City forms is preferred. If the documentation provided is determined to be inadequate, the employee will be given a reasonable amount of time to provide adequate documentation. Failure to do so will result in the denial of leave and disciplinary action.

Employees who retire, resign or are terminated (after completion of their initial 6-month probation) shall be paid for all unused STS/F Leave. Employees who terminate at or before the end of a pay period will not accrue STS/F Leave for that pay period.

Accrual rates for Short Term Sick Leave/Family Leave, for general employees are as follows:

**Short Term Sick Leave/Family Leave**

<b>*Tenure w/City (Years)</b>	<b>Accrual Rate Per Pay Period (Hours)</b>	<b>Accrual Rate Per Year **(Days)</b>
<b>I. General Employees (Excluding "F" key code classification and City Manager, City Auditor, City Attorney, and City Secretary) (Revised January 26, 2001)</b>		
0-5	0.62	2
6-7	0.00	0
8-10	1.54	5
11-15	1.23	4
16-20	1.54	5
21-25	0.62	2
26+	2.15	7
<b>II. General Employees in "F" key code classification and City Manager, City Auditor, City Attorney, and City Secretary) (Revised January 26, 2001)</b>		
0-5	2.15	7
6-10	1.54	5
11-15	1.23	4
16-20	1.54	5
21-25	0.62	2
26+	2.15	7

\*An employee's STS/F Leave accrual rate will change at the beginning of the 6th, 8th year (excluding "F" key code classification), and the 11th 16th, 21st, and 26th year of service with the City.

\*\*Based on 8 hour work days

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**Sick Leave**

Sick Leave benefits are accrued by Civil Service personnel in the Police and Fire Departments, and some employees of the Library who were hired before July 1, 1975.

The sick leave benefit is available to employees who successfully completed their initial probationary period with the City. Employees who must miss work due to a personal illness or injury or to keep a medical, dental or ocular appointment may use accrued sick leave to cover their absence.

All regular, eligible full-time employees will accrue 4.62 hours of sick leave per pay period. Sick leave accrual is unlimited. Employees off without pay, regardless of the reason, will not accrue leave for the percentage of time off without pay.

Employees may be required to submit a signed statement from a physician to verify their need to use sick leave. Employees who misrepresent their need to use sick leave will be subject to appropriate disciplinary action. A pattern of sick leave usage which suggests misuse or abuse of the benefit is grounds for disciplinary action.

FMLA – Employees who miss more than 3 consecutive working days due to personal illness/injury must be notified within two business days (revised June 1, 2004) that the time off will be charged under FMLA.

Employees who retire from the City service will be paid for up to 720 hours of accrued sick leave. If an employee dies, the beneficiary will be paid for up to 720 hours of accrued sick leave.

Civil Service personnel in the Police and Fire Departments who leave the City service will be paid for unused accrued sick leave in accordance with state statutes.

(Deleted Paragraph effective 2-10-06)

**Sick Leave Usage** (Revised 2-10-06)

After six month's continuous service, employees are eligible to use accrued sick leave. Sick leave may be used for an employee's medical, dental or ocular appointments and personal illness or injury. Sick leave shall not be used due to medical, dental or ocular appointments or injury or illness of an employee's spouse or children.

Employee Group	Maximum Accrual per Year Hours	Accrual Per Pay Period Hours	Maximum Accumulation	Maximum Payment on Termination Days
Police Civil Service Employees	120	4.62	Unlimited	90
Fire Civil Service Employees – 80 hrs. Per Pay Period	120	4.62	Unlimited	90
Fire Civil Service Employees – 112 hrs. Per Pay Period	180	6.93	Unlimited	90

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**Vacation Leave** (New Policy, December 16, 2000)

The City of Fort Worth provides Vacation Leave to any non- civil service (Revised 2-10-06) employee who occupies a full-time or part-time non-elected position, is a member of the Retirement Fund and has completed their initial probationary period so they may be off work with pay to take vacations and to take care of personal and family business. These benefits are available to employees after they successfully complete their initial six (6) month probation period. (Revised October 9, 1999) (Actual accrual of leave time begins at the end of the first full pay period of employment.)

Vacation Leave is leave time used by an employee to take care of personal matters and/or to relax and enjoy time off from work. Vacation Leave may also be used to access major medical sick leave or workers' compensation leave in those instances where no Short term Sick Leave/Family Leave is available.

Supervisors may require documentation to verify the need to use Vacation Leave (due to work issues). If documentation is requested, failure to provide documentation could result in the denial of leave and disciplinary action up to and including termination. Likewise, supervisors may rescind previously approved Vacation Leave due to work issues. (Revised 2-10-06)

Employees who misuse or abuse this benefit will be subject to appropriate disciplinary action.

Employees who have accrued 400 or more hours of Vacation Leave as of the first pay period of each payroll year, must use at least 80 hours of Vacation and/or Short Term Sick Leave/Family Leave before the end of pay period 26. Failure to use at least 80 hours will result in the loss of accrued Vacation Leave to equal 80 hours used that payroll year. Sell back of accrued vacation leave and donation of leave (revised June 1, 2004) **will not** count toward this vacation leave usage requirement. (Revised January 26, 2001)

Department Directors may request a waiver of this "use it or lose it" provision for employees by contacting the HR Director (Waivers, PRRs, p.13) (Revised 2-10-06). Requests should identify specific business reasons why an employee was not able to be off work to avoid losing accrued leave. Special assignments, critical projects, serving in a higher or unfamiliar capacity are representative of the kinds of situations that may be acceptable business reasons to approve a waiver. Time off work, regardless of the reason, is not an acceptable basis for a waiver. (Revised January 26, 2001)

Vacation Leave Sell Back is available the first pay day of December, subject to the budget approved by City Council (revised June 1, 2004). Employees may sell back up to 40 hours of Vacation Leave each year if they will have at least 120 hours left after their sellback.

Employees may accrue additional vacation leave by donating one pint of blood during a City sponsored blood drive. They will earn one (1) hour of Vacation Leave. A maximum of four (4) hours may be accrued in a calendar year.

Employees who retire, resign or are terminated (after completion of their initial 6-month probation) shall be paid for all unused Vacation Leave. (Revised October 9, 1999) Employees who terminate at or before the end of a pay period will not accrue Vacation Leave for that pay period.

Accrual rates for vacation leave for general employees are as follows:

**Vacation Leave**

*Tenure w/City (Years)	Accrual Rate Per Pay Period (Hours)	Accrual Rate Per Year **(Days)
0-5	4.62	15
6-10	5.23	17
11-15	5.54	18
16-20	6.15	20
21+	7.08	23

\* An Employee’s Vacation Leave accrual rate will change at the beginning of the 6th, 11th, 16th, and 21st year of service with the City.

\*\*Based on 8 hour work days

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**Vacation Leave Donations**

Employees (civil service and non-civil service) (Revised July 1, 2003) may transfer accrued Vacation Leave (Revised December 16, 2000) (no other type of leave or time may be transferred) into a non-civil service employee's Short Term Sick Leave/Family Leave account or into a civil service employee's Sick or Family Illness Leave (Revised July 1, 2003) (Revised December 16, 2000) account in order to ensure continuing income for an employee who must be absent from work due to a major personal illness or injury or due to an immediate family member's major illness or injury which requires the presence of the employee.

Eligibility to have Vacation (Revised December 16, 2000) Leave transferred into one's account includes: 1) major illness or injury as defined in this policy; 2) exhaustion or impending exhaustion of all accrued time which can be used; 3) approval of employee's Department Director to solicit Vacation (Revised December 16, 2000) Leave (consideration should be given to employee's record of absenteeism, discipline, work performance, tenure, etc.); and, 4) non-probationary status (initial and disciplinary probation).

A major illness or injury includes any medical condition which qualifies under the Short Term Sick Leave/Family Leave, Family Illness Leave, and (Revised July 1, 2003) Major Medical Sick Leave policy. Appropriate medical certification must be provided such as a Medical Leave Request form (employees) or equivalent documentation for immediate family members.

Immediate family member Includes wife, husband, mother, father, brother, sister, son, daughter, mother/father/son/daughter/brother/sister/in-law, step-/mother, father/son/daughter/brother/sister, grand-/mother/father/son/daughter. (Revised 2-10-06)

Eligibility to donate Vacation Leave (Revised 2-10-06) includes non-probationary status (initial probation) and retention of at least 80 hours of accrued Vacation Leave. (Revised December 16, 2000)

Employees who need Leave must submit a request to their Department Director for approval to solicit Leave from other employees. The request must include: 1) an explanation of the need to be off (with required documentation to verify the need); 2) the anticipated length of absence from work; 3) the amount of accrued time on the books; and, 4) the amount of Vacation Leave needed to avoid an absence without pay.

The Department Director will respond to the employee's request in writing as soon as practicable. If the request is denied, there is no appeal. The director's decision is final. If the director approves the request, employees who want to donate Vacation Leave must complete a Vacation Leave Donation form and return it to the director or designee within two (2) weeks after approval of the request. Donated leave will be transferred into the recipient's account in the order it is received (first donated, first transferred) and at the time the person receiving the leave needs it.(Revised July 1, 2003)

All donations submitted after the amount of time needed has been met or after the response deadline will be returned to the donors and their time will not be transferred. Unused donated leave will not be transferred. In such instances the donor will retain the leave he/she planned to donate. (Revised July 1, 2003)

Donated leave will not count toward any "use or lose" provisions in other leave policies.(Revised July 1, 2003)

Leave benefits do not accrue while on donated leave. (Revised December 16, 2000)

All Leave Donation forms will be sent to the Human Resources Department's HRIS/Records (revised June 1, 2004) Division to complete the transfer of leave time. The Leave Donation forms will be filed in each donor's personnel files. (Revised December 16, 2000)

If the donor's rate of pay is equal to or greater than the recipient's rate of pay, the leave time will be transferred hour for hour. If the donor's rate of pay is less than the recipient's rate of pay, the leave time will be prorated.

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**Vacations**

Vacation leave benefits are accrued by Civil Service personnel in the Police and Fire Departments, and some employees of the Library who were hired before July 1, 1975.

The City encourages its employees to take time off from work to relax and enjoy a period of refreshing. Vacation Leave is provided so employees can enjoy the benefits of paid time away from work.

Library employees with this benefit accrue 6.16 vacation hours per pay period (160 hours per year).

Civil Service personnel in Police and Fire accrue vacation leave according to the charts at the end of this regulation and may use this benefit upon completion of their probationary period. (Revised October 9, 1999)

Employees off without pay, regardless of the reason, will not accrue leave for the percentage of time off without pay.

Employees normally can use no more than fifteen (15) consecutive work days of vacation, but with written approval from their Department Director may take more than fifteen (15) consecutive work days off.

Police Civil Service and Library employees may accumulate a maximum of four (4) years accrued vacation leave. At the beginning of each payroll year, accumulated vacation leave hours in excess of three (3) years accrual will be deleted.

Fire Civil Service employees have unlimited vacation accumulation.

Employees may earn up to four (4) hours of vacation leave in a payroll year by donating blood to the Carter Blood Center during City sponsored blood drives.

Official holidays occurring while an employee is on approved leave are considered as paid holidays and do not affect leave balances.

Employees with adjusted service dates (which will be considered a new date of employment) will be regarded as having continuous service and will accrue vacation leave accordingly. However, a service break of more than one year will cancel previous service credit toward vacation eligibility.

Employees who terminate from the City service during their initial probationary period will not be paid for accrued vacation time. Library and Police Civil Service employees who have completed their initial probationary period will be paid for unused accrued vacation leave up to a maximum of two (2) years accrual.

Fire Civil Service employees who have completed their initial probationary period will be paid for all unused accrued vacation leave (there is no limitation). Employees who terminate before the end of a pay period will not earn vacation leave for that pay period.

After one (1) year as a commissioned officer, Fire Civil Service employees are required to use two (2) weeks (120 hours for 56-hour personnel and 80 hours for 40-hour personnel) accrued holiday time and/or vacation time per payroll year. Failure to use the minimum required leave will result in the difference between the amount used and the minimum required leave usage being deducted from accumulated vacation leave at the beginning of the next payroll year.

The Library Director, Police Chief or Fire Chief may request a waiver of this "use it or lose it" provision for employees (Revised 2-10-06) by contacting the HR Director (Waivers, PRRs, p. 13(Revised 2-10-06). Requests should identify specific business reasons why an employee was not able to be off work to avoid losing accrued leave. Special assignments, critical projects, serving in a higher or unfamiliar capacity are representative of the kinds of situations that may be accepted business reasons to approve a waiver. Time off work, regardless of the reason, is not an acceptable basis for a waiver. (Revised January 26, 2001)

Fire Civil Service employees may sell back a portion of their accrued vacation leave once a year. See the "Fire Civil Service Vacation Sell Back" policy. Police Civil Service employees and Library employees do not have a vacation sell back provision.

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**Vacation Leave Chart**

For Library employees employed prior to June 1, 1975.

The following chart provides information concerning vacation accrual and accumulation rates. Refer to the vacation regulation for additional information.

Employee Group	Maximum Accrual per Year (hours)	Accrual Rate per Pay Period (hours)	Maximum Accumulation (hours)	Limit at the Beginning of Each Payroll Year (hours)	Maximum Payment on Termination (hours)
Library employees eligible for 4 weeks	160	6.16	640	480	320

vacation					
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**Vacation Leave Chart — Sworn Police**

The following chart provides information concerning vacation accrual and accumulation rates. Refer to the vacation regulation for additional information.

Employee Group	Maximum Accrual Per Year (Hours)	Accrual Rate Per Pay Period (Hours)	Maximum Accumulation (Hours) 4X	Limit At The Beginning Of Each Payroll Year (Hours) 3X	Maximum Payment At Termination (Hours) 2x
Sworn Police with 1 year service (14.6)	117	4.50	468	351	234
Sworn Police with 5 years service (16.6)	133	5.12	532	399	266
Sworn Police with 10 years service (17.6)	141	5.42	564	423	282
Sworn Police with 15 years service (19.6)	157	6.04	628	471	314
Sworn Police with 20 years service (22.6)	181	6.96	724	543	362

**Vacation Leave Chart — Sworn Fire — 8-Hour Days**

The following chart provides information concerning vacation accrual and accumulation rates. Refer to the vacation regulation for additional information.

Employee Group	Maximum Accrual per Year (hours)	Accrual Rate per Pay Period (hours)	Maximum Accumulation	Maximum Payment on Termination
Sworn Fire with 1 year service (15)	120	4.62	NO LIMIT	NO LIMIT
Sworn Fire with 5 years service (17)	136	5.23	NO LIMIT	NO LIMIT
Sworn Fire with 10 years service (18)	144	5.54	NO LIMIT	NO LIMIT
Sworn Fire with 15 years service (20)	160	6.15	NO LIMIT	NO LIMIT
Sworn Fire with 20 years service (23)	184	7.08	NO LIMIT	NO LIMIT

**Vacation Leave Chart — Sworn Fire —12-Hour Days**

The following chart provides information concerning vacation accrual and accumulation rates. Refer to the vacation regulation for additional information.

Employee Group	Maximum Accrual per Year (hours)	Accrual Rate per Pay Period (hours)	Maximum Accumulation	Maximum Payment on Termination
Sworn Fire with 1 year service (15)	180	6.93	NO LIMIT	NO LIMIT
Sworn Fire with 5 years service (17)	204	7.85	NO LIMIT	NO LIMIT

Sworn Fire with 10 years service (18)	216	8.31	NO LIMIT	NO LIMIT
Sworn Fire with 15 years service (20)	240	9.23	NO LIMIT	NO LIMIT
Sworn Fire with 20 years service (23)	276	10.62	NO LIMIT	NO LIMIT

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### **Voluntary Leave Bank** (policy revised Feb. 28, 2005)

The Voluntary Leave Bank program provides for the continuation of income for those employees who have exhausted all of their accrued leave and need to be off due to a personal medical emergency or to care for an immediate family member who has had a medical emergency.

This program is established by employees for the benefit of other employees. Assets of the Program (donated leave hours) belong specifically to the members (who donated) and not to any other organization, group or entity. (Revised January 21, 2002)

### **Definitions:**

- Medical emergency is a serious, extreme, catastrophic, or life-threatening medical condition of an employee or immediate family member that requires an employee's absence from duty for a prolonged period of time.
- Immediate family member includes wife, husband, mother, father, brother, sister, son, daughter, mother/father/son/daughter/sister/brother/-in-law, step-/mother/father/son/daughter/brother/sister, grand-/mother/father/son/daughter.
- The Voluntary Leave Bank Committee is a group of 5 employees and 2 alternates made up of members of the Employee Relations Committee. This committee is charged with receiving and analyzing requests for access to Voluntary Leave hours. They are responsible for granting or denying requests based on an individual's need. A quorum of 3 members must be present to render a decision. Committee members employed by the department from where a request originates may not participate in the decision on that particular request.

### **Eligibility:**

Employees who are eligible to participate include any full-time and part-time non-elected person who is on the payroll of the City, is a member of the Retirement Fund, and has completed the initial probationary period.

New-hire employees may join the Leave Bank Program within the first 30 days of their employment. They cannot access the Leave Bank until completion of their initial probationary period.

### **Enrollment:**

Employees can enroll in the program within the first 30 days of employment or may enroll during an enrollment period held in the month of March. Each potential member must complete a Voluntary Leave Bank form verifying his or her willingness to join the program on a voluntary basis. Membership will continue until a member 1) terminates employment, 2) retires or 3) fails to re-contribute hours as needed.

To enroll, each member will contribute four (4) hours of vacation leave. Each member will be required to contribute an additional four (4) hours only when the Leave Bank falls below a minimum level. If the member does not wish to contribute an additional four (4) hours, the employee will be withdrawn from the program.

Human Resources Department records will be used to monitor leave donation and usage. The Leave Bank committee will determine when the Leave Bank has reached a minimum level based on average monthly usage. Participating employees will be notified of the need for the additional contribution and must authorize the transfer of additional leave hours.

Employees who enroll in March cannot access the Leave Bank until their four (4) hour deduction is completed during the first pay period in July.

An employee who fails to become a member during an enrollment period may become a member during the next enrollment period.

### **Applying for Voluntary Leave Bank Hours:**

Members may be eligible to draw from the leave bank after exhaustion of all accrued leave, including Major Medical. Members drawing leave from the Bank will have a limit of 240 hours in any 12-month period. In no case shall an employee draw more than

240 hours from the bank for any single occurrence.

- Members of the Leave Bank Program who are off-without-pay due to disciplinary action or approved leave of absence without pay are not eligible to access the Leave Bank.
- Members off work due to an on-the-job injury (Workers Compensation) will not have access to the Leave Bank Program.
- Routine medical care for an employee is not covered by this program.

To apply for leave bank hours, an employee must complete a Medical Leave Request (MLR) form. The form must express reason for need and anticipated date of return to work. In order for the Leave Bank Committee to make a determination of need, the employee must share the minimum amount necessary of their personal information. The committee holds this information within the strictest confidence. By applying to access voluntary leave, an employee is giving the committee access to his or her personal health information directly related to the need for leave.

In addition to the MLR form, employees will have to submit the departmental checklist to their department. This form allows the employee's supervisor to know that the employee will be requesting leave. The supervisor is responsible for informing the Leave Bank Committee of any attendance or disciplinary problems that may preclude the employee from accessing the Leave Bank. At no time will any medical information be required to be shared with the supervisor.

The employee is responsible for ensuring that the MLR form, the departmental checklist and all supporting documentation are turned in to the Human Resources Benefits Office fifteen (15) days prior to the need for leave, if possible. The Benefit Office will forward the necessary paperwork to the Voluntary Leave Bank Committee for review.

If an employee is unable to make application on his/her behalf, a personal representative of the employee may make written application on the employee's behalf.

#### **Administration:**

Employees off on Leave Bank hours will not accrue leave benefits (Short Term Sick Leave/Family Leave, Major Medical, Vacation, Sick) while using Leave Bank hours.

Members drawing leave from the Leave Bank shall not work at any other job.

#### **Access to the Leave Bank:**

Access to the program is not guaranteed by membership; rather, access is based on need of the member and determined by the Voluntary Leave Bank Committee. No one is guaranteed 240 hours; rather, the Committee will review each application on an individual basis.

The Voluntary Leave Bank Committee is selected by members of the Employee Relations Committee to act as stewards of the Leave Bank whose sole intent is to authorize access only to employees who have a proven medical/family medical need and who (also) have a history of prudent use of leave time. To that end, each committee member shall have access to the official leave records and may interview the current supervisor and (any) prior supervisor(s) in order to determine prudent use of leave time by the member. Members of the Leave Bank Committee shall sign confidentiality agreements to affirm their commitment to protecting the privacy of all medical information received through administration of the program.

The Committee will have the responsibility for reviewing employee requests to access the Leave Bank by obtaining the necessary documents to verify the basis of the request and investigating any circumstances which may preclude approval of the request.

Use of leave time on an intermittent basis may be granted only if the City Voluntary Leave Bank Committee approves intermittent usage. The committee may recommend/approve a lesser number of hours than requested by the member. The member whose access has been approved will, upon return to work and after accrual of a minimum of eight (8) hours leave, donate those eight (8) hours to the Leave Bank Program. Members who do not donate the required eight (8) hours will be dropped from the program. Future enrollment will be restricted until the eight (8) hours has been donated to the leave Bank Program.

The Leave Bank Committee will approve or disapprove the request within 10 working days. The member has five (5) business days to respond to any request for information. If disapproved, the Leave Bank Committee will notify the requestor of their decision by memo. A disapproval decision by the Leave Bank Committee is final.

#### **Decision Criteria:**

Each decision will be reviewed individually. In general, an employee must not be able to attend work due to a medical emergency as defined within this document. Following are examples of medical emergencies that may be acceptable reasons for accessing the Leave Bank:

- Heart Attack



- Stroke
- Cancer Treatment
- Surgery
- Any disorder/sickness that keeps an employee from work for more than 3 days.

Common requests that do not meet the criteria are:

- Routine pregnancies
- Common childhood ailments (i.e. ear infection)
- On the job injury
- Applying for leave hours after the employee has returned to work
- Elective/Cosmetic surgery (unless medically necessary)

Review and Continuance of the Leave Bank Program: The Committee shall determine from personnel reports when additional contributions of leave are necessary to keep the Bank at a sufficient level to support the program. Should the Committee determine that this program is not working as planned, the Committee may recommend that the City Manager revise or dissolve the program.

The City Manager may terminate the program if it is determined that it is not in the best interests of the City of Fort Worth. Should this program be found to be in violation of any laws the program will be terminated. If the Leave Bank Program is terminated, the remaining leave in the bank will be used until depleted.

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## Employee Conduct

### Conduct Warranting Disciplinary Action

Disciplinary action may be taken based upon any of the items listed below. This list is not intended to be all-inclusive; it is however representative of the kinds of conduct and incidents which warrant disciplinary action.

- Failure to perform assigned work.
- Failure to perform work in a satisfactory manner.
- Failure to observe safety policies, procedures, rules, regulations or standards. (Revised 02/23/2009)
- Engaging in behavior that threatens the safety of self, co-workers or the general public. (Revised 02/23/2009)
- Possessing a record or pattern of unsafe work behavior as evidenced by multiple preventable accidents. (Revised 02/23/2009)
- Carelessness or negligence in performing work.
- Failure to call in to notify supervisor of tardiness or absence.
- Misrepresentation or failure to adequately document the need to be off work.
- Failure to maintain or operate equipment, tools or vehicle in appropriate manner.
- Misuse or mis-appropriation of City monies and/or property.
- Falsifying, misrepresenting or omitting information for the benefit of self or others.
- Engaging in behavior which is inappropriate or disruptive in the workplace.
- Discourteous treatment of others.
- Violation of the City's Alcohol Misuse and Drug Abuse (revised June 1, 2004)

- **Insubordination** (revised June 1, 2004)
- Possession of unauthorized firearms, weapons, illegal drugs, alcohol or any other inappropriate item in the workplace (i.e., jobsite, vehicle or any location while engaged in city business).
- Reporting to work or working under the influence of drugs or alcohol and consuming such items during work hours.
- Giving or accepting gifts, money or favors in exchange for some benefit to self or others.
- Failure to maintain confidentiality.
- Violation of written city, departmental or division work rules, procedures or policies.
- Theft.
- Horseplay in the workplace.
- Misuse or misrepresentation of one's position or authority.
- Sexual, racial, ethnic, and religious harassment in the workplace and/or while conducting city business.
- Engaging in behavior while off duty which reflects adversely upon the City.
- **Absence without approval** – Employees who exhaust all appropriate leave and FMLA benefits and are unable to return to full duty status work may be terminated. (Revised January 26, 2001) In those instances where an employee fails to report to work, and management has no knowledge of his/her whereabouts, an automatic termination for being absent without leave may be appropriate. The Employee Relations Division in Human Resources must be consulted before exercising this action.
- **Off the Job Conduct** — In order to maintain the trust of the public, it is of utmost importance that employees not engage in conduct which could be detrimental to that trust, including public intoxication, criminal activity, illegal drug activity, slandering or defaming public officials, appointees or staff and any other conduct which could damage/harm the public's perception and/or trust of the City and any of its officials, appointees or staff.

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### Disciplinary Action Alternatives

(For more information, please see Appendix 5: Steps in Taking Discipline) (Revised 2-10-06)

There are various types of disciplinary action a supervisor may take in order to help an employee take responsibility for their inappropriate behavior or poor job performance. The Employee Relations Division in the Human Resources Department is available for guidance and consultation. The disciplinary options available to supervisors are presented below.

The alternatives available to supervisors are presented in order of severity (counseling to probationary period). Supervisors must decide what is an appropriate disciplinary action in a given instance. Factors to consider in making this decision include: 1) severity of problem or degree of negligence; 2) number of previous disciplinary actions; 3) frequency of previous problems (time lapse between disciplinary actions); and, 4) employee's work record.

NOTE: If an employee is undergoing a disciplinary action and he/she has an occupational injury or non-occupational injury or illness, the injury does not stop the disciplinary process. Whenever possible, the process should proceed via correspondence utilizing certified mail. Depending upon employee restrictions, meetings, telephone conversations, and/or certified mail may be utilized to complete a disciplinary action. In some instances, the action may be delayed or deferred (Revised Jan. 26, 2001) until the employee is released to return to work. In such instances, contact the Occupational Health & Safety Office (Revised June 1, 2004) for guidance.

**Counseling(s) – Supervisors should meet PRIVATELY with employees to discuss performance or behavioral problems when they first arise.** A counseling session with an employee will not require the supervisor to place any written disciplinary action into an employee's personnel file. However, the supervisor should maintain notes of the meeting held with the employee. This is a pre- or non- disciplinary action.

#### Level 1

**Oral Warning(s) –** An oral warning is the first level of discipline. Oral warnings may be documented on an **Employee Contact Slip** or an Inter-Office Correspondence. Copies of Oral Warnings will not be sent to the Human Resources Department. The employee will be given a copy and the department will retain a copy (Oral Warnings are not grievable.)

The supervisor should meet the employee and discuss the following items:

1. What is expected of the employee and why.
2. How the employee has not met the personal conduct or performance requirements of the job and how his/her personal conduct or performance has been unsatisfactory.
3. The employee's reasons for his/her personal conduct and/or poor performance
4. Specific actions the employee needs to take to improve conduct or performance to a satisfactory level.
5. The consequences to expect if the behavior or poor performance continues.

Upon completion of the meeting with the employee, the supervisor should sign the warning, obtain the signatures of the employee and the Department Director or designee and distribute copies to the employee and the departmental file.

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## Level 2

Written Warning(s) – A written warning is the second level of discipline. The supervisor will prepare a written summary of the problem as outlined below (Note: Either the City's Inter-Office Correspondence or **Employee Contact Slip** may be used as a written warning). The supervisor will present the written warning to the employee and discuss its contents, which should include the following:

1. Dates and points covered in previous warning(s).
2. A description of specific problem(s).
3. The employee's reasons for his/her personal conduct and/or poor performance.
4. Specific actions the employee needs to take to improve personal conduct or performance to a satisfactory level.
5. A warning that continuation of the problem(s) will result in more severe disciplinary action up to and including termination.

Upon completion of the meeting with the employee, the supervisor should sign the warning, obtain the signatures of the employee and the Department Director or designee and distribute copies to the employee, the departmental file and the employee's Human Resources Department file.

In the event that an employee refuses to sign a written warning, the supervisor should have another supervisor witness the fact that the employee was issued a written warning and refused to sign the warning by initialing the written warning

Written warnings are not grievable. (Revised January 26, 2001)

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## Level 3

**NOTE: SPECIAL CIRCUMSTANCE PERTAINING TO DISCIPLINARY ACTIONS WHICH IMPACT EMPLOYEES' WAGES**

When employees face disciplinary actions such as suspensions and temporary reductions in rate of pay, the manager/supervisor who presents the action to the employee must tell the employee the action being considered and give the employee an opportunity to respond to the intended disciplinary action. Once this exchange is completed, the action can be taken, unless the manager/supervisor decides to reconsider in light of what the employee has said.

Suspension(s) Without Pay (for ten (10) or less working days) – Suspensions without pay is the third level of discipline. Depending upon the nature and severity of the violation or problem, an employee may be suspended for one, two, three, four, or five days without pay. Typically, employees are not suspended for more than five days without pay, however, supervisors do have the flexibility to suspend employees for more than five days if they deem it appropriate. It should also be noted that the actual days off without pay will be determined by the supervisor. If work loads are such that it would be inconvenient to the work team and/or severely lessen productivity, an employee's suspension without pay may be delayed a few work days or even until the following work week in order to lessen the negative impact of the employee's absence upon the work crew. Multiple days without pay may be spread over several weeks, if deemed appropriate. This time should be coded as "D" on the timesheet. (Revised 2-10-06)

Suspension(s) Without Pay (for more than ten (10) working days) – See the Pre-Termination, Demotion, Suspension Process in the Termination and Separation Tab (Revised 2-10-06).

Suspensions without pay should be documented in the same manner as written warnings.

Temporary Reduction(s) In Rate of Pay – Employees may be disciplined by reducing their rate of pay rather than suspending them without pay. The advantage of exercising this option rather than the suspensions without pay option is that the employee is required to be at work; therefore, the work group does not suffer because of the employee's absence. Also, the employee's pay is impacted with the hope that the employee will realize the severity of the problem.

Reductions in an employee's rate of pay can be accomplished by completing a Personnel Action Request (PAR) Form and showing the employee's current rate of pay and the employee's new rate of pay due to a disciplinary action. In the justification box on the PAR, a brief explanation for the reduction in pay can be explained.

If an employee's rate of pay is reduced 10% for one pay period, this is equivalent to one day without pay. Likewise, if an employee's rate of pay is reduced 5%, this reduction in pay for two pay periods is equivalent to one day without pay. Therefore, if a supervisor believes a three-day suspension without pay is in order, the supervisor may reduce an employee's rate of pay 10% for three pay periods or 5% for six pay periods. If this option is exercised, a Personnel Action Request Form to initiate the reduction must be completed and, at the completion of the disciplinary action, another PAR must be completed to restore the employee's original rate of pay.

NOTE: Suspension without pay and reductions in rate of pay are considered to be equivalent disciplinary actions.

NOTE: SPECIAL CIRCUMSTANCE PERTAINING TO EXEMPT EMPLOYEES UNDER THE FLSA:

- Employees who are exempt under the Fair Labor Standards Act can be disciplined by being suspended without pay for full day increments (8, 16, etc. hours, etc.). Employees who have alternative work schedules can be disciplined by being suspended without pay for full day increments according to their work schedule (9 hours for employees on a 9/80 schedule; 10 hours for employees on a four day workweek with ten-hour days, etc.) Suspensions without pay for a full workday(s) will not jeopardize an exempt employee's status. Suspensions without pay for less than a full work day are prohibited. (Revised Nov. 15, 2004)
- The only exception to the suspension prohibition is disciplining an exempt employee for committing a major safety violation. In such instances, a suspension without pay for less than a full work day is permitted (Revised Nov. 15, 2004). An example of a major safety violation would be igniting an open flame in the presence of volatile flammable materials.
- Reduction(s) in Rate of Pay is not a disciplinary option for exempt employees.
- The disciplinary sequence for exempt employees is the same as non-exempt employees, except for the reduction in rate of pay and suspension options. Therefore, in lieu of this prohibited option, when multiple written warnings are issued to an exempt employee, the severity of the warnings must be clearly stated in the text of the warning.
- The severity of a particular written warning can be established by noting the consequences an employee can expect if future work rule violations occur. Such consequences may include a full work week suspension, disciplinary probation, demotion or termination. The consequences for future violations stated on a given warning will establish that warning's severity.
- Reduction in Accrued Leave Time – In lieu of suspensions without pay and reductions in rate of pay, exempt employees may be disciplined by deleting accrued vacation time (Revised December 16, 2000) in full work day increments. These actions should be documented in the same manner as written warnings.

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#### Level 4

Disciplinary Probationary Period – A disciplinary probationary period is considered to be a very serious disciplinary action. When an employee is placed on probation, the employee is one step away from termination. Therefore, supervisors must give serious consideration before they decide to place an employee on disciplinary probation. The supervisor will prepare a written memorandum outlining the provisions of the probationary period. The Probationary Period memorandum should include the following items in the order listed:

1. Outline the employee's behaviors (misconduct) which have resulted in the need to place him/her on probation.
2. Identify the behaviors that are unacceptable.
3. Identify the behavioral changes that must take place.
4. Explain the consequences of failure to improve and to perform in an acceptable manner.
5. Specify the duration of the probationary period (not to exceed six (6) months).
6. Establish regular, periodic times during the probationary period to meet with the employee and discuss his/her progress in improving. Prepare and file notes of the meetings.

The supervisor must decide how long the probationary period will be. The supervisor may establish a probationary period from one month to six months in duration. Six months is the maximum length that a supervisor can place an employee on probation. (Six months is equivalent to the initial probationary period which all new City employees must complete.) When deciding how long the probationary period should be, the supervisor should take into consideration factors such as: severity and number of previous violations, time which elapsed between previous violations, work record, evaluations, and other relevant documented information, and whether the problem is "habitual" (which would suggest that a lengthier period is needed). Supervisors must meet with employees who are placed on probation on a regular basis during the probationary period to provide specific feedback on the employee's progress.

Meet with the employee at the end of the probationary period to evaluate and discuss his/her progress and what action, if any, will be taken. Prepare and file notes of the meeting.

Please note that when an employee is placed on probation, the employee is not guaranteed employment for the duration of the probationary period. If at any time during the probationary period it becomes obvious that the employee cannot or will not change his or her behavior or improve his or her job performance, the supervisor may initiate a termination action.

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### **Level 5**

**Demotion** – Supervisors may decide that demotion of an employee from one classification to another classification is an appropriate disciplinary action. A pre-demotion meeting must be convened in order to demote an employee from one position to another. Supervisors must follow the procedures outlined in this policy in order to avoid the possibility of having the action modified or reversed later.

If an employee, in order to avoid disciplinary action, "volunteers" to demote into a lower level position, a memo should be prepared for the employee's signature which clearly explains the reasons for the demotion, what the employee's new classification and rate of pay will be (a minimum 5% reduction in rate of pay will be imposed) and that the employee agrees with the action being taken. See the Pre-Termination, Demotion, Suspension Process in the Termination and Separation Tab (Revised 2-10-06).

### **Level 6**

**Termination** – This policy provides a detailed explanation of the process which supervisors must follow in order to terminate an employee for disciplinary reasons. The supervisor must talk with the Employee Relations Division of the Human Resources Department and discuss their intentions prior to meeting with the employee. A Pre-Termination Meeting memorandum must be prepared and a meeting must be convened in order to notify the employee of the basis for the intended termination and in order to give the employee an opportunity to respond to the reasons for considering termination. Supervisors should take notes of the employee's comments and the information provided during this meeting should be considered in the decision making process. Persons attending the Pre-Termination Meeting should include the employee's immediate supervisor, a member of the department's management team, the employee, and a representative for the employee (if the employee designates such). Avoid having a large number of people in this meeting. See the Pre-Termination, Demotion, Suspension Process in the Termination and Separation Tab (Revised 2-10-06).

**Transfer** – There are occasions when an employee who is experiencing difficulties on the job could benefit by being moved under another supervisor. There are instances where supervisory styles or personalities are such that an employee may not be able to function well under one supervisor's direction, whereas, if the employee were placed under a different supervisor, they may be able to function very well. If the decision is made to transfer an employee, this action would not, in and of itself, be considered a disciplinary action. To transfer an employee for the purpose of giving an employee an opportunity to succeed under another supervisor is considered a preventative measure. It is a positive action in giving the employee an opportunity to demonstrate that he or she can be a productive member of a work team.

When it is apparent that both the City and the employee will benefit and where the Human Resources Director or designee approves, efforts will be made to assist the employee in obtaining a transfer. Under these circumstances, the following procedures are suggested: 1) enlist the aid of the Human Resources Department in facilitating the transfer; and, 2) allow the employee reasonable opportunities to meet with hiring authorities within the City who can assist with the transfer. The consideration of a transfer should be a sincere desire to transfer without prejudice and malice toward the employee. It should not be used to provide a method of "compromise" or a method by which the "problem" is passed on to another supervisor.

**NOTE:** Charging employees for lost or damaged tools, equipment, etc. Employees may be charged to recover costs for the replacement and/or repair of city equipment which is lost and/or damaged due to negligence, carelessness, and/or abuse. Monies cannot be recovered by reducing or deducting an employee's wages. Employees may be charged and required to pay or face additional disciplinary action.

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### **Grievances and Appeals**

All eligible employees (excluding temporary and initial probationary employees) may appeal disciplinary actions through the City's Appeal or Grievance Procedures.

**Employee Assistance Program (also see EAP)** (Revised 2-10-06)

In addition to the disciplinary actions which have been presented above, the supervisor should be mindful of the fact that on occasion, problems, difficulties, and/or stresses on or away from the job can adversely impact an employee's ability to perform their assigned duties or conduct themselves properly on the job. Therefore, supervisors may exercise the option of suggesting or requiring an employee meet with the Employee Assistance Program Coordinator. This meeting will give the employee an opportunity to express and reveal non-job related problems in a confidential setting and perhaps find assistance to resolve those problems.

Supervisors need to know that the Employee Assistance Program is not limited to alcohol and drug abuse problems. Personal counseling in order to deal with personal crises such as, financial problems, marital problems, parental problems, and any other life stressors can be effectively addressed through the Employee Assistance Program.

If a supervisor observes a significant adverse change in an employee's behavior and there are no apparent signs of alcohol or drug abuse, it would be wise for the supervisor to suggest or, if deemed appropriate, to require that the employee meet with the Employee Assistance Program Coordinator.

**Removal Of Disciplinary Actions** - Disciplinary actions will become void 24 months after their issuance, however, actions involving harassment, inappropriate conduct, and other serious violations will not be voided 24 months after their issuance. Employees may request the removal of "voided" disciplinary documents from their City personnel file. (Revised December 3, 2001)

**Tape Recording Disciplinary Action Meetings** – Management will decide whether or not a given meeting will be tape recorded. If management wants to record a meeting, it will be recorded. If an employee wants to record a meeting, management will decide whether or not to allow the recording. Management's decisions on this matter are final.

**Alcohol Misuse and Drug Abuse Policy**

(For policy information please see Appendix 1) (Revised 2-10-06)

**Purpose**

This regulation delineates the City's policy with regard to alcohol misuse and drug abuse in the workplace and the use of these substances that affect employees' performance during work hours. It is also applicable to applicants seeking employment with the City.

**Departments Affected**

All departments and applicants seeking employment with the City are covered by this policy. Police and Fire operations are excluded from Federal Department of Transportation (DOT) provisions, but are included in all non-DOT provisions of this policy.

**Policy** (For more information about violations see Appendix 2)(Revised 2-10-06)

It is the policy of the City of Fort Worth to maintain a safe work environment conducive to effective city government operations. All personnel, equipment and operating practices are required to be consistent with the highest standards of health and safety. The presence of alcohol and drugs in the workplace and/or the abuse of alcohol or drugs by employees is inconsistent with effective government.

The City complies with DOT requirements for affected positions

City employees are subject to a "two strike" policy for alcohol and illegal use of prescription drugs: the first positive test before and/or after 5-1-99 (Revised January 26, 2001) (alcohol or illegal use of prescription drugs) results in treatment and/or education opportunities; the second positive test results in termination regardless of the number of years between positive tests. (Revised January 26, 2001)

City employees are subject to a "zero tolerance" or "one strike" policy for illegal controlled substances. The first positive test results in termination, except for prescription drugs as outlined in more detail below.

Applicants who are not hired because they fail an alcohol or drug test and employees who violate this policy and are terminated are not eligible for employment or re-employment for five years.

Possession and/or illegal use of drugs and/or alcohol on the job is prohibited.

Those departments whose employees may operate commercial-type vehicles and for which a commercial drivers license (CDL) is required are subject to alcohol misuse and drug abuse regulations as mandated under the Federal Omnibus Transportation Employee Testing Act of 1991. The consumption of alcohol and the illegal use, possession, distribution, dispensation, transportation, sale, or manufacture of dangerous drugs is prohibited in the workplace. This prohibition includes any violation of state and federal controlled substances acts.

Employees are also prohibited from performing official duties while under the influence of alcohol or illegal drugs or, if performance

is impaired, while under the influence of lawfully prescribed or over-the-counter substances. Any employee in this category will be referred to the City's EAP/SAP (Employee Assistance Program/ Substance Abuse Professional).

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## **Drugs**

The City has a zero tolerance policy for use of illegal controlled substances (amphetamines/methamphetamines, cocaine, opiates, PCP and marijuana). Therefore, any employee who fails a drug screen will be scheduled for a pre-termination meeting, except as outlined below for prescription drugs. A DOT safety sensitive employee will also be referred to the EAP/SAP (DOT mandated). This referral does not negate the zero tolerance policy.

**Prescribed Drugs** – The legitimate use of prescribed or over-the-counter drugs is not prohibited if performance is not impaired. If an employee is unable to perform his or her assigned duties or perform any duty in a safe manner, the employee will be subject to temporary reassignment of duties or be required to take leave. (See Personnel Regulation "[Medicines on the Job.](#)")

An applicant or employee using a prescription drug containing an opiate, narcotic or amphetamine which is prescribed for him or her will have a "medically explained" negative test — thus no violation of this policy. There will be no loss of employment nor loss of promotion or transfer. An employee may be referred to the EAP to evaluate his/her ability to safely perform safety-sensitive job functions while using the medication. In cases where an employee is misusing or abusing a prescription drug, the EAP will work with the employee in addressing the issue.

The use of someone else's prescription drug containing a controlled substance (listed above) is considered to be a positive drug screen. An applicant will have the employment offer withdrawn and cannot reapply for five (5) years. An employee will be referred to the EAP for evaluation (will have one chance). An employee whose test resulted from a promotion or transfer will have the job offer withdrawn and cannot reapply for a period of six (6) months.

Within ten (10) working days of notification from the EAP of a positive test, the employee is responsible for providing documentation from the Medical Review Officer that the positive drug screen was based upon the illegal use of a prescription drug, in order for the two strike policy outlined above to apply (if the employee believes the positive result to be prescription related). The employee will be off on his/her own time (accrued leave if available) while obtaining the requested documentation from the Medical Review Officer. If such documentation is not provided within the time frame specified, the employee will be scheduled for a pre-termination meeting.

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## **Alcohol and/or Prescription Drug Abuse**

Any employee who fails an alcohol screen and/or who has a positive drug test related to the illegal use of a prescription drug the first time must agree in writing to comply with EAP developed requirements. As an example, a non-DOT employee must agree to EAP unannounced alcohol and/or drug screens for a period of 24 months, or for an employee in a DOT safety sensitive position, 60 months. Failure to agree in writing and/or failure to successfully comply to the EAP requirements will result in the scheduling of a pre-termination meeting.

Any employee who fails an alcohol screen or whose positive test for drugs is due to illegal use of prescription drugs, will be evaluated by the EAP for the need to be referred. The EAP will assist the employee in determining the need for chemical dependency counseling and/or rehabilitation (formal treatment program).

An employee who undergoes an alcohol screen in conjunction with a promotion or transfer and fails the alcohol screen will have the job transaction withdrawn and can not reapply for a period of six (6) months. (Revised January 26, 2001)

### **Employees not Qualifying for Treatment:**

If an employee fails to meet the criteria to be placed in a program, the positive alcohol screen or illegal use of a prescription drug still qualifies as a first positive. Such employees will be required to participate in an appropriate educational program as determined by the EAP Coordinator. Refusal or failure to participate in the EAP required program will result in the scheduling of a pre-termination meeting.

### **Employees Qualifying for Treatment:**

If counseling/treatment/rehabilitation criteria is met, the employee will be referred. Refusal to participate or failure to successfully comply with a counseling program or treatment program to which an employee is referred will result in the employee being scheduled for a pre-termination meeting.

Failure to successfully comply with a counseling program and/or treatment program may involve any of the following examples, which are not intended to be all inclusive:

- checking one's self out of the program against medical advice;

- being dismissed from the program (therapeutic discharge);
- non-compliance in fulfilling the program plan as designed by the program staff/counselors;
- non-compliance in attending the EAP's required aftercare meetings.

Upon a negative return-to-work alcohol screen or drug screen, any subsequent positive alcohol screen and/or illegal use of prescription drug positive test will result in the employee being scheduled for a pre-termination meeting regardless of the number of years between positive tests. (Revised January 26, 2001)

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### **Applicant Testing**

(For more information about testing procedures, see Appendix 3) (Revised 2-10-06)

Final candidates for employment with the City will be required to undergo a drug screening procedure. Final applicants for Federal Department of Transportation (DOT) safety-sensitive positions will be required to undergo a drug screening procedure which may, if ordered, include an alcohol screen.

The City will not engage, employ, or otherwise give a commitment of employment to a final applicant for a position unless that person passes a drug test and/or alcohol test, if required.

### **Employee Testing**

Employees can be tested in six circumstances:

1. Random test if employee is in a DOT or city-sensitive position
2. Promotion/transfer/demotion/reclassification into DOT or city-sensitive position
3. Reasonable cause test
4. Post accident test
5. EAP return to work test\*
6. EAP follow-up test\*

\*Only applies after a previous positive test has occurred.

### **Criteria for Inclusion in Random Tests and Promotion/Transfer/Demotion/ Reclassification Tests**

Employees in city-sensitive and DOT positions are subject to random testing.

A city-sensitive position is any position meeting one or more of the following parameters:

1. Operation of city vehicles or personal vehicles on city business or non-DOT equipment;
2. Direct youth activities; and/or
3. High level of safety consciousness (example: zoo animal keepers). (Revised October 9, 1999)

A DOT position is one that does or may require a commercial driver's license. Such a safety-sensitive position has safety-sensitive functions which includes, all time from the time a driver begins to work or is required to be in a readiness to work until the time he/she is relieved from work and all responsibility for performing work. The employee is expected to be drug and alcohol free. A DOT position employee may not consume any alcohol from any source within four hours prior to reporting for duty.

1. Random Testing: — Employees in city-sensitive positions and/or DOT positions will be selected for testing on a random basis in a manner to ensure that each covered employee has a substantially equal chance of selection. The testing frequency and selection process will be such that an employee's chance of selection continues to exist throughout his or her employment in a sensitive position.
  - a. The City will ensure that employees in city-sensitive positions are tested for drugs on a random basis at an annual rate of approximately 20% of the number of employees in City sensitive positions.
  - b. Employees in DOT positions will be selected for testing on a random basis. Annually 50% of the covered employees will be tested for drugs; 25% will be tested for alcohol.



- c. Employees in positions with D, E, and F key codes will be tested for drugs on a random basis at an annual rate of 20%. (Revised January 26, 2001)
2. Promotion, Demotion, Transfer, Reclassification — Employees moving into city- sensitive and/or DOT positions will be tested for drugs prior to the promotion, demotion, transfer, reclassification, etc.
3. Reasonable Cause – When a supervisor who is trained to detect drug abuse or alcohol misuse determines that an employee may be under the influence of either, the supervisor must require the employee to be tested for alcohol and drugs (See Appendix 2). The City's EAP Coordinator may also initiate an EAP reasonable cause alcohol and/or drug screen, with the approval of the Human Resources Director or designee. In special circumstances involving public safety issues, a City department may order a reasonable cause alcohol and/or drug screen, if approved by the Human Resources Director or designee.
4. Post-Accident – Any accident in which a City employee is operating a City vehicle or personal vehicle on City business will require a post accident alcohol and drug test in the following circumstances:
  - a. Any accident involving a fatality.
  - b. Any accident in which a person is transported for medical attention.
  - c. Any accident where a citation for a traffic violation is issued to the City driver or operator.

A post-accident (vehicular or non-vehicular) test may be required in the following circumstances:

1. In those accidents where the supervisor and/or the City's Safety Officer can find no reasonable explanation for the cause of the accident, the supervisor and/or the City's Safety Officer may request a post-accident alcohol and drug test. (The supervisor and/or the City's Safety Officer must have had the two hours alcohol/drug misuse recognition training.)
2. The City's EAP Coordinator may also initiate an EAP post-accident alcohol and drug screen when deemed appropriate.
3. Commercial Type Vehicle – In the event of a fatality and/or extreme damage to property and/or serious injury arising out of the use or the operation of a commercial type vehicle, other employees (e.g., mechanics) may also be required to undergo an alcohol and drug test.

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#### **Post-accident Testing Procedures:**

**Alcohol Testing** – When an accident meets the testing criteria, the employee must be tested for alcohol within two hours following the accident. If an alcohol test is not administered within two hours, the supervisor must prepare and maintain a record which explains why a test was not administered. If the employee is not tested within 8 hours, the supervisor must prepare and maintain a record which explains why a test was not administered. If the alcohol test is not conducted within 8 hours, all alcohol testing efforts must cease, and a report explaining why no test was done will be prepared. A copy of the report must be sent to the EAP Coordinator.

**Drug Test** – When the accident meets the testing criteria, the employee must be tested for drugs within 32 hours following the accident. If the drug test is not administered, the supervisor must prepare and maintain on file a record stating why the test was not conducted. A copy of the report must be sent to the EAP Coordinator.

A DOT position employee may not consume any alcohol for eight hours following an accident, or until taking the post-accident alcohol test, whichever comes first. An employee violating this provision will be scheduled for a pre-termination meeting.

#### **Drug and Alcohol Testing Procedures**

Drugs - The controlled substances for which a test may be conducted are:

- a. Marijuana
- b. Cocaine
- c. Opiates
- d. Phencyclidine (PCP)
- e. Amphetamines/Methamphetamines

**Alcohol Testing** — Alcohol testing will be done by breath analysis or other such method as may be approved by the U. S. Department of Transportation.

## a. Non-DOT Employees

- o For employees in non-DOT positions a violation will occur when an employee has a breath alcohol concentration confirmation test level of 0.04 or greater. He/she will be referred to the EAP/SAP.
- o If an employee in a non-DOT position has an alcohol confirmation test of 0.02 up to 0.04, he/she may not perform any city-sensitive function for 24 hours. He/she will be referred to the EAP/SAP.

## b. DOT Employees

- o For DOT positions, a violation will occur when the employee has a breath alcohol concentration confirmation test level of 0.04 or greater. He/she shall be referred to the EAP/SAP.
- o If the confirmation test level is 0.02 to 0.04, the employee may not perform any DOT safety-sensitive functions for 24 hours after the test and will be referred to the EAP/SAP.

Testing Procedures – An individual who is required to undergo an alcohol or drug test, will be requested by a supervisor to sign a consent form to be prescribed by the City, and to report to the designated health clinic or laboratory. All alcohol and drug tests will be conducted at City expense with the exception of retests as discussed below. Refusal to sign a consent form will result in the scheduling of a pre-termination meeting.

Appeal and Retesting – A final applicant or employee may appeal the results of a positive drug test by requesting in writing through the collection site that a portion of the original urine sample be provided to another Department of Health and Human Services (DHHS) approved laboratory for retesting, and by procuring the services of a licensed physician meeting the qualifications of the medical review officer to interpret the test result, all at the expense of the final applicant or employee.

- a. Following notification of a positive drug screen by the department or the EAP, the employee or final applicant will be allowed three (3) working days to notify the EAP (in writing) of the decision to request a retest using the split sample from the original urine specimen. The employee or final applicant will then be given up to five (5) working days to make payment in full (money order or cashier's check; no cash) for the retest expense. An employee will not be allowed to return to work until the retest results are received by the EAP or the department. The employee may use any accrued leave time with the approval of the department. Note: The retest process is conducted by an independent laboratory and results may take up to ten (10) business days for the City EAP to receive the test results. (Revised 02/23/2009)
- b. In the event that the result of the retest is negative, indicating the positive result of the first test was erroneous, the City will reimburse the final applicant or the employee for the cost of the retest. If an employee was required to use accrued leave time while waiting for the retest results and the positive result of the first test was erroneous the leave time used will be changed to "B" time so the employee will not suffer a loss due to the erroneous test result. (Revised 02/23/2009)

Confidentiality, Records and Retention – All information related to the alcohol and drug testing of individuals will be held in strict confidence consistent with the provisions of applicable law.

- a. The EAP and the designated Health Clinic shall be responsible for retaining all confidential records relating to the substance abuse program which include training, testing, rehabilitation, and litigation. All documentation which contains information related to an employee's positive test result will be retained by the EAP and/or the Clinic in a locked file separate and apart from the employee's personnel file. All records of individuals who pass a test will be retained for at least one year. All records of individuals who do not pass a test will be retained for at least five years.

### Refusal To Test

- a. An employee who refuses to consent to an alcohol or drug test will be scheduled for a pre-termination meeting. A final applicant who refuses to consent to testing will not be considered for employment.
  - 1. If a DOT position employee refuses to undergo a test, he/she will be referred to the EAP/Substance Abuse Professional (SAP), in addition to being scheduled for a pre-termination meeting. (The SAP cases covered by the DOT regulations are handled by a third party vendor.) (Revised January 21, 2002)

Refusal to test includes:

1. An employee who fails to provide adequate breath for alcohol testing without a valid medical explanation.
2. In the event of a controlled substance test, an employee who fails to provide adequate urine for testing, without a valid medical explanation. A non-DOT employee may voluntarily agree to permit blood serum to be taken to avoid being terminated for refusing to be tested. A DOT employee does not have the blood serum options. (Revised January 21, 2002)
3. An employee who engages in conduct that "clearly obstructs" a testing procedure.
4. After an accident that mandates post-accident testing, the driver/operator fails to make himself or herself available for a test

within the time frame specified.

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### Training/Education

Supervisors - DOT – Supervisors and managers of DOT employees will be provided with 60 minutes of training in the recognition and signs of alcohol misuse and 60 minutes training in drug abuse recognition and signs. Supervisors are responsible for requesting this training through Human Resources. Supervisors and managers must retake this training every three years.

#### Supervisors/Managers

The EAP also conducts a four-hour EAP/Alcohol/Substance Abuse workshop throughout the year. This will qualify for the required DOT supervisors/managers training. Non-DOT supervisors/managers are encouraged to take this workshop once every three years. Non supervisors/managers may also take this workshop with their supervisor's approval.

#### DOT Employees

DOT employees will be provided educational material concerning the alcohol misuse/drug abuse rules and a copy of this policy.

#### Non-DOT Employees

Classes on alcohol and substance abuse will be available for all employees who wish to attend.

### Suspicious Substances

If a substance which appears to be an illegal drug is found within an area under the effective control of an employee, an investigation will be conducted by appropriate law enforcement agencies. If warranted, appropriate disciplinary action will be taken. The employee may also be subject to criminal charges.

### Self Referral

#### City-Sponsored Case Management of Rehabilitation Program Participation (Revised 02/23/2009)

An employee may self-refer to the City's Employee Assistance Program for a chemical dependency problem (drugs and/or alcohol). A self referral will not count as a positive test. The EAP Coordinator (Revised July 1, 2003) assists employees in obtaining help for alcohol and/or drug problems. An employee may not self-refer once a test (random, post-accident, reasonable cause, promotion/transfer, or EAP follow-up) has been scheduled.

An employee will be encouraged to place himself/herself under formal EAP case management. Those employees who place themselves under the EAP's management will be required (Revised 02/23/2009) to:

- a. Sign a "consent to disclose document" allowing the EAP to contact the appropriate persons in the employee's department
- b. Comply with the EAP/treatment/ rehabilitation program conditions. (Revised Oct. 9, 1999)
- c. Report any incidence of relapse, interruption or discontinuation in the rehabilitation program to the EAP immediately. (Revised 02/23/2009)

Random drug testing will be temporarily suspended during the employee's participation in the rehabilitation program case managed by the EAP. Testing will resume upon completion of the rehabilitation program or when there is evidence that the employee has failed to comply with the rehabilitation program guidelines. (Revised 02/23/2009) An employee's self-referral does not prevent the department from taking appropriate disciplinary action for the employee's performance and/or conduct for other work-rule violations (e.g. time/attendance, insubordination, conflict with co-workers, etc.) (Revised 02/23/2009)

#### Non-City Sponsored Case Management of Rehabilitation Program Participation (Revised 02/23/2009)

Employees who are involved in a rehabilitation program that is not sponsored or associated with the City must notify the City's EAP Coordinator about the program within five (5) working days after entering the program. Notification is necessary to ensure proper handling of those situations when an unannounced drug test arises and the employee is actively engaged in a rehabilitation program. (Revised 02/23/2009)

If an employee is involved in a bona fide rehabilitation program (as determined by the City's EAP Coordinator) and a random drug test occurs the following provisions apply: if the employee has been compliant with the protocols of the rehabilitation program for 28 days or less prior to the random drug test date and if the test result is positive, a pre-termination meeting will not be convened. The City's EAP Coordinator will meet with the employee and the department to determine what course of action will be taken. (Revised 02/23/2009)

- Alcohol Misuse and Drug Abuse Policy - Appendix 1
- Alcohol Misuse and Drug Abuse Policy - Appendix 2

- Alcohol Misuse and Drug Abuse Policy - Appendix 3
- Alcohol Misuse and Drug Abuse Policy - Appendix 4

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### City Auctions

The Charter of the City of Fort Worth forbids City employees from bidding in City auctions and having anyone represent them at such an auction. Only persons who are non-City employees and who have properly registered to participate may bid at City auctions.

### Criminal Convictions (New Policy effective 2-10-06)

Employees must inform their supervisors as soon as possible (within five (5) working days of notification of conviction) (Revised May 8, 2007) upon their conviction for criminal activity. Failure to do so may result in disciplinary action up to and including termination. Upon being informed of a conviction for criminal activity, the department will, in consultation with the Human Resources Department and the Department of Law, determine whether there should be any changes to the employee's duties or employment status.

### Drug-Free Workplace

The City of Fort Worth is committed to having a drug-free workplace. The possession and/or consumption of illegal drugs by employees at the workplace, and being at the workplace while under the influence of such drugs is prohibited and will result in severe disciplinary action.

In addition to the City's commitment to have a drug-free workplace, the Omnibus Drug Initiative Act of 1988 requires recipients of federal contracts over \$25,000 and all grantees to certify that they maintain a drug-free workplace.

The City does post-employment offer, random, post-accident, and reasonable cause drug testing. An Employee Assistance Program is available to assist employees who need help in dealing with drug related issues. The presence of drugs on the job will not be tolerated. Help is available for those who desire to be helped.

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### Firearms At The Workplace

Employees shall not carry or possess a firearm in the course and scope of their employment except in the following circumstances:

- They are required to do so by the City Manager as part of their assigned duties
- They are retired Peace Officers who have been issued a Certificate of Proficiency by the Fort Worth Police Department in compliance with Section 1701.357 of the Texas State Occupations Code and are required to carry a firearm by the City Manager as part of their assigned duties.

Employees who are licensed by the State of Texas under Article 4413 (29ee), Texas Revised Civil Statutes, to carry a concealed handgun likewise shall not carry or possess a concealed handgun in the course of scope of their employment unless required to do so by the City Manager as part of their assigned duties.

Nothing in this policy shall be construed to prohibit or regulate the carrying of handguns in employee-owned motor vehicles by an employee who has a valid license to carry a concealed handgun under Article 4413 (29ee), Texas Revised Civil Statutes. (revised June 1, 2004)

Any employee found in violation of this regulation shall be disciplined. Such discipline may include termination.

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### Harassment-free Workplace

It is the policy of the City of Fort Worth to treat all employees with respect. Employees have the right to work in an environment that is free of conduct that is harassing or inappropriate. No employee shall be subjected to unsolicited and unwelcome sexual, ethnic, racial or religious overtures or conduct, either verbal or physical by any persons while engaged in legitimate city business. No employee shall encourage or condone such overtures or conduct, either verbal or physical. Any employee who engages in, perpetuates or condones inappropriate behavior shall be subject to disciplinary action. Likewise, any persons conducting business with the City (contractors, vendors, citizens, interns, volunteers, or agents thereof) are expected to treat our employees with respect and to conform to the same workplace standards of conduct as City employees.

Employee's Responsibilities — It is the responsibility of each employee of the City of Fort Worth to engage in and promote workplace behaviors that create and maintain an environment of respect and that promote effective teamwork. It is likewise the

responsibility of each employee to report those behaviors that damage this environment, especially those of a harassing nature.

**Managers and Supervisors Responsibilities** – Managers and supervisors have a greater responsibility, not only to model respectful, professional conduct at the workplace, but also to maintain an environment of respect and effective teamwork in their work areas. Managers and supervisors should monitor the workplace for inappropriate behavior and must immediately report all incidents of harassing behavior to the Human Resources Department.

Appropriate corrective action will be taken in response to harassing behavior toward City employees or by employees toward non-employees.

The definitions below are from the regulations adopted by the U.S. Equal Employment Opportunity Commission.

**Sexual Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal (slurs, jokes) or physical conduct of a sexual nature constitute sexual harassment if:

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

**Ethnic/Racial Harassment** – Ethnic or racial slurs or jokes, and other verbal or physical conduct relating to an employee's national origin or race constitute harassment when this conduct:

- a. Has the purpose or effect of creating an intimidating, hostile or offensive working environment or,
- b. Has the purpose or effect of interfering with an employee's work performance or,
- c. Adversely affects an employee's employment opportunities.

**Religious Harassment** – Religious slurs or jokes, and other verbal or physical conduct relating to an employee's religious beliefs constitute harassment when the conduct:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment or,
- b. Has the purpose or effect of interfering with an employee's work performance or,
- c. Adversely affects an employee's employment opportunities.

An employee's intentions and motives are not the decisive factors in considering alleged harassment behavior. The effect of one employee's behavior upon another employee is the decisive factor. If an employee's behavior is considered to be offensive by another employee or if it has an intimidating effect upon another employee, racial, sexual, ethnic, or religious harassment may be present. The welcomeness, frequency, and severity of the behavior determine whether or not harassment has occurred.

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### **Investigation of Complaints**

Any employee who feels that he or she has been the victim of racial, sexual, ethnic, or religious harassment or any employee who witnesses behavior that rises to the level of harassment as defined above should notify the Human Resources Department immediately. If there is a question whether the behavior meets the definition(s) above, the Human Resources Department should be contacted for assistance.

Any complaint alleging harassment shall be construed as being a claim against the City of Fort Worth. Each complaint, unless determined by legal counsel to be facially invalid, shall be investigated as if it were a claim. Legal counsel overseeing the claim shall instruct the Human Resources Director or designee to investigate the complaint and claim on behalf of the City of Fort Worth.

The only exception to this section is in departments regulated by Chapter 143 of the Local Government Code, (Fire and Police). Violations involving sworn personnel may be reported through the chain of command, directly to the Chief's office, or to the appropriate Division (either Internal Affairs or Human Resources). This in no way precludes any individual from reporting directly to the Human Resources Department. Investigations may be conducted by the department in accordance with the statute and the Fort Worth Firefighter's and Police Officers' Civil Service Rules and Regulations.

All allegations of harassment will be investigated and all findings, decisions, and recommendations will be made on an individual case-by-case basis. Appropriate disciplinary action will be taken when the findings warrant such action. The disciplinary action will be decided upon in an executive summary meeting between representatives from Law, Human Resources and the Department. If

there is a disagreement between the three representatives, the Department's Assistant City Manager will determine the disciplinary action to be taken. (revised June 1, 2004)

Allegations of harassment shall be dealt with in strict confidence and any serious breach of confidentiality will result in disciplinary action.

No employee shall be retaliated against for filing a complaint, participating in an investigation, reporting an alleged violation or opposing any action which is believed to constitute a violation of this policy. Disciplinary action will be taken against any employee who engages in retaliatory actions.

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### **Inappropriate Conduct**

It is the responsibility of each employee to engage in and promote workplace behavior that creates and maintains an environment of respect and promotes effective teamwork. It is likewise the responsibility of each employee to report behavior that damages this environment.

Horseplay, pranks and any other inappropriate, non-work related behaviors are strictly prohibited. Jokes (verbal, electronic, printed or in any other medium) that demean people (individuals) or have sexual, racial, ethnic or religious themes are inappropriate in the workplace.

This policy prohibits behaviors that may not reach the level of harassment as defined in the City's "Harassment-free Workplace" policy, but that nonetheless is inappropriate in the workplace. Such behavior includes bringing sexually explicit pictures, photographs, cartoons or objects to the workplace; repeated requests for dates, sexual bantering, jokes or teasing; sexual innuendoes, gestures or leers, obscene, profane or abusive language; terms of endearment such as "doll", "honey", "sweetheart" or "babe"; sending sexual, racial, ethnic, religious jokes, cartoons, etc. on e-mail, faxes, etc.; and, using racial, ethnic or religious slurs or demeaning comments.

Appropriate disciplinary action will be taken when violations of this policy occur. See the "[Disciplinary Action](#)" policy for guidance.

Inappropriate behavior as defined in the "[Harassment-Free Workplace](#)" policy or this policy, should be reported to the Human Resources Department immediately. The Human Resources Department, in conjunction with the Department of Law, will decide how the incident/allegation/complaint will be investigated. Departments should not investigate such matters without consulting the Human Resources Department. After completing an investigation, it will be determined which policy, if any, has been violated. The welcomeness, frequency, and severity of the inappropriate behavior determine whether or not harassment has occurred.

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### **Medicines On The Job**

The City of Fort Worth supports a safe and productive work environment. Employees may use over-the-counter and/or prescribed medicines on the job as long as the employee's performance is not adversely affected. If an adverse affect is observed that could result in an unsafe action or condition, the supervisor should relieve that employee from duty and arrange to safely transport the employee to his/her residence.

If an adverse affect on the employee's performance is observed, the employee will be required to justify the use of the medicine during working hours, through his/her physician. Failure to justify the use of such medicines will result in the employee being off work until the matter is resolved.

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### **Political Activity**

Non-civil service employees (except employees at the department head level or above) may take an active part in another person's political campaign for an elective position of the municipality. Taking active part includes making a political speech, making financial contributions, distributing campaign literature, writing a letter, signing a petition, and actively soliciting votes. Political activities of non-civil service employees cannot be performed during working hours or while wearing a city uniform.

Political activities of civil service employees cannot be performed during working hours or while wearing a city uniform. Off-duty political activities of civil service employees are not restricted. These rules are found in the Texas Local Government Code, Section 143.086 (Revised Jan. 21, 2002)

City employees may actively campaign in any national, state, county or school board election on their own time and away from their job site.

All City employees are encouraged to exercise their constitutional rights and vote.

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**Professional Dress Policy** (Revised 2-10-06)

Each employee of the City of Fort Worth shall maintain a neat, professional appearance, appropriate to his or her assigned duties in serving the community. It is the responsibility of each employee to use good judgment, wear appropriate attire, and to present an appearance that meets the professional standards of the City of Fort Worth. Departments may modify the dress code as needed due to worksite conditions and safety issues. (Revised 2-10-06)

On normal business days, "business casual" attire is acceptable for most City employees. Occupations within the City structure that require or encourage uniforms shall recognize the uniform as appropriate dress for that job, even if "appropriate uniform" (e.g., shorts) is not appropriate for non-uniformed employees. (Revised 2-10-06)

"Business Professional" or city sanctioned work attire are required to present a professional appearance for meetings, special events, presentations, Council meetings or representing the City on special occasions. (Revised 2-10-06)

The following shall be the minimum acceptable standard for City employees.

- Condition of clothing - Clean clothing and appropriate footwear shall be worn daily and shall be in good condition. All clothing shall be free of holes, wear and tears, maintained in a clean condition.
- Grooming - All employees are expected to maintain high standards of good grooming and personal hygiene.

Each department may define specific requirements, depending on assignments and working environments and safety aspects (Revised 2-10-06). These requirements must be in writing and must be approved by the Human Resources Director prior to implementation.

"Special occasion" days may be declared by the City Manager or, in some cases, by the department director. Such days may include: Stock Show Day(s), training days, and heritage celebration days. On such days, the City Manager or the department director will specify the appropriate dress guidelines to follow. Such special occasion days should be rare. The practice of "Friday casual days" is no longer acceptable.

Unusual circumstances, such as weather conditions, special work assignments, medical reasons, worksite conditions and/or non-normal working hours and situations, may be sufficient reasons to grant exceptions to the dress guidelines.

See Appendix 6 for additional information and specific attire guidelines. (Revised 2-10-06)

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**Secondary Employment**

The position held by an employee of the City shall take precedence over any other occupational interest of the employee. No employee of the City shall engage in any occupation that is incompatible with their employment with the City or presents a conflict of interest. (Revised 2-10-06)

Any employee desiring to engage in secondary employment shall request approval from the department head or designee prior to accepting or engaging in such employment, by completing and gaining approval of the Secondary Employment Request form.

No person may occupy more than one (1) regular position (full-time or part-time) with the City. Regular employees may occupy temporary/seasonal (extra help) positions, if the duties of the temporary position are significantly different from those of the regular position.

If a conflict of interest or incompatibility exists, the request to engage in secondary employment will be denied.

If a request is approved, such approval may be withdrawn at anytime when such employment results in a conflict of interest or incompatibility with City employment.

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**Seeking or Accepting Gifts** (New Policy 02/23/2009)

- a. City of Fort Worth employees are expected to avoid improper influence or the appearance of improper influence in all their dealings with the public. Employees are expressly prohibited from soliciting or accepting, directly or indirectly, any gift (as defined below) from any existing or potential City supplier or customer. This prohibition includes gifts to family, friends, or any other third party relation to the employee.
  1. A gift is defined as any benefit, favor, service, advantage, privilege or thing of value which could include, but not be limited to: trips, money of any amount, merchandise, foodstuffs, and tickets to sports, civic or cultural events; also included are personal services or work provided by City suppliers or customers, as well as offers of future employment from City suppliers or customers.

2. Items with a retail value of less than \$50.00 will not be considered gifts. These items would not ordinarily be interpreted as affecting an employee's impartiality and could include, but not to be limited to: an occasional business lunch, potted plants or flowers, boxes of candy for office personnel, small promotional items like caps, t-shirts, and advertising office supplies such as pencils, calendar, or pens.
  3. If the value of the "gift" does exceed \$50.00 or if the employee believes the offered item would provide an appearance of improper influence, the employee should thank the individual offering the gift for the gesture, explain the City's policy preventing acceptance of gifts and return or refuse the gift. If the gift has already been shipped or delivered without the employee's knowledge and consent, it should be returned to the sender. If the sender does not want to accept the return of the gift, the employee should document the receipt of the gift and forward the gift to a local charity, along with a letter of transmittal documenting the situation. [Send a copy of the letter to the Chair of the Accountability & Integrity Committee and retain a copy in the administrative offices of the affected department.
  4. A supplier refers to any existing or potential City vendor, consultant, contractor, developer, regulatory agency, or any public utility corporation having a franchise granted by the City.
  5. A customer refers to any person, firm or business that purchases, obtains or receives information, commodities or services from the City.
- b. Employees may:
1. Attend public functions sponsored by suppliers or customers (e.g., groundbreaking ceremonies, receptions, dedications, completion of project parties, exhibitor receptions at conferences, etc.) as approved by their departmental supervisor.
  2. Participate in educational activities sponsored by current or potential City suppliers when the educational activity is part of a contractual agreement with the City of Fort Worth or is open to other customers or potential customers of the suppliers; provided that, when travel is required, transportation expenses will be paid by the City, except those activities associated with the purchase, study, review of apparatus or equipment and/or supplies for the City and as may be provided in an approved contract.
  3. Participate in discount purchasing when such discounts are part of a marketing program sponsored by a current or potential supplier, or local merchant, provided such discount is for an entire group of employees (e.g., all City employees, all Public Safety employees, all Water Department employees, etc.).
- c. Under state law it is a Class A misdemeanor for an employee in any City department performing regulatory functions or conducting inspections or investigations to solicit or accept any gift from a person the employee knows to be subject to regulation, inspection or investigation by the employee or his/her department (Texas Penal Code, Sec. 36.08, Gift to Public Servant by Person Subject to His Jurisdiction). The inference of the gift would be to influence the City employee in carrying out his/her duty.
- d. Under state law it is a Class A misdemeanor for any City employee who has authority to recommend or approve contracts, purchases, payments, claims, or other pecuniary transactions of the City to solicit or accept any gift from a person the employee knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his/her discretion. Again, the inference of the gift would be to influence the City employee's recommendations or approvals (current and future).
- e. Employees should contact their supervisor or department director if they have questions about accepting gifts of any type or to request further interpretation of one of these guidelines. Requests from any department director for advice or for an interpretation should be in writing and directed to the Human Resources Director. The Human Resources Director shall respond in writing to the department director making the inquiry.
- f. Employees who violate these guidelines are subject to disciplinary action, up to and including dismissal, as described in the City's Personnel Rules and Regulations.

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### Smoking In The Workplace

All City of Fort Worth buildings and facilities are "Smoke Free" areas by City Ordinance No. 13009. City employees share in the responsibility for adhering to this policy and for bringing it to the attention of persons visiting City buildings and facilities. City vehicles are considered designated work areas under this policy and as such are "smoke free".

Employees who take "smoke breaks" must comply with the City's Rest Periods policy. No additional breaks or rest periods will be granted to employees who smoke.

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### Solicitations

<http://www.fortworthgov.org/hr/prt/full.aspx>

9/15/2010



Solicitation of funds by or of City employees on the job without the approval of the Department Director or designee or Human Resources Director is prohibited. Solicitation includes, but is not limited to charitable or personal profit activities such as, selling products of any kind, raffle tickets, religious donations, admissions to events and donations to assist persons experiencing a personal crisis.

Prohibitions under this policy do not apply to City sanctioned solicitations such as the annual United Way campaign.

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### **Theft And/Or Misuse Of City Property**

As a public employer and as public employees who are entrusted with the responsibility of administering public funds efficiently, the City of Fort Worth and its employees must ensure that City property, equipment, and facilities are utilized for the sole purpose of providing services to the citizens of Fort Worth.

The use of any City property, equipment, or facility for personal business or gain is strictly forbidden and any such action could result in immediate termination. Examples include:

Theft or borrowing of tools or any other equipment; removing property from a City work-site including new, used, or discarded materials; using City vehicles; office supplies, photocopy machines, mailing services, long distance telephone service, computers, Internet services, or any other service under city auspices is strictly prohibited.

### **Violence in the Workplace**

Violence or the threat of violence has no place in any of the City's work locations. It is the goal of the City to have a workplace free from acts or threats of violence. It is the shared obligation of all employees, customers, and citizens, individually and together, to prevent and/or defuse actual or implied violent behavior (verbal or physical) at work.

All City employees are expected to treat one another, and our customers and citizens, with mutual respect and to value one another on the job. The City has a responsibility to provide a safe workplace for its employees and customers.

Any person who engages in a violent or threatening manner, either verbal or physical in nature, will be removed from the premises as quickly as safety permits. At the City's discretion, employees and/or the public may be barred from City premises pending the outcome of an investigation. Any employee who engages in such behavior may be suspended and/or terminated.

Workplace violence is any behavior which is sufficiently severe, offensive or intimidating to cause an individual to reasonably fear for his/her personal safety and/or property; such behavior creates a hostile, abusive or intimidating work environment for one or more City employees. Any behavior that is personally offensive, threatening or intimidating will not be tolerated.

Violent behavior on the job includes, but is not limited to: 1) threatening physical or aggressive contact directed toward another person; 2) intentional destruction or threat of destruction of City or another person's personal property; 3) expressing intent to cause physical harm or emotional duress; 4) creating a hostile work environment through unwelcomed words, actions or physical contact not resulting in physical harm to another person; 5) surveillance; 6) stalking; 7) veiled threats of physical harm or similar intimidation; 8) expression of suicidal or homicidal intent or thoughts; and 9) unusual agitation or excitement which may be accompanied by incoherent and/or irrational or harassment based upon their report.

#### **Response to Imminent Threats and/or Acts of Violence**

1. Take personal safety precautions.
2. Contact Police or Fire Department, if necessary.
3. Report to supervisor.
4. Supervisor report to Manager/Department Director
5. Report to Human Resources Department, Employee Relations Division; or Employee Assistance Program.(Revised July 1, 2003)

#### **Response to Non-Imminent Threats**

1. Employee report to supervisor, or the supervisor's supervisor if he/she is involved in making threat.
2. Employee and/or supervisor report the Human Resources Department, Employee Relations Division. (Revised July 1, 2003)

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### **Health and Safety**

## Accidents On City Property

All accidents on City property resulting in personal injury or property damage involving the general public must be accurately and comprehensively documented. In the event of personal injury, employees on the scene should make every effort to make the injured person comfortable; if deemed necessary, an ambulance should be requested as soon as possible.

The City's Risk Management Division of the Finance Department (revised June 1, 2004) should be contacted as soon as possible and no more than 72 hours after the incident (revised June 1, 2004). An Accident Report form must be completed and given to the Risk Management Division (revised June 1, 2004).

City employees who witness an accident or who are at an accident site should not speak on behalf of the City regarding responsibility for any loss sustained.

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## Alternative Employment For Employees Who Become Non-Occupationally Disabled, Impaired or Injured (Revised January 26, 2001) (Revised Nov. 15, 2004)

Employees who, as a result of non-occupational injuries or illnesses, cannot perform the essential functions of the job with or without accommodations may be eligible for assistance in finding alternative employment with the City. (Revised Nov. 15, 2004)

The City's ADA Coordinator will oversee the administration of this policy. Departments should contact the ADA Coordinator and provide medical records describing the medical status of the employee, including diagnosis and restrictions. The ADA Coordinator will convene a meeting with the employee and representatives from the department to discuss the employee's current medical status (Revised Nov. 15, 2004) and to explore employment alternatives. (Revised January 26, 2001)

A Designation of Duty Status form must be completed prior to the meeting. The Designation of Duty Status (Revised Nov. 15, 2004) form will establish the criteria by which alternative employment and reasonable accommodations (if needed) will be pursued. Employees who are not able to meet with the ADA Coordinator will be notified of the results of the meeting through written correspondence. (Revised January 26, 2001)

After the meeting with the ADA Coordinator, and if no suitable placement can be found, (Revised Nov. 15, 2004) if the employee is not already off work or is on light duty, the employee will be off work and receive any benefits he/she is eligible to receive (such as accrued leave benefits, etc.) (Revised Nov. 15, 2004) Employees who cannot perform the essential functions of their job may have up to 60 calendar days during which good faith efforts will be made to find a suitable vacant job in which the employee can perform the essential functions with or without reasonable accommodations. Vacant positions in the employee's department will be sought first. If unsuccessful, a City-wide effort will be made. If a suitable position is found, placement and salary decisions will be governed by the applicable policies. The employee is expected to cooperate with the attempts to find a job and it is the employee's responsibility to keep in touch with Human Resources during this time. If after 60 calendar days, suitable alternative employment has not been found, the employee will be laid off. (Typically, the termination code will be 934 – health, unable to perform job.) Eligible employees may apply for disability, early or regular retirement, as applicable. (Revised January 26, 2001)

At the time the meeting with the ADA Coordinator is convened, the current FCE, Designation of Duty Status and any other information pertaining to the employees' health condition and ability to work, establishes the employee's work status through the entire 60-calendar day period after the meeting. Any change in an employee's status during the 60 calendar day period must be substantiated with a thorough written explanation which clearly validates the change in the employee's work status; otherwise, an employee's status will not change for the purposes of this policy. (Revised January 26, 2001)

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## Americans With Disabilities Act of 1990

The City is committed to comply with those provisions of the Americans with Disabilities Act of 1990 (ADA) that (Revised 2-10-06) apply to the City. A City ADA Coordinator has been designated to oversee the City's compliance with the ADA.

All City services, programs, and activities provided or made available to the public will be accessible to persons with disabilities. Accessibility statements will be included on all notices announcing public meetings.

The City's employment and selection process will provide reasonable accommodations to persons with disabilities.

Employment accommodations requests may be made to the ADA Coordinator.

Complaints alleging employment-related violations of the ADA may be filed with the Employee Relations Division of the Human Resources Department. Complaints, questions or concerns regarding services, programs, activities or facilities may be filed with the City ADA Coordinator. (See "Complaint Resolution Procedures for Persons with Disabilities" policy.)

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## Assisting Employees Who Become Ill at Work

The health and wellbeing (Revised 2-10-06) of employees is important to the City of Fort Worth. Employees who become ill at the workplace should be attended to immediately. If the employee's medical (Revised 5-8-07) condition requires immediate medical attention:

- He/she should seek medical attention from (Revised 5-8-07) the physician or hospital of his/her choice;
- If the medical condition (Revised 5-8-07) is a serious life-threatening situation, the Department shall immediately call 911;
- If communications with 911 are not immediately possible or feasible, the Department shall transport the employee to the nearest emergency medical facility; or
- Departmental staff with management authority may require the ill employee to be seen by 911 emergency medical service personnel. (Revised 5-8-07)

If immediate medical attention is not required, but the employee is not capable of driving him/herself home, (revised June 1, 2004) the supervisor or designee (revised June 1, 2004) should:

- Call the employee's designated (Revised 5-8-07) emergency contact (Revised 5-8-07) in an attempt to arrange transportation (Revised 5-8-07) home.
- If transportation is not arranged through the emergency contact, (Revised 5-8-07) a supervisor or designee (Revised June 1, 2004) will transport the employee to his/her residence.

If the employee's medical condition is an occupational illness or disease that is determined to be compensable under the Texas Workers' Compensation Act, the Occupational Injury Benefit (Workers' Compensation) provision of the Personnel Rules and Regulations apply. If the employee's medical condition is not a compensable occupational illness or disease under the Texas Workers' Compensation Act, the employee is responsible for all medical expenses, including the cost of 911 emergency medical service vehicle transportation, associated with the illness or medical condition incident for which they received medical attention. A Department that required an ill employee against their will to be evaluated by 911-called emergency medical service personnel and is transported to a health care facility shall be responsible for the costs of such transportation. (Revised 5-8-07)

Employees who become ill at work and who leave the workplace must use appropriate accrued leave if available (Revised 5-8-07) for the time they are off work (revised June 1, 2004).

Employees who become ill at work will not be permitted to operate any city-owned (Revised 5-8-07) any equipment or vehicle.

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### **Commercial Driver's License (CDL) Program** (New policy effective February 1, 2005)

The Human Resources Department is responsible for the administration and implementation of the Commercial Driver's License (CDL) program, in compliance with the Code of Federal Regulations (CFR) Title 49, the federal Commercial Vehicle Safety Act of 1986 and the Texas Commercial Driver License Law of 1989.

**Commercial driver's license (CDL)** is a license issued by the State, in accordance with the standards contained in 49 CFR part 383, which authorizes an individual to operate a class of commercial motor vehicle.

CDL position is a job classification that requires the employee to possess a commercial driver's license. This position is defined by the position's criteria and position control number. The position control number has DOT in the crew identifier. Departments, using the criteria listed on the CDL Position Audit Form, identify CDL positions. Changes should be forwarded to HRIS on the Position Audit Form. Position Audit Forms may be obtained from HRIS or found on the intranet.

**Commercial motor vehicle (CMV)** is a motor vehicle that has any of the following characteristics:

1. A gross combination weight rating (GCWR) of 26,001 pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating of more than 10,000 pounds.
2. A gross vehicle weight rating (GVWR) of 26,001 pounds or more.
3. Regardless of weight, is designed or used to transport 16 or more passengers, including the driver.
4. Regardless of weight, is used in the transportation of hazardous materials and is required to be placarded in accordance with the Code of Federal Regulation.

**Hazardous material (HAZMAT)** is a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

**Intracity zone** is the corporate limits of the City of Fort Worth.

**Prescribed Medication** is Medicine that has been authorized for a patient by a licensed physician.

**CDL Medical Review Board Request/Decision Form** is utilized by the CDL Medical Review Board to capture pertinent pre-hearing information about the referrals and record its final decision.

**Commercial Driver's License (CDL) Physical Examination Summary Form** is completed by the examining physician at the City's health provider at the conclusion a DOT physical examination of an employee to summarize his/her findings and provide follow-up instructions to the employee.

**City of Fort Worth Medical Examiner's Card** is a wallet-size card signed by an examining physician from the City medical provider certifying that the employee is medically qualified to operate a City commercial motor vehicle.

### **Driving Prerequisites**

City employees, including temporary employees, who operate a commercial motor vehicle for the City of Fort Worth, must be in a CDL position and possess a valid CDL from the State of Texas. All personnel in a CDL position must successfully complete the physical fitness requirements outlined in this policy. Civil Service employees are exempt from the provision of this policy.

Employees will not be permitted to drive until a valid CDL is issued by the State. It is the employee's responsibility to submit a renewal application to the Texas Department of Public Safety before the license expiration date.

### **Employment Prerequisites**

To be considered for employment in a CDL Position, applicants must meet the following requirements. Current employees who wish to promote into CDL positions must also meet the requirements.

1. Be a resident of the state of Texas.
2. Be at least 18 years of age.
3. Possess a valid CDL from the State of Texas.
4. Certification as to physical qualifications by the City's medical provider. The requirements for certification include, but are not limited to:
  - a. No loss of limb that has not been waived,
  - b. No impairment of hand, finger, arm, foot, or leg that interferes with driving,
  - c. No diabetes requiring insulin for control,
  - d. No heart problems which could impair or incapacitate the operator,
  - e. No high blood pressure which is defined as being greater than or equal to 140 systolic and/or 90 diastolic (defined as > 140/90),
  - f. No rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular problems that could affect vehicle control,
  - g. No epilepsy or other condition likely to cause loss of consciousness,
  - h. No mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with vehicle control,
  - i. Vision 20/40 or better in each eye (with corrective lenses), not color blind,
  - j. Ability to pass a hearing test
  - k. No drug or alcohol addiction (s)
5. Possess a satisfactory job history based on a ten-year job history check conducted by the Human Resources Department.

### **Job History**

Applicants for employment in CDL positions must provide employment history information on all driving jobs held for the past ten (10) years to the Human Resources Department. The information must be provided at the time the employment application is submitted. The information must include:

1. A list of the names and addresses of previous employers for which the applicant operated a commercial motor vehicle (CMV);

2. The dates the applicant was employed by the employers listed;
3. The applicant's reason for leaving employment.

The completed application will be forwarded to the requesting department for hiring action. The department, in turn, will return a list of prospective new hires to HR, Staffing Services, for employment history verification. The results are relayed to the department to complete the hiring process. A copy of the final report is filed in HR in accordance with applicable regulations with the returned referral.

The completed application will be forwarded to the requesting department for hiring action. The department, in turn, will return a list of prospective new hires to HR, Staffing Services, for employment history verification. The results are relayed to the department to complete the hiring process. A copy of the final report is filed in HR in accordance with applicable regulations with the returned referral.

### **Physical Examinations**

The City's occupational health provider is the only authorized agency to administer DOT physical examinations. The test will be administered as part of the hiring process and periodic renewal for all CDL drivers. Any offer of employment into a CDL position will be contingent upon the applicant's ability to satisfactorily complete the post-offer physical examination.

The City health provider will report the condition of the driver to operate a commercial motor vehicle in four categories on a CDL Certification Form:

1. Qualified: meets all physical requirements.
2. Medical Hold: clinically does not meet requirements. More information is needed to determine the final medical status.
3. Probationary: qualified on a short-term (less than 2 years), renewable basis. The examining physician regularly monitors the driver in this category and will set renewal schedule.
4. Disqualified: does not meet minimum physical requirements. Referral to the medical review board is automatic.

Once hired, all drivers, with the exception of those in a "probationary" status, must satisfactorily complete a physical examination every two years. The examination requirement for personnel in a probationary status is detailed above. The medical provider will issue employees who meet the requirements a City of Fort Worth Medical Certification Card. The card is for intracity zone use only. Refusal to undergo a periodic examination may result in disciplinary action up to and including termination.

Employees who fail to comply with the physical examination requirement or who fail the physical examination will not be certified to drive until the requirement is satisfied. Disqualified employees will be counseled by the examining physician and offered options to re-certify. Options presented will include counseling available through the City's Wellness Program and the Employee Assistance Program. Those who are not able to pass the physical examination will be categorized as "disqualified" and may be referred to the City's Return to Work Committee for assistance in finding alternative placement within the City.

In cases where the employee disagrees with the decision of the City's examining physician, he/she may forward opinions/test results from a physician of his/her choice to the City's medical health provider for consideration. Correspondence should be addressed to Concentra Medical Centers, Attn: Center Administrator. The examining physician will, in turn, review and contact the employee to discuss his/her finding. Costs for the personal consultation will be at the employee's expense. The City's examining physician will, in turn, evaluate the documents submitted, and, when necessary, verbally consult with the employee's physician, to determine whether there is sufficient information to reverse his/her decision. If the documents offer no evidence for change, the City examining physician will advise the employee accordingly and to resume/initiate the recertification options listed above. If the information submitted merits a change in decision, the City's examining physician will notify the employee in writing.

Under a "medical hold" status, the examining physician has determined that he/she requires additional tests results and/or documentation to derive a final medical status. The examining physician will explain the requirement to the employee at the conclusion of the visit. The employee will acknowledge receipt of the requirement by signing the CDL Physical Examination Form. The employee has thirty (30) days after signing the form to deliver the required test results/documents to the physician.

The examining physician may also refer some cases to the CDL Medical Review Board. The Board will be comprised of an odd-number membership. It will be chartered to review cases and determine whether the driver can safely operate a commercial vehicle. As a minimum, the board will consist of a licensed physician, the City Safety Coordinator, the Wellness Program manager, Employee Assistance Program manager and a CDL-qualified member from the department to which the individual being boarded is assigned. The chairman of the Board is the City Safety Coordinator. The Board will convene within ten working days of being notified. The Board's decision will be published within 15 working days after the review is completed. During both review processes, the employee is considered disqualified and should not operate a CMV.

The final results of the examination will be reported on a CDL Physical Examination Summary Form. One copy of the form will be maintained in the employee's files within the department. The examination report will be maintained by the medical provider.

Once hired by the City, it will be the employee's responsibility to notify management immediately if his or her physical condition changes. Failure to do so may result in discipline up to and including termination.

### **Use of Prescribed Medication**

It is the employee's responsibility to notify his or her supervisor when he or she is taking prescribed medication that causes dizziness, drowsiness, or other medication that may cause impairment. Failure to do so may result in discipline up to and including termination.

### **Record Keeping**

The departments will establish and maintain a simplified driver's qualification file for each CDL holder. The custodians of other qualification documents are listed below.

- Department:
  1. Certificate of Road Test.
  2. Medical Examiner's physical examination certificate.
  3. Accident Review Board Results.
- Human Resources:
  1. A written record of each past employer who was contacted and a copy of the responses from those contacted. [Staff Services]
  2. The driver's license status of the biennial Department of Public Safety (DPS) license checks will be maintained on the Human Resource Information System (Genesys). [HRIS/Records]
  3. Driver's Application for Employment. [Staff Services]
  4. Reports from the DPS license checks that contain information about moving violations; driver's license suspensions and revocations will be kept in the Occupational Health & Safety Division of the Human Resources Department. [OHS]
  5. Process Position Audit Forms. (HRIS)
- City Medical Provider:
  1. The medical examiner's physical certification.
  2. Letters from the state letters granting a waiver of physical disqualification, if applicable.

### **Notification of Driver's License Suspension**

It is the responsibility of the CDL holder to notify his or her supervisor immediately if his or her license is suspended, revoked, or canceled, or if he or she is disqualified from driving for any other reason. Failure to do so may result in disciplinary action up to and including termination. Upon such notification, the supervisor must notify the Department's HR Coordinator. The departments may elect to reassign the disqualified employee internally or seek assistance from the Human Resources Department in reassigning the employee to another department.

### **Notification of Conviction for Driver Violations**

CDL holders must report all traffic convictions (except parking) to their supervisor within 30 days after the conviction. Failure to do so may result in disciplinary actions up to and including termination. The supervisor will, in turn, notify the Department's HR Coordinator in writing through HR Occupational Health and Safety.

### **Driver's License Check**

The Human Resource Department, Information Services will conduct a bi-annual Department of Public Safety (DPS) license check of all licensed drivers. Any negative results will be forwarded to the Department's HR Coordinator for action.

### **Disqualification of Drivers**

A CDL holder who is disqualified for any reason under this regulation must not drive a CMV. Drivers who are disqualified and who continue to drive are subject to disciplinary action up to and including termination and are subject to the disqualification rules and penalties established by the State of Texas.

CDL holders may also be disqualified if convicted of operating a CMV with a blood alcohol concentration (BAC) of 0.04% or more. For details, refer to the Alcohol Misuse and Drug Abuse Policy of the Employee Conduct section of the Personnel Rules and Regulations.

**Employee Training**

The Occupational Health and Safety Division of the Human Resources Department have the overall responsibility for CDL training program.

In addition to the tests and skills training required by the State and specialized training within the department, CDL holders must complete the required training below. The Occupational Health and Safety Division of the Human Resources Department will maintain training records for defensive driving. DDC records are accessible to the departments through the HR Coordinator and the HRIS system. Records for drug and alcohol training will be retained by HR, Learning Services and can be provided upon request. All training records will include date of instruction, subject and instructor's name. Records will be retained in accordance with City's document retention schedule.

The program of instruction will include the City's CDL policy, drug/alcohol policy, and other training designed to ensure the employee is adequately trained.

Training	Training Hours	Frequency	Training References
Defensive Driving (DDC-CTD)	6	Every 3 years	National Safety Council Professional Truck Driver's Defensive Driver's Course
Vehicle Inspection & Maintenance	2	Every 3 years	Local and State Guidelines
Drug and Alcohol	3	Every 3 years	Federal & Local Laws
CDL Refresher	1	Annually	Guidance published annually by the CDL Administrative Board
Portable Fire Extinguisher	1	Annually	49 CFR 1910. 157

CDL position holders must complete the training above within 90 days of being hired. Drivers who have not completed the training will be suspended from driving until the training has been completed.

The CDL Administrator and Driver Certification Officer in departments with CDL positions are expected to complete the following training:

Training	Hours	Frequency
Drug and Alcohol	3	Every 3 years
CDL Orientation (initial)	4	Upon appointment
CDL Refresher	1	Annually

In addition to the above, departments must administer a road test to each new driver. A person who is qualified to evaluate and determine whether the person taking the test has demonstrated that he/she is capable of operating the CMV, and associated equipment will administer the test. The title of the test administrator will be Driving Certification Officer (DCO). Both are required to attend to attend semi-annual meetings chaired by the City Safety Coordinator.

**CDL Logbook Requirement in the City**

The City will operate under the 100 Air-Mile Radius Rule. Under this rule, the operator is not required to maintain a logbook. 100 Air-Mile Radius is defined as the radial mileage from the driver's "normal work-reporting location."

**Drug and Alcohol Testing**

Please see the Employee Conduct section of the Personnel Rules and Regulations for information about the City's policies regarding the testing of CDL employees.

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**Driver Safety Training and Certification Program**

To minimize the risk of city vehicular accidents involving city employees, the City strives to improve the quality of driving skill by permitting only those persons with safe driving records who are physically capable to operate vehicles or equipment in the performance of their duties.

Employees who operate a city vehicle/equipment or their personal vehicle as a part of their job duties are covered by the program. They must be 18 years of age and have a current valid Texas State driver's license required for the type of vehicle to be operated.

The HRIS/Records Division (revised June 1, 2004) Department is responsible for performing a Motor Vehicle Record Check. HRIS/Records Division (revised June 1, 2004) will conduct a biennial review of current driving records obtained from the State Department of Public Safety of employees covered by this regulation.

The Human Resources Department is responsible for determining if the applicant has the appropriate, valid, current drivers license that covers the kind of vehicle to be operated.

The hiring department is responsible for ensuring that employees maintain the appropriate driver's license.

Employees must inform their supervisor when involved in an at fault vehicular collision, arrested for, having a judgment pending or being convicted of a DUI or any other moving violation. Any conviction arising out of an arrest for Driving Under the Influence (DUI), including Obstruction of Highway, will result in a loss of City driving privileges for a period of twenty-four (24) months from the date of conviction. Loss of State of Texas driving privileges by reason of revocation, suspension, withdrawal or denial of license to drive or a requirement to have an interlock device on an employee's personal vehicle will result in a loss of driving privileges for the City. When the driving license is renewed, the person may again apply for a city operator's permit;

Employees who are arrested for a DUI offense two or more times within a 24-month period will have City driving privileges suspended for a period of 12 months or until the charges are cleared, whichever comes first. (revised June 1, 2004) Departments should contact the Human Resource's Employee Relations Division (Revised June 1, 2003) for guidance.

**Certification:** Certification is the authorization, by the City, of an employee, who has met all the standards to operate a specific type of automotive equipment. Certification shall be required of all drivers operating vehicles requiring commercial or chauffeurs driver's licenses or drivers of specialized equipment.

Each affected department/division shall appoint an experienced employee to act as Driver Certification Officer (DCO). The DCO determines if the employee or applicant has demonstrated the ability to operate specific automotive equipment in a safe and competent manner by requiring the employee or applicant to operate the equipment under his/her supervision.

A person will be certified to operate vehicles requiring commercial licenses or specialized equipment if that person can pass required tests administered by their departments. Certification of successful test completion will be maintained in the employee's department.

All drivers must complete the National Safety Council's Defensive Driving Course. Newly hired employees must complete this course as soon as possible. All current drivers must complete the course once each three years. The Occupational Health & Safety Division of the Human Resources Department (revised June 1, 2004) will be responsible for scheduling defensive driving courses.

Employees authorized to operate one or more types of vehicles or equipment may be authorized for additional vehicles or equipment by passing additional tests administered by their departments.

Minimum standards for entry level Police Officers and Firefighters are listed in the City of Fort Worth Firefighters and Police Officers Civil Service Rules and Regulations. (Revised January 26, 2001)

The Police and Fire Departments are responsible to provide appropriate driver training for their personnel.

A person (whether subject to certification requirements or not) shall not be certified, recertified, or allowed to operate any City of Fort Worth vehicle if he/she has:

- a. Had three moving violations or any conviction arising out of an arrest for Driving Under the Influence (DUI), including Obstruction of Highway, (Revised June 1, 2004) in the preceding 24 month period. (This includes all driving, i.e., city vehicle, private and other vehicles);
- b. Lost, or loses State of Texas driving privileges by reason of revocation, suspension, withdrawal or denial of license to drive, or if he/she is required to have an interlock device on his/her personal vehicle. (Revised June 1, 2004) When the driving license is renewed, the person may again apply for a city operator's permit; or
- c. been arrested for a DUI offense two or more times in the preceding 24-month period. City driving privileges will be restored after a period of 12 months or until the charges are cleared, whichever comes first. (Revised June 1, 2004)
- d. Had, as determined by the Accident Review Board, three chargeable vehicle accidents or any combination of chargeable accidents or violations of this policy totaling four (4) within any consecutive 24-month period. (After each review of a chargeable vehicular accident, the Accident Review Board may decide whether or not an employee should be permitted to continue to operate a city vehicle.)

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**Vehicle Maintenance Responsibilities:** It is the responsibility of the Equipment Services Division to develop a checklist to be used by all departments.

Drivers are responsible to ensure that vehicles/equipment are in a safe and mechanically sound condition before placing the vehicle



or equipment into operation. This will require that the operator perform pre-operation checks of oil, water, tire air pressure, fuel, test brakes and other preliminary checks that may be peculiar to that piece of equipment. Failure to perform these checks will be considered as vehicle neglect. Furthermore, operators of vehicles and equipment must realize that equipment maintenance is an ongoing process and the equipment must be observed and checked while in operation to insure that operations can safely continue. Any problem noted by an operator must be reported to his/her supervisor immediately and that vehicle or equipment's operations must cease until restore to a safe mechanical condition.

In the event that a vehicle/equipment becomes non-operational and the cause is due to improper preventative maintenance, driver neglect, driver abuse, or improper operations, the costs for repair of the vehicle/equipment will be charged back to the using department/division.

**Vehicle Collision Reporting, Investigation and Review:** All vehicular accidents involving city equipment must be reported. Additionally, any operator receiving a citation for traffic violations while operating city equipment must report the incident to his/her supervisor.

**Drivers involved in collisions** will immediately notify their supervisors of the collision and the Fort Worth Police Department will be called to the collision scene. Any vehicle collision involving death or serious injury will require immediate notification of the Occupational Health & Safety Division of the Human Resources Department at 817-392-8524 (Revised June 1, 2004).

All collisions will be reported using Form 106 Revised. Distribution of this report will be made to include a copy to the Equipment Services Division and copies to the Claims Office and the Occupational Health & Safety Division of the Human Resources Department. (Revised June 1, 2004) The department/division will maintain a file copy of this report. All city vehicles should contain a Form 106 Revised.

Department/Division managers will insure all collisions are thoroughly investigated to determine all factors contributing to the collision. The department/division Safety Coordinators, and the City Safety Coordinator when appropriate, will investigate city vehicular collisions. The Occupational Health & Safety Division of the Human Resources Department (Revised June 1, 2004). may conduct research, analysis, and evaluation of factors contributing to collisions.

Each collision will be reviewed by the appropriate Accident Review Board within 10 days if practical, (but no later than 30 days from the date of the collision) to determine and recommend action necessary to prevent similar collisions from occurring. The board will also determine if the collision was a chargeable collision to the driver, equipment operator, or any employee, including supervisors. (Chargeable collision is one in which the employee's negligence, driver's error or traffic violation either caused or significantly contributed to the occurrence of the collision.)

In the event that a collision is determined to be chargeable, the board should recommend appropriate disciplinary action. Reports of the board should be submitted to the department/division director and to the Occupational Health & Safety Division of the Human Resources Department (revised June 1, 2004).

Major Collision – Personal injury and/or \$500 or more total property damage.

Minor Collision - No personal injury and total property damage less than \$500.

**Department Directors/Division Heads will initiate disciplinary action** for cases of vehicle abuse, failure to perform required maintenance, continued operation of an unsafe vehicle or equipment, misuse or misappropriation of vehicles or equipment, or involvement in chargeable vehicle collisions.

The nature of the offense or violation will be considered in determining appropriate disciplinary action. The following disciplinary actions are presented as a guide that should be followed when appropriate:

- a. First offense – written warning and appropriate remedial action (renewed training, repeat Defensive Driving Course, testing, etc.).
- b. Second offense (within one year of initial offense) – Written warning and suspension from position (transfer, demotion) for a period without pay.
- c. Third or subsequent offenses (within two years of initial offense) – Removal of person from driving position and possible termination.
- d. Any operator involved in three (3) chargeable accidents or any combination of violations of this policy or chargeable accidents totaling four (4) within any 24-month period will be removed from driving or equipment operator's position (transfer, demotion) or be terminated.

Any employee terminated or removed from a driving position due to violations of this policy will not be eligible for rehire into a driver's position or equipment operator's position for a period of two (2) years and then only after successfully completing the certification process.

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**Employee Work Status Resulting from Injury or Illness**

This regulation establishes a standard procedure for the designation of duty status for employees: (1) who are unable to work or, (2) who are capable of reporting to work but, due to injuries sustained, are not capable of performing their normal duties.

**Average Weekly Wage (AWW)** is the calculation of thirteen (13) weeks of pay totaled, divided by thirteen (13). Specific calculations will be made in accordance with the Texas Labor code. (added 2-10-06)

**Temporary Income Benefits (TIBs)** is monies paid by the employer through a third party administrator (TPA) to compensate the injured employee for wages lost as a result of a compensable injury. (added 2-10-06)

**Post Injury Earnings (PIE)** is the documented weekly amount of all pecuniary wages paid to the employee after the date of injury including wages based on work performed while on modified duty and pecuniary fringe benefits that are paid to the employee whether the employee has returned to work or not. (added 2-10-06)

Third Party Administrator (TPA) is the city-contracted vendor for workers' compensation services. (added 2-10-06)

The Designation of Duty Status (DDS) form (DWC-73) (Revised 2-10-06) is designed for reporting occupational injuries and the Non-Occupational Illness/Injury Status form is used for (Revised January 21, 2002) reporting non-job related injuries and illnesses. Keep in mind that the physician is not obligated to complete the City form, they do it as a courtesy. If the medical provider does use the City forms the following distribution applies: (Revised January 21, 2002)

Occupational	Non-Occupational
White - Occupational Health & Safety (Revised July 1, 2003)	White - Employee's Department
Yellow - Employee's Department	Yellow - Employee
Pink - Physician	Pink - Physician

Categories of Duty Status: Following a medical examination, the examining physician shall be requested to designate the employee's duty status as defined below:

1. Unable to Perform Work of Any Nature;
2. Very Light Duty - Work which requires minimum physical exertion and can be adapted to the particular limitations (Revised January 21, 2002) of the employee. Such work can include, but is not limited to: (a) answering of telephone and relaying of messages, (b) reviewing of calculations, (c) posting of data, (d) visual inspection of equipment, (e) inventory of equipment or supplies, and (f) filing;
3. Light Duty - Work which requires restricted physical exertion and can be adapted to the particular limitations (Revised January 21, 2002) of the employee. Such work can include, but is not limited to: (a) all of the activities under Very Light Duty, (b) dusting of furniture, (c) cleaning and replacing of light bulbs, (d) light maintenance work and cleaning of equipment, (e) washing of windows, (f) sweeping of floors, (g) nightwatching, and (h) groundskeeping; and,
4. Full Duty - Regular work assignment.

The examining physician shall be requested to complete City duty status forms. These forms shall be filled out at the following times: (Revised January 21, 2002) (1) At the conclusion of the initial visit in connection with a particular injury (even if the duty status of the employee remains unchanged). If the period of restricted duty (Light Duty, Very Light Duty, Unable to Perform Work of Any Nature) is less than one week and the examining physician has indicated that no re-examination is necessary, the employee will automatically revert to full duty on the designated date (barring any complications or unexpected developments requiring re-examinations). (2) any subsequent visits to the medical provider for the injury on duty (even if the duty status of the employee does not change).

Note: The medical provider is not obligated to complete the City forms (Revised January 21, 2002) and only does so as a courtesy to the City. Therefore if the medical provider does not complete the City forms (Revised January 21, 2002) and chooses to use his/her form the City will accept the other forms.

**Occupational Illnesses/Injuries**

An employee injured on the job is responsible for ensuring that the Designation of Duty Status form and/or other forms are (Revised January 21, 2002) delivered to his/her supervisor. In the event that the employee is incapable of securing this form his/her supervisor is responsible for delivering the form to the physician.

All employees in a restricted duty status shall do nothing to impair or delay the process of recuperation.

When an employee has been told by an examining physician to report for examination or treatment, the employee shall report as

directed. Willful failure of the employee to report as directed shall result in the employee losing his/her eligibility to receive supplemental benefits (see Occupational Injury Benefit regulation).

If an employee is returned to work in less than a full duty status (Very Light Duty, or Light Duty), he or she will be subject to the provisions of the City's Return to Work Policy. (Revised Nov. 15, 2004)

Supervisory personnel must ensure that employees on Very Light Duty or Light Duty know when and where they are to report for examinations or treatment. Supervisors are authorized to make time available to employees for such examination or treatment. Employees will receive full time credit pay while absent for examination or treatment.

### **Non-Occupational Disabilities**

The Non-Occupational Illness/Injury Status form should be used by employees who are off the job due to injuries received off the job or who are subject to an extended illness. In the event that an employee returns to work in a less than full duty status from a non-occupational condition, he or she will be subject to the provisions of the City's Return to Work Policy. If a limited duty assignment cannot be found for the employee under the terms of the Return to Work Policy, (Revised Nov. 15, 2004) the employee may be sent home and the time charged as major medical sick leave, sick time, short term sick leave/family leave, compensatory time or vacation leave (assuming the employee has such leave time accrued) or without pay if the employee is not eligible for leave time. (Revised December 16, 2000). Employees must use appropriate accumulated leave, or time without pay if no leave is available, while absent for examination or treatment.

Employees who miss more than three (3) consecutive working days due to an occupational or non-occupational injury or illness must be notified that their time off will be charged under their FMLA (use the Family and Medical leave Notification form) benefit. This time should be coded as "Z" on the time sheet. (Revised 2-10-06)

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### **Equipment/Vehicle Neglect and Abuse**

Employees assigned to operate and maintain city equipment or vehicles will observe all maintenance procedures and schedules and operate such equipment and vehicles safely and appropriately. Negligent or abusive use/operation of city equipment or vehicles will result in appropriate disciplinary action.

Misuse, neglect and abusive use/operation of equipment or vehicles is categorized below:

#### **Misuse** (Revised 02/23/2009)

Operating a vehicle or piece of equipment in a manner not approved by the City of Fort Worth.

Disciplinary action may be taken for vehicle misuse. Disciplinary action for vehicle misuse should be consistent with the City's procedure for Employee Conduct, "Conduct Warranting Disciplinary Action".

This list is not intended to be all-inclusive; it is however representative of the kinds of conduct and incidents which warrant disciplinary action.

- Using a City vehicle to conduct personal business
- Operating a City vehicle off-road if it is not designed to do so
- Failure to operate a vehicle or equipment in the most cost effective method to accomplish assigned duties or tasks. Examples of this type of activity would be: Using a 12 yard dump truck to attend a training class when a car was available, Operating an off road vehicle on road when it is not equipped for it, driving an off road vehicle from one work site to another when using a trailer would reduce costs, Operating a vehicle or piece of equipment with an unsafe number of passengers, excessive acceleration or braking.
- Operating a City vehicle outside of your work area or region without authorization
- Operating a City vehicle with unauthorized persons aboard
- Operating a City vehicle or equipment that you are not authorized to operate
- Idling excessively, this is defined by Council ordinance #3334-04-2006 which states, in part: Vehicle idling should only be allowed for safety, emergency response, vehicle maintenance, equipment activity, warm-up/operations in cold temperature, and manufacturer recommended minimum idle/warm-up times.
- Driving out of your work area for lunch and break
- Operating a vehicle or vehicle combination without a valid license to operate it

- Removing a vehicle from Equipment Services possession without permission
- Operating a vehicle in an unsafe manner.
- Failure to observe traffic laws and regulations

**Negligence** (Revised 02/23/2009)

Minor Negligence: Improper use of equipment or a vehicle resulting in damage to it or the property of another totaling less than \$500. Some examples include, but are not limited to: not securing doors, leaving windows down in inclement weather, not protecting the interior or exterior finish from harmful substances or damage, interior cigarette burns, etc.

Major Negligence: Same as above, resulting in repairs over \$500 or equipment with a replacement value under \$500 that is rendered inoperable.

Disciplinary action may be taken for vehicle negligence. Negligence violations involving monetary damage to the City will be reviewed using the same procedure outlined for vehicle collision damage under the "Driver Safety Training and Certification Program" policy.

This list is not intended to be all-inclusive; it is however representative of the kinds of conduct and incidents which warrant disciplinary action.

- Failure to submit a vehicle to Equipment Services for scheduled maintenance within 1000 miles or 60 days of the past due date.
- Failure to keep your assigned vehicle reasonably clean on both the interior and exterior
- Failure to secure and/or tarp the contents of a truck bed or trailer.
- Leaving the windows open during inclement weather
- Not securing doors
- Failure to protect the interior or exterior finish from harmful substances or damage
- Putting the wrong fuel or lubricants in the vehicle

**Abuse** (Revised 02/23/2009)

Minor Abuse: Failure to make reasonable checks or evaluations of the equipment/vehicle. This includes failure to use any checklists required by the department prior to equipment operation. Some examples include, but are not limited to: failure to check engine oil, coolant, hydraulic oil, battery fluid, and tire pressure and condition, resulting in repairs under \$500.

Major Abuse: Same as above, resulting in repairs over \$500 or equipment with a replacement value under \$500 that is rendered inoperable.

Disciplinary action may be taken for vehicle abuse. Abuse violations involving monetary damage to the City will be reviewed using the same procedure outlined for vehicle collision damage as outlined under the "Driver Safety Training and Certification Program" procedure.

This list is not intended to be all-inclusive; it is however representative of the kinds of conduct and incidents which warrant disciplinary action.

- Removal or alteration of safety or limiting devices, switches, or guards
- Exceeding recommended operating parameters (such as, loading a vehicle beyond its operating capacity)
- Performing unauthorized repairs and/or modifications to a vehicle or equipment
- Failure to check engine oil level prior to operating the vehicle
- Failure to immediately notify ESD of an illuminated warning light, buzzer, gauge, or other devices
- Failure to check tire pressure and condition and hydraulic oil level prior to operating the vehicle

- Smoking in a City vehicle
- Using the wrong vehicle or equipment for the task

Vehicle Abuse Review Committees shall be established by departments and select a Chairperson for the Committee. The Committee will consist of department/division supervisors and safety personnel. Departments may invite an Equipment Advisory Committee representative to be a committee member by calling the ESD Administration.

The departmental committee is responsible for evaluating the facts surrounding an incident. The committee will issue its findings and recommendations based on the facts presented, degree of responsibility and work record of the operator, to the appropriate department/division directors who have final responsibility/authority for determining and implementing appropriate disciplinary action.

Incidents wherein neglect or abuse is suspected shall be handled according to the following process:

Responsibility	Action
ESD Shop Supervisor	<ol style="list-style-type: none"> <li>1. Upon identifying a suspected neglected or abused piece of equipment/vehicle, IMMEDIATELY contact appropriate department/ division Vehicle Abuse Review Committee Chairperson so damage may be viewed firsthand.</li> <li>2. Fill out Operator Abuse Report and forward to departmental Vehicle Abuse Review Committee Chairperson.</li> <li>3. Retain yellow copy of Operator Abuse Report for files.</li> <li>4. Begin repair work only after directed by department/division.</li> </ol>
Vehicle Abuse Review Committee Chairperson	<ol style="list-style-type: none"> <li>5. Call meeting, if warranted, to review alleged incident.</li> </ol>
Vehicle Abuse Review Committee	<ol style="list-style-type: none"> <li>6. Determine culpability, responsibility, extent of loss, and recommended disciplinary action by majority vote into one of the following categories: Operator Negligence/Minor, Operator Negligence/Major, Operator Abuse/Minor, or Operator Abuse/Major.</li> </ol>

An Equipment Advisory Council Subcommittee reviews and rules on disputes between different departments/divisions concerning accidents and repairs. The subcommittee consists of three members not involved in the dispute and mutually chosen by both sides. The ruling made by the subcommittee will be binding on both parties.

Guidelines for progressive discipline addressing violations of this policy are as follows:

**Operator Negligence/Minor**

- 1st Offense - Written reprimand
- 2nd Offense - One day suspension without pay
- 3rd Offense - Three days suspension without pay
- 4th Offense - Demotion from an equipment/vehicle operating classification for at least one year or termination

**Operator Negligence/Major**

- 1st Offense - Five days suspension without pay
- 2nd Offense - Demotion from an equipment/vehicle operating classification for at least one year or termination.

**Operator Abuse/Minor**

- 1st Offense - One day suspension without pay
- 2nd Offense - Three days suspension without pay
- 3rd Offense - Demotion from an equipment/vehicle operating classification for at least one year or termination.

**Operator Abuse/Major**

- 1st Offense - Five days suspension without pay; demotion from an equipment/vehicle operating classification for at least one year; or termination.

Demotion removes an otherwise productive employee from an equipment/vehicle operating classification. The employee is ineligible for rehire/promotion into an equipment/vehicle operating classification for a period of at least one year from the effective date of disciplinary action. At the end of one year, the employee is eligible to apply for any current openings that involve operating equipment/vehicles. The employee is not automatically reinstated to his/her previous classification.

Termination may be an appropriate action. Some departments/divisions may have non-operator classifications in which to place an individual, while others may have positions but no available openings for a demoted operator. Discretion in such instances will be left to the department/division director as to final discipline.

Any combination of four violations in a two-year period will result in demotion for a period of at least one year from an equipment/vehicle operating classification. An employee's Personnel file will be reviewed by the appropriate Vehicle Abuse Review Committee. Any violations during the previous 24 months will apply.

Employees may appeal disciplinary actions based on the findings of the Vehicle Abuse Review Committee through the City's grievance or appeal procedures.

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### **HIV/AIDS and other Communicable Diseases**

To comply with the Human Immunodeficiency Virus Services Act passed by the Texas Legislature on June 16, 1989, it is the policy of the City of Fort Worth that no employee infected with the Human Immunodeficiency Virus (HIV) shall be subjected to mandatory testing, shall be removed from employment status, nor shall be deprived of any employment privileges, except for clearly stated, specific and compelling medical or public health reasons. These reasons shall be based upon accurate scientific information. The City will review each HIV/AIDS-related situation on an individual basis. When, in the best interest of the City and employee, the City may take actions based upon prudent administrative considerations and based upon accurate scientific information.

Employees with HIV/AIDS infection shall be provided the same rights and equal employment opportunities as employees with other communicable diseases with respect to placement, upgrading, transfer, demotion, promotion, terms and conditions of employment, benefits, pay, training, layoff, termination or reinstatement, except for compelling medical and/or public health reasons based upon accurate scientific information. Accommodations will be made to keep employees with HIV/AIDS infection employed and productive for as long as possible.

### **General Employee HIV/AIDS Workplace Guidelines**

(NOTE: The Police, Fire, and Health Departments have established separate HIV/AIDS protocols for their employees.)

#### **Introduction**

Current scientific and medical technology has determined that there is no risk of HIV/AIDS transmission in the normal work setting. Routine daily encounters with co-workers and the public pose no risk of transmitting the fragile blood-borne virus.

The City of Fort Worth recognizes that employees with HIV/AIDS may wish to continue to participate in as many of their normal activities as their health will allow, including work.

The City of Fort Worth also recognizes that continued involvement in normal activities, such as employment, may be therapeutically beneficial in the remission or recovery process and may prolong the employee's life.

Toward the above stated goal, the City of Fort Worth establishes the following HIV/AIDS policy:

It is the policy of the City of Fort Worth that no employee infected with the Human Immuno-deficiency Virus (HIV) shall be subjected to mandatory testing, shall be removed from employment status or shall be deprived of any employment privileges, except for clearly stated, specific and compelling medical or public health reasons. These reasons shall be based upon accurate scientific information.

Ignorance and misconceptions about AIDS/ARC/SP may lead to denial of the individual's rights and privileges to which the individual is legally entitled.

HIV-related policies will be consistent with current information from public health authorities, such as the Centers for Disease Control of the United States Public Health Service, and with state and federal law and regulations.

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#### **Definitions**

- a. "HIV" stands for Human Immunodeficiency Virus. HIV destroys a person's defenses (immune system) against infections. Once infected with HIV, a person may remain without symptoms for a long period of time, but is able to infect others through sexual or direct blood contact. As the disease progresses, the immune system can become so weakened that a person may eventually develop life-threatening infections and cancers.
- b. "AIDS" (Acquired Immunodeficiency Syndrome) is the final state of HIV infection. It is a serious condition characterized by a defect in the body's natural immunity system against disease. With this loss in the body's normal immune response, the individual falls prey to a host of what are called "opportunistic infections". These are unusual infections or tumors not ordinarily seen in otherwise health individuals.

- c. "ARC" stands for AIDS-related complex. ARC is a term that is used to characterize an AIDS-related condition that carries a significant but still imprecisely determined likelihood of progression to AIDS. Individuals with ARC have been infected with the AIDS virus (HIV).
- d. "SP" stands for sero-positivity. SP refers to individuals who have been exposed to HIV but who display no physical symptoms.
- e. "Accurate scientific information" means current information from public health authorities, such as the Centers for Disease Control of the United States Public Health Service.

### **Purpose**

These guidelines delineate the means whereby the City of Fort Worth will ensure its workforce becomes informed about HIV/AIDS, that HIV/AIDS-infected individuals at the workplace will not be subjected to discriminatory treatment because of their HIV/AIDS condition, that confidentiality is maintained when dealing with HIV/AIDS matters and that HIV/AIDS-infected individuals will enjoy all the privileges and entitlements afforded to employees with other communicable diseases.

### **Policy**

It is the policy of the City of Fort Worth that no employee infected with the Human Immunodeficiency Virus (HIV) shall be subjected to mandatory testing, shall be removed from employment status, nor shall be deprived of any employment privileges, except for clearly stated specific and compelling medical or public health reasons. These reasons shall be based upon accurate scientific information.

The City will review each HIV/AIDS-related situation on an individual basis. Accommodations will be made to keep employees with HIV infection employed and productive for as long as possible. When, in the best interest of the City and employee, the City may take actions based upon prudent administrative considerations and/or compelling medical and/or public health reasons which shall be based upon accurate scientific information.

### **Terms and Conditions of Employment**

- a. Employees with HIV/AIDS shall be provided the same rights and equal employment opportunities as employees with other communicable diseases with respect to placement, upgrading, transfer, demotion, promotion, terms and conditions of employment, benefits, pay, training, layoff, termination or reinstatement, except for compelling medical and/or public health reasons which shall be based upon accurate scientific information.
- b. No City department, commission/board or agency shall require its employees to undertake a screening for HIV/AIDS. The Department of Health will annually provide voluntary screening for employees in high/moderate risk job classifications at the City's expense. In special cases where an employee has experienced possible HIV/AIDS exposure as a consequence of job activities, the employee may also request screening at the City's expense. The HIV/AIDS screening results shall be confidential and the employee's rights to privacy shall not be violated.
- c. No official, supervisor nor employee shall refuse to work with HIV/AIDS-infected employee solely on the basis of his/her HIV/AIDS status. If such a refusal occurs and, subsequent to being given education counseling about HIV/AIDS, continues to occur, that person may be subject to disciplinary action.
  - 1. If an employee refuses to work with an HIV/AIDS-infected employee, the supervisor will arrange a time to meet with the employee to discuss the reasons for his/her action. If the supervisor believes the problem is grounded in ignorance or misinformation about HIV/AIDS, the employee will be referred to the Public Health Department to receive counsel and information on HIV/AIDS.
  - 2. The time spent counseling and educating an employee will be recorded as work time. If immediate counsel is not available, reasonable attempts will be made to reassign the employee until such counsel and education can be accomplished. If after receiving counsel and, no medical and/or public health reason which justifies refusal to work with an HIV/AIDS-infected employee exists, and an employee continues to refuse to work, such behavior constitutes insubordination and appropriate disciplinary action up to and including termination will be taken.
- d. With the onset of HIV/AIDS-related symptoms, the employee is responsible for providing medically verified information relating to the ability to be available for or to perform work. Employees known to have HIV/AIDS shall not have their job assignments unreasonably modified. Exceptions may be made by the Human Resources Director in consultation with the Director of Health. Exceptions shall be based upon accurate scientific information.
- e. Supervisors and employees should not engage in discrimination against persons with HIV infection, unless based on accurate scientific information. HIV/AIDS-infected employees who believe their HIV condition is the basis of decisions being made by supervisory personnel should call the Human Resources Representative assigned to his/her department for assistance. If warranted, a formal discrimination complaint may be filed and the incident will be investigated by the Human Resources Department.

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### **Confidentiality**

- a. Based on the Federal Privacy Act, the Texas Commission on Human Rights Act, and the Texas Communicable Disease Prevention and Control Act, any medical documentation or information provided by an HIV/AIDS-infected employee to medical or management personnel must be considered confidential and private information. As such, employers are forbidden by law to disclose this information without the employee's knowledge and consent, except as required by Public Health laws.
- b. With the consent of the HIV/AIDS-infected employee, or as stipulated otherwise, appropriate officials such as medical staff, Human Resources representatives, and/or direct supervisors may be informed. Anyone who has access to confidential information is charged with maintaining strict confidentiality and privacy. Any employee of the City who violates the HIV-infected employee's rights has committed a serious offense. This breach of privacy may be cause for litigation, resulting in both civil and criminal penalties.
- c. Any employee, regardless of position or nature of association, if any, with an HIV/AIDS-infected employee, who reveals information which either breaches the City's policy on confidentiality about HIV/AIDS situations or discriminates against an employee or refuses to work with an employee solely on the basis of that employee's alleged HIV/AIDS status will be subject to appropriate disciplinary action up to and including termination.
  1. Employees who believe a breach of confidentiality has occurred or a malicious attempt to label an employee as an HIV/AIDS-infected individual has occurred should contact the Human Resources Representative assigned to his/her department. An inquiry into the matter will be conducted by the Human Resources Department and based upon the information gathered, appropriate action will be taken, including disciplining any persons who violate this policy.
- d. HIV-infected employees who disclose their medical condition to co-workers severely thwart any possible liabilities which co-workers might have had in regard to violating this policy. Self disclosure may render subsequent allegations of breaches of confidentiality null and void.

### **Employee Education**

The Human Immunodeficiency Virus Services Act requires the City to provide and all employees to receive some education about methods of transmission and methods of prevention of HIV infection and related conditions.

- a. Within the City of Fort Worth some employees operate in high/moderate HIV/AIDS-infection risk job classifications. These employees will receive specific education and training that will be provided by the City's Department of Health. High/moderate risk job classifications generally involve the Health Department and Public Safety employees.
- b. Non risk job classifications involve the majority of the City's job classifications. These employees shall also receive education about HIV/AIDS through new employee orientation and general HIV/AIDS information materials.
- c. The Department of Health and/or the Employee Assistance Program shall provide training and assistance to managers and supervisors in departments in handling HIV/AIDS related personnel problems and in educating employees.
- d. Counseling shall be available for HIV/AIDS-infected employees, their dependents, relatives and co-workers by contacting the Employee Assistance Program or the Department of Health. Such counseling shall be confidential.
- e. Information and training materials about HIV will be prepared by the Department of Health and the Employee Assistance Program Coordinator. Such materials will include printed media, videotaped presentations, and staff presenters. This information will address the five (5) areas cited in the model guidelines promulgated by the Legislature:
  1. Modes of Transmission
  2. Methods of Prevention
  3. Behaviors Related to Substance Abuse
  4. Laws Concerning the Rights of HIV/AIDS-infected Individuals
  5. Behaviors Associated with HIV Transmission which are in Violation of Texas Law
- f. Printed materials will be distributed to City employees and education classes will be scheduled for the benefit of those employees who wish to become better informed about HIV/AIDS. Health Department staff and the Employee Assistance Program Coordinator will be available for personal counseling for employees, their dependents and relatives.

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### **Mandatory Seat Belt Usage**



All employees and occupants of vehicles driven by employees on City business must have their seat belts and harnesses fastened while the vehicle is in motion. This directive applies to both City-owned vehicles and privately owned vehicles used for City business.

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### Occupational Injury Benefit (Workers' Compensation)

This policy is intended to explain the Texas Labor Code's provisions regarding Workers' Compensation for government employees. Any differences will be in favor of the Texas Labor Code (Revised 2-10-06)

The Workers' Compensation Act applies to employees who occupy full-time, part-time, and extra help positions. The Act applies only to physical injuries and occupational diseases that arise out of and in the course of employment, but does not apply to ordinary diseases of life.

The Workers' Compensation Act provides full medical services and cash benefits for temporary disabilities and for permanent disabilities. The widow and dependents of employees killed in industrial accidents are entitled to death benefits.

The Occupational Health and Safety Office (Revised July 1, 2003) is responsible for the overall supervision, coordination, and implementation of the City's Workers' Compensation Program.

Department Directors shall establish a policy statement which establishes realistic goals and objectives for controlling occupational injuries and appoint a departmental safety coordinator.

Department Directors or designees shall insure that all occupational injuries are immediately reported. Failure to report accidents in a timely manner may cause a delay in the payment of benefits, and subject the City to the imposition of monetary penalties.

Department Directors or designees shall ensure that a departmental representative is with the injured worker at the medical provider for the initial visit.

Department Directors or designees shall arrange for a personal contact with all employees who suffer major lost time injuries within 48 hours after the initial report of injury. Concern for the morale and well being of an injured employee will partially alleviate anxieties he or she may have.

Department Directors or designees should review all accident reports and take appropriate, corrective action to minimize the recurrence of such accidents.

An Employer's First Report of Injury (DWC-1) form **must** be completed by the department within twenty-four (24) hours of the injury and immediately forwarded to the (Revised 2-10-06) Human Resources Occupational Health and Safety Office, immediately (Revised July 1, 2003). If an injury occurs on a holiday or a weekend, it should be reported on the first workday after the occurrence. (Revised 2-10-06) An website has been set up to report occupational injuries immediately. The address is [http://apps.cfwnet.org/Employer\\_Injury\\_Reports/](http://apps.cfwnet.org/Employer_Injury_Reports/). The DWC-1 form is available electronically from the Human Resources Forms page on the intranet. Whenever possible departments should complete the DWC-1 electronically, otherwise a hard copy of the DWC-1 form is acceptable. (Revised July 1, 2003). If lost time is involved call 817-392-8524 (revised June 1, 2004). and leave a voice mail message immediately after your notification.

A Supplemental Report (DWC-6) form must be completed and submitted to the Occupational Health and Safety Office (Revised July 1, 2003) when:

- An employee begins losing time from work due to the occupational injury which was not reflected on the DWC-1 and the employee is not at Maximum Medical Improvement (this includes if employee retires as a result of the injury); or
- the employee is terminated or laid off while on light duty as a result of an injury on duty; or
- an injured worker has a change in the number of hours worked as a result of an occupational injury (and the employee is not at Maximum Medical Improvement);
- employee returns to work from an injury on duty.

The initiation and discontinuance of Workers' Compensation benefits is contingent upon the completion and timely submission of the DWC-1 and 6 form. The department should telephone Occupational Health & Safety Office (revised June 1, 2004). immediately by telephone whenever a DWC-1 or 6 is required. Call the Occupational Health and Safety Office (Revised July 1, 2003) immediately at 817-392-7766 or 817-392-8524 (Revised 2-10-06) (Revised June 1, 2004). after your notification.

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**Maximum Medical Improvement** means either (whichever comes first): the expiration of 104 weeks from the date temporary income benefits begin to accrue, or a date beyond 104 weeks that is ordered by the Commissioner of Workers' Compensation,

Texas Department of Insurance; or the date a doctor certifies that the employee can no longer reasonably anticipate further recovery or lasting improvement from the compensable injury. (Revised 02/23/2009)

In case of serious accident or death, the Occupational Health and Safety Office (Revised July 1, 2003) must be notified immediately. If the accident occurs during other than normal working hours leave a voice mail message at (817) 392-8524 (Revised 2-10-06) and then call the Occupational Health and Safety Office at (817) 392-8524 (Revised 2-10-06) as soon as normal working hours resume.

Employees who miss more than three (3) consecutive working days due to a job related injury or illness must be notified (use the Family and Medical Leave Notification form) that their time off will be also be charged under their FMLA Benefit. This time should be coded as "Z" on the time sheet, in addition to "O". (Revised 2-10-06)

When an employee who is injured on the job suffers an extended absence (greater than 30 calendar days or anticipated greater than 30 calendar days) the department may remove the individual from their assigned department into the Workers' Compensation Control Group.

When the injured worker is declared at Maximum Medical Improvement and has permanent medical restrictions that prevent him/her from performing the essential functions of his/her job or he/she is still off work, he or she will be subject to the terms of the City's Return to Work Policy (Revised Nov. 15, 2004).

### **Employee Responsibilities**

All employees who are injured on the job, however minor, must immediately notify their supervisors. The Workers' Compensation Act requires an employee to notify his/her employer within thirty (30) days of the date of the injury and to report such injury to the DWC within one (1) year. In the event the injury involves lost time from work, the DWC will send form (DWC-41) to the employee to be completed. In failing to do so, an employee forfeits his/her rights to all benefits.

It is the responsibility of all employees injured on the job to have a Designation of Duty Status form filled out by the examining physician and returned to their supervisor immediately.

An employee who is on occupational injury leave must contact his/her supervisor at least once every five (5) working days or have someone contact his/her supervisor on his/her behalf if he/she is unable to do so personally. (The City must be aware of the employee's status in order to plan and assign work duties and responsibilities in an efficient manner.)

An employee who suffers an occupational injury or illness shall be required to return to work immediately when released to do so by the examining physician. Failure to return to work when released shall result in appropriate action up to and including termination.

An employee who is released to return to work in less than a Full Duty Status will be subject to the terms of the City's Return to Work Policy. (Revised Nov. 15, 2004)

All employees who are in a less than Full Duty Status **shall not** engage in any secondary employment whatsoever. Employees who engage in any secondary employment shall be subject to disciplinary action up to and including termination.

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**Medical Treatment:** City employees covered under the Workers' Compensation Act shall have the sole right to select or choose the physicians and/or facilities to furnish medical aid, chiropractic services, hospital services and nursing. The employee must ensure that a physician accepts workers' compensation patients. During normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday), the Concentra Medical Center located at 2500 West Freeway (I-30), Ste. #100 (revised Nov. 15, 2004) remains the primary care clinic for those employees injured on the job who indicate no preference of physician or facility.

When an injured employee is initially referred for medical treatment, the supervisor will ensure that the employee is provided with a Designation of Duty Status form.

All employees who require emergency treatment as a result of the injuries sustained in the course of employment must notify his/her immediate supervisor.

Occupational injuries occurring during other than normal hours in which the injured employee indicates no choice or preference will be referred to the nearest medical facility which is equipped to handle the injury needing treatment. Any minor emergency clinic or the emergency room at a hospital may be used. The employee will be treated only for an emergency by the emergency room staff. The emergency room physician will refer the employee to his/her private physician or a specialist for continuance of care.

At any time an employee suffers a major injury and obviously requires treatment beyond the capabilities of the Concentra Medical Center (revised Nov. 15, 2004) he/she should be taken by ambulance to the nearest hospital for emergency treatment.

If hospitalization is required following initial emergency or subsequent medical care, the injured employee will be admitted to the hospital of his/her choice.

Compensation for Employees not Subject to Municipal Code, Local Chapter 143, Revised Civil Statutes of Texas

The maximum compensation benefits that will be paid injured employees will be determined under provisions of the Texas Workers' Compensation Act beginning the eighth day after the first day off from work. If the disability continues for four weeks or more, the initial week of compensation will be paid retroactively.

An injured employee is entitled to medical aid and hospital services which are reasonably required at the time of injury and at any time thereafter as may be necessary to recover. All medical expenses incurred as a result of the occupational injury will be paid by the City of Fort Worth in accordance with the provisions of such act.

Salary Supplement: In addition to the benefits prescribed under the statute, injured employees may receive a salary supplement, the amount depending on the employee's length of service with the City.

Length of Service to Date of Injury	Percentage Disability Supplement Due
Six (6) months or less and all temporary employees	None
Six (6) Months through five (5) Years	50 % of normal salary minus the Workers' Compensation payment.
Five (5) Years through ten (10) Years	75 % of normal salary, minus the Workers' Compensation payment.
More than ten (10) Years of service	100 % of normal salary, minus the Workers' Compensation payment.

Length of service is calculated from the date of employment or the adjusted service date to the date of injury. The benefits received are those the employee would have received on the date of injury. For example, an individual injured in the fifth (5th) month of service who loses time in the seventh (7th) month of service because of the same injury would not be eligible for salary supplement.

Injured employees shall be eligible for benefits effective the eighth calendar day of lost time (and may utilize in the following order; accrued sick leave, old sick leave (Revised 2-10-06) vacation leave, short term sick leave/family leave (Revised December 16, 2000); then other accrued leave shall be used including accrued holidays, personal holidays, wellness leave and compensatory time off. (Revised 5-8-07) [Exception: Marshals will receive full pay for the first seven (7) days of lost time. After the 7<sup>th</sup> day off, Marshals will receive the salary supplement benefits which they are eligible to receive based on his or her seniority beginning the day lost time began.](Revised January 26, 2001)

To receive Supplemental Benefits, employees are subject to the following provisions of the Supplemental Benefit Plan: (Revised Nov. 15, 2004)

- Reported the disabling occupational injury or disease in accordance with the City reporting procedures;
- Agrees in writing to release to the City or authorized agents thereof, all medical histories which may be relative to the occupational injury or disease, its diagnosis and treatment, and/or the prognosis as to duration and degree of disability, if any;
- Completes and submits Designation of Duty Status form in accordance with City procedures; and
- Complies with the examining physician's request to report for examination or treatment.

Salary supplement can be paid initially for a period not to exceed twelve (12) months cumulative for any occupational injury or disease. When eligibility for salary supplement expires, an employee may elect to use accrued benefits in lieu of the salary supplement. **Major Medical Sick Leave, Short Term Sick Leave/Family Leave** (Revised January 26, 2001) and old Sick Leave cannot be used; vacation leave (Revised December 16, 2000), compensatory time, personal holidays and accrued holiday time (K days) may be used.

Employees who are not eligible for Salary Supplement or whose payroll deductions exceed the calculated Salary Supplement payment, must take appropriate action to ensure pay out of items such as Credit Union loans and employee and dependent health insurance. (Check rules for paying health insurance for injured worker when he/she is on FMLA)

In the event that the disability appears to be questionable, the City may exercise its rights under the Texas Workers' Compensation Act by requesting an Independent Medical Exam and/or a Designated Doctor examination through the Texas Workers' Compensation Commission. The results of an Independent Medical or Designated Doctor Examination shall be the determining factor in deciding the employee's eligibility to receive supplemental benefits.

Attorney Fees and Representation. (added 2-10-06) As stipulated by DWC Rule 152.1, employees do have the right to engage an attorney in their workers compensation matters. If an employee hires an attorney to represent him/her in the workers' compensation claim, the attorney fees would be deducted from the employee's TIBs payments by the City's TPA.

**Payroll Reporting Under the Workers' Compensation Program**

The first seven (7) days (consecutive or cumulative of lost time due to an occupational disability should be carried with sick leave,

vacation leave, short term sick leave/family leave (Revised December 16, 2000) or without pay. The time and attendance should be marked S8 or W8 (or S10, W10 if applicable) on the top line and 0-1 on the second line. Do not count the 0-1's from the first seven (7) days in the total column.

Employees will be paid for an entire shift on the day an injury occurs. (Revised January 26, 2001) An employee receiving 50% salary supplement should be shown with four hours (or five hours if applicable) each day on the top line and 0-1 on the second line of the Time and Attendance Report, beginning the eighth day (consecutive or cumulative) of occupational disability.

An employee receiving 75% salary supplement should be shown with six hours each day, beginning the eighth day (consecutive or cumulative) of occupational disability.

In the column immediately below the employee number and the hourly rate, the Time and Attendance clerk should write in the fund, Department-Division-Section, code WC, and the current Workers Compensation daily rate. For each day an employee is off on occupational injury, the code of 0-1 should be entered. (This will be done for all employees receiving a salary supplement, regardless of the amount.)

The leave time an employee uses (Revised 5-8-07) for the first seven (7) days of occupational disability, these would be recorded in the normal manner with 0-1 on the line below. Then in the column immediately below the employee number and the hourly rate, the Time and Attendance clerk should write in the fund, Department-Division-Section, code WC, and the current daily compensation rate. For each day an employee is off on occupational injury, the absentee code of 0-1 should be entered.

Employees not entitled to a salary supplement are carried "Without 8" on the top line, and code WC at the current daily compensation rate would be used with the absentee code of 0-1 on the line below.

A Workers' Compensation instructional manual, Time and Attendance (T&A) Procedures for Workers' Compensation Lost Time, is available through the Reprographics Division. This is a tool to guide those responsible for the posting of T & A sheets through the process. The manual is useful for non-civil and civil service employee T&A records for those workers who have sustained an occupational lost time injury.

The manual will give you the necessary information concerning the use of appropriate accrued leave (Revised December 16, 2000) and compensatory time.

Detailed information is available from the Occupational Health and Safety Office (Revised July 1, 2003) or the Payroll Department.

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#### **Accrued Leave Usage Supplement** (New provision effective July 1, 2003)

Employees who are eligible to receive a salary supplement may request approval to use accrued vacation, personal holiday, accrued holidays or compensatory time to further supplement their income while off work on workers' compensation.

Major medical sick leave, short term sick/family leave, old sick leave, voluntary leave bank and donated leave cannot be used under this provision.

The accrued leave usage is limited to the amount up to which the employee will receive their regular salary. The workers' compensation benefit, plus salary supplement, plus accrued leave usage supplement cannot exceed the employee's regular salary.

To utilize this supplement employees must submit a written request to his/her Department Director. The employee's workers' compensation benefit, salary supplement benefit (if eligible), and accruals of appropriate leave and compensatory time will be reviewed. If the Department Director or designee determines that the employee may utilize this benefit, his/her recommendation will be forwarded to the Human Resources Director for review and final approval. If the department decides to deny the request, a written explanation will be sent to the employee and there will be no further review or appeal of the matter.

Upon approval of the leave usage supplement, the department and the employee will work together to determine the amounts and the types of leave that will be used to supplement his/her salary.

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#### **Compensation for Employees Subject to Municipal Code, Local Chapter 143, Revised Civil Statutes of Texas (Police and Fire Civil Service)** (Revised 2-10-06)

The provisions of this policy will apply to injuries sustained on/or after October 4, 2003. Civil Service employees are subject to the rules in this policy except where there is conflict with Chapter 143 rules.

Civil service employees, who are subject to Chapter 143, will receive full salary equivalent to AWW for up to one (1) year in accordance with Chapter 143 of the Texas Local Government Code for a leave commensurate with the nature of a compensable on the job injury. Full salary is defined as average weekly wage (AWW) of the employee and includes shift differential. All full salary payments paid to civil service employees are subject to the required payroll deductions to include health insurance, retirement contributions, and any court-mandated deductions (i.e. child support, etc.)

Full salary payments begin with the first day of lost time. If AWW is less than regular pay, (40) forty hours for Police Officers and (40) forty or (56) fifty-six hours for Firefighters, the employee will receive full salary pay while off work for an occupational injury for up to 365 days. Civil service employees will receive bi-weekly pay from the City, based on the employee's AWW.

If AWW is less than regular pay, (40) forty hours for Police Officers and (56) fifty-six hours for Firefighters, the employee will receive regular pay while off work for an occupational injury for up to 365 days. Civil Service employees will receive pay biweekly from the City, based on the employee's average weekly wage (AWW).

The City will comply with the DWC rule 128.3 (d) to determine the average weekly wage for an employee:

"If an employee has worked for 13 weeks or more prior to the date of injury, or if the wage at time of injury has not been fixed or cannot be determined, The wages paid to the employee for the thirteen weeks immediately preceding the injury are added together and divided by 13. The quotient is the average weekly wage for that employee."

If the civil service employee does not earn AWW when he/she returns to work, a DWC 6 must be completed and submitted to the Human Resources Occupational Health and Safety Division, showing the difference in Post Injury Earnings (PIE). If PIE is more than AWW, the employee is due no money from the City's TPA. When PIE is less than AWW, the employee is due 70% of the difference between PIE and AWW or the State mandated maximum.

The civil service employee is eligible to receive TIBs if he/she returns to work and full salary payment is terminated and there is no extension of full salary benefits until he/she attains Maximum Medical Improvement (MMI) or AWW equals or exceeds PIE prior to MMI.

**Extensions of Full Salary Benefits.** Civil Service employees will be notified approximately (60) sixty-days prior to the expiration of their full salary so that he/she, if necessary, may petition for an extension of full salary benefits. At the written request of the employee, the City Council may extend the full salary benefit in part or whole for a period of six months per extension.

When a year has passed and/or all extensions have been exhausted and the employee is not at MMI and/or is still eligible to receive TIBs; the City's TPA will begin to send the employee his/her appropriate amount of TIBs weekly. The employee may then use accumulated sick leave, vacation leave, or other accrued benefits to supplement his or her salary, before being placed on Temporary Leave as defined in Chapter 143 of the Texas Local Government Code.

**Attorney Fees and Representation.** (added 2-10-06) As stipulated by DWC Rule 152.1, civil service employees do have the right to engage an attorney in their workers compensation matters.

If an employee hires an attorney to represent him/her in the workers' compensation claim, normally the attorney fees would be deducted from the employee's TIBs payments by the City's TPA. The City's Finance Department/Payroll Division performs administration of full salary and therefore any attorney fees and payments will need to be settled between the civil service employee and the attorney. (revised 2-10-06)

**Deductions.** (added 2-10-06) All normal paycheck deductions (i.e. taxes, health and dental insurance, court ordered child support, retirement etc.) will continue to be deducted from the full salary payments that the injured employee receives from the City.

**Holiday Pay.** (added 2-10-06) Civil Service employees who are off work for an occupational injury/illness on a holiday will receive holiday pay if they are receiving full salary benefit or earn a "K" day for the holiday if they are not receiving full salary benefit. General employees who are off work for an occupational injury/illness on a holiday will earn a "K" day for the holiday.

**Leave Accrual** (added 2-10-06) General and Civil service employees will continue to accrue all leave (i.e. sick, vacation) while off work for a compensable occupational injury/illness.

**Noncompliance** (added 2-10-06)

General and Civil Service employees who fail to comply with the rules and regulations set out in the Texas Labor Code and the Workers Compensation rules are subject to the penalties associated with noncompliance.

**Overpayments** (added 2-10-06)

If there are overpayments regardless of cause, while the employee is receiving full salary from the City, the amount of the overpayments will be recovered in whole or in partial payments, as agreed upon by the department and the employee, from future checks from the City and the recovery may begin while the employee is on occupational injury leave. Any overpayment created, regardless of cause, when an employee is eligible to receive workers compensation benefits will be recovered by the City's TPA from workers compensation benefits and future indemnity benefits.

Seniority (added 2-10-06) Seniority shall continue to accrue during an occupational injury/illness leave.

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**Return To Work** (new policy effective August 2, 2004)

**Policy Statement**

The City recognizes that there are many instances in which an injured or ill employee can make a significant contribution to the City's mission during the employee's recovery period. To that end, the City adopts this Return to Work program to facilitate the speedy return of injured or ill employees to full duty.

### Definitions

For the purpose of this policy, the following terms have the indicated meanings:

"Alternative Assignment" is job redesign or placement to meet the needs and abilities of the individual, with work restrictions as determined by their treating physicians.

"Business Days" is Monday through Friday, excluding City holidays.

"Designation of Duty Status form" is a medical work release form used for non-occupational injuries or illness.

"Employee" means current employees only, but does not include those who are ineligible for City benefits, including SO1, and temporary employees. (Revised Nov. 15, 2004)

"Extended Limited Duty" is an extension of limited duty status for non-probationary employees who have been on limited duty in excess of 6 months.

"Extended Limited and/or Limited Duty Assignment" is a temporary work assignment, including limited, partial, and part-time work, which meets the following criteria:

- The work must be productive;
- The work must be consistent with medically determined restrictions; and
- The employee must possess the necessary skills to perform the assignment.

"Full Duty" is a medical determination that an employee can safely perform all of the essential functions of his/her job with no limitations or restrictions or with reasonable accommodations.

"Limited Duty" is a medical designation that an employee may return to work with specific detailed limitations or restrictions.

"Independent Medical Examination"(IME) is a physical exam of the injured employee required by the Texas Workers' Compensation Commission.

"Maximum Medical Improvement (MMI)" is the earlier of:

- The point in time that an employee's injury or illness has improved as much as is medically possible based on the ability to perform the essential functions of his or her job; or
- 105 weeks from the date an occupationally injured worker became eligible to receive worker's compensation income benefits.

"Preferential consideration" is the procedure of interviewing the laid off employee before other candidates for vacant positions (transfers or demotions) for which he or she is qualified and which meet the employee's medical restrictions. If the individual is not selected, the non-selection reason will be reviewed by the Return to Work Committee.

"Return To Work Committee" is a committee that may assist in placement efforts for injured employees in limited duty assignments and extended limited duty assignments. The committee consists of the City's ADA Coordinator, Disability Coordinator, Staffing Services representative and mid-level management personnel representing various city departments.

"DWC73 Work Status Form" is a medical work release form required under the Texas Workers' Compensation Commission (DWC) form for occupational injuries.

### Determination of Assignments

Due to the limited availability of limited and extended limited duty positions, preference shall be given to employees who have suffered an on-the-job injury/illness except as otherwise required by the Americans with Disabilities Act.

If a limited duty or extended limited duty position is not available in the department or elsewhere within the City during the employee's recovery period, an employee whose impairment is the result of occupational illness or injury shall remain on injury leave until (a) a position becomes available; (b) such time as the employee is returned to work by his/her treating physician; or (c) the employee reaches MMI, whichever comes first. Employees whose impairment is not the result of an occupational injury/illness must use appropriate accumulated leave, or time without pay if leave is not available, until the employee is returned to full duty

status by his or her personal physician.

If an employee with an occupational injury/illness refuses to accept a limited duty or extended limited duty job assignment which he or she can perform and for which he or she is qualified, the employee shall be disqualified from participating in the limited duty program for the duration of his/her injury and may not be allowed the usage of personal accrued leave to supplement workers compensation benefits for the duration of his/her injury. Refusal to accept a limited or extended limited duty assignment may result in discipline up to and including termination.

### **Obligations of Employees**

All employees with occupational or non-occupational illnesses or injuries are responsible for communicating to their physician that the City does have a return to work program.

Employees on limited or extended limited duty shall:

- Participate in activities within their medical restrictions in order to progress toward a successful recovery.
- Be allowed to promote into other positions if the employee can perform the essential functions, and meets the minimum qualifications for the promotional position. Civil Service employees will follow the applicable procedure as outlined in Chapter 143 of the Texas Local Government Code.
- Be allowed to work a regular work-week while in this status. Employees will not be able to work overtime or earn compensatory time until returned to full duty status. The Department Head must approve all secondary employment.
- Not wear a uniform if the employee is a licensed Peace Officer.

During the employee's placement in a limited duty assignment, the employee is required to provide an updated medical status when his or her condition changes or when he or she returns for a follow-up visit to the treating physician.

### **Limited Duty**

The department's Return to Work Coordinator will oversee the coordination of the limited duty assignments. Each department head will assign a Return to Work Coordinator, who will have the authority to work with employees and management to find appropriate limited duty assignments. The Return to Work Coordinator will assess assignments based upon the employee's skills, knowledge, ability, recovery period, medical prognosis, status of maximum medical improvement (MMI), and duration of restrictions. The process of requesting a limited duty assignment begins with the employee submitting the Work Status Report Form (DWC-73) or the City's Designation of Duty Status (DDS) to the Return To Work Coordinator.

Limited duty assignments will be made only after the department's Return to Work Coordinator has received a Work Status Report form (Texas Workers' Compensation Commission, DWC-73) for employees who have incurred an occupational injury/illness or the City's Designation of Duty Status (DDS) form for employees who have incurred a non-occupational injury/illness.

Assignments will be commensurate with the employee's medical restrictions. The purpose of a limited duty placement is not to create a permanent limited duty career path, but rather to provide an injured employee with a temporary position with the understanding and expectation that he or she will return to full duty.

The City will follow the policy already established in the Personnel Rules and Regulations for occupationally injured employees under the Texas Workers Compensation Act regarding Independent Medical Exams (IME) or Designated Doctor examinations. Refusal to undergo an IME is grounds for termination. If the IME results and the employee's physician's assessment are significantly different, another mandatory IME shall be required. In such instances, the City and the employee must agree upon a physician to do the final IME. The results of this IME will be the final status of the employee's condition. The City will pay for all IME's and the requesting department will be charged for all IME costs.

In the event of a non-occupational illness or injury, the Department Head has the right to request the employee to have a physician complete the City's Designation of Duty Status (DDS) form for employees who have incurred a non-occupational injury/illness. The designation of duty status form (DDS) is designed for reporting the medical restrictions of an employee who has incurred non-occupational injury/illness. An employee who has incurred a non-occupational injury will be responsible for having the DDS form completed by his/her physician and submitting the form to the Department's Return To Work Coordinator for placement in a limited duty assignment. If the employee's physician will not complete a DDS form, the City will ask for a Functional Capacity Evaluation by a physician of the City's choice, the cost of which shall be borne by the employee's department.

An employee with a non-occupational injury or illness can be placed in a limited duty assignment for up to six (6) months if he or she is released to return to work with temporary restrictions, except as otherwise required by the Americans with Disabilities Act.

When an employee is released to work with medical restrictions, the department is expected to:

- Ensure the employee has turned in the completed DWC-73 or the City's DDS form to the department's Return to Work

Coordinator. The form should outline the physical/mental restrictions criteria for the limited duty assignment.

- Assign the employee to a temporary limited duty assignment (if available), the essential functions of which the individual can perform in accordance with the medical restrictions and for which he or she is qualified.
- Contact the department's Return to Work Coordinator in a timely manner to begin the process of placing the employee in a limited duty assignment.
- In the event that the department cannot locate a position within the department, the employee will be referred to the Return to Work Committee. The Committee will consult with the employee, department personnel, and other departments within the City in an attempt to place the employee in a temporary limited duty assignment in another department, the essential functions of which the individual can perform in accordance with the medical restrictions and for which he or she is qualified. (Revised Nov. 15, 2004)

### **Extended Limited Duty**

Employees who have an occupational injury/illness and are assigned to a limited duty assignment and require additional recovery time, shall, within fifteen (15) days and no more than thirty (30) days prior to the expiration of the limited duty assignment, provide a written request for extension to the department with an updated medical status (DWC-73 or DDS form) from the treating physician. Should further extensions be requested, the employee is responsible for providing a DWC-73 form for each additional request.

The Department Director, based on the department's needs and work priorities, can extend limited duty assignments in 30-day increments for up to an additional six (6) months. Employees who have incurred a non-occupational injury/illness are ineligible for extended limited duty, except as required by the Americans with Disabilities Act.

After the first six (6) months of an extended limited duty assignment, future extensions of extended limited duty assignments may be granted in up to twelve (12) month increments until the employee is released to full duty, released with permanent restrictions that cannot be accommodated in his/her present position, or the employee reaches MMI, whichever comes first. Extended limited duty assignments will be made only after the Return To Work Coordinator in coordination with the Department Head receives a Work Status Report for (DWC-73) or the City's DDS form.

During the employee's placement in an extended limited duty assignment, the employee is required to provide an updated medical status if his or her condition changes or when he or she returns for a follow up visit to the treating physician. Department Heads have the authority to discontinue or amend the type and length of assignment if it is in the best interest of the department, except as required by the Americans with Disabilities Act. The requirement to provide an update on medical status ceases when an employee is permanently transferred to an alternate assignment.

### **Appeal Process**

In instances where an employee's request for a limited duty assignment or for an extended limited duty assignment is denied by the department, the employee may file an appeal to the City Manager through the Human Resources Director or designee within fifteen (15) calendar days after the denial is issued. The appeal must be in writing and include any medical documentation pertinent to this decision.

The employee has the burden to establish his or her ability to perform the essential functions of the position he or she is seeking. The employee also has the burden to establish that he or she is qualified for the position being sought. This appeal process is not meant to dispute assignments or to create additional light duty assignments but instead to determine the employee's qualifications for limited duty assignments or for extended limited duty assignments. Once Human Resources receives the employee's appeal, Human Resources will have five (5) business days to contact an independent expert to perform a job site assessment.

### **Protocol for Job Site Assessments:**

1. Job Site Assessment (JSA) is referred from the City's Human Resources Department
2. The employee will provide the independent expert access to all of the recent medical information indicating the employee's medical status and physical abilities;
3. The expert will retain or obtain an objective Functional Capacity Assessment on the employee;
4. The City shall provide the independent expert with the job description, access to the job site and the site supervisor as appropriate.

Once the assessment is completed, the independent expert will submit a report within ten (10) business days to Human Resources. Human Resources within (10) business days will review and make a recommendation to the City Manager. The City Manager will evaluate the recommendation and will make the final decision regarding the employee's eligibility for a limited duty assignment.



If placement into a limited duty or extended limited duty assignment cannot be made for an employee due to the nature of the work restrictions, the employee may choose to use all available leave in accordance with either Chapter 143 (if the employee has not exhausted full salary leave), the City's Personnel Rules and Regulations, worker's compensation benefits or salary supplement benefits (if applicable) until placement can be made or the employee is released to return to full duty.

### Alternative Assignment

#### Occupationally Injured Employees (Revised Nov. 15, 2004)

When an employee who has experienced an occupational injury/illness is released to work with permanent restrictions (reached maximum medical improvement, MMI) (Revised Feb. 23, 2009) that will not allow him or her to perform the essential functions of his or her original position, the employee will be referred to the Employment Options process. (Revised)

Upon completion of the Employment Options meeting with the employee, the employee will be referred to the Return to Work Committee. For the next 60 calendar days (Revised 02/23/2009) the Committee will consult with the employee, department personnel, and other departments within the City in an attempt to place the employee in a vacant position citywide. In attempting to find a position for the employee, the Committee will look only at vacant positions, and is not required to create a new position solely to accommodate the employee. The Committee will continue working to place the employee from the inception of the case until the end of the one (1) year preferential hiring period.

The employee must be qualified for the position and be able to perform the essential functions of the position except as required by the Americans with Disabilities Act. In an effort to minimize the loss of salary, the employee will be transferred at the current salary rate, unless the current salary rate is above the maximum pay of the top of the salary range, in which case the employee will be paid the maximum pay for the position.

If the Return to Work Committee locates an appropriate vacant position within the City, the Committee will make a recommendation to the Department Director and Human Resources Director that the employee be placed in the position. Final placement of employees in a position will be at the discretion of the hiring department.

In the event that the Return to Work Committee is unable to place the employee in a position, the employee will be laid off. (Revised 02/23/2009)

Employees who are (Revised 02/23/2009) lay-off will be given preferential consideration for vacant positions that they are qualified to fill for one (1) calendar year. Preferential consideration provisions are governed by the city's Layoff Policy. The Committee will continue to attempt to place the employee during the one (1) year preferential consideration period. Persons hired into an "S" key code position before the end of the one (1) year period will continue to have preferential hiring consideration until the period ends. (Revised 02/23/2009)

### Non-Occupationally Injured Employees

Non-occupationally injured employees may be eligible for assistance in finding alternative employment with the City under the terms of the City's Alternative Employment Policy (See Health & Safety page 1) (revised Nov. 15, 2004).

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### Safety Program

It is the policy and desire of the City of Fort Worth to provide safe working conditions for all employees. The City will provide the equipment and training required for personal safety and health in keeping with the highest standards. Effective safety is a shared responsibility, and to that end:

- The City accepts the responsibility for leadership of the Safety and Health Program, for its effectiveness and improvement, and for providing the safeguards required to ensure safe conditions.
- Mid-management personnel (persons to whom first line supervisors report) are responsible for ensuring that identified deficiencies are corrected in a timely manner; and, reviewing training programs, safety inspections, and accident investigation reports.
- Supervisors are responsible for ensuring safe working conditions, providing appropriate safety equipment, enforcing safety rules and guidelines, providing safety training, conducting safety inspections, investigating accidents, and keeping safety-related records.
- Employees are responsible for wholehearted, genuine cooperation with all aspects of the Safety Programs – including compliance with all rules and regulations – and for conscientiously practicing safety in the performance of their duties.

A well-organized safety policy and procedure, supported by each employee, will benefit both the employee and the citizens of Fort Worth. Maintenance of safety standards and continuous review of all matters pertaining to safety can result in the significant reduction of accidents and injuries which cause pain and suffering, avoidance of losses of time and efficiency, and in monetary

savings to the individual and to the City.

First line supervisors and all managerial personnel have the responsibility of providing a safe place to work for all employees of the City of Fort Worth.

All city employees are obligated to abide by all safety rules established by minimum OSHA standards or management. Failure to do so will result in disciplinary action up to and including termination.

Employees who witness an accident or view damages which affect the public and possibly involve the City should take appropriate action as outlined in this regulation.

Employees of the City of Fort Worth are expected to:

Follow all safety regulations, posted signs, job training and operating procedures established by the City of Fort Worth. This includes specific departmental or division safety rules, wearing prescribed safety equipment, safety apparel, and proper work clothing. Immediately report accidents and injuries, regardless of how minor, to a supervisor. Immediately report all unsafe conditions, equipment, unsafe acts, fire or suspicion of fire to a supervisor. Maintain work areas and the facility in which employees work, in a clean, healthful, and sanitary condition and not commit unsanitary or unhealthful acts. Abide by all rules governing the movement of traffic, speed, and parking. Properly display any vehicle I.D. numbers that may be required on City equipment. Smoke only in authorized areas; consume food and beverage in designated areas only.

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When an employee begins a new job it will be the responsibility of the supervisor to train and instruct the employee in the safe method of performing the job assigned. The supervisor and the designated Safety Coordinator will have the responsibility of providing safety training as an ongoing project. During safety meetings and, when new equipment or processes are introduced, the supervisor will have the responsibility to provide training when necessary.

All City employees will wear personal protective equipment in all areas requiring such equipment. Designated areas will be properly identified as to what type of clothing or equipment is required. All supervisors will be responsible for the maintenance, administration, and the purchase of required personal protective equipment which may include but not be limited to: Head Protection; Ear Protection; Face and Eye Protection; Respiratory Equipment; Safety Belts; Protective Footwear and, Special Work Clothing.

Steel toed shoes will not be furnished by the city.

Safety inspection tours will be conducted by the Division Safety Coordinator or designee at least once a month. Monthly inspection reports will be reviewed by Division Managers.

Departments must establish a safety inspection schedule to meet the necessity of ensuring facilities and work areas are safe. A copy of the departmental safety inspection schedule must be sent to Occupational Health & Safety Division of the Human Resources Department (revised June 1, 2004).

Safety inspections will be conducted by the Department Director/Division Head or the Department Director/Division Safety Coordinator or designee and will be accompanied by one key employee from that department/division. Reports will be audited by the Department Director/Division Head for corrective action. Within fifteen (15) calendar days, a copy of the report will be sent to Occupational Health & Safety Office (revised June 1, 2004).

The City Safety Coordinator will, at least semi-annually, conduct safety inspections of the City facilities. Inspection reports will identify necessary corrective actions which should be completed within fifteen (15) days of the inspection.

Department Safety Committee – Department Directors/Division Heads shall appoint a Safety Committee within the Department/Division. The make-up of this committee should include the Department Safety Coordinator and key hourly employees. The Committee shall meet on a monthly basis to discuss, evaluate, and solve safety matters.

Department Safety Coordinator - Department Directors/Division Heads shall designate a Safety Coordinator with such assistants as may be required by the size and organization of the department, who shall assist in the implementation of the City's Safety Programs and keep the Department Director advised of all aspects of its operation. Safety Coordinators shall ensure that all safety policies or programs approved by the Department Director/Division Head are followed uniformly throughout the department and shall promptly advise the Department Director of any matters requiring attention. The Safety Coordinator shall confer at regular intervals with the City's Safety Coordinator.

Safety Coordinators Meetings – Safety Coordinators and/or assistants designated by their Department Director/Division Head shall attend a monthly Safety Coordinators Meeting. The meetings will be chaired by the City Safety Coordinator. The meeting will be used to communicate safety policies and procedures and other safety related materials.

Accident Review Board - The following departments will establish, organize, and actively operate Accident Review Boards: Transportation/Public Works, Water, City Services, Public Health, Engineering, Aviation, Fire, Police, Parks and Community Services, and Municipal Court Services.

All other departments and offices will operate under a Combined Accident Review Board unless and until, at the option of the Department Director, a Departmental Accident Review Board is established and in operation. The Combined Accident Review Board shall be organized by the Occupational Health & Safety Office (revised June 1, 2004) and shall operate under rules established and promulgated by the department.

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Accident Review Board Meetings are set-up to establish accountability for all accidents involving City employees or property by: insuring that all accidents are fully reported and reviewed by the responsible supervisor; determining whether an accident was caused by a safety violation and what corrective action might have been taken to avoid the accident; reviewing or recommending disciplinary action(s), which are based on safety violations and are reasonable, appropriate, prompt, and consistent with prior action in similar cases; and, recommending appropriate recognition for good performance.

Employer's First Report of Injury - When a death, lost time, or first aid injury occurs, or when a supervisor is made aware of an injury, the supervisor will complete an Employer's First Report of Injury (Form DWC-1) as expeditiously as possible and forward this report to the Occupational Health & Safety Office (revised June 1, 2004) as soon as possible but at least within 72 hours. If the injury involves death or serious injury, this information must be reported to the Occupational Health & Safety Office (revised June 1, 2004) by telephone as soon as possible.

Accidents that cause death or lost time and, near miss or vehicular collisions will be investigated by the Department Director/Division Head and should be fact-finding and not fault finding. The value of investigations lies in uncovering contributing causes. A written report answering the who, what, where, when, and why, or the Supervisor's Accident Investigation Report form must be completed after each investigation. The report will be separate from the Employer's First Report of Injury and will be used during the accident Review Board meetings. The investigation and report should be completed as soon after the accident as possible. (See policy entitled "[Employee Work Status Resulting from Injury or Illness](#)" for more information)

Emergency and Medical Treatment - See the regulation entitled "[Occupational Injury Benefit \(Workers' Compensation\)](#)."

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### **Workers' Compensation Control Group**

The Workers' Compensation Control Group (WCCG) has been established so departments can temporarily fill positions occupied by persons who are either unable to work or who are in a less than full duty status (Revised July 1, 2003) due to an occupational injury or illness. Employees who have been off work for 30 calendar days may be transferred into the Workers' Compensation Control Group (Fund 999, Department 15, Division 73, Section 10, Pay Group 180) (Revised July 1, 2003). The initial 30 calendar day period may be waived if an employee submits a Designation of Duty Status form indicating an absence or a less than full duty status (Revised July 1, 2003) in excess of 60 days or for an indefinite period.

Departments must continue to pay the salaries of those employees who are transferred into the WCCG when they are in a less than full duty status. Those employees who are transferred into WCCG because they are unable to work will be compensated in accordance with the Workers' Compensation policy. (Revised July 1, 2003)

#### **Transferring into the WCCG**

Send requests to transfer an employee into the WCCG to the Workers' Compensation Coordinator in the Occupational Health & Safety Division of the Human Resources Department (Revised July 1, 2003). The Department Director or designee making the request must explain the rationale for the request in terms of diminished productivity. Documents accompanying the request should include Designation of Duty Status forms and a Personnel Action Request (PAR) form authorizing the transfer. Use the employee's "home" department Locator Code and, Index Code and/or Mars Code on the PAR.

During an employee's assignment into the WCCG, all current Workers' Compensation rules and regulations continue to apply including: contacting one's supervisor at least once every five (5) working days; refraining from engaging in any unauthorized secondary employment; ; following doctor's orders (Revised July 1, 2003) and, submitting Duty Status forms after every physician's examination or upon request.

Employees in the WCCG will continue to accrue Vacation and Major Medical Sick Leave and Short Term Sick Leave/Family Leave hours. (Revised December 18, 2000)

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### **Returning to Work**

#### **Unable to Work Status Employees** (Revised July 1, 2003)

Employees who were transferred into the Control Group while completely off work (unable to perform any duties) must return to work when their duty status allows their return to work (very light, light, full duty status). (Revised July 1, 2003).

#### **Less than Full Duty Status Employees** (Revised July 1, 2003)

Employees who were transferred into the Control group while in a less than full duty status must remain there until they receive a full duty status release to return to work. (Department Directors may request a waiver to this provision when deemed necessary.) (Revised July 1, 2003).

When an employee is released to return to work (very light, light or full duty status), the "home" department must notify the Occupational Health & Safety (Revised July 1, 2003) Division and prepare a Personnel Action Request form authorizing the employee's return to his/her original position.

If the employee's position was filled with a temporary employee, the temporary employee will be released. If the position was filled with a regular employee, that employee will be laid off, and entitled to the benefits under the City's Layoff policy.

#### Maximum Medical Improvement

Employees who reach maximum medical improvement must be removed from the WCCG. If the employee is not able to perform the essential functions of his/her job (with or without accommodation), the employee will be subject to the terms of the Return to Work Policy.(Revised Nov. 15, 2004)

#### Replacement Employees

Temporary employees may be hired to fill positions vacated by employees being transferred into the WCCG. If it is medically determined that the injured/ill employee will not be able to return to his/her position in full duty status, the department, with the approval of the Loss Control Administrator, may fill the position with a regular employee.

Persons hired into such positions must sign an Employment Agreement which states that in the event that an employee is able to return to their position, the replacement employee will be laid off and be entitled to the benefits under the City's Layoff policy.

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## Complaint Resolution

### Appeal Procedure

THE APPEAL PROCEDURES DO NOT PROVIDE LEGAL RIGHTS TO EMPLOYEES. ONLY THE CITY COUNCIL, IN ENACTING THE CITY CHARTER AND CODE, MAY CONFER RIGHTS TO EMPLOYEES. THE PROCEDURES ARE DRAFTED FOR THE PURPOSE OF IMPLEMENTING THE FORT WORTH CITY CODE, AND MAY BE REWRITTEN BY THE CITY MANAGER AT ANY TIME, FOR ANY REASON.

THE APPEAL PROCEDURES SERVE AS GUIDELINES FOR THE ORDERLY PROCESSING OF APPEALS. THE HUMAN RESOURCES DIRECTOR OR DESIGNEE MAY WAIVE PROCEDURAL RULES FOR GOOD CAUSE. FAILURE OF THE CITY TO STRICTLY FOLLOW THE GUIDELINES DOES NOT PREVENT THE CITY FROM IMPOSING DISCIPLINE ON EMPLOYEES, UP TO AND INCLUDING TERMINATION.

It shall be the policy of the City of Fort Worth to give eligible employees an opportunity to appeal disciplinary dismissals, demotions or suspensions, as defined in this Appeal Procedure, with supervisors and management in order to reach a mutually satisfactory resolution as soon as possible. In the presentation of appeals, employees are assured of freedom from restraint, interference, discrimination or reprisal. Resolutions may be negotiated at any step throughout the Appeal Procedure.

Employees who have successfully completed his/her initial probationary period and who are not employed in a temporary status, may file appeals. (Revised October 9, 1999) Some employees, however, are excluded from coverage under these procedures (see [Exclusions Provision](#) on page 7 of this section) (Revised Nov. 15, 2004).

Human Resources Director or designee shall be responsible for ensuring that appeals are processed in accordance with established procedures. Decisions pertaining to the application, interpretation and implementation of these procedures shall be made by the Director or designee.

An [Appeal](#) is the administrative procedure whereby an employee who has been terminated, demoted, or suspended for more than ten (10) consecutive working days for disciplinary reasons may seek restitution.

A [Discrimination Appeal](#) is an appeal where an employee who has been disciplined by termination, demotion or suspension alleges disparate (unequal) treatment. Acceptable bases upon which to file a discrimination appeal include race, color, national origin, gender, age, sexual orientation (revised June 1, 2004), religion, and/or disability.

Any discrimination appeal shall be construed as being a claim against the City of Fort Worth. Unless determined by legal counsel to be facially invalid, these appeals will be investigated as if they were a claim. The Human Resources Director or designee shall investigate such appeals for the review of Legal counsel.

(Paragraph deleted effective 2-10-06)

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## The Resolution Process

### Filing An Appeal

The aggrieved employee must contact the Employee Relations Division in the Human Resources Department within five (5) (Revised January 21, 2002) working days of the occurrence of the matter aggrieved or within five (5) (Revised January 21, 2002) working days after the employee first learned about the matter. The aggrieved employee must meet with the Employee Relations Division to file an appeal. During this meeting the employee's eligibility to file an appeal will be determined. If eligible, the appeal process will be explained to the employee. The employee will be given a one-page summary of the process, a Grievance/Appeal form, and a Complainant Rights form.

The City's Grievance/Appeal Report form shall be utilized under this procedure and should not be separated into its individual carbon copies until a final resolution has been established with the Human Resources Director's or designee's approval. Departments and employees should retain a photocopy of the form and their responses.

All parties involved in the filing, processing, and investigation of a appeal are expected to provide full and complete information relevant to the appeal. Information intentionally withheld at any point during the appeal process, to be presented at a later point in the process, will not be considered in the appeal process. Full and timely disclosure is expected throughout the appeal process.

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#### Step 1: Human Resources and Department (Revised January 21, 2002)

The employee must submit the appeal to the Human Resources Director or designee within five (5) working days after meeting with the Employee Relations Division. (Revised January 21, 2002)

The Department Director will designate a staff member to conduct an investigation with the Human Resources Department. They will (Revised January 21, 2002) have ten (10) working days to gather facts, attempt to secure a resolution and respond in writing. Every attempt should be made to resolve the problem.

The investigation team (Revised January 21, 2002) should meet with the aggrieved employee to discuss the issues before a written response is prepared.

If the appeal is resolved, a (Revised January 21, 2002) settlement shall be written and signed by all parties. Copies of the signed settlement shall be distributed to the aggrieved employee, Department Director and Human Resources Department along with the appropriate copy of the Grievance/Appeal Report form. The complete file shall be maintained by the Human Resources Department's Employee Relations Division.

#### Step 2: Disciplinary Appeals Board (Revised January 21, 2002)

The Disciplinary Appeals Board was established and is governed by City Ordinance No. 11921, entitled "Human Resources Ordinance".

Failure to resolve the appeal results in the appellant's option to proceed to Step 2 or discontinue the appeal. If the employee decides to proceed, the employee must contact the Employee Relations Division in writing within ten (10) (Revised July 1, 2003) working days after receipt of the [Step 1](#) response to request a hearing before the Disciplinary Appeals Board.

A hearing shall be scheduled and convened as soon as possible after receipt of the employee's written request.

A Notice of Public Hearing shall be posted at least seventy-two (72) hours prior to the hearing in accordance with state law.

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### Hearing Rescheduling

Either party may request a rescheduling of the hearing by notifying the Employee Relations Division as soon as possible prior to the time of the hearing. (Hearings rescheduled at the appellant's request will mitigate possible damage awards.) If, in the Human Resources Director's or designee's judgment, the request is reasonable, the hearing will be rescheduled. If the request is not deemed reasonable, the issue will be reviewed by the Human Resources Director and may administratively close the appeal. (Revised January 26, 2001)

If an employee does not cooperate in the hearing scheduling process by failing to attend a scheduled hearing without notice or for good cause or by failing to provide information needed to schedule a hearing, that employee's appeal will be administratively closed by the Board.

### Disciplinary Appeals Board Hearing

1. The Board shall only consider the issues contained in a written statement from the Department of Law stating the charges against the appellant and the rationale for the action taken. Evidence presented at the hearing by either party must directly

relate to those issues.

2. The Board has subpoena power, and witnesses may be summoned by either party or by the Board. Requests for the issuance of subpoenas must be received by the Human Resources Department at least three (3) working days prior to the date of the hearing (Employees summoned to testify will be paid for their time at the hearing.) The time should be code as "B" time on the time sheet. (Revised 2-10-06)
3. The rules of evidence shall not apply.
4. Both parties may represent themselves or they may be represented by a person of their choice. Attorneys may represent either party.
5. The hearing shall be tape-recorded and maintained in City records as a part of the employee's appeal file for two (2) years. It shall be optional for either party, at its own expense, to have a court reporter present to record the proceedings.

#### Order of Proceedings

1. The Board Chairperson or designee shall preside over and direct the hearing.
2. The department and the appellant shall present opening statements. The first opening statement shall be given by the party who has the burden of proof. (Revised Nov. 15, 2004). Each party shall have ten (10) minutes to briefly outline their respective positions.
3. The department and the appellant shall present their evidentiary information (witness testimony and documentary material). The party who has the burden of proof shall be the first to present evidentiary information (Revised Nov. 15, 2004).
4. The party with the burden of proof shall be the last to give a closing statement. (Revised Nov. 15, 2004)
5. The Board may question all the evidence presented in order to clarify factual statements and to ensure their understanding of the points being presented.
6. Each party may question statements, evidence and testimony
7. Upon completion of the presentation of evidentiary information by both parties, each party (department and then the appellant) shall have ten (10) minutes for closing statements. Closing statements should identify the conclusions which each party believes the evidence shows.
8. The Board shall adjourn the hearing after both parties complete their closing statements.
9. Within ten (10) working days after conclusion of the hearing of an appeal or as soon thereafter as practicable, the Board shall prepare written findings and recommendations to be sent to the City Manager or designee for review within (10) working days or as soon thereafter as practicable.
10. The City Manager or designee will review the Board's findings and recommendations and will determine whether to accept, modify or reject the Board's recommendations. The City Manager's or designee's decision will be final and forwarded to the Human Resources Department.
11. Upon receipt of the decision of the City Manager or designee, the Human Resources Director or designee shall forward copies of the Board's findings and recommendations, and the decision by the City Manager or designee, to the appellant ( and representative, if applicable), Department Director, the Board members, and the Human Resources Department which shall maintain a complete case file and the appeal process shall be concluded.

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#### Hearing Officer Hearings

An independent Hearing Officer may be designated and directed by the Board to conduct hearings on employee appeals. The Hearing Officer has the same duties and powers of the Board, including the right to issue subpoenas.

The Hearings Officer shall hear appeals and prepare written findings and recommendations within ten (10) working days after the conclusion of the hearing or as soon there after as practicable.

The City Manager or designee will review the Hearing Officer's findings and recommendations and will determine whether to accept, modify or reject the Hearing Officer's recommendations. The City Manager's or designee's decision will be final and forwarded to the Human Resources Department.

Upon receipt of the decision of the City Manager or designee, the Human Resources Director or designee shall forward copies of the Hearing Officer's findings and recommendations, and the decision by the City Manager or designee, to the appellant (and

representative, if applicable), Department Director, the Board members, and the Human Resources Department which shall maintain a complete case file and the appeal process shall be concluded.

### **Disciplinary Appeals Board Findings and Recommendations**

1. Board findings and recommendations shall be based upon a preponderance of the evidence (i.e., by the greater weight of the evidence presented).
2. The Department shall have the burden of proof, by a preponderance of the evidence, to show just and reasonable cause for the action taken.
3. If the employee alleges that discrimination was the basis of the action taken by the department, the burden of proof shall rest upon the employee who must establish by a preponderance of the evidence that discrimination occurred.
4. If the Board determines that the disciplinary charges are sustained, the Board shall recommend whether the good of the City requires that the appellant be permanently discharged, be suspended without pay for a definite time period or demoted from a higher to a lower position.

If the Board determines that the disciplinary charges are not sustained, the Board shall recommend that the appellant be made whole.

5. Such recommendations shall be limited to a statement of whether the Board finds that the disciplinary charges against the appellant are sustained or not sustained, and the action which the Board recommends concerning the appeal. The Board may, in its discretion, recommend that an appellant be awarded all or part of his/her back pay when the Board finds that such action would be appropriate. (See Mitigation of Damages provision below.)
6. The findings and recommendations of the Board are public record.

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### **Mitigation of Damages**

When an appeal hearing has been scheduled, then is rescheduled at the request of the appellant, any backpay and/or benefit awards will be calculated from the originally scheduled hearing date. Rescheduled hearings initiated by the City will not affect backpay and/or benefit awards.

Backpay awards will be limited to actual monetary losses and benefits losses. Backpay awards will be (Revised July 1, 2003) offset by any income the former employee earned in the interim between the termination and the reinstatement. If no income has been earned, the appellant must provide evidence of a good faith effort to locate other employment before the City pays full backpay.

If the appellant cannot provide such evidence, the Board may reduce the backpay by an amount the appellant could reasonably have earned if he or she had made an attempt to locate other employment.

The Board will determine what constitutes a reasonable backpay and benefits award recommendation.

No punitive relief, attorney's fees or other such relief shall be awarded to appellants. (Revised July 1, 2003)

### **Provisions Pertaining to Response Deadlines**

If the employee fails to pursue an appeal within the time limits set forth under Steps 1 or 2, the appeal shall be considered settled, based upon the last answer given by the supervisory representative of the City.

If the City fails to respond to an appeal within the time limits set forth in Step 1 (Revised January 21, 2002) and a reasonable explanation is not given, the appeal shall be automatically moved up to the next step in the procedure if so desired by the appellant.

If either party wishes to have an extension of a step response deadline, a written request (explaining the reason(s) for the request) must be submitted to the Employee Relations Division prior to the steps original deadline. The request will be reviewed and will be approved or denied. No extension may last more than ten (10) working days, and only one (1) extension request per step by either party may be granted. (Revised October 9, 1999)

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### **Employee Representation**

Employees may have a representative during the appeal process. The representation may or may not be an attorney. Employees may obtain assistance from employee organizations. However, management and supervisory employees of the City may not represent employees in the resolution process. If an employee represents another employee, time spent as a representative during working hours will be charged against accrued leave or compensatory time.

Employees and their representatives, if any, shall carry out their responsibilities with as little disruption to a department's operations as possible. Previous notification of appropriate supervisory personnel shall occur before the initiation of activities to settle or investigate an appeal. The activities specified below should be handled during working hours. Arrangements must be made with the immediate supervisor when it is necessary to meet with the aggrieved employee or other employees during working hours. Activities during working hours shall be confined to the following:

1. Assisting the aggrieved employee in processing an appeal at the various steps of the procedure.
2. Requesting information regarding an appeal.
3. Meeting with appropriate supervisors or other designated City representatives to resolve an appeal.
4. On-site visits to observe damaged equipment, operational procedures, working conditions or any other items which may assist in the resolution of an appeal.

#### **Exclusions from Procedure**

Unless otherwise specified within this policy, the following officers and employees of the City shall not have a Pre-Suspension/Demotion/Termination meeting nor have access to the Appeal Procedure:

1. The Mayor, members of the City Council and members of appointive boards shall be exempt from the provisions of this procedure.
2. The City Manager and the Assistant City Managers shall be exempt from the dismissal, suspension, and demotion section of this procedure.
3. The City Manager's Secretary shall be subject to the dismissal, suspension, and demotion provisions of the City's policies, save and except that, in the event of an appeal by the City Manager's Secretary of a disciplinary action, all findings and recommendations of the Disciplinary Appeals Board or its designated Hearing Officer shall be made to the Inter/Intra-Governmental Affairs Committee of the City Council for final decision, rather than to the City Manager.
4. The heads of departments, assistant heads of departments, division heads, the judges of the municipal court system, the City Internal Auditor, and the City Secretary shall be exempt from the dismissal, suspension, and demotion section of this procedure.
5. Persons temporarily appointed to the City service and employees in their initial probationary period shall be exempt from the dismissal, suspension, and demotion section of this procedure. Discrimination appeals, however, may be filed by these persons. (Revised January 21, 2002)
6. The City Attorney and all assistants in the Department of law shall be exempt from the dismissal, suspension, and demotion provisions of the City's policies.
7. Employees of the Police Department and Fire Department who are subject to the provisions of the Fire and Police Civil Service law (Texas Local Government Code, Chapter 143) are exempt from the policies on dismissal, suspension, and demotion, and the policies on political activities.

Resignation/Separation [Moved this policy to the Termination and Separation Tab under the new title, Pre-Termination, Demotion and Suspension Process]

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#### **Complaint Resolution Procedures for Persons with Disabilities**

Persons who believe the City is not in compliance with the Americans with Disabilities Act of 1990 (ADA) may file complaints with the City's ADA Coordinator in the Human Resources Department. (See "Americans with Disabilities Act of 1990 " policy.)

Requests for services, questions, concerns, and/or complaints regarding the accessibility of City facilities, services, programs, and/or activities may be filed by calling the City's ADA Coordinator in the Human Resources Department. If a complaint is not resolved through informal channels, a written complaint may be filed. The ADA Coordinator or designee will investigate complaints and respond to the complainant in writing. If the complainant is not satisfied with the outcome of the investigation, a written request for further review by the City Manager's Office must be submitted to the Human Resources Director within ten (10) working days after receipt of the ADA Coordinator's response. The City Manager or designee will review the matter and prepare a final written response which will be sent to the complainant as soon as practicable.

Applicants with disabilities may file complaints with the Human Resources Department's Employee Relations Division. Complaints will be processed in accordance with the City's Grievance and Discrimination Complaint Procedures.

Employees with disabilities may file complaints with the Human Resources Department's Employee Relations Division. Complaints



will be processed in accordance with the City grievance or appeal procedure, whichever is applicable.

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### **Discrimination and Retaliation Complaints** (New Policy Effective July 1, 2003)

All employees, including civil service, non-civil service, part time, temporary, and management level, may file a complaint alleging discrimination or retaliation. Former employees who have resigned or who have been terminated may also file retaliation and discrimination complaints.

Acceptable bases upon which to file a discrimination complaint are: race, color, national origin, gender, sexual orientation, (revised June 1, 2004) age (over 40), religion, and disability.

Acceptable bases upon which to file a retaliation complaint are the following:

- The employee made a good faith report of a violation of law by a government entity or a public employee under the Texas Whistleblower Act, Section 554 of the Texas Government Code.
- The employee, in good faith, filed, instituted, or caused to be instituted a claim for workers' compensation benefits, or took other protected action, such as hiring an attorney for representation regarding a workers' compensation claim or testifying in a proceeding under the Workers' Compensation Act, Section 451 of the Texas Labor Code.
- The employee has taken leave under the Family and Medical Leave Act (FMLA), 29 U.S.C. §§ 2601 – 2654, or the employee has filed a charge, instituted a proceeding, given information in connection with an investigation under the FMLA, or testified or is about to testify in a proceeding related to the rights provided for under the FMLA
- The employee has filed a complaint or instituted any proceeding, either with the Fort Worth Human Resources Department or the U.S. Department of Labor, regarding payment of wages and overtime under the Fair Labor Standards Act, 29. U.S.C. § 201 et seq.
- The employee has filed a discrimination charge or complaint (based on race, color, national origin, sexual orientation, (revised June 1, 2004) gender, age (over 40), religion, or disability) with the Equal Employment Opportunity Commission, Texas Commission on Human Rights, the Fort Worth Human Relations Commission, or the Fort Worth Human Resources Department.
- The employee has opposed an illegal discriminatory practice (based on race, color, national origin, gender, sexual orientation, (revised June 1, 2004) age (over 40), religion, or disability) by testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing. The employee alleging retaliation under this provision does not have to belong to a class protected by the underlying law.
- The employee made a good faith report of sexual harassment as defined by the City's Personnel Rules and Regulations.

An employee may file a complaint if that person has received an employment action that is perceived to be adverse, including suspension, demotion, transfer, and substandard performance evaluation. Former employees who resigned or have been terminated or laid off may also file a complaint. Employees who allege that they resigned due to retaliation or discrimination may file a complaint under this policy.

An individual may invoke this grievance procedure by filing a retaliation or discrimination report not later than the 90<sup>th</sup> day after the date on which the alleged adverse employment action (1) occurred; or (2) was discovered by the employee through reasonable diligence. All complaints must be filed in writing with the Human Resources Department's Employee Relations Division. Complaints filed by sworn personnel in Police and Fire may be reported and filed with the Internal Affairs Division (Police) or the Human Resources Officer (Fire) (Revised Nov. 15, 2004).

All reports must include the following information:

1. Contact information, including name, address, and telephone number of the Complainant.
2. The Complainant's employee number and position (or former position) with the City.
3. The nature of the alleged adverse employment action taken against the Complainant.
4. The date of the alleged adverse employment action taken against the Complainant.
5. The name of the employee's supervisor.
6. The name of the individual who allegedly caused an adverse employment action to be taken.

7. The facts that are the basis for the complaint, including dates that incidents occurred and names of individuals who may have knowledge of the facts.

The Human Resources Department's Employee Relations Division will investigate allegations of discrimination and retaliation and convey the findings to the Department Director or designee. Complainants must cooperate in the investigation and timely provide information relevant to the complaint as requested by the investigators. At the conclusion of the investigation, the Department Director or designee will take action appropriate to the findings.

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### **Grievance and Discrimination Complaint Procedure**

THE GRIEVANCE AND DISCRIMINATION COMPLAINT PROCEDURES DO NOT PROVIDE LEGAL RIGHTS TO EMPLOYEES. ONLY THE CITY COUNCIL, IN ENACTING THE CITY CHARTER AND CODE, MAY CONFER RIGHTS TO EMPLOYEES. THE PROCEDURES ARE DRAFTED FOR THE PURPOSE OF IMPLEMENTING THE FORT WORTH CITY CODE, AND MAY BE REWRITTEN BY THE CITY MANAGER AT ANY TIME, FOR ANY REASON.

THE GRIEVANCE AND DISCRIMINATION COMPLAINT PROCEDURES SERVE AS GUIDELINES FOR THE ORDERLY PROCESSING OF GRIEVANCE AND DISCRIMINATION COMPLAINTS. THE HUMAN RESOURCES DIRECTOR OR DESIGNEE MAY WAIVE PROCEDURAL RULES FOR GOOD CAUSE. FAILURE OF THE CITY TO STRICTLY FOLLOW THE GUIDELINES DOES NOT PREVENT THE CITY FROM IMPOSING DISCIPLINE ON EMPLOYEES, UP TO AND INCLUDING TERMINATION.

It shall be the policy of the City of Fort Worth to give eligible employees an opportunity to discuss their grievances and discrimination complaints with their supervisors in order to reach a mutually satisfactory resolution as soon as possible. In the presentation of grievances and discrimination complaints, employees are assured of freedom from restraint, interference, discrimination or reprisal. Resolutions may be negotiated at any step throughout the Grievance and Discrimination Complaint Procedure.

Employees who have successfully completed their initial probationary period and who are not employed in a temporary status may file grievances and complaints. (Revised October 9, 1999) Some employees are excluded from coverage under these procedures (see Exclusions provision).

The Human Resources Director or designee shall be responsible for ensuring that grievances and discrimination complaints are processed in accordance with established procedures. Decisions pertaining to the application, interpretation and implementation of these procedures shall be made by the Human Resources Director or designee.

A grievance is a formal protest of a disciplinary action. Oral and written reprimands are not grievable. Suspensions without pay and reductions in rate of pay (equivalent to 10 consecutive working days or less), deletion of accrued vacation leave and disciplinary probationary periods may be grieved. Disciplinary dismissal, demotion or suspension without pay exceeding ten (10) consecutive working days which results in an alleged personal harm are covered under the [Appeal Procedure](#).(Revised 02/23/2009)

A discrimination complaint is a grievance which states that the alleged personal harm, other than disciplinary dismissal, demotion, or suspension without pay exceeding ten (10) consecutive working days, is the result of disparate (unequal) treatment based upon race, color, national origin, gender, age, religion, sexual orientation (Revised January 26, 2001) and/or disability.

All discrimination complaints shall be filed directly with the Human Resources Director or designee, and the resolution process shall begin at [Step 1](#). (Revised January 21, 2002)

Applicants with disabilities may file complaints with the Human Resources Director or designee in accordance with the City's "[Complaint Resolution Procedures for Persons with Disabilities](#)" Policy.

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### **The Resolution Process**

#### **Filing a Grievance or Complaint**

The aggrieved employee must contact the Employee Relations Division in the Human Resources Department within five (5) working days of the occurrence of the matter aggrieved or within five (5) working days after the employee first learned about the incident. A meeting will be convened to discuss the employee's concerns, to determine eligibility, and to explain the process and provide the documents needed to file a grievance or complaint.

#### **Step 1: Human Resources and Department** (Revised January 21, 2002)

A completed Grievance/Appeal Report form shall be delivered to the Human Resources Director or designee within five (5) working days after meeting with the Employee Relations Division. (Revised January 21, 2002)

The Department Director will designate a staff member to conduct an investigation with the Human Resources Department. They will have ten (10) working days to gather the facts, attempt to secure a resolution and respond in writing. Fact-gathering

responsibilities shall rest with the Department Director or designee. Every attempt should be made to resolve the problem. (Revised January 21, 2002)

The investigation team (Revised January 21, 2002) should meet with the aggrieved employee to discuss the issues being contested before a written response is prepared.

If the grievance is resolved, a (Revised January 21, 2002) settlement shall be written by the Department Director or designee and signed by all parties, copies of which shall be distributed to the aggrieved employee, Department Director and Human Resources Department along with the appropriate carbon copy of the Grievance/Appeal Report form. The complete file shall be maintained by the Human Resources Department's Employee Relations Division.

#### Step 2A: (Revised January 21, 2002) Grievance Committee (Disciplinary Action-based Grievances and Complaints)

Failure to resolve the employee's grievance or discrimination complaint results in his/her option to proceed to Step 2 or discontinue the grievance or discrimination complaint. If the employee decides to proceed, the employee must contact the Human Resources Department's Employee Relations Division in writing within five (5) working days after receipt of the Step 2 response to request that the Human Resources Director or designee convene the Grievance Committee.

#### Scheduling Grievance Committee Hearings (Revised 2-10-06)

The Human Resources Director or designee shall schedule and convene the Grievance Committee as soon as practicable.

Either party may request a rescheduling of the hearing by notifying the Employee Relations Division as soon as possible prior to the time of the hearing. If, in the Human Resources Director's or designee's judgment, the request is reasonable, the hearing will be rescheduled. If, in his/her judgment, the request is not deemed reasonable, the issue will be submitted to the Grievance Committee which may administratively close the grievance or discrimination complaint.

If an employee does not cooperate with the Employee Relations Division in the hearing scheduling process by failing to attend a scheduled hearing without notice or by failing to provide information needed to schedule a hearing, that employee's grievance or discrimination complaint may be administratively closed by the Human Resources Director.

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### Grievance Committee Hearing Procedures

1. The committee shall only consider the issues contained in the employee's Grievance/Appeal Report form and the rationale for the action taken. Evidentiary information presented at the hearing by either party must directly relate to those issues. The Committee shall receive a copy of the employee's Grievance/Appeal Report form, the Step 1 (Revised January 21, 2002) response and the action being grieved.
2. Hearings may be tape-recorded by either party (using their own equipment) or the Committee; otherwise, hearings will not be tape-recorded. (Revised July 1, 2003)
3. The Committee shall select a member to preside over and direct the hearing.
4. The employee and then the department shall present their evidentiary information (witness testimony and documentary material). City employees called to testify will be compensated for their time at the hearing.
5. The Committee may question all the evidence presented in order to clarify factual statements and to ensure their understanding of the points being presented.
6. Each party may question statements, evidence and testimony.
7. The Committee shall adjourn the hearing after both parties complete their presentations.
8. Within ten (10) working days after the Grievance Committee hearing or as soon thereafter as practicable, the Chairperson shall submit the Committee's written findings and recommendations to the City Manager or designee.
9. Upon receipt of the findings and decision from the City Manager or designee, the Human Resources Director or designee shall forward copies of the findings and recommendations of the Grievance Committee, as implemented by the City Manager or designee, to the aggrieved employee, Department Head, committee members and Human Resources Director along with the appropriate carbon copies of the Grievance/Appeal Report form. The grievance and discrimination complaint process shall be concluded.

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### Grievance Committee Findings and Recommendations

1. Grievance Committee findings and recommendations shall be based upon a preponderance of the evidence (i.e., by the greater weight of the evidence presented).

2. The Department shall have the burden of proof, by a preponderance of the evidence, to show that just and reasonable cause for the action taken was present.
3. If the employee alleges that discrimination was the basis of the action taken by the department, the burden of proof, shall rest upon the employee who must establish by a preponderance of the evidence that discrimination has taken place.
4. If the Committee determines that the City's action is sustained, the Committee shall recommend an appropriate course of action for the City Manager's or designee's consideration. If the Committee determines that the City's action is sustained, the Committee shall recommend that the department's action be upheld.
5. Such recommendations shall be limited to a statement of whether the Committee finds that the City's action is sustained or not sustained, and the corrective action which the Committee recommends. The Committee may, in its discretion, recommend that an employee be awarded part or all of any pay lost due to suspension when the Committee finds that such action would be appropriate.

#### Step 2B: City Manager's or Designee (non-disciplinary action-based grievances and complaints)

The Human Resources Director shall send the case file to the City Manager or designee within five (5) working days after receipt of the request by the employee. At the discretion of the City Manager or designee, a meeting may or may not be convened with the employee. (Revised January 26, 2001)

(Paragraphs deleted effective 2-10-06)

Within ten (10) working days after the receipt of the grievance (Revised 2-10-06) or as soon thereafter as practicable, the City Manager or designee shall submit a written decision to the aggrieved employee, Department Director and Human Resources Director along with the appropriate carbon copies of the Grievance/Appeal Report form. The decision shall be final, and the settlement process shall be concluded.

#### Provisions Pertaining to Response Deadlines

If the employee fails to pursue a grievance or complaint within the time limits set forth under Step 1, (Revised January 21, 2002) the grievance or complaint shall be considered settled, based upon the last answer given by the supervisory representative of the City.

If the City fails to respond to a grievance or complaint within the time limits set forth under Step 1 and a reasonable explanation is not given, the grievance or complaint shall automatically move to the next step in the procedure.

If either party wishes to have an extension of a step response deadline, a written request (explaining the reasons(s) for the request) must be submitted to the Employee Relations Division prior to the step's original deadline. The request will be reviewed and will be approved or denied. No extension may last more than ten (10) working days, and only one (1) extension request per step by either party may be granted. (Revised October 9, 1999)

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#### Employee Representation

Employees may have a representative during the grievance and process. The representative may or may not be an attorney. Employees may obtain assistance from employee organizations. However, management and supervisory employees of the City may not represent employees in the resolution process.

#### Management Rights

The City of Fort Worth has Management Rights. Complaints that involve management rights will not be processed unless the complaint describes a discrimination issue. Plainly stated, management rights are not grievable matters. These rights include the daily management of operations, direction of the work force, maintenance of discipline and efficient utilization of the work force. More specifically, but not limited herein, management rights include the authority: to hire and to determine employees' qualifications and ability; to determine the number and location of facilities and employees; to assign work; to transfer, promote and lay off employees; to evaluate employees and grant salary increases; to create, modify and abolish job classes, class specifications and job duties; to change or eliminate existing operations, methods, equipment or facilities; to contract out work; to schedule working hours within the work week; and to establish and enforce reasonable rules and regulations.

NOTE: Discrimination complaints involving management rights will be processed, this exclusion does not apply.

#### Termination or Resignation

Employees who are terminated or who resign their employment with the City forfeit their right to have access to the Grievance and Discrimination Complaint Procedures. Attempted withdrawal of a resignation shall not give an employee access to this Grievance and Discrimination Complaint Procedure. Any grievance or complaint being processed at the time of resignation or termination will not be processed and will be administratively closed.

**Reclassifications**

Cases involving the reclassification of a position are covered by the "Reclassification Appeals" policy.

**Performance Evaluations and Merit Increase Denials**

Employee performance evaluation ratings (Revised Nov. 15, 2004) and merit increase issues are not grievable items under the Grievance and Discrimination Complaint Procedure. They (Revised Nov. 15, 2004) may be appealed to the Department Director or designee whose decision shall be final.

**Exclusions from Procedure**

Unless otherwise specified within this regulation, the following officers and employees of the city shall not have a Pre-Suspension/Demotion/Termination meeting nor have access to the Grievance and Discrimination Complaint Procedure:

- a. The Mayor, members of the City Council and members of appointive boards.
- b. The City Manager, Assistant City Managers, Assistants to the City Manager and the City Manager's secretary.
- c. The Directors of Departments, Assistant Directors of Departments, Division Heads of Departments, Judges of the City Courts and the City Secretary.
- d. The City Attorney and all Assistant Attorneys in the Department of Law.
- e. Persons temporarily appointed to the City service, as defined in the Personnel policies. Discrimination complaints, however, may be filed by these persons. (Revised January 21, 2002)
- f. Employees of the Police Department and Fire Department who are subject to the provisions of the Fire and Police Civil Service Act (Chapter 143, Municipal Code).

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**Grievance Committee**

The City Manager or designee shall appoint from among the City employees nine (9) members to the Grievance Committee Panel for terms of two (2) years. Three (3) members from this Panel shall be selected by the Human Resources Director or designee and shall serve as the Grievance Committee to hear a designated grievance or discrimination complaint. They shall elect a Chairperson at the outset of the hearing. The Committee shall not disregard the rights of employees or of the City, and shall serve as an impartial body which will render findings and recommendations in an unbiased manner.

The Grievance Committee shall have the authority to call witnesses at the hearing for the purpose of proving, disproving or clarifying claims set out in the grievance or discrimination complaint. By submitting a grievance or discrimination complaint to the Committee, an employee shall grant permission for the Committee members to inspect the employee's personnel file if the Committee believes that such inspection is relevant.

The Grievance Committee shall consider only the points set out in the original grievance or discrimination complaint and any additional information contained in written employee or supervisory responses attached thereto which pertain to the grievance or discrimination complaint.

As a body of arbitration, the Grievance Committee is not bound by any previous Grievance Committee decisions. The Committee may determine whether rules, regulations and policies were applied in a uniform, consistent manner. Along with its findings, it may also make relevant recommendations for administrative changes, which shall not be binding upon the City.

Findings and recommendations of the Grievance Committee to the City Manager shall require the affirmative vote of at least two (2) of its three (3) members.

The proceedings of the Grievance Committee do not need to be tape-recorded (Revised Nov. 15, 2004).

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**Personnel Committee**

The Human Resources Committee, composed of three (3) Assistant City Managers, designated by the City Manager, shall assist in the administration of the City's Personnel Policies by considering exceptions as may become necessary to ensure optimum efficiency in meeting the human resources needs of the City. The Human Resources Director shall serve as a non-voting staff member of the committee.

The committee shall consider requests regarding personnel matters submitted by Department Directors, upon which the requesting Department Director and the Human Resources Department have been unable to reach consensus. Such matters include

exceptions to City policies, waiver of minimum qualifications, and decisions of the Human Resources Department to which a department objects. The committee shall also consider other issues related to human resources which require the committee's attention.

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### **Organization of Municipal Employees**

Any employee of the City government may join, organize, or maintain membership in an employee or labor organization if he/she so desires. The City neither encourages nor discourages these activities, nor does membership or non-membership in an employee or labor organization affect the employee's standing or rights as a City employee. The policy herein stated is in accordance with the provisions of the statute of the State of Texas and the Charter of the City of Fort Worth.

Pursuant to Texas law, it is illegal for City employees to strike or picket or take any action which interferes with the ordinary and orderly conduct of the City government's business.

Unless provided by appropriate statute, governmental employees of Texas cities have no legal right to bargain collectively. Consistent with this policy, State law denies to City officials the power to enter into a collective bargaining contract or unconditional promise with any employee group or employee organization. Collective Bargaining is a bilateral process for achieving a collective agreement between an employer and an accredited representative of employees concerning wages, hours and other conditions of employment.

However, City of Fort Worth desires to provide fair and equitable treatment to all employees. Commensurate with its ability to pay, the City of Fort Worth wishes to pay wages, grant fringe benefits, and otherwise create conditions of employment similar to those given employees by comparable public jurisdictions and private business and industry in the Fort Worth area.

In order to insure that employees' concerns about such issues are heard, the City encourages employee associations to meet with staff to discuss such issues. While the City retains the unilateral right to make all final decisions, meetings with associations provide a resource for staff to gain a "big picture" of employee concerns and issues.

Municipal employees participating in an employee organization or other association or union activities are required to conduct such activities on their own time and not during regularly assigned working hours with the following exceptions: 1) An association or union representative assisting a fellow employee in the presentation of a grievance may utilize such time during working hours as is essential for presentation of the grievance; however, preparation of grievances shall be on the employee's own time; and, 2) Employee association or union officials (president, vice-president, and/or secretary-treasurer) may meet on City time with departmental supervisors or the City Manager or his/her representative when such meeting times are fixed with the knowledge of the appropriate supervisory officials concerned. Departmental supervisors must be notified at least twenty-four (24) hours before the scheduled meeting time.

Supervisory employees carry responsibilities and duties in the management of the City's business which may be incompatible with their membership in an employee association or union. The City Manager recommends that supervisory employees not belong to any association or union in which non-supervisory employees are also members.

Solely as a convenience to City employees who may wish to belong to an employee association or labor organization, the City of Fort Worth deducts dues where specifically authorized to do so by the employee, and where deductions are in accord with the policy for payroll deduction established by the City Council. The procedure for initiating or canceling any such payroll deduction shall be as established by appropriate administration regulation. Initiation or cancellation of such payroll deduction will in no way affect an employee's job or standing as a City employee.

In interpreting this statement of policy, City officials and employees should realize that nothing herein should be construed as an abandonment or restriction of the City's governing policy with respect to employee conditions and the treatment of its employees. The provisions of the State statute, the City Charter, and the proper exercise of the authority of City-appointed officials and other supervisory employees shall in no way be restricted or impaired by provisions of this personnel policy.

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### **Retaliation Complaints**

[duplication of policies, therefore policy deleted] (2-10-06)

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### **Termination/Separation**

#### **Employee Resignation**

Resignations should be in writing, signed by the employee, and preferably submitted at least two (2) weeks before their effective date. A brief, signed statement identifying the effective date of the resignation is adequate. The reason(s) for resigning may be presented but is not necessary.

Persons who resign in good standing are eligible to be rehired. Persons who resign in lieu of termination will not be eligible for rehire for five (5) years after the date of resignation. (Revised October 9, 1999)

Persons who want to withdraw their resignation must submit a written request to the Department Director explaining the reasons for the desired withdrawal. If the Department Director decides to rescind a resignation the City's Re-Employment policy will be followed.

Employees who resign have access to the Discrimination and Retaliation Complaint procedure. (Revised July 1, 2003)

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### **Indefinite Suspension - Civil Service Employees**

In accordance with the Fort Worth Firefighters and Police Officers' Civil Service Rules and Regulations, Civil service employees who are indefinitely suspended will be terminated, to be effective on the date of the indefinite suspension. Such employees will be paid for any leave time for which payment is authorized. Those who are vested in the Retirement system will have the opportunity to withdraw their money from the retirement system. They will be notified by the Benefits Division of the Human Resources Department (revised June 1, 2004) of their opportunity to access benefits under COBRA in order to continue health insurance coverage. Under no circumstances will the City continue health insurance coverage for such persons as if they were still employees, even if they appeal their termination.

**Filling a vacancy created by an indefinite suspension:** A vacancy occurs as of the date of the indefinite suspension (termination) and will be filled in accordance with Chapter 143 of the Local Government Code.

**Reinstatement of an indefinitely suspended employee:** If an indefinitely suspended employee is reinstated into a promotional rank, the reinstatement will take place as directed by the Commission or the hearing examiner. In order to comply with Chapter 143 relative to the number of authorized positions within each rank, staff will present to the City Council an ordinance to increase the number of authorized positions within that rank for the reinstatement of the suspended employee. Upon reinstatement, staff will present an ordinance to decrease the number of authorized positions within that rank and in all lower promotional ranks affected by the reinstatement, as allowed under Chapter 143.085, for the efficiency of the operation of the department(s). These recommended actions, if approved, will have the effect of maintaining the number of authorized positions within each rank at a constant level.

Civil service employees affected by the reduction in force identified above will be placed on reinstatement lists, as provided by Chapter 143.085.

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### **Layoff Policy** (Revised Aug. 17, 2009)

Occasionally, a reduction-in-force is necessary due to changes in the organization and/or the availability of funds. Departments who must reduce their workforce will develop a reduction-in-force plan. This plan will use the following criteria, in order of their priority:

1) Departmental/Division goals; 2) Employee productivity; 3) Employee skills, knowledge, and abilities; and, 4) Employee tenure.

Reduction-in-force plans must be reviewed by the Human Resources Department before employees are given layoff notices.

### **Placement Services**

The Human Resources Department will work with laid off employees and departments to find employment with the City. Employees will be notified as soon as possible regarding their lay-off status so they will have the opportunity to find employment. Employees who receive a notice of lay-off will be given preferential consideration for vacant positions (transfers and demotions) which they are qualified to fill. There will be no preferential consideration given when a promotional vacancy exists; the normal procedure will be followed. Employees in their initial probationary period have no layoff rights.

Preferential consideration means the laid off employee will be interviewed before other candidates. If the individual is not selected, the non-selection reason will be reviewed and approved by the Human Resources Director before other non-preferential consideration status candidates can be interviewed. Laid off employees will be given preferential consideration for one (1) year from the date of their layoff.

Preferential consideration provisions end when an employee is offered a regular position by the City. When an employee is offered a regular position and does not accept the position, future preferential interviews will not occur regardless of the reason for declining a job offer. An employee that declines a job offer as a result of a preferential referral may continue to apply for future opportunities through the normal competitive application process for advertised positions. Persons hired into an "S" key code position will continue to have preferential hiring consideration until the end of the one (1) year period.

### **Re-Employment Salary**

Employees placed into positions substantially similar to the position they previously held will be placed in the salary range to minimize their loss, if any, in salary. Salaries for employees placed into significantly dissimilar positions will be at the department director's discretion in conjunction with the Human Resources Director or designee.

**Benefits**

Re-employed employees will have their prior accrued leave benefits (for which they were not compensated) restored and they may utilize them immediately (if they worked for the City for more than six (6) months). Employees rehired into positions which are eligible to receive longevity pay will receive the same amount of longevity pay as when they left. These employees will receive an adjusted service date.

Rehired employees whose placement constitutes a demotion may compete for other positions during their six (6) month probationary period.

Non-probationary employees who are laid off will be compensated for accrued holidays (K days) and Personal Holidays (P days).

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**Pre-Termination, Demotion, Suspension Process** (Revised Nov. 15, 2004) (moved 2/10/06)

NOTE: In those instances where criminal activity is the sole basis for termination, no pre-termination meeting is required. Employees who are on initial probation, temporary status and Division Heads and above are not entitled to a pre-termination meeting.

- CALL HUMAN RESOURCE'S EMPLOYEE RELATIONS DIVISION to discuss the problem.
- Gather all documentation which is the "evidence" that shows severe disciplinary action is warranted. This documentation may include:
  - Previous disciplinary actions (oral and written).
  - Time and Attendance Records.
  - Performance evaluations.
  - Safety Review Board Reports.
  - Departmental/Division policies, procedures manuals or memoranda.
  - Statements from co-workers, supervisors, or citizens.
- Identify the written policies, regulations or procedures that have been violated by the employee. (This information will be the basis for any disciplinary action that may be taken.)
- Meet and/or talk with the Employee Relation's Representative and "present your case". After discussing the case, specific recommendations for action should be agreed upon.
- Prepare a brief IOC (memorandum) addressed to the employee from the appropriate supervisor (typically a Division Head, in some cases an Assistant Director or the Director) and title the IOC "Pre-(Termination, Demotion, or Suspension) Meeting". The IOC should follow this general outline:
  - PARA #1 Prepare a department letterhead cover letter which will notify the employee that a pre-termination, demotion or suspension meeting has been scheduled, identifying the date, time, and place of the meeting.
  - PARA #2 Background events (past disciplinary actions) which led up to and necessitates the need to consider the disciplinary action.
  - PARA #3 Quote the policy, regulation or procedure the employee violated. This violation is the basis for the disciplinary action under consideration. (Do not add other violations at a later date to strengthen the case.)
  - PARA #4 Briefly describe the employee's actions which violated the policy which you have quoted above.
  - PARA #5 Identify the specific disciplinary action being considered and invite the employee to respond to the content of the memorandum.

The employee will be immediately placed off work on Business Leave until the scheduled meeting (typically three (3) working days is sufficient). The employee will be asked to turn in all City issued equipment, keys, tools, ID card, etc. before he/she leaves.

The employee will be told they may have a representative at the meeting. If the employee can not obtain desired representation by the date of the scheduled meeting, the meeting may be rescheduled. However, any time off work beyond the original meeting date will be charged to business leave (Revised July 1, 2003). Departments should designate a



specific deadline for the rescheduling and convening of the meeting. The following example may be used:

A pre-\_\_\_\_\_ meeting is scheduled for 10:00 a.m. on Thursday, July 8th in my office. You will be off work on Business Leave until the meeting. If you can not obtain representation to meet on July 8th, you may reschedule the meeting. However, the meeting must be convened by July 15th and your time off work after July 8th will be charged to business leave (Revised July 1, 2003)

Your pre-\_\_\_\_\_ meeting must be convened by July 15th. Failure to reschedule and convene by that date will result in your forfeiture of a pre-\_\_\_\_\_ meeting and a decision will be made based upon the information we have. You will not be penalized if, due to unforeseen events, the July 15th deadline can not be met by the department.

- If the employee fails to meet by the designated deadline, prepare a letter. The letter should note that because the employee failed to meet as directed, he/she forfeited the opportunity to discuss their employment status. Therefore, a decision was made based upon the information that had been gathered.

## THE PRE-(TERMINATION, DEMOTION OR SUSPENSION) MEETING

1. The meeting should include the employee, the immediate supervisor involved in the event(s) which necessitated the meeting, and one other supervisor, preferably a manager, e.g., Division Head, Assistant Director or the Director.
2. Explain the purpose of the meeting – present the employee with the information (IOC described above) that has been gathered and give him/her an opportunity to respond to that information.
3. As the employee discusses his/her case, listen. Take brief notes on what he/she says. Avoid arguing with the employee – try to listen and keep focused upon the information being presented.
4. When the employee completes his/her rebuttal, explain that a final decision will be made and a certified letter containing your decision will be mailed within 3 working days. (Revised July 1, 2003)

All work time (employee's work schedule) between the conclusion of the meeting and the effective date of either the employee's return to work or his/her termination will be charged to business leave. (Revised July 1, 2003)

5. The employee's time spent during the meeting will be charged to city business.
6. If the employee's rebuttal contained some valid points or raised questions regarding the accuracy of the information that had been gathered, investigate as needed. Report the results of your investigation to the employee in the decision letter which must be mailed within 3 working days after the meeting.

If the employee is not able to attend a pre-meeting (due to illness, incarceration, etc.) or if the department determines it is in the best interest of the City to conduct a pre-\_\_\_\_\_ meeting through correspondence by sending a copy of the IOC described above to the employee and inviting the employee to provide a written response within five (5) working days, this method may be used in lieu of a face-to-face meeting. Before this option is exercised, the Employee Relations Division must be contacted to discuss the matter.

## THE DECISION LETTER

- Upon completion of your investigation, if disciplinary action is still warranted, prepare a brief letter on department letterhead. This letter should reference the pre-\_\_\_\_\_ meeting, summarize the employee's rebuttal to the charges and state the decision that has been made.
- The Decision Letter must be sent via certified mail within 3 working days after the meeting.
- If the disciplinary action under consideration is modified or not executed based upon the findings of the investigations, the letter should explain what decision has been made and direct the employee to return to work on a specific date and report to a specific person. Upon his/her return to work, the employee should be given a complete written explanation of the decision and the terms and conditions under which he/she is returning to work.

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## Termination Processing

Departments are responsible for obtaining all city-issued property (e.g., I.D. cards, keys, purchasing cards, tools, beepers, manuals, protective gear, etc.) during the termination process. The cost of city property not returned by employees will be deducted from the employee's final paycheck. A completed Out-Processing form should indicate any city property not returned and the cost of each item listed.

Departments must notify the Human Resources Department's Compensation Division in writing when an employee who had access to the Personnel/Payroll screens terminates. The employee's access to the mainframe will be removed upon receipt of the notification.

Final paychecks will be sent to the employee by certified mail on the next regular pay day following the termination. Departments must provide the employee's current mailing address in Box E of the Personnel Action Request form.

Employees terminated during their initial probationary period will not be compensated for any accrued leave time.

Employees who have successfully completed their initial probationary period will be compensated for all accrued Vacation and Short Term Sick/Family leave. (Revised January 21, 2002) Non-exempt employees will be paid for accrued compensatory time. Exempt employees will not be paid for accrued compensatory time.

Employees who terminate during a payperiod will not be paid for Vacation Leave or Short Term Sick Leave/Family Leave accrued during their final payperiod. Employees who terminate at the end of a payperiod (who worked the entire payperiod) will be paid for Vacation Leave and Short Term Sick Leave/Family Leave accrued during that payperiod. (Revised December 16, 2000)

Employees who terminate in a payperiod in which a personnel transaction or pay rate change occurs that increases the rate of pay, terminal leave will not be paid at the higher rate.

Employees who retire will be paid for up to 720 hours of unused old Sick Leave (they will not be paid for unused Major Medical Sick Leave).

**Retirement Withdrawal** forms must be completed and returned to the Retirement Office before refund processing begins. Approximately 30 days will pass before the refund check is sent by certified mail to the employee.

If an employee signs an authorization to do so, that outstanding loans with the City Credit Union may result in an employee's final check and/or retirement refund check being held by the Credit Union, if the employee has authorized (through Credit Union loan papers) such action to be taken.

**Health insurance coverage** remains in effect after termination of employment through the end of the month for which payment is made for health care coverage. There will be no exceptions for employees who are appealing involuntary terminations. (revised June 1, 2004) Information about health insurance coverage available under COBRA will be sent to employees by the City's plan administrator. (revised June 1, 2004)

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## **Resignation**

Employees who resign their employment with the City for any reason forfeit their right to have access to the Appeal Procedure. Attempted withdrawal of a resignation shall not give an employee access to this Appeal Procedure. However, in such cases there is access to the Discrimination and Retaliation Complaint procedure. (Revised July 1, 2003)

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## **Employee Recognition**

### **Annual Employee Service Awards (New policy effective July 1, 2003)**

The Annual Employee Service Awards Program is designed to recognize the tenure and dedication to service provided by employees. One way to show this appreciation is by recognizing years of service with the City.

#### **Eligibility**

Part-time and full-time City employees become eligible at five (5) year intervals beginning with their fifth anniversary. Awards are based on hours worked and must equal full time service: e.g. if someone works 20 hours per week they would need to work 10 years to receive the five-year certificate.

#### **Presentation**

Employees eligible for five (5) year Service Awards will receive a Certificate of Service. The certificate will be presented in the individual departments in a manner approved by the Department Director.

Employees eligible for ten (10) year Service Awards may receive their award at a citywide awards banquet.

Employees eligible for fifteen (15) year Service Awards, and at five year intervals thereafter, may receive their award at a citywide awards banquet. In addition, a personal holiday will be awarded at the beginning of the payroll calendar year in which they are recognized for their years of service at the awards banquet. This day must be used by the end of the last pay period of the payroll calendar year. On the timesheet it should be coded as "P" for Personal Holiday (Revised June 1, 2004).

A Celebration of Service Banquet is held each year (Revised June 1, 2004) of each year. Employees who complete the required number of years of service during a given year will receive their service award at the following year's banquet.

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### **Exceptional Performance Award Program (New policy effective July 1, 2003)**

The City of Fort Worth considers its most important resource to be its employees. The purpose of the Exceptional Performance Award Program is to recognize and reward on a quarterly basis employees and teams who act in extraordinary ways. In this way we will show appreciation to employees and teams who model the courage, caring, competence and commitment necessary in a high performance organization.

#### **Process**

Any employee may nominate any other fellow employee or team for an Exceptional Performance Award regardless of level or department. All nominations shall be through the nominating employee's chain-of-command (including, but not limited to the immediate supervisor and the department director) to the Learning Services Division of the Human Resources Department (Revised 2-10-06) by the 10th of the month following the end of each quarter. Quarters are defined as:

1st Quarter..... October – December  
 2nd Quarter..... January – March  
 3rd Quarter..... April – June  
 4th Quarter..... July - September

Nomination forms are available on the intranet, from the Learning Services Division of the Human Resources Department. Nominations may be submitted in hard copy or electronically.

The determination of award recipients will be made by the selection committee with approval by the City Manager.

#### **Organizational Announcements**

The Learning Services Division of the Human Resources Department will be responsible for developing announcements recognizing the award recipient. (Revised 2-10-06)

It will be the responsibility of the employee's Department Director or Manager to provide appropriate departmental recognition of award recipients. (Revised 2-10-06)

Awards will be presented at a regularly scheduled Pre-Council Meeting (revised June 1, 2004).

#### **General Provisions**

Employees may be granted one award per six-month period.

Nominations cannot be approved if the employee has received disciplinary action within the preceding 12 months.

Determination of award recipients will be made by the selection committee.

#### **Criteria:**

Nominees meeting the criteria below, recommended by the committee and approved by the City Manager, may receive an award.

The performance for which an employee is nominated and may result in an award will normally be within one of the following areas (Revised 2-10-06)

1. Performing (Revised 2-10-06) superior customer service.
2. Unique acts of courage and caring.
3. Accomplishing extraordinary feats or significantly exceeding expectations particularly in accomplishing strategic goals.
4. Demonstrating exemplary project or program performance by completing projects or program activities in an exceptional, exemplary manner that may be part of one's job responsibilities. Such an act may not necessarily disqualify a nominee(s). In cases such as this, the act or project must be exemplary in nature.

#### **Selection Committee**

The City Manager will appoint a committee to assist in the employee recognition program. The committee will serve a two-year term, and will be comprised of 11 city employees from all levels of the organization

### **Selection Committee Responsibilities**

This committee will review nominations, conduct interviews, and make decisions about the award.

Committee members will observe strict confidentiality in the selection work. If an employee has been nominated for appointment to the committee, but feels this could create a problem, he/she is strongly encouraged to respectfully decline appointment to the committee.

### **Nature of the Award**

#### *Individual Awards*

Individual award recipients receive a lapel pin, and a wall plaque presented at a Pre-Council meeting. They also receive an award of \$500 added to their next paycheck after the Pre-Council presentation. (Revised 2-10-06)

#### *Team Awards*

Team awards recipients receive a team wall plaque. Each team member will receive a certificate and a lapel pin. They will also receive a monetary award added to their next paycheck after the Pre-Council presentation. Teams of one (1) to three (3) will receive \$500 per member. Teams consisting of 4 or more members will receive a maximum award of \$1500, which will be equally divided among the members. (Revised 2-10-06)

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### **Performance Incentive Program ("Pat on the Back" Awards) (New policy effective July 1, 2003)**

The Performance Incentive Program is designed to provide recognition to employees who demonstrate the core values of customer service and communication. By recognizing individual acts of customer service and communication, the City will demonstrate its commitment to these values.

#### **Eligibility**

Individual employees who perform an exceptional example of customer service or communication.

#### **Process**

Supervisors will be provided with "Pat on the Back" award forms. When they observe an exceptional example of customer service or communication, they will write the details on a form and give it to the employee. Any city employee can give a Pat on the Back to any other city employee. The duplicate of the form should be submitted to be entered into a monthly prize drawing. There is no limit on how many times an employee can be entered, although there will be a limit of one prize per employee per month.

#### **Prizes**

Examples of prizes include movie tickets, gift certificates, logo items, merchandise and tickets to sporting events.

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### **Program Awarding Your \$uggestion (PAY\$) (New Policy Effective July 1, 2003)**

The Program Awarding Your \$uggestion (PAY\$) is the City of Fort Worth's employee suggestion program. PAY\$ solicits and reviews employee suggestions and may award cash and prizes for ideas that generate revenue, save money, streamline work processes or benefit the City in other ways.

The Human Resources Department administers the PAY\$ Program and a committee of seven (7) employees oversee the program guidelines. Each department selects one or more staff members to serve as Idea Specialist(s) for the department.

The HR Director selects the PAY\$ Program Administrator who is responsible for coordinating activities of the PAY\$ Committee and works with department staff appointed to serve as Department Idea Specialists. The PAY\$ Program Administrator facilitates PAY\$ Committee meetings. On issues brought before the PAY\$ Committee, the PAY\$ Program Administrator votes only when a tie-break vote is needed.

The City Manager appoints members to the PAY\$ Committee. The members reflect the diverse culture of the organization – cultural/ethnic makeup, position classification, tenure, etc. The PAY\$ Committee makes program policy changes and is the final authority in resolving disputes regarding program administration.

Department Directors select staff to serve as Idea Specialists for their respective departments. Larger departments may select 3 or 4 Idea Specialists, smaller departments should appoint at least 1 Idea Specialist and invite another staff member to serve as backup. Idea Specialists handle the evaluation process for suggestions sent to their department. The Idea Specialists ensure that adopted ideas are implemented.

A copy of the PAY\$ Guidebook outlining program guidelines and a PAY\$ manual are available to provide greater details regarding the PAY\$ Program. Both can be accessed via the City's internal website at <http://www.cfwnet.org/hr/pays/index.htm>

- a. **A Suggestion.** A suggestion is a written proposal that clearly states the current condition and a specific recommendation for improvement.
- b. **Submitting Suggestions.** Suggestions must be submitted on a PAY\$ Suggestion Form, either online or hard copy. Suggestions must be submitted to the PAY\$ Office located in the Human Resources Department, City Hall Annex, 908 Monroe Street, Room 607.
- c. **Evaluating Suggestions (that are not already implemented).** Each suggestion is investigated for merit so a sound decision can be made as to whether it should be adopted. Every suggestion is reviewed by the PAY\$ Administrator, and an Idea Specialist or a Work Team. The PAY\$ Administrator notifies the suggester as to the outcome of his/her suggestion.
- d. **Eligibility.** Suggesters must be regular full-time or part-time employees of the City of Fort Worth or a volunteer serving in an authorized position classification to be eligible to participate in PAY\$.
- e. **Awards.** Awards are paid out when a suggestion is both adopted and implemented. Suggestions will be evaluated based on one of the four categories:
  - Category One – Direct Tangible. Any suggestion that creates a cost savings that can be taken immediately from the budget such as a reduction in materials needed to perform a process. Category One suggestions are eligible to receive an award amount from \$50 to \$5,000, depending upon the actual savings involved.
  - Category Two – Indirect Tangible. These types of suggestions come from cost savings that cannot be immediately taken from the budget, such as time and labor savings. Category Two suggestions are eligible to receive an award amount from \$50 to \$5,000, depending upon the indirect savings involved. Suggestions indicating monetary savings below \$500 will receive the minimum \$50 award. (revised June 1, 2004)
  - Category Three – Intangible. Suggestions that cannot be easily quantified with a cost savings, such as improved customer service or quality are considered intangible. All intangible suggestions receive \$50 and are eligible for a "Best of the Quarter" bonus award of \$250.
  - Category Four – Helpful Hint. These suggestions result in savings below \$500 and will receive a program incentive, with a bonus of \$250 available for the Helpful Hint chosen as "Best of the Quarter".
- f. **Ineligible Suggestions.** All suggestions are welcome except for the following:
  1. suggestions pertaining to conditions over which the organization has no control;
  2. suggestions regarding departmental reorganization, staffing levels, transfer of services from one department to another;
  3. suggestions that were under active consideration by management prior to their submission;
  4. duplications of suggestions that have been adopted or previously considered within the past twelve months;
  5. suggestions expressing personal grievances or proposing salary increases or job reclassifications;
  6. tasks that were specifically assigned to the employee for improvement or problem-solving as a part of his/her job duties and responsibilities;
  7. suggestions that do not propose a method or way to make the improvement;
  8. suggestions that do not adequately solve the identified problem;
  9. complaints;
  10. anonymous suggestions;
  11. suggestions concerning normal maintenance and repairs of buildings, equipment or grounds, unless such suggestions contribute to a solution of maintenance problems; and,
  12. corrections to obvious errors.
  13. concepts that are implemented in various city departments;
  14. suggestions proposing the purchase of specific software/hardware packages unless the suggester identifies a department that will commit to all cost associated with acquisition and implementation;
  15. constructing or redesigning forms; ideas regarding paper weight/size/color;
  16. all ideas regarding sign installation or development;

17. Suggestions that focus on reducing or eliminating printing cost for documents/reports by:
  - a. Decreasing amount of paper used (fewer copies, print double sided);
  - b. Providing different formats (paper, electronic, CD, DVD, etc.),
  - c. Using different mediums (intranet, internet, etc.)
18. Suggestions that propose acquiring/replenishing/relocating standard supplies/equipment; an
19. Suggestions that propose solutions requiring legislation or funding that is not currently in place (i.e. installing parking lots, constructing buildings; enacting new laws, etc.) (revised June 1, 2004)
- g. Ineligibility Exception. An exception to ineligibility rule #6 (specifically assigned tasks): Any suggestion that comes from an assigned task, but goes "beyond the call of creative duty" (as deemed by the immediate manager or supervisor) will be eligible for consideration and award under the PAY\$ Program.
- h. Duplication of Suggestions. When two or more suggestions are submitted stating the same condition and the same recommendation for improvement, the suggestion with the earliest date is eligible for award consideration. When two or more duplicate suggestions are received on the same date, the suggestions will be combined and signers of the suggestions will be considered co-suggesters, with any resulting award divided equally between the suggesters.
- i. Employee Collaboration. When two or more employees submit a suggestion they are considered co-suggesters. If any co-suggester is ineligible for awards and signs the suggestion form, that suggestion will not be eligible for an award. All co-suggested awards are shared equally among the co-suggesters, and the award amount will be rounded off to the nearest cent.
- j. Functions of the PAY\$ Committee. The PAY\$ Committee will periodically review and revise the PAY\$ Program rules as needed, evaluate subjective decisions regarding suggestions. (revised June 1, 2004)
- k. Appeal Process. When a suggester disagrees with decisions regarding non-adoption of a suggestion or the amount or type of award for an adopted suggestion, the suggester will have 30 calendar days from the date of notification of the non-adoption to formally make an appeal of the disputed decision. Appeals of non-adopted suggestions will be reviewed by an ad hoc team composed of managers with implementation decision authority regarding the concept described in the suggestion. Appeals regarding reward amounts will be reviewed by the PAY\$ Committee. Ad hoc team and PAY\$ Committee decisions are final and binding. Absolutely no further appeals will be allowed on that particular suggestion.(revised June 1, 2004)
- l. PAY\$ Program Changes and Revisions. The City of Fort Worth has the right to change/terminate its PAY\$ program and its rules at any time, with or without notice. The City of Fort Worth has exclusive authority to determine policies and procedures which include: 1) the eligibility of the suggestion or the suggester; 2) the amount and type of award; and, 3) any or all policies or procedures pertaining to the suggestion system.
- m. Adopting Ideas. Before any cost savings idea is adopted, a cost analysis will be performed by an Idea Specialist and must get budget approval by the appropriate implementing supervisor/manager. (revised June 1, 2004)
- n. City of Fort Worth Rights. All suggestions, including patents, become the exclusive property of the City of Fort Worth. The organization reserves the right to use the implemented idea in any manner it deems appropriate. The suggestion becomes the absolute and exclusive property of the City of Fort Worth upon submission. The organization assumes no legal responsibility beyond the maximum award for any suggestion.
- o. Monetary Award Payment Process. PAY\$ monetary awards are considered earned income for employees and applicable taxes and retirement contributions will be deducted from award payments. Monetary award payments will be included on the employee's payroll check paid in the regular City payroll cycle. If an employee terminates employment before a suggestion award has been paid, it will not be paid to the former employee. However, there are two (2) exceptions to this rule: When terminations occur due to 1) a reduction in force or 2) retirement, the award will be paid. (revised June 1, 2004)
- p. Non-Monetary Incentives/Gifts. PAY\$ incentives and gifts are provided during specific timeframes and as stock levels allow. The PAY\$ Office may substitute an advertised incentive with another of equal value. Most incentives will be delivered via inter-office mail. The PAY\$ Office is not responsible for broken, lost or stolen items. The PAY\$ Office is unable to exchange, replace or refund the cash value of an incentive.
- q. Suggestion Evaluation Process. The suggestion evaluation process has been standardized to ensure program consistency, credibility, and verifiability. Idea Specialists use the same procedure for calculating time savings, revenue enhancements, and all other savings and all other implementation costs.
- r. Program Effectiveness Measures. The PAY\$ Administrator will monitor program activities to ensure adopted suggestions are implemented, to serve as a quality check of evaluations, to determine if the processes are being done correctly and to verify the amount of savings. PAY\$ reports will be generated to provide program statistics such as dollar savings, revenue enhancements, return on investment and participation rate.(revised June 1, 2004)

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## **Appendix 1 — Alcohol Misuse and Drug Abuse in the Workplace — Definitions** (Revised June 1, 2004)

The following words and terms, when used in the regulation policy and appendices shall have the following meanings, unless the context clearly indicates otherwise.

1.1 Alcohol test - A scientifically recognized chemical test which establishes an individual's breath alcohol level.

1.2 Aliquot - A portion of a specimen used for testing.

1.3 Authorization for Treatment Form – The form that must be completed by each department's HR coordinator or a department designee prior to drug and/or alcohol testing. This form is presented by the employee/applicant at the collection site. (revised Nov. 15, 2004) The form may be accessed on the intranet at <http://www.cfwnet.org/hr/Forms/occhealthservices.doc>. (Revised 2-10-06)

1.4 City - The City of Fort Worth.

1.5 Chain of custody - Procedures to account for the integrity of each urine specimen by tracing its handling and storage from point of specimen collection to final disposition of the specimen, utilizing an approved City chain of custody form from time of collection to receipt by the laboratory, and upon receipt by the laboratory, an appropriate laboratory chain of custody form(s) to account for the sample or sample aliquots within the laboratory (chain of custody forms, at a minimum, include an entry documenting date and purpose each time a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody).

1.6 Collection site - A place designated by the City where individuals present themselves for the purpose of providing a specimen of the urine and/or breath to be analyzed for the presence of drugs and/or alcohol testing.

1.7 Collection site person - A specially trained person who instructs and assists individuals at a collection site and who receives and makes an initial examination of the urine specimen provided by those individuals.

1.8 Confirmatory test - A second analytical procedure conducted after the result of an initial test is positive, to identify the presence of a specific drug or metabolite (this test is independent of the initial test and uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy). At this time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

1.9 Dangerous drug - A narcotic drug, controlled substance, or marijuana as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970, 102, 21 United States Code 802, as amended; it also includes alcoholic beverages, prescription drugs not taken as directed and illegal inhalants, as per the Texas Workers' Compensation Act of 1991 V.A.T.S. 8308-1 and the regulations promulgated there under.

1.10 DHHS guidelines - Mandatory Guidelines for Federal Drug Testing Programs of the United States Department of Health and Human Services (DHHS) (53 Federal Register 11970; April 11, 1988).

1.11 Drug test - A scientifically recognized chemical test administered in accordance with DHHS guidelines which analyzes an individual's urine for evidence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines (this test consists of two parts, an initial test and a confirmatory test, respectively conducted with portions of the same original specimen).

1.12 Employee - For purposes of this regulation, employee means any employee including part-time, full-time, seasonal, and temporary.

1.13 Employee Assistance Program (EAP) - A program designed to assist employees and their family members in dealing with emotional and personal problems, including alcohol and drug abuse, affecting or potentially affecting the employee's work performance and safety.

1.14 Final applicant - A person who is given a conditional offer of initial employment, or a City employee who is conditionally approved for movement into a DOT sensitive or City-sensitive position.

1.15 Impaired performance - The inability to perform assigned duties or to perform those duties in a safe and efficient manner.

1.16 Initial test (also known as screening test) - An immunoassay screen to eliminate negative urine specimens from further consideration.

1.17 Laboratory - A laboratory which is certified to meet the standards of the DHHS guidelines.

1.18 Medical Review Officer - A licensed physician retained or contracted by the City to evaluate laboratory results generated by the City's program who has knowledge of substance abuse disorders, and appropriate medical training to interpret and evaluate an individual's positive test result together with other relevant bio-medical information.

1.19 Substance Abuse Professional (SAP) - An individual who has clinical experience in alcohol/drug dependency and meets all DOT qualifications.

- 1.20 Pass a test - A negative test result indicating an amount of alcohol or drugs which is below the initial or confirmatory test cutoff levels.
- 1.21 Permanent record book - A permanently bound book in which identifying data on each specimen collected at a collection site are permanently recorded in the sequence of collection.
- 1.22 Program - The City alcohol/drug abuse program which implements the policy and procedures for prevention, deterrence, and rehabilitation aimed at eliminating the possession, use, distribution, sale, or consumption of dangerous drugs or alcohol in the workplace.
- 1.23 Use of alcohol or a dangerous drug - The consuming of an alcoholic beverage, the taking of a dangerous drug (whether orally, by inhalation, or by injection), or being under the influence of alcohol or a dangerous drug.
- 1.24 Workplace - All City offices, facilities, construction sites, temporary laboratory sites, maintenance sites, vehicles and any other location where an employee is performing assigned duties.
- 1.25 BAT - A breath alcohol technician who has been certified to perform breath alcohol concentration (BAC) tests.
- 1.26 EBT - An evidentiary breath alcohol test using a DOT approved device.

## Appendix 2 — Alcohol Misuse and Drug Abuse in the Workplace — Policy Violations

(Revised June 1, 2004)

2.1 An employee who violates the policies and prohibitions of the regulation policy or who fails to pass or refuses to submit to an approved alcohol or drug test will be subject to termination.

### 2.2 Violations based on reasonable cause

1. An employee who is reasonably suspected of using alcohol or illegal drugs in the workplace or performing official duties while under the influence of alcohol or illegal drugs will be required to undergo an alcohol and drug test.
  - a. The decision to require a reasonable cause test must be based on a reasonable and articulable belief by a supervisor who has been trained in the detection of the influence of alcohol and dangerous drugs evidenced by direct observation of specific physical, behavioral, or performance indicators of probable cause. (EAP-A/SA workshop and/or the two-hour (Revised 2-10-06) DOT mandated alcohol misuse/drug abuse supervisor training meets the training requirements.)
  - b. When a supervisor reasonably suspects an employee of using alcohol or illegal drugs in the workplace or of performing official duties while under the influence of alcohol or illegal drugs, he/she shall immediately remove the employee from the worksite to an office area or safe area at the worksite.
  - c. The supervisor shall inform the employee of his/her concerns, the reasons for the concerns and ask the employee to respond to the concerns. The supervisor's concerns should be based upon his/her direct observations whenever possible. If the concerns are first presented by others (co-workers, citizens, etc.), the supervisor shall confer with any eye witnesses (if available), and whenever possible, make his/her own direct observation of the employee. If another supervisor is available, he/she may be asked to verify or provide a consulting opinion.
  - d. Following the supervisor's investigation, direct observation, consultation with another supervisor, if available, and after listening to the employee's explanation, the supervisor makes the decision to test or not test. If testing is required, the employee shall be immediately transported to the designated testing site (Concentra Medical Center, Fort Worth Clinic, 2500 West Freeway, Fort Worth, Texas) (Revised June 1, 2004) (Revised 5/8/07). (revised Nov. 15, 2004) For weekend and after hours procedures refer to Appendix 3.
  - e. The supervisor shall complete the following forms for any incident that results in a reasonable cause testing decision (including post-accident test).
  - f. "Authorization for Treatment Form" (revised Nov. 15, 2004) Supervisor completes this form parts 1 through 17 prior to transporting to the clinic.
2. **Observed Behavior Reasonable Cause Record** - Within 24 hours the supervisor shall prepare a written report of his/her observations and explain the rationale for the decision to test. (Use DOT form in all cases.) (Appendix 4).
3. **Distribution of Copies** - the supervisor shall provide copies or originals as designated to: Employee, Employee Assistance Program, Personnel file, supervisor's file.

### 2.3 Sale, distribution, transportation, or manufacture of drugs in the workplace.

If an employee is reasonably suspected of selling, distributing, transporting, or manufacturing drugs in the workplace, due to direct observation of such acts, the following procedure shall be followed.



- a. The employee will be placed on immediate suspension with pay, pending appropriate investigation and confirmation, and if such acts are confirmed, shall be subject to immediate termination.
- b. The employee shall be provided with a letter as soon as practicable which:
  1. summarizes the observed circumstances and behavior;
  2. notifies the employee that selling, distributing, transporting, or manufacturing drugs in the workplace subjects the employee to termination;
  3. advises the employee that he or she will have a specified period of time in which to provide a reasonable explanation; and
  4. advises the employee that if his or her response is insufficient or not acceptable and if an investigation by law enforcement authorities, the City, or other authorities confirms the suspicion, the employee will be terminated.
- c. The matter should be turned over to law enforcement authorities at the earliest possible time and a request made of such authorities to investigate. Call the Police Dispatch Unit (817-335-4222) (Revised 2-10-06) and a Police Officer will be summoned.
- d. A pre-termination meeting shall be scheduled and the employee shall be terminated if:
  1. the employee fails to respond within the specified period or to provide an acceptable explanation; and/or
  2. investigation by law enforcement or other authorities confirms the suspicion that the employee was selling, distributing, transporting, or manufacturing drugs in the workplace.
- e. If the investigation reveals that the employee was using drugs in the workplace and not selling, distributing, transporting, or manufacturing drugs in the workplace, the employee will be terminated.

**2.4 Suspicious substance found.** If a substance which appears to be a illegal drug is found within an area under the effective control of an employee, actions contained in sections 2.3a-c of this section shall be followed.

**2.5 Arrests.** If an employee is arrested inside or outside of the workplace and is charged with selling, distributing, dispensing, transporting, or manufacturing drugs, actions contained in sections 2.3a-c of this section shall be followed.

**2.6 Alcohol consumption or drug use in the workplace.** If an employee is directly observed consuming an alcoholic beverage or taking a illegal drug whether orally or by inhalation or injection in the workplace, the following procedure shall be followed.

- a. The employee shall be ordered to undergo a reasonable cause alcohol and drug screen.
- b. The employee shall be placed on immediate suspension with pay.
- c. The employee will be provided with a letter as soon as practicable which:
  1. sets up the pre-termination hearing;
  2. summarizes the observed circumstances and behavior;
  3. notifies the employee that the consumption of alcohol or use of illegal drugs in the workplace subjects the employee to termination; and
  4. advises the employee that he or she will have an opportunity at the pre-termination hearing to provide a reasonable explanation.
- d. The employee shall be terminated if he or she fails to respond within the specified period or to provide an acceptable explanation.
- e. If appropriate, the matter should be turned over to law enforcement authorities at the earliest possible time and a request made of such authorities to investigate. Call the Police Dispatch Unit (817-335-4222) (Revised 2-10-06) and a Police Officer will be summoned.

### Appendix 3 — Alcohol Misuse and Drug Abuse in the Workplace — Testing Procedures

(Revised June 1, 2004)

3.1 An individual who is required to undergo an alcohol or drug test, will be requested by a supervisor or the City Safety Officer to sign a consent form to be prescribed by the City, and to report to a designated testing/collection site. All alcohol and drug tests will be conducted at City expense with the exception of the retest as discussed in the regulation policy.

3.2 The drug tests will be administered according to Department of Health and Human Services (DHHS) guidelines. Alcohol breath tests will be administered according to U.S. Department of Transportation (DOT) guidelines.

### 3.3 Specimen collection procedure (Drug Testing)

- a. A chain of custody for each specimen to be chemically tested will be established and maintained from the time of specimen collection through the testing of the specimen.
  1. If a specimen is not immediately prepared for shipment, it will be safeguarded during temporary storage.
  2. Every effort will be made to minimize the number of persons handling specimens.
- b. Specimen collection and shipping will be conducted as follows.
  1. Procedures for collecting urine specimens will allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided.
  2. To deter the dilution of specimens at the collection site, toilet bluing agents will be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. There will be no other source of water (e.g., no shower or sink) in the enclosure where urination occurs.
  3. When an individual arrives at the collection site, the collection site person will request the individual to present photo identification. If the employee does not have any photo identification, he/she will be transported to the Print Shop, City Hall, to have a new ID card made.
  4. The collection site person will ask the individual to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person will ensure that all personal belongings such as a purse or briefcase remain with the outer garment. The individual may retain his or her wallet.
  5. The individual will be instructed to wash and dry his or her hands prior to urination.
  6. After washing hands, the individual will remain in the presence of the collection site person and will not have access to any water fountain, faucet, soap dispenser, cleaning agent, or any other materials that (Revised June 1, 2004) could be used to adulterate the specimen.
  7. The individual may provide his or her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.
  8. The collection site person will document any unusual behavior or appearance in the permanent record book.
  9. Whenever there is reason to believe that a particular individual may alter or substitute the specimen to be provided, a second specimen will be obtained as soon as possible under the direct observation of a same gender collection site person.
  10. Specimens will be shipped by an expeditious means to the laboratory.

### 3.4 Laboratory analysis procedure

- a. Each specimen will be analyzed in accordance with DHHS guidelines which require testing for:
  1. marijuana;
  2. cocaine;
  3. opiates;
  4. phencyclidine (PCP); and
  5. amphetamines
- b. All specimens identified as positive on the initial test will be confirmed by a confirmatory test using gas chromatography/mass spectrometry (GC/MC) techniques.
- c. A specimen which indicates the presence of a dangerous drug at a level equal to or exceeding the levels established in DHHS guidelines is reported to the medical review officer as positive.
- d. Quality assurance and quality control designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs will be in accordance with DHHS guidelines.

### 3.5 Reporting and reviewing of drug test results

- a. The laboratory will report all test results as required within an average of five days after receipt of a specimen by the laboratory.

- b. The laboratory will report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive are reported positive to the medical review officer for a specific drug or drug metabolite.
- c. The medical review officer will review and interpret all test results prior to the transmission of results. In carrying out this responsibility, the medical review officer will examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual, review of the individual's medical history, or review of any other relevant bio-medical factors. The medical review officer will also review medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication.
- d. Prior to making a final decision to verify a positive test result, the medical review officer will give the individual an opportunity to discuss the test result with him or her.
- e. If the medical review officer determines there is a legitimate medical explanation for the positive test result, he or she will determine that the result is consistent with legal drug use and take no further action.
- f. In the event of a confirmed positive test result, the medical review officer or designee will notify the applicant/employee.
  - 1. An employee whose test result is positive will be asked by the medical review officer or designee to call the Employee Assistance Program and schedule an appointment. If the employee fails to communicate with the MRO, the EAP will be directly notified of the test results.
- g. In the event of a confirmed positive test result involving an applicant (including S0-1s), the MRO will contact the EAP who, in turn, notifies the hiring authority the applicant is not eligible for City employment.

**3.6 Alcohol Breath Testing Procedures**

The employee will be ordered to report to the designated clinic (will be transported to the clinic for reasonable cause testing). The alcohol testing will be conducted by a trained breath alcohol technician (BAT) using an Evidential Breath Testing (EBT) device listed on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products list.

- a. If a valid test result is less than 0.02, no further test is authorized.
- b. If a valid test result is 0.02 or greater, a confirmation test must be run.
- c. Alcohol breath test results are available immediately and the test results shall be distributed as follows:
  - 1. Copy 1 (white) Retained by the BAT
  - 2. Copy 2 (green) Provided to employee
  - 3. Copy 3 (blue) Provided to the EAP
- d. **Alcohol Breath Test Appeals** - Due to the fact that alcohol leaves the system in a short period of time, there are no appeal/retest procedures.

**City of Fort Worth  
Urine Collection Procedures for Applicants and Employees — Contacts**

If you have questions about	Then call
Employee does not bring completed Drug Test Notification Form	EAP Coordinator 817-392-7789 (Revised June 1, 2004) Mobile: 817-999-6118 (Revised June 1, 2004) 817-392-8121 (Revised June 1, 2004)
Employee is uncooperative or refuses to consent to an alcohol or drug screen	
After Hours Collection (Mondy-Friday 9 p.m.-7 a.m.; Saturday after 3 p.m.; Sunday all day)	Concentra Medical Center (Forest Park Location) 2500 West Freeway, Suite 100 Fort Worth, TX 76102 817-882-8700 (Revised 2-10-06)

**Appendix 4 — Alcohol Misuse and Drug Abuse in the Workplace — Forms and Instructions**

(Revised June 1, 2004)

4.1 City of Fort Worth Alcohol Breath and Urine Collection Procedures includes names and phone numbers of contacts. See Appendix 3.

4.2 Authorization for Treatment Form, (deleted Nov. 15, 2004).

**4.3 Observed Behavior Reasonable Cause Record** - This is a DOT prescribed form and will also be used in non-DOT reasonable cause testing. It will also be used in non-DOT post-accident reasonable cause testing. The supervisor shall complete the form to the fullest extent possible.

- a. The form shall be used for both alcohol and drug reasonable cause testing.
- b. When used for **NON-DOT** testing, the supervisor shall so indicate by writing **NON-DOT** at upper right hand corner. (see sample)
- c. The supervisor must complete the form within 24 hours of calling for a reasonable cause test.
- d. Distribution:
  - o White copy to the EAP
  - o Canary copy to the employee
  - o Pink copy to the Supervisor

**4.4 U.S. DOT Breath Alcohol Testing Results Request** - This form must be used if the employee wants a copy of the test results. The department/division will provide the form. (Contact the EAP).

**4.5 U.S. DOT Controlled Substance Testing Results Request** - This form must be used if the employee wants a copy of the test results. The department/division will provide the form. (Contact the EAP).

**4.6 U.S. DOT Controlled Substance Test Results** - This form is completed by the Clinic who will have the form.

## Appendix 5 — Disciplinary Action

(Revised June 1, 2004)

Discipline is helping a person take responsibility for his/her behavior. It is not the supervisor's responsibility to change an employee's behavior. The employee is responsible for changing his or her own behavior. The role of the supervisor is threefold: 1) to clearly explain to the employee what the job expectations are; 2) to guide and assist the employee in the performance of job duties; and, 3) to inform the employee of the rewards which will result if the employee adheres to the work rules and performs to standard or the consequences if the employee violates work rules and fails to perform at standard levels.

Discipline is necessary in those instances where an employee fails to behave properly on the job or fails to perform assigned duties in a satisfactory manner. Discipline is not primarily punitive in nature but rather it is a means whereby the supervisor attempts to teach, instruct, and inform the employee of behavioral or performance shortcomings and what must be done in order to correct those shortcomings.

When a supervisor exercises discipline, the stated City values of honesty and ethical behavior, and mutual respect should guide both the content and presentation of the discipline.

Some employees may simply not have the necessary knowledge, skill, or abilities to perform a job satisfactorily. If this is the problem, additional training and guidance should be given to the employee. If, after additional training and guidance has been provided, the employee is still not able to perform their job assignments satisfactorily, appropriate disciplinary action should be initiated.

Behavior problems, on the other hand, must be corrected by the employee. A supervisor is not expected to change an employee's behavior, only the employee can change his or her behavior. Therefore, if the problem is behavior based, the supervisor's task is to explain to the employee the negative consequences that will take place if he/she continues to misbehave on the job.

### Steps in Taking Discipline

#### Investigate – Do Fact Finding

When a problem arises which requires the supervisor's attention, the first thing a supervisor must do is take the time to gather all of the relevant facts concerning the situation. Fact gathering activities may involve nothing more than interviewing the employees involved in the incident and taking notes. In some situations, in addition to face-to-face interviews, the supervisor may be required to review documents such as Time and Attendance Records, Performance Evaluations, Disciplinary Actions, Safety Records, Work Orders/Requests, and any other documentation that might be pertinent to the situation being investigated.

Thorough and objective fact gathering is critical to make a good decision in response to a problem. Time spent getting the facts together will greatly reduce the probability of having decisions modified or reversed if they are later challenged by the employee or if upper-level management reviews the action taken. Although corrective action should be taken in a reasonable period of time, one should not have a sense of urgency to the point of shortcutting the fact gathering process. Supervisors may need several days in order to complete their fact finding activities.

**Meeting With The Employee – Share Facts, Ask Questions, Listen To Answers**

Upon completion of the fact gathering activities, the supervisor should schedule a meeting with the employee to discuss the facts that have been gathered. The purpose of this meeting is to let the employee know exactly what the supervisor has discovered and to give the employee an opportunity to clarify, correct, or explain any points which the employee believes have not been correctly understood. Give the employee an opportunity to present "his/her side of the story" in light of the facts that have been gathered. The supervisor should take notes of this meeting to document the comments and information presented by the employee.

**Deciding What Action to Take**

After the supervisor has completed the fact gathering activities (including meeting with the employee), the supervisor is ready to make a decision regarding what action, if any, to take. In addition to the information gathered during the supervisor's investigative activities, other factors which may be considered include the employee's tenure under the supervisor, the employee's recent performance evaluations, and previous counseling or disciplinary actions.

The supervisor should exercise reasonable judgment and take those actions which would be most reasonable given all the facts surrounding the situation. The supervisor should be mindful of being consistent, uniform, and equitable when deciding the action to be taken. Similar violations or similar situations that have been dealt with by the supervisor, unless facts warrant otherwise, should be dealt with in a similar manner.

The supervisor should ask the employee what he/she intends to do to correct the problem. If the employee makes a commitment to change his/her behavior, a specific plan of action needs to be agreed upon. If the employee has no comments on how he/she intends to correct the problem, the supervisor must present the corrective action expected of the employee.

Simply stated, the action taken should fit the violation/problem.

**Document, Document, Document**

All discussions supervisors have with employees should be documented. Various city policies and regulations, as well as state and federal fair employment practices laws (anti-discrimination in the workplace laws) specifically require employers to maintain and retain documentation and paperwork which explain why decisions were made. All decisions made on the job are subject to being questioned or challenged. Good and adequate documentation will provide supervisors with the necessary information needed to respond to any and all challenges.

Not all supervisors have an office or a work area in which to do paperwork. Therefore, it is important that supervisors always have pens and notebooks or paper on hand in their vehicles and on the job, so they are equipped to document any concerns or problems or incidents which may occur on the job site. Supervisors should have individual files for each employee who works under their supervision.

**Appendix 6 — Appropriate Dress Guidelines** (Revised June 1, 2004)

In order to assist employees in making decisions concerning the appropriate business clothing that reflects good judgment, guidelines are provided below. The guidelines do not differentiate male and female attire and it is expected that employees wear attire appropriate for their gender.

**Examples of Appropriate Dress Guidelines** (Departments may modify based on needs.) (revised Nov. 15, 2004)

Non-Uniformed Departments

	<b>Business Casual</b>	<b>Business Attire</b>
<b>What</b>	Business casual provides employees with an opportunity to dress more informally while maintaining a professional appearance.	Business attire is the traditional, professional business look.
<b>When</b>	Business casual is appropriate on normal business days when employees' duties don't involve the necessity to dress more formally.	As needed to present a professional appearance for meetings or special events, including but not limited to regular city council study sessions, council meetings, meetings with businesses, and/or when representing the City.
<b>Appropriate</b>	Everything listed for business attire, plus the following: <ul style="list-style-type: none"> <li>• Slacks (twill, khaki, --not jeans)</li> <li>• Blazer/sport coat</li> <li>• Sweaters/cardigans</li> </ul>	<ul style="list-style-type: none"> <li>• Traditional 2 or 3 piece suit with tie</li> <li>• Slacks and sports coat, dress shirt with collar and tie</li> </ul>

	<ul style="list-style-type: none"> <li>• Knit golf shirts, polo shirts, City logo shirts</li> <li>• Neat jeans and/or tennis shoes, if in a field environment or approved by the department director as appropriate for the work assignment</li> <li>• Sports shirts with collars (short or long sleeve)</li> <li>• Banded collar shirts</li> <li>• Vests (with appropriate shirt)</li> <li>• Skirts</li> <li>• Leather boots, loafers, pumps</li> <li>• Hosiery when appropriate (revised Nov. 15, 2004)</li> </ul>	<ul style="list-style-type: none"> <li>• Hosiery when appropriate hosiery (revised Nov. 15, 2004)</li> <li>• Dress shoes</li> <li>• Leather boots</li> <li>• Two piece dress</li> <li>• Business dresses, coat dresses</li> <li>• Pant suits</li> <li>• Blouse/shells</li> <li>• Skirts</li> </ul>
<p><b>Always Inappropriate</b></p>	<ul style="list-style-type: none"> <li>• Shirts with slogans or large emblems</li> <li>• Sweat suits (shirts or pants)</li> <li>• Wind suits</li> <li>• Hiking boots</li> <li>• Jeans and/or tennis shoes, unless in a field environment or approved by the department director as appropriate for the work assignment</li> <li>• Shorts</li> <li>• Short skirts (more than 6" above the knee)</li> <li>• Capri pants</li> <li>• Flip-flops (revised Nov. 15, 2004)</li> <li>• Sun dresses</li> <li>• Overalls</li> <li>• Skorts</li> <li>• Provocative or revealing attire</li> <li>• Clothes that don't fit properly (too tight or too baggy)</li> <li>• Halter tops</li> <li>• Sweats</li> <li>• Exercise tights (leggings)</li> <li>• T-shirts of any kind</li> <li>• Clothing with inappropriate advertising (e.g., cigarettes, beer or anything which portrays a negative image)</li> <li>• Clothing not properly laundered or not in good condition (e.g., having tears or holes)</li> </ul>	<ul style="list-style-type: none"> <li>• Leggings</li> <li>• Shorts</li> <li>• Untucked shirttails</li> <li>• T-shirts</li> <li>• Tank tops</li> <li>• Skirts with revealing splits</li> <li>• Jeans</li> <li>• Tennis shoes</li> <li>• Anything listed as inappropriate for business casual.</li> </ul>

- Anything listed as inappropriate for business attire.

**Appendix 7 — Education Reimbursement Overview**

**Education Reimbursement Overview (new Nov. 15, 2004)**

Type of Education Reimbursement	What's Reimbursable	Education Reimbursement Rate	Procedure
Degree Program	Tuition & Mandatory course related fees	Max allowable - Tuition and mandatory course related fees paid by the employee or \$1500 per semester or corresponding period for tuition and mandatory course related fees, whichever is less. In no case shall they yearly maximum reimbursement exceed \$4,500.	Turn in Application with the following attachments: <ul style="list-style-type: none"> <li>• Individual Growth Plan including a statement of career goals i.e., How course benefits the City &amp; employee</li> <li>• Degree Plan &amp; goals must only be filed at the beginning of the degree. Once a file is established, application only is required.</li> </ul> On completion of Course turn in: <ul style="list-style-type: none"> <li>• Official grade slip</li> <li>• Official itemized, paid receipt</li> </ul>
Job Related Course (Including college courses, continuing education, trades or technical)	Tuition & Mandatory course related fees	Max allowable - Tuition and mandatory, course related fees paid by the employee or \$1,500 per semester or corresponding period ofr tuition and mandatory course related fees, which ever is less. In no case shall the yearly maximum reimbursement exceed \$4,500.	Application with the following attachments: <ul style="list-style-type: none"> <li>• Official Job Description</li> <li>• Official Course description</li> <li>• Individual Growth Plan including a statement of career goals i.e., How course benefits the City &amp; employee</li> </ul> On Completion of Course: <ul style="list-style-type: none"> <li>• Official grade slip</li> <li>• Official itemized, paid receipt</li> </ul>
GED or ESL	Test Fee	Actual test fee following successful completion of test	On completion, submit: <ul style="list-style-type: none"> <li>• Application</li> <li>• Official certificate showing successful completion of GED or ESL</li> </ul>

		• Itemized, paid receipt
High School Diploma	Tuition	Eligible schools must be verified through Human Resources

**Steps to Apply for Education Reimbursement**

1. Read and become familiar with the provisions of the Education Reimbursement Policy. Know the Education Reimbursement procedures and all application and grade/receipt deadlines.
2. Start and keep a file of all documents relating to Education Reimbursement.
3. Submit Education Reimbursement Application, together with required documents by the deadline established by the Human Resources Department.

Following successful completion of the course, submit an official grade slip and official itemized receipt/proof of payment that shows tuition, fees, etc. listed separately. These documents must be submitted by the deadline established by the Human Resources Department.

**Appendix 8 — Crisis Intervention Program**

**Crisis Intervention Program** (New policy effective January 21, 2002)

The City of Fort Worth has established a Crisis Intervention Program to offer emotional assistance and support to City employees in response to a personal crisis, critical incident, mass casualty or major disaster. Under the guidance of the Crisis Intervention Advisory Board, comprised of employees, non-employees and professionals, the program recruits, selects and trains volunteers from the ranks of City employees. Participating employees must have the approval of their supervisor. (Revised 2-10-06) **Employee team members may elect to participate in one or both of the program components: the Peer Support team and the Critical Incident Stress Management team, provided the employee has completed the required training. Employee participation is strictly voluntary and may include off-duty hours. There is no usual compensation associated with the time spent in training or providing services. However, if an employee team member has been legitimately activated during a major catastrophic event –or- a state/federally declared disaster, compensation may be authorized by order of the City management. Team membership is renewed annually and may be suspended or revoked if there is probable cause based on evidence of misconduct or violation of the adopted program operating procedures.**

The program also offers a credentialing process for non-City employees that are mental health and ministerial professionals or crisis interveners who may be called to assist in times of urgent distress following a major trauma event. The rule of confidentiality is provided in this policy for all individuals rendering or receiving crisis intervention support, except in special circumstances required by law.

**Appendix 9 — Payroll Deductions**

Payroll deduction is offered as a service to benefit employees. Payroll deduction is available for legally mandated deductions and deductions associated with City-sponsored programs. Payroll deduction is also available for the membership dues for employee organizations/associations and other services as approved under the guidelines that follow. Employees may authorize or cancel a payroll deduction by completing and signing a payroll deduction and cancellation card. (Revised July 1, 2003)

Employee organizations/associations must be chartered by the State to qualify for the payroll deduction service. There is no minimum membership requirement, however, administrative charges for the service may be higher if membership is small. Employees will be assessed a minimum charge each payday for each deduction. No changes will be made to an employee's payroll deduction without the signature of the employee. (Revised 2-10-06)

Businesses approved for payroll deduction will be assessed an initial setup charge, a service fee for each deduction each payday, and an individual service fee for each employee's deduction for each pay period. (Revised January 26, 2001). At least 200 employees must be enrolled for a business to qualify for payroll deduction. If enrollment falls below 150 employees, the business has 60 days to meet the 200 employee requirement to avoid termination of the service. The City Manager or designee may approve exceptions to private vendors not meeting the 200-rule if the services or products help to achieve the City's strategic goals. (Revised July 1, 2003)

Businesses may submit payroll deduction requests to the Human Resources Director. Requests to provide services through payroll deduction shall be evaluated on the nature and amount (discount) of the benefit to employees and the nature and appropriateness of the service for administration utilizing City systems and personnel. Consideration will also be given to the availability of the service through other sources, anticipated level of employee interest in the service, impact on the City's administration system and personnel, and level of work disruption to market the service to employees. The City reserves the right to limit the approval to a reasonable number of providers with duplicate services. (Revised July 1, 2003)

The Employee Insurance and Benefits Advisory Committee may be consulted to review the request. The City Manager or designee



will make final decisions. (Revised July 1, 2003)

The City reserves the right to withdraw payroll deduction privileges with sixty (60) days advance notice when deemed in the best interest of the City.

## Appendix 10 — Procedures for Performance Pay Increases

(New Guidelines effective October 2000)

The following guidelines apply to employees who have not been at work for a full year. Exempt employees will have their performance pay increase prorated. Non-exempt employees will have their anniversary date changed. These guidelines also address issues related to employees on probation (initial, extended, disciplinary, and other than initial).

### Exempt Employees

(Deleted Paragraph effective 2-10-06)

If an exempt employee is in his/her initial probationary period or an extended initial probationary period as of October 1, the employee may receive a pro rata performance increase following the successful completion of the initial probationary period. The pro rata increase is based on the number of months the employee worked prior to October 1 and the employee's performance rating as determined by the six month or final evaluation when completed. The Performance Review Document (PRD) (Revised 2-10-06) for an employee who is still in his/her initial probationary period as of October 1 will be sent to the department just prior to the completion of the initial probationary period. The effective date of the performance pay increase will be the beginning of the next pay period after the completion of the initial or extended initial probationary period. In these instances, there will be no backpays prior to the completion of the initial probationary period.

Performance Pay Increases for Exempt Employees Who Had An Extended Absence From Work. Exempt employees who have **not** worked for a full 12 months during their evaluation period will be eligible for a pro rata performance pay increase only. In such instances, the pro rata increase will be based on the number of months worked during the evaluation period. A memorandum must be attached to the PRD sheet for the employee explaining the reason for a pro rata increase (extended absence).

Pro Rata Performance Pay Increases for Exempt Employees. These guidelines refer to "pro rata" increases. This means an exempt employee's performance pay increase will be calculated by multiplying the applicable percent increase in the performance pay matrix based on the employee's performance rating level times the fraction of the evaluation period that the employee was at work (i.e., 7 of the 12 months ( $7/12 \times \%$ ), 8 of the 12 months ( $2/3 \times \%$ ), 9 of the 12 months, ( $3/4 \times \%$ ), etc.). These calculations should be rounded up to the nearest hundredth. For instance  $7/12=0.583$ , **0.58**;  $8/12=2/3=0.666$ , **0.67**;  $9/12=3/4=0.75$ .

Using these examples, if an employee were eligible to receive an 8% increase per the matrix and performance rating, the amount of the increase in each example would be:  $0.58 \times 8\%=4.64$ , **4.6%**;  $0.67 \times 8\%=5.36$ , **5.4%**; and,  $0.75 \times 8\%=6\%$ . (These calculations should be rounded up to the nearest tenth.)

Performance Pay Increases for Exempt Employees in a Non-Disciplinary Probation Status. Exempt employees serving a probationary period other than a disciplinary or an initial probationary period will be eligible for a performance pay increase on October 1. (The probationary status may be due to a promotion, reclassification, demotion, or any other change that has affected the rate of pay.)

Exempt employees should be evaluated based on their performance during the 12 month evaluation period. If an employee changed jobs (promoted, reclassified, demoted, transferred, etc.), their total performance for the year will be considered. In some instances, this will require a combination of input from different supervisors either within or between departments.

Exempt Employees on Disciplinary Probation. The fact that an employee has been in a disciplinary probation status during his/her evaluation period should be reflected in their performance rating.

Exempt employees will be eligible for a performance salary increase after they successfully complete their probation. Their anniversary date will remain October 1.

The effective date of the performance pay increase, if any, will be the beginning of the next pay period after the completion of the disciplinary probation. No backpays prior to the completion of the disciplinary probation will be permitted.

### Non Exempt Employees

Performance Pay Increases for Non-Exempt Employees Who Had an Extended Absence From Work. Non-exempt employees must have worked (been on duty, regardless of their duty status) the total number of months in their evaluation period (6 or 12 months) to be eligible for a step increase based on their performance rating. The months worked do not need to be consecutive months during the evaluation period. The cumulative total of months worked must be six (6) months on the A or B steps and, 12 months on steps C to L.

The anniversary date of non-exempt employees will be adjusted to reflect the period of time the employee was absent from work. A PAR reflecting a change in anniversary date due to extended absence should be submitted as soon as it is possible to establish a new anniversary date. If a PAR is submitted prior to the original anniversary date, a PRD will be generated in advance of the new

anniversary date. If the employee is on an extended absence through the original anniversary date, the situation may be handled in one of two ways. The PRD received prior to the original anniversary date may be held until the employee returns and a new anniversary date is established. In this case, the new anniversary date should be documented on the PRD and submitted with the employee's evaluation. On the other hand, if the period of extended absence is extensive, the PRD may be returned to Human Resources with the extended absences noted. When the employee returns to work, a PAR with the new anniversary date should be submitted and a new PRD will be generated at the appropriate time.

The effective date of the step increase will be the next pay period in which the new anniversary date occurs (Revised 2-10-06)

**Non-Exempt Employees with Extended Initial Probationary Periods.** At the request of a Department Head or designee, the initial six-month probationary period of a non-exempt employee may be extended up to a maximum of an additional three months if sufficient information is not available to adequately evaluate performance or if performance or conduct issues exist. A Personnel Action Request (PAR) form must be completed to extend the probationary period because the employee's anniversary date will change. The employee will not be eligible for movement to the next step until successful completion of the extended probation.

The effective date of the increase will be the beginning of the next pay period in which the completion of the extended probationary period occurs. (Revised 2-10-06) No backpays prior to the completion of the extended probation will be permitted.

**Non-Exempt Employees on Disciplinary Probation.** The fact that an employee has been in a disciplinary probation status during his/her evaluation period should be reflected in their performance rating.

If a non-exempt employee's step date occurs while he/she is on disciplinary probation, the employee will be eligible for the next step upon successful completion of his/her disciplinary probation period.

Non-exempt employees' anniversary dates will change to the effective date of the increase. If no increase is received, their anniversary will still be changed. A PAR must be submitted to indicate the change in anniversary date.

The effective date of the increase (or the date an increase was denied) will be the beginning of the pay period in which the completion of the disciplinary probation occurs (Revised 2-10-06). No backpays prior to the completion of the disciplinary probation will be permitted.

## Appendix 11 — Temporary and Seasonal Positions and Employees (S Key Code)

(New Appendix Effective 02/23/2009)

If an S key code employee is hired into a regular position, the employee's date of employment for retirement, longevity, and leave accrual purposes will be the date the individual became a regular employee.

S key code positions may be filled by direct recruitment through the hiring department or with the assistance of the Human Resources Department. Hiring departments must avoid discriminatory practices or the appearance of discriminatory practices in the recruitment and selection of employees for S key code positions.

Individuals selected for an S key code position must meet the minimum qualifications for the "shadow classification". Department directors must submit a waiver request for an underfill when hiring an S key code employee who does not meet the minimum qualifications for the shadow classification. Department directors may hire S key code employees at rates considerably below the entry level of a shadow classification when qualified persons cannot be hired, and consequently, persons who do not meet minimum qualifications are hired.

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