



**Personnel Rules and  
Regulations for General  
Employees**

## Preface

The Personnel Rules and Regulations for General Employees (referred to as the “PRRs” hereafter) of the City of Fort Worth (“City”) are authorized under the City of Fort Worth Municipal Code, Chapter 2, Article V, entitled Human Resources. They are based upon the merit principles outlined in the article. These rules and regulations (also referred to as “PRRs,” “policy” or “policies” going forward in this document) do not confer legal rights to employees. They are established in good faith and are intended to comply with applicable federal, state and local statutes.

These PRRs do not apply to firefighters or police officers as those terms are defined in Texas Local Government Code section 143.003. These policies do apply to police and fire trainees who have not yet been appointed in substantial compliance with chapter 143.

### Mission, Values, and Vision

The City of Fort Worth’s mission is “*Working together to build a strong community.*” To accomplish this mission, employees at the City of Fort Worth provide municipal services to over 800,000 residents. Each day, these employees are moving about the city, doing work that helps make Fort Worth a strong community and a great place to live. There are six values that guide our employees as they go about this work. They are:

- *Exceptional Customer Experience*
- *Accountability*
- *Ethical Behavior*
- *Diversity*
- *Mutual Respect*
- *Continuous Improvement*

As Fort Worth continues to grow and change, these principles help keep employees on point, providing the best service to citizens, businesses and fellow employees. City employees are guided by the City’s mission and values to work toward the vision that “*Fort Worth will be the most livable and best managed city in the country.*” The City’s mission, values, and vision serve as the foundation for information contained in the Personnel Rules and Regulations.

### Amendments

The City Manager, or his or her designee, with advice and assistance from the Human Resources Department, develops, adopts, and promulgates Personnel Rules and Regulations for all City employees who are, directly or indirectly, under the City Manager’s supervision and control. From time to time amendments to the *Personnel Rules and Regulations for General Employees* are made in the interest of good and efficient business practices and to comply with changes in federal, state or local statutes.

### **Department Rules and Regulations**

A City department, with approval of the Department Director, may establish additional rules and regulations for their department that are not specifically addressed in the *Personnel Rules and Regulations for General Employees*. A Department Director may approve departmental policies that are more restrictive or controlling than policies in the *Personnel Rules and Regulations for General Employees* but cannot implement policies that deprive employees of their legal rights. The Human Resources Director or Assistant Human Resources Directors can require a department policy to be changed or reversed if considered to be in conflict with the *Personnel Rules and Regulations for General Employees*. Department rules and regulations must be consistently applied in a non-discriminatory manner.

### **Waivers**

Application of a specific provision of the PRRs may be waived only if approved by the Human Resources Department Director, or his or her authorized designee. To obtain a waiver, a written request must be sent from the requesting Department Director to the Human Resources Director. The request should identify the applicable rule or regulation to be waived and the justification for the waiver. The Human Resources Director or designee reviews each waiver request on a case-by-case basis and approves or denies the request.

### **Clarifications**

In situations not covered specifically by the *Personnel Rules and Regulations for General Employees*, employees of the Human Resources Department authorized by the Human Resources Director may provide an interpretation or clarification based on the perceived intent of the *Rules and Regulations*. Individuals with questions or requests for clarifications must verify that the contacted employee is authorized to provide an official response. The Human Resources Department also publishes HR Advisories on various topics. These HR Advisories are intended to assist with the clarification or interpretation of Personnel Rules & Regulations, provide guidelines on procedures, provide additional detail or information on a Rule, describe best practices or serve as a teaching resource.

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# 1. Hiring

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## 1.1 Purpose and Introduction

The purpose of this chapter is to describe how the City of Fort Worth provides employment opportunities for those persons who are interested in and qualified to work for the City. The City seeks to hire and retain competent employees who are honest and technically competent, show respect for fellow members of the City team, and recognize the responsibility that public employees have to our customers.

For questions about this chapter, please call the Talent Acquisition Manager in the Human Resources Department.

## 1.2 Equal Opportunity

City recruitment seeks to be inclusive, so that all individuals have an equal opportunity for employment. All artificial, arbitrary, and non-job-related barriers to employment such as race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV) are eliminated to ensure equal access to 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.

## 1.3 General Hiring Guidelines

The City posts available jobs on the City's official website. Job applications and other official paper or electronic forms that are used in the selection process are provided by the Human Resource Department and on the Internet. The City uses valid, job-related selection criteria and methods to hire employees on the basis of their qualifications and suitability for employment. Employment decisions are based on job-related factors, including the candidate's suitability and qualifications as those traits are related to the essential functions of the job. Internal-only postings require the Human Resources Director or designee's approval.

When hiring outside of these guidelines, refer to your Human Resources Recruiter for guidance. Based on the determination of the Human Resources Recruiter, the request of the department may require approval from the Human Resources Director.

### **1.3.1 Recruiting Process**

The hiring department and Human Resources Department work through the application process jointly to ensure that applicants are evaluated without regard for race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age, sexual orientation, genetic information, veteran status, and disability status. Please see further information in the *Equal Opportunity* section below. The normal recruitment processing steps are explained below:

- 1) Hiring managers/supervisors, Human Resources Coordinators, or a designee will meet with the assigned Recruiter to conduct an intake meeting.
- 2) Once the position is posted, all applicants must complete an online application.
- 3) The assigned Recruiter from Human Resources will screen the applications based on minimum qualifications, preferred qualifications, consistent work history and complete application. The Recruiter will then route the most qualified applications to the hiring department.
- 4) The expected time-frame for all recruitments is within 60 days from the day the posting is opened. If no selection is made by the 60<sup>th</sup> day after posting, the Human Resources Recruiter may close the requisition.

### **1.3.2 Applicant Evaluation**

The hiring manager/supervisor will review applicants routed by the Human Resources Recruiter. The hiring manager/supervisor will evaluate the applications based on the minimum and preferred qualifications established by the hiring manager/supervisor and Human Resources Recruiter during the Intake Meeting. If the hiring manager/supervisor chooses to conduct phone interviews prior to in-person interviews, a phone interview must be conducted for all applicants and the same topics will be covered with each applicant.

The hiring manager/supervisor will review and select the candidates to interview within five business days of receiving the applications. The hiring manager/supervisor will email the list of candidates selected for interview and a list of the candidates not selected for interview, along with a brief, valid reason on why the applicant was not selected for an interview, to the Human Resources Recruiter for review and approval, prior to scheduling interviews.

In addition to interviews, the evaluation process may include reference checks, performance tests, written tests and other screening procedures, as appropriate. It is the responsibility of the hiring department to verify that all required professional certifications and licenses are active and valid. Refer to 1.4.2 for further information on verification of certificates and licenses. Interview questions not listed on the Interview Questions Master List must be approved by the Human Resources Department prior to starting the interview process. Interview panel members may ask job-related follow-up questions during the interview as appropriate.



If a hiring manager/supervisor and/or interview panel member has any reason that may impede their ability to be impartial in the interview process (e.g. a familial relationship or friendship with an applicant) or may create the impression/perception of favoritism, Talent Acquisition must be notified prior to beginning the interview process. Talent Acquisition will provide guidance on how to proceed to ensure an unbiased interview process. If the hiring manager/supervisor opts out of participating as a scoring panel member, then they must also not serve as the facilitator or observer during those interviews. All panel members should be available to participate in the entire interview process.

No interview may be granted to an applicant unless the applicant's application has been referred to the hiring department by the Talent Acquisition Division. If a candidate is interviewed and evaluated by the panel to be qualified for a lower pay grade or lateral position in the same job family, the hiring manager/supervisor should notify the Human Resources Recruiter to consider the candidate for that role. After receiving approval, the hiring manager/supervisor may move forward with extending a job offer to the candidate if there is a vacancy at that time or consider the candidate for a future vacancy.

### **1.3.3 Interview Preparation and Documentation**

The hiring manager/supervisor will select a diverse interview panel and have a pre-interview meeting with the panel members to discuss the overall goal of the recruitment. Panel groups should be a minimum of three (3) interviewers at all times. The panel selection must be submitted to the Human Resources Recruiter for review and approval prior to scheduling interviews. Upon completion of the interviews, the hiring manager/supervisor will email the Recruiter within a specified timeframe as established by Talent Acquisition with the following information: the required interview documents, selected candidate name, suggested pay rate and position number. The required documentation includes all interview-related documentation pertaining to the interview that was used to evaluate the candidates. The Recruiter will review all documentation. Once the hiring manager/supervisor receives the approval from the Recruiter to proceed with hire, the hiring manager/supervisor will make a verbal offer. In some cases, the Recruiter will make the verbal offer and negotiate the pay rate with the candidate on the department's behalf. An offer cannot be made until the department receives approval from the Recruiter. At this time, the department may identify any potential back-up hire for future job opportunities.

### **1.3.4 Conditional Offer of Employment**

Once the hiring manager/supervisor has made the verbal offer, the Recruiter will be notified of offer acceptance. At this time, the Recruiter will proceed with the onboarding process, which includes creating and sending the offer letter. Once a candidate has accepted the offer, the department hiring manager/supervisor is required to contact and notify each candidate that interviewed to inform the candidate they were not selected. This communication may be done in person, over the phone, or by email. Talent Acquisition will notify all other applicants who did not interview.

The Talent Acquisition division will handle the drug test information, education verification, criminal background check, motor vehicle record, and driver's license verification, as needed. These checks will be done for all new hires, promotional hires, voluntary demotion hires, lateral transfers, and re-hires that went through the Talent Acquisition Division.

See *Criteria for Employee Testing* in chapter 13 of this document for further information. Talent Acquisition will communicate any issues that arise during the background check process to the department as needed.

The conditional offer of employment, extended to the selected applicant by the hiring department, is contingent upon all of the following:

- Successful completion of the post-offer physical, as determined by the City's designated physician – if required;
- Passing the post-offer drug test as applicable;
- Clearance for employment based upon results of the reference check and criminal background check; and
- Verification of education and other required credentials.

If the department is responsible for any other screenings, such as a physical and/or drug screens, the department must notify the Recruiter with the screening results for each hire. Upon successful completion of the screening requirements by both the department and Talent Acquisition, the new hire will receive the New Hire Orientation Letter. In the New Hire Orientation Letter, the applicant is notified of the requirement to attend New Employee Orientation and is provided information regarding the date, time, and location of Orientation. The department will also be notified when the candidate is cleared to start employment and the department will be responsible for reporting instructions for the new hire. If the new hire is not required to attend New Employee Orientation, the department is responsible for providing the new hire with 1<sup>st</sup> day reporting instructions. See Section 1.14 New Employee Orientation.

## **1.4 Employment Verification**

The information a job candidate provides on an employment application and résumé is subject to verification. Individuals who falsify or omit significant information may be disqualified from consideration for the position or, if already a City employee, may be disciplined, up to and including termination.

### **1.4.1 Employment Verification and References**

Prior to making a job offer to an external candidate, the hiring manager/supervisor with final hiring authority in the selection process (or a designee) is required to contact previous employers to verify the applicant's employment history and conduct documented reference checks with any professional references or supervisors provided by the applicant.

When hiring former employees or promoting employees from other City departments, the hiring manager/supervisor is required to perform reference checks that include reviewing the employee's personnel file for the last two years' performance appraisals and disciplinary history and/or contact the employee's current or previous supervisor prior to making an offer of employment.

#### **1.4.2 Verification of Education/Certification/License Qualifications**

Human Resources Talent Acquisition is responsible for verifying education. If education is unable to be verified, it is the applicant's responsibility to submit required documents such as a high school or GED diploma, college degree, or transcript. Failure of the applicant to comply with requests for documents may terminate the hiring process.

The Department Director or designee is responsible for ensuring that required certifications and/or other required licenses or credentials are valid and current.

Candidates who do not meet the Education requirement may still be considered if they meet the substitution requirement for positions that require only a high school diploma.

For any positions that require or make preferable a license or certification, hiring departments shall confirm that such license or certification is current and in good standing.

### **1.5 Minimum Employment Age**

The City employs persons 16 and 17 years old with Human Resources approval in non-hazardous positions only. Occupations declared to be hazardous to persons 16 and 17 years of age by the Department of Labor include motor vehicle driver, outside helper (contact Law Department for definition), operators of power-driven machines, and power-driven hoisting equipment, chain saws, circular saws and guillotine shears, and roofing and excavation labor.

The City follows all federal and state child labor laws. Persons under age 16 shall not be employed by the City, except for special programs approved by the City Manager and the City's Department of Law.

Job candidates age 16 to 18 must provide a copy of their birth certificate or other appropriate official record to verify their age. The birth certificate or official record must be provided at the time of application and retained in the person's personnel file.

### **1.6 Eligibility to Work in the USA**

Individuals seeking employment with the City must be qualified to work in the United States and provide requested documentation upon hire. New hires must complete Form I-9, *Employment Eligibility Verification*, during orientation. Form I-9 requires original documents establishing identity and employment eligibility to 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. Human Resources personnel will review documentation provided and verify eligibility to work.

Federal law requires that new hires who fail to provide acceptable documents at orientation or within three (3) days of their hire date cannot be employed or must be terminated if hired.

## **1.7 Driver's License Verification and Record Check**

Employees who are required to operate City or personal vehicles while performing their essential job functions must possess an appropriate and valid Texas Driver's License and the minimum liability insurance required by Texas law. Individuals hired who do not possess an appropriate and valid Texas Driver's License must obtain one within 90 days after being hired.

Employees who are required to operate City or personal vehicles while performing their essential job functions and whose Texas Driver's License has been suspended, revoked, cancelled, or denied must notify their department management within two (2) working days of the suspension, revocation, cancellation or denial. An employee is not allowed to drive or operate any City vehicle until the employee provides a copy of the DPS Driver Record (Type 1 or higher) that shows a license status of ELIGIBLE for the employee.

Applicants who are required to drive or operate a City or personal vehicle as part of their job duties must meet the following criteria upon hire:

- No more than three (3) moving violations for the twenty-four (24) month period preceding hire.
- No DWI / DUI convictions for the past two (2) years.

The Human Resources Department conducts a driver's license check on all employees with driver's licenses. If the check reveals a violation of this policy, the Human Resources Department will notify the Department Director or designee who shall take appropriate action. Periodic driver's record checks may be conducted to verify employees' compliance with this policy.

Employees who do not drive on City business, but whose names appear on the motor vehicle record check report, shall notify the department head or designee that their job duties do not require driving on City business. The department head or designee shall verify the job duties with the employee's supervisor and manager. If driving on City business is not required of the employee, the department head or designee shall notify the Risk Management Division of Human Resources Department. This may be done with an annotation in the "comments" column of the driver's license check report (as applicable) that "This position does not require a driver's license". The department head or designee shall also contact the Human Resources Classification and Compensation Division to coordinate any necessary revisions to job descriptions.

Employees on the list whose driver's license is invalid (i.e., has expired or been revoked, suspended, or withdrawn for any reason) shall have their City driving privileges suspended and shall not be allowed to drive a City vehicle or a personal vehicle on City business or to drive onto City premises. Upon receipt of notification from the Risk Management Division

that an employee's City driving privileges have been suspended, the department head or designee shall inform the employee in writing of the suspension of driving privileges and of procedures to follow in order to clear his/her driving record with the Texas Department of Public Safety (DPS) and to subsequently have their driving privileges reinstated by the City. Departments may contact the Risk Management Division for assistance with drafting such a communication. The affected employee's City driving privileges shall be suspended upon his/her receipt of the notification from the department head or designee. The notification should be made via in-person delivery with a signed employee acknowledgement or via certified mail.

For an employee's City driving privileges to be reinstated, the steps below must be followed:

1. The employee should contact the DPS Driver Improvement Office at (512) 424-2600 or go to online resources (<http://www.dps.texas.gov/DriverLicense/>) to determine the driving status. DPS will disclose the employee's driving status and explain how to clear it.
2. The employee must obtain from DPS a copy of the Driver Record (Type 1 or higher) and provide the copy to the employee's supervisor. The supervisor shall provide a copy to the department's designated personnel. A copy of the DPS Driver Record (Type 1) can be obtained for a minimal fee at the DPS website [www.texas.gov/driver](http://www.texas.gov/driver). The employee is responsible for paying this fee. The DPS Driver Record (Type 1 or higher) is the only acceptable verification document.
3. Verbal assurances and/or explanations from the employee will not be accepted. Driver's licenses in the possession of those on the DPS suspension/revocation list shall be considered invalid until receipt of the DPS Driver Record indicating the driving record has been cleared.
4. The employee will be allotted ten (10) working days from the date of their notification to complete the verification process and provide a copy of their DPS Driver Record (Type 1 or higher) that shows a license status of ELIGIBLE.
5. Department Director or designee shall forward a copy of the DPS Driver Record verification received from the employee to the Risk Management Division.
6. The Risk Management Division will review and approve the DPS Driver Record verification and will send an e-mail reinstating the employee's driving privileges.
7. The Risk Management Division will coordinate approved DPS Driver Record verification records with the HRIS/Records Division.

## **1.8 Criminal Records Check**

A criminal records check is required on all potential new hires, temporary workers,

volunteer workers, and interns. If an outside agency has already conducted a criminal records check for volunteers and temporary workers, a criminal records check will not be conducted by the Human Resources Department, unless a contract or agreement states otherwise. The Human Resources Department will conduct background checks for all new hires, interns, promotional hires, voluntary demotion hires, lateral transfers, and re-hires that went through the Talent Acquisition Division. All volunteers and other program volunteer backgrounds will be conducted by the Volunteer Coordinator or designee, unless a contract or agreement states otherwise.

The Human Resources Department will conduct criminal history record reviews and will determine through the individualized assessment procedures described below whether the individual should be excluded from employment or an internship. Volunteer criminal history record reviews will follow the volunteer criminal record guidelines. Program volunteers earning education credit will follow the Human Resources Department criminal history record review guidelines.

### **Individualized Assessment**

Only Human Resources employee(s) authorized to view criminal history records will be involved in conducting an individualized criminal history record review. Only the Volunteer Coordinator or a designee will be involved in conducting an individualized criminal history records review for volunteers or program volunteers. Consistent with business necessity, the City shall disqualify a person from employment, volunteering, or working as an intern or contractor when the person's criminal history is inconsistent with the job duties of the position for which the person is being considered.

The City shall perform an individualized assessment of criminal history records information when determining a person's eligibility for employment, volunteering, internship, or contract work in a specific position.

The City shall take into account a variety of factors, which may include the following:

- The nature of the offense;
- The age of the person when the crime was committed;
- The date of the offense and how much time has elapsed;
- The adjudication of the offense (e.g., whether the person was found guilty by a trier of fact, pled guilty, entered a no contest plea, or received deferred adjudication);
- The nature and responsibilities of the job sought;
- The effect of the conduct on the overall environment;
- Indication of rehabilitation or lack of rehabilitation;
- Potential liability if the individual is retained or not retained; and
- Any further information provided by the person concerning his or her criminal history record.

In conducting the individualized assessment, the Human Resources Department will consider both the factors set out above and any additional information provided by the individual.

If the criminal records check reveals a criminal history that disqualifies the candidate from

being hired, the candidate will be notified by the Human Resources Department. Any candidate disqualified by virtue of criminal records check shall be provide with a copy of the criminal records check. The candidate will be provided with directions for contacting the consumer reporting company if the candidate has questions or would like to dispute the report.

With the exception of the Police Department and CJIS classified positions, departments should not conduct criminal history records checks.

## **1.9 Employment Testing**

Employment testing needs and requirements are established by the hiring departments. Departments may not develop or administer examinations without the review and approval of the Human Resources Talent Acquisition Division.

If an examination administrator must repeatedly warn a candidate of suspected cheating or inappropriate and/or disruptive behavior during the examination, the candidate's application shall be removed from the hiring process. The candidate shall not be hired, will receive a failing score, and must wait three years before taking another examination.

## **1.10 Hiring Below Entry Level Salary Rate**

In limited situations, Directors may hire or promote employees who do not meet minimum qualifications at a pay rate that is at least five percent (5%) below the entry level of a position's salary range. To do so requires approval by the Human Resources Director.

Employees who are hired below the entry level of a salary range remain at that rate until acquiring the qualifications necessary to meet the minimum qualifications for the classification. These employees are eligible for performance based-pay increases, provided that the increases do not put them at or above the entry-salary level.

## **1.11 Hiring Salary**

New employees are hired at the beginning of the position's salary range unless a higher rate of pay is necessary or justifiable. (See the *Compensation and Personnel Actions* in Chapter 2 of this manual for further information about starting pay.)

## **1.12 On-Site Recruitment**

A Department Director may establish a policy for filling 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 that justify on-site hiring. To do so requires approval from the Human Resources Director.

## **1.13 Overfilling Positions for Training Purposes**

The City allows Department Directors to overfill a position with a new employee or a current employee to receive training or knowledge transfer from the incumbent. Subject to budget limitations, a Department Director can overfill positions for the purposes of providing such training on the job. Such positions can be overfilled for a maximum of six months, after which approval from the Department Director, Budget, and/or Assistant City Manager is needed to continue the training.

## **1.14 New Employee Orientation**

All regular employees who are scheduled for twenty hours per week or more must attend a City orientation session (also called New Employee Orientation Program or NEOP) before starting work at their assigned location. In addition, rehired, reemployed and/or reinstated employees, as well as individuals moving from a temporary or seasonal status to a full-time or reduced schedule position, must attend NEOP. Temporary or seasonal employees are not required to attend NEOP.

Basic employee policies are discussed at the orientation. Employee benefits, including, but not limited to retirement, leave privileges, and group health benefits are covered. The employee's eligibility to work in the USA is checked. (See *Eligibility to Work in the USA* above for further information.)

An authorized member of the hiring department must contact the employee for reporting details prior to their start date.

## **1.15 Direct Deposit or Alternative Payment Method**

Employees are paid by the City through direct deposit. Employees must set up a payment method when completing new-hire paperwork; payment method may be changed by contacting the payroll division. The City is not responsible for any transaction fees incurred in connection with the use of debit or pay cards.

## **1.16 Reemployment**

Reemployment hiring rules vary depending upon the terms under which the employee separated from employment. See *Voluntary Termination* and *Involuntary Termination* in Chapter 4 for more information. Also see *Reemployment Salary and Benefits for Laid-Off Employees* in Chapter 4 for further information about how reemployment affects salary and benefits.

## **1.17 Use of Personnel Search Resources**

The City of Fort Worth may employ the services of personnel search firms and resources for executive, senior professional and management positions. Departments should contact Human Resources Talent Acquisition to determine if a personnel search firm should be assigned or whether the recruitment will be completed through the standard City recruitment process.



## 1.18 Relocation Allowance

The City may provide a relocation allowance for employees hired into executive, Director, Assistant Director, or hard-to-fill positions (as designated by the Talent Acquisition Division) for reasonable relocation (moving) costs. A minimum relocation distance of 50 miles from a former residence to the new work location is required for an allowance consideration.

Specific relocation allowance amounts are determined by the hiring manager/supervisor and must be approved by the Department Director. Relocation allowances for Assistant Director and hard-to-fill positions must be approved by the Human Resources Director. Relocation allowances for executive and Director level positions will require City Manager approval. All allowances are subject to budget availability. In no event shall a relocation allowance exceed 10% of the new hire's annualized salary.

The relocation allowance is a one-time payment that will be included with the employee's regular paycheck. The approved relocation allowance should be documented in the candidate's offer letter or subsequent documentation. The City will comply with all applicable federal and state income tax withholding and Form W-2 reporting requirements for a relocation allowance.

If an employee voluntarily or involuntarily terminates employment with the City of Fort Worth during the twenty-four (24) month period following the employee's hire date, the employee may be required to make full or partial repayment of the relocation allowance, which may be deducted, in whole or in part, from the employee's pay or other compensation to be paid to the employee.

Hiring managers/supervisors should consult the *Relocation Allowance Guidelines*, available in the Talent Acquisition Division, or consult with their Recruiter regarding the process or specifics of relocation allowances.

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# 2. Compensation and Personnel Actions

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## 2.1 Purpose and Introduction

The purpose of this chapter is to ensure the City's compliance with state and federal law, including the Fair Labor Standards Act (FLSA); to demonstrate efforts to attract and retain qualified candidates and employees; to provide a level of compensation that is equitable and will motivate employees to do their best work; and to communicate the City's basic compensation and personnel action procedures.

It is the policy of the City of Fort Worth to accurately compensate employees in compliance with all applicable state and federal laws. To ensure that employees are properly paid for all time worked, and so that no improper deductions are made, employees must correctly report all work time and review their pay advices to identify any errors.

City employee pay is established in the Salary Schedules approved by the City Council during the annual budget implementation. Personnel actions are changes to an employee's status or pay. Personnel actions are implemented using an electronic Personnel Action Request (ePAR) form sent by departments to the HRIS/Records Division of the Human Resources Department. See the HR Advisory: *Personnel Action Requests* for more information regarding ePARs.

Some of the sections in this chapter are specific to either "exempt" or "nonexempt" employees. These designations relate to application of the Fair Labor Standards Act to the relevant employee's position/pay. In order to determine whether you are working in an exempt or nonexempt position, contact your Human Resources Coordinator in your department or refer to your status in PeopleSoft.

Questions regarding this chapter should be directed to the Human Resources Classification and Compensation Manager.

## 2.2 Fair Labor Standards Act (FLSA)

The FLSA establishes standards for minimum wages, maximum hours, overtime pay, record keeping, 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, with input from the Legal Department. These responsibilities include: determining the existence of an employer-employee relationship; determining an employee's exempt or nonexempt status under the FLSA; and interpreting and applying minimum wage, work time, defined hours, overtime, work schedules, special residency agreements, and other FLSA provisions such as child labor standards.

The Human Resources and Law Departments are responsible for negotiations and serve as the liaison with the Wage and Hour Division of the U.S. Department of Labor on FLSA matters affecting employees. The City Manager's Office will approve any related agreements, as necessary.

Department Directors are responsible for ensuring that employees adhere to and comply with established work schedules. Employees must obtain proper authorization prior to working outside their established work schedules. Employees who fail to obtain authorization to perform work that varies from their established work schedules may be disciplined for failure to obtain authorization but must nevertheless be compensated for all the time they worked.

Work time (hours worked) must be recorded exactly as it is worked. The dates worked and the number of hours recorded as being worked each day must accurately reflect what actually occurred. Employees who fail to accurately record all time worked or who falsify time records are subject to disciplinary action, up to and including termination.

Supervisors who approve timesheets which do not accurately reflect hours worked may also be subject to disciplinary action.

The City operates in accordance with its compensation policy and in compliance with the FLSA, as amended. All employees are encouraged to ask questions about their status as exempt or nonexempt employees and rights under the FLSA. Questions should be directed to the employee's departmental personnel who handle payroll matters. The Human Resources Department Classification and Compensation Manager may also be consulted on such matters.

The FLSA prohibits retaliation against an employee for filing a complaint, cooperating in an investigation, and/or initiating any proceeding under or related to the FLSA.

## **2.3 Performance Pay Plan**

### **2.3.1 Pay Grades**

Employees are compensated using a pay plan that is composed of a series of pay grades. Employee pay grades are salary ranges with a starting and ending pay. An employee's

pay can be any amount within the salary range and cannot exceed the top of the salary range for the pay grade.

## **2.3.2 Personnel Actions Regarding Pay**

Pay decisions, which include but are not limited to new hire pay determinations, promotional pay offers, merit pay increases, or any other pay adjustments, cannot be based on a person's gender. Pay practices are intended to provide equal pay for equal work without regard to gender.

### **2.3.2.1 Starting Pay**

The pay rate for new employees is typically set at the entry level, or salary range minimum, for the classification occupied by the employee. Department Directors may hire a new employee at a higher rate, up to and including the midpoint of the salary range, based on qualifications beyond the minimum for the classification. Placement of a new employee above the salary range midpoint or any other offer outside these guidelines requires the approval of the Human Resources Director or designee.

### **2.3.2.2 Promotional Pay**

The pay rate for an employee after a promotion will generally be one of the following:

- At the new entry salary range minimum;
- Up to ten percent pay increase from their previous pay rate, although the new pay rate must still be within the salary range for the new position;
- More than a ten percent pay increase only if the promotion occurs following competitive recruitment in which the employee competed.

Promotional pay increases should not exceed the minimum of the new position's pay range or 10%, whichever is greater, for non-competitive recruitment positions. Pay rates should reflect the market value, job conditions, and the employee's qualifications. Examples of competitive recruitment include: newspaper ads, internet advertising, job fairs, and national journal advertising in the market in which the City competes for employees for that job. The Human Resources Department, in conjunction with the departmental hiring authority, will decide the appropriate market and the appropriate recruitment activities. If the current employee is already earning a salary above the salary range midpoint of the new pay grade, the employee can receive up to a ten percent increase in pay. Department Directors must conduct equity evaluations (*please see Glossary*) of the

salaries of similarly situated employees before hiring or promoting someone at a higher than normal rate and should work with the Classification and Compensation Division of the Human Resources Department to accomplish this.

#### **2.3.2.3 Pay Rate after Reclassification**

If a reclassification of an employee results in a promotion, the employee's pay rate is increased by five percent to ten percent. If the reclassification results in a lateral transfer or demotion, the pay rate does not change, unless the employee's previous pay rate exceeds the top of the salary range of the new classification, in which case the pay is reduced to the top of the new salary range.

A reclassification and any resulting changes in pay are effective on the beginning of the pay period following approval of the request by the Human Resources Department. See chapter 3 of this manual for more information regarding reclassification.

#### **2.3.2.4 Pay Rate Following Lateral Transfer**

Generally, the pay rate after a lateral transfer does not change for employees. See the *Glossary* for definitions of "lateral transfer." However, if a current employee is selected after open competitive recruitment for a position in the same pay grade, the Department Director may increase the employee's pay up to the salary range midpoint to reflect the market value, job conditions, and the employee's qualifications.

#### **2.3.2.5 Pay Rate Following Demotion**

In most cases, a demotion will result in a salary decrease. The pay rate for employees following a demotion is determined by the reasons for the demotion.

Disciplinary demotions will result in a five percent or greater reduction in pay. Reductions in pay of greater than five percent may be appropriate in some circumstances and will be considered on a case-by-case basis by the Department Director or designee, consistent with how similarly-situated employees have been treated. The Human Resources Director or designee should be consulted for guidance in these circumstances.

The pay for employees who voluntarily demote into their formerly held position will revert to the pay rate they were receiving in their prior position at the time of their promotion plus any non-performance-based raises applicable to others within that same classification since the date of the promotion.

Voluntary demotions to a position the employee did not hold immediately prior to the promotion will result in a reduction in pay of at least five percent. If a Department director does not think it is appropriate to reduce the employee's pay by five percent, the Department Director or designee must consult with the Human Resources Director or designee to determine the appropriate compensation.

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. The Human Resources Department will provide 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 following a demotion may not exceed their immediate supervisor's salary and may not exceed the top of the salary range.

#### **2.3.2.6 Pay Following Reemployment**

Reemployment occurs after a separation from City service that has not exceeded one year. The Department Director sets the starting pay rate for reemployment into the same classification, but it cannot exceed the employee's pay rate when the employee left the City. See *Reemployment Salary and Benefits for Laid-off Employees* in Chapter 4 for more information about reemployment.

If an employee is rehired with the City and separation from City service exceeds one year, they are considered as any external candidate with regard to pay rates.

## **2.4 Exceptions to the General Guidelines for Employee Pay**

With the approval of the Human Resources Director, performance pay, merit pay, the pay for a promotion or reclassification, or any other type of pay increase may be less than the recommended standard pay increase for those types of changes. Factors such as internal pay equity, budget issues, work performance, minor changes in the work performed, advertised salary amount, or other valid reasons may justify less than normal or no pay increase for an employee.

## 2.5 Travel Time

Commute time between an employee's home and worksite is not compensable unless the employee is performing work during the commute. If an employee is allowed the privilege of driving a City vehicle home, to an off-site parking facility, or to another location along the employee's reasonable commute route, the time spent driving the City vehicle is commute time and is not compensable. If, however, an employee is required as part of his or her job duties to park a City vehicle at a remote parking facility, the time spent driving the vehicle between a remote parking facility and the employee's worksite is compensable. A remote parking facility is a City facility or other approved location at which the employee is directed to park a City vehicle due to limitations at the primary site or for the operational convenience of the City. Selection of a remote parking facility is made without regard to the convenience of the facility.

Time spent traveling between worksites as part of an employee's regular work assignments is normal work time and is compensable.

Time spent traveling to and from out-of-town training or work-related meetings is compensable if it occurs during an employee's regularly scheduled work hours.

Travel time that occurs outside of an employee's regularly scheduled work hours may or may not be compensable, depending on whether or not the employee is performing work while traveling. If the employee is, for instance, reviewing documents related to his or her job while traveling, the time is compensable. If the employee is driving, the time is compensable. If the employee is merely riding in a car or on a plane, and is not engaged in work for the City, the time is not compensable.

When an employee has the option of flying or driving and chooses to drive, based on the employee's preference rather than cost or other considerations, compensation will only be for the amount of time that would have been spent flying, including the time spent driving to and from the airport, parking, and checking baggage, and the time elapsing between the check-in deadline and actual boarding.

## 2.6 Training Time

Generally, employees are compensated for training time if the training is for the benefit of the employer (examples of such include: enhancing an employee's work-related skills; training on a new work-related computer system or software; attending a conference for professional development; etc.).

Exceptions to this rule include training attendance outside of regular working hours at specialized or follow-up training which is required by law for certification of the employee's professional or occupational credentials. This is true even if the training is paid for by the City. Training time is also not compensable when the following factors are all met:

- Attendance is outside of the employees' regular working hours;
- Attendance is voluntary;
- The program, lecture or meeting is not directly related to the employee's job; and
- The employee does not perform any productive work for the City during such attendance.

It is important to note that attendance is not considered to be "voluntary" if it is required by the employer or the employee is led to believe that the employee's present working conditions or the continuance of his or her employment would be adversely affected by nonattendance.

Some departments, depending upon their particular circumstances, may choose to compensate employees for travel or training time even if they are not legally required to do so. Please contact the Human Resources Classification and Compensation Manager with questions regarding whether an employee's training time is compensable.

## 2.7 Overtime Pay/Compensatory Time

Federal regulations allow government jurisdictions to compensate nonexempt employees for overtime work with either overtime pay or compensatory time paid or credited at the rate of one-and-one-half times for all time worked in excess of 40 hours in a workweek. The City also credits exempt employees for hours worked in excess of 40 in a workweek by allowing them to accrue compensatory time on a one-hour-worked, one-hour-accrued basis. By policy, the City provides overtime compensation at a straight-time (See *Glossary*) rate to nonexempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours, up to 40. Also by policy, the City provides compensatory time on a one-hour-for-each-hour-worked basis to exempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours, up to 40. For more information regarding overtime pay and compensatory time accrual for employees who are regularly scheduled to work less than 40 hours per week, please see the sections below titled *Nonexempt Employee Overtime Pay or Compensatory Time* and *Exempt Employee Overtime Pay or Compensatory Time*.

Employees must obtain supervisory approval prior to working overtime hours or earning compensatory time. Employees working unauthorized overtime/compensatory time will be compensated for the time, but may face disciplinary action.

Department Directors or designees should limit overtime work in their departments to the extent possible. Supervisors can direct employees to flex their schedules in order to avoid accrual of overtime hours but are prohibited from changing an employee's workweek in order to avoid overtime liability to the employee.

Opportunities to work overtime should be distributed as evenly as possible among qualified employees. The employee or designated timekeeper must maintain accurate records which reflect employees' actual hours worked. Employees who electronically enter their own work hours must record all hours worked. Hours must be recorded on paper or electronic



timesheets for the employee to be compensated.

### **2.7.1 Nonexempt Employee Overtime Pay or Compensatory Time**

Nonexempt employees are eligible to receive one-and-one-half times their regular hourly rate in overtime pay or compensatory time credited at the rate of one-and-one-half times for the overtime hours worked in a work week. The determination of whether to compensate the employee in overtime pay or compensatory time is made at the discretion of the department. Department Directors are encouraged to establish written and consistent internal policies regarding when overtime work will be compensated in compensatory time versus when overtime will be paid out.

By policy, the City provides compensation at the regular rate to nonexempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours, up to 40. If a nonexempt employee works more than 40 hours in a workweek, he or she will accrue compensatory time at the rate of one-and-one-half hours per hour worked or overtime pay at the rate of one-and-one-half times his or her regular rate. Other portions of the above section regarding overtime pay and compensatory time for nonexempt employees apply to the hours worked over 40 by these employees.

Nonexempt employees may not accrue more than 120 hours of compensatory time. If a nonexempt employee works overtime hours that cause them to exceed the 120-hour compensatory time limit, all hours over 120 hours must be paid as overtime at the rate of one-and-one-half times the employee's regular rate of pay.

Generally, leave time used does not count as hours worked for the basis of calculating overtime eligibility. An exception to this rule is holiday leave which counts as hours worked. Only those hours actually worked (or treated under City policy as worked) in excess of 40 hours are compensated at the one-and-one-half overtime rate (either in pay or compensatory time).

Nonexempt employees whose employment with the City is terminated for any reason are paid for all accrued compensatory time.

### **2.7.2 Exempt Employee Overtime Pay or Compensatory Time**

Exempt employees earn compensatory time for hours worked that are in excess of 40 in a workweek. Compensatory time for exempt employees accrues on a straight-time, or one-for-one, basis.

Also by policy, the City provides compensatory time to exempt employees who are scheduled to work less than 40 hours per week but who work more than their scheduled hours. If an exempt employee works more than their scheduled hours in a workweek, he or she will accrue compensatory time at the rate of one hour per hour worked over the scheduled hours.

Exempt employees, except for the Chief of Police (Police Department Director), may not accrue more than 120 hours of compensatory time in a calendar year or have more than that amount in their account at any one time. The Chief of Police may not accrue more than 240 hours of compensatory time.

Exempt employees can only carryover 40 hours of compensatory from year to year. (effective January 2022).

Exempt employees are paid for unused accrued compensatory time when they voluntarily leave the City or retire. Exempt employees who are involuntarily terminated or resign in lieu of termination may be paid for accrued compensatory time at the discretion of the Department Director in exchange for a release of claims. Please see section on *Employee Resignations* in Chapter 4 for further information.

### **2.7.3 Promotions and Demotions and Paying Out Compensatory Time**

If a nonexempt employee moves to an exempt position, any unused compensatory time accumulated while the employee was nonexempt will be paid out at the nonexempt rate at the time of the move.

### **2.7.4 Mandatory Use of Compensatory Time**

As a governmental entity, the City can control overtime costs by allowing employees to earn compensatory time during heavy work periods and then use the compensatory time when the workload permits it. A supervisor may require a general employee to:

- Use accrued compensatory time, when appropriate, to reduce future overtime costs;
- Use compensatory time to be off for either partial or full days; and
- Use compensatory time instead of vacation leave when requesting time off work.

If an employee has an annual vacation use or lose requirement and already used the required number of vacation leave hours in a year to avoid losing vacation leave, requiring the use of compensatory time rather than vacation leave is appropriate. (See *Vacation Leave* section in Chapter 5 for further information.)

### **2.7.5 Overtime Pay and Federal Grants**

For federal grants intended to supplement the City's overtime resources, the City must first meet its 40-hour obligation to the employee by paying regular pay and leave time without replacing that obligation with grant funds. This is the only instance where an employee can actually work less than 40 hours in a workweek and still earn overtime in the same week, though it may be paid at the straight-time rate. For example, if an employee works 32 hours of their regularly assigned shift, uses sick leave for the remaining eight (which does not

count for purposes of calculating overtime as “Hours Worked”), and works 12 hours on a grant detail, that employee receives 32 hours of regular pay, eight hours of sick pay (and the employee’s sick leave balance would be reduced by eight hours), plus eight hours of straight-time overtime and four hours of regular overtime. The eight hours of straight-time overtime and four hours of regular overtime would be funded from the grant.

## 2.8 Special Pays

### 2.8.1 Holiday Pay, Holiday Premium Pay, and Holiday Leave Accrual

#### 2.8.1.1 Nonexempt Employee Holiday Pay, Holiday Premium Pay and Holiday Leave Accrual

##### *Holiday Pay*

Nonexempt employees who observe (that is, do not work on) a paid holiday are paid for up to eight hours of holiday pay on the holiday. Employees who are not regularly scheduled to work 40 hours in a workweek may not be entitled to the full eight hours of pay. The holiday pay hours are treated as hours worked for the purpose of calculating overtime and are paid at the employee’s normal rate of pay. Holiday pay is based on the authorized position in the budget and may be prorated accordingly if the authorized position is less than a full-time equivalent (FTE).

##### *Holiday Leave*

Nonexempt employees who work on a holiday may elect to accrue up to eight hours of holiday leave instead of receiving holiday pay for the same number of hours. Holiday leave will count as hours worked for the purposes of calculating overtime in the work week they are used.

##### *Holiday Premium Pay*

A nonexempt employee who works on a holiday will receive holiday premium pay for all hours actually worked on that holiday at one-and- one-half times their regular rate of pay in addition to their regular pay rate (or two-and-one-half times their normal pay rate) if the holiday falls on a scheduled workday. Nonexempt employees who work a holiday that does not fall on their normally scheduled workday will also receive holiday premium pay at one- and- one-half times their normal pay rate and will receive eight hours of holiday leave accrual. Work hours paid as holiday premium pay will not count as hours worked for the purpose of calculating eligibility for overtime during the workweek that includes the holiday. Total compensation for an employee who works on a holiday is never more than two- and- one-half times the normal or regular rate of pay, when both the holiday pay and holiday premium pay are taken into account.

### **2.8.1.2 Exempt Employee Holiday Pay and Holiday Leave Accrual**

#### *Holiday Pay*

Exempt employees who observe (that is, do not work on) a holiday that falls on a regularly scheduled workday are paid for up to eight hours on the holiday. These hours count as hours worked for purposes of determining whether the exempt employee is eligible to accrue compensatory time under the City's policies.

#### *Holiday Leave*

Holiday hours for employees will be prorated based on their standard hours as recorded on the job record in PeopleSoft. For example, if an employee is listed as being on a reduced schedule in PeopleSoft and regularly scheduled for 20 hours per week, the reduced schedule employee will receive holiday leave at a 0.5 rate in contrast an employee who is denoted as full time in PeopleSoft, and regularly scheduled for 40 hours per week.

Exempt employees who work on a holiday receive holiday pay for the holiday and accrue holiday leave hours for the hours worked (up to eight hours) at their regular rate of pay. When a holiday falls on a day an exempt employee is regularly scheduled to be off, they accrue holiday leave for the day.

### **2.8.1.3 Other Rules Affecting Holiday Pay, Holiday Premium Pay, and Holiday Leave Accrual**

In connection with holiday pay, holiday premium pay, and holiday leave accrual policies, the City recognizes holidays on either the actual calendar day of the holiday or the "observed" holiday. Employees are assigned to one holiday calendar, either the actual holiday calendar or the observed holiday calendar, by their department. The date that the holiday rules are applied is based on the holiday calendar schedule assigned to each employee's job record in PeopleSoft. Please refer to the section titled *Holidays* in Chapter 5 for further information. Holiday premium pay can only be earned for working on the holiday as assigned to the employee's job record (either actual or observed).

Only employees in positions designated as "regular full-time" or "regular reduced schedule" are eligible for paid holidays. Holiday pay for regular employees scheduled to work less than 40 hours in a work week receive holiday pay at a pro-rated rate based on their schedule. Temporary and Seasonal employees are not eligible for paid holidays.

Employees may not use paid leave such as vacation, short-term sick, major medical sick leave, holiday, personal holiday, or compensatory time on the holiday in order to earn holiday leave. Any leave scheduled on a holiday will not be deducted from an employee's leave balance. An employee will receive holiday pay instead of using leave time.

Employees on occupational injury leave or in a leave-without-pay status do not earn holiday leave or receive holiday pay.

When an employee's schedule includes a regular day off that falls on a holiday, the employee will earn holiday leave hours for use at a later date.

Employees whose last day of work/date of termination is the day before an observed holiday do not receive pay for the holiday. New employees who begin employment on the day after a holiday do not receive pay for the holiday.

Unapproved absences on the day before or after an observed holiday should be handled through the City's disciplinary process if there is a pattern of such absences or there is reason to believe that the unapproved absence was intentional.

Holiday leave accrual is limited to 128 hours on January 1<sup>st</sup> each year. Employees may exceed 128 hours during the calendar year, but any hours in excess of 128 on January 1<sup>st</sup> are forfeited. Maximum payment upon termination of employment is 128 hours.

## **2.8.2 Shift Differential Pay**

Eligible employees working a shift in which more than 50 percent of its duration occurs between 4:00 p.m. and 12:00 midnight (second shift) receive shift differential pay at the rate of 50 cents per hour. Those working a shift in which more than 50 percent of its time occurs between 12:01 a.m. and 6 a.m. (third shift) receive shift differential pay at the rate of 75 cents per hour. Those working a shift in which more than 50 percent of the time occurs between 6:00 a.m. and 4:00 p.m. (first shift) do not receive shift differential pay. Shift differential pay is paid only on an assigned shift that falls within these established timeframes. If the shift worked qualifies the employee to receive shift-differential pay, it is paid on all hours worked in the shift. If a shift is evenly split between two of the shifts which qualify for shift differential pay, the lower shift differential rate is paid on all hours worked in the shift.

Employees who work beyond their shift to complete work or arrive early to work their normal schedule (both of which require supervisory approval) may receive shift differential pay (if applicable) to be paid at their assigned regular or temporary shift's normal rate.

Shift differential pay is not paid on Emergency Callback, Court, or Non-Emergency

Callback time.

Shift differential pay is paid only for time actually worked during an eligible shift. Use of any leave (including compensatory time or accrued holiday leave) does not earn shift differential pay.

Shift differential pay is paid, if applicable, when an employee works hours for which he or she accrues compensatory time in lieu of receiving overtime pay. Shift differential pay is not paid when compensatory time that was earned by working during hours that qualify for shift differential pay is used.

See HR Advisory: *Shift Differential* for additional information and examples of shift differential pay.

### **2.8.3 Incentive and Lump-Sum Awards**

Department Directors must submit proposals for incentive plans and lump sum-awards to the Human Resources Director for review and consideration prior to any work being performed under the proposals or any payments or awards being made.

Incentive plans may be established for the following reasons:

- 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 deserve a one-time monetary or other award;
- To address critical recruitment/retention problems;
- To provide opportunity for gain sharing (a system or program designed to monitor organizational or departmental performance and distribute a portion of the increased revenue or cost savings to those who contributed); or
- To address other issues as appropriate.

Compensation may be provided 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 a hat, T-shirt, certificate/plaque of recognition, or any other award deemed appropriate and reasonable. Monetary awards will be treated as discretionary.

Proposed incentive or lump-sum award plans must include the following information:

- Justification for the proposed plan (why is it necessary?);
- Describe the service, project, or achievement to be provided by covered employees and the benefit to be realized by the department/city;
- Describe the type of the compensation/award being considered;
- Describe the criteria utilized to determine which employees should be included in the plan or program;

- Explain how an employee becomes eligible or qualifies to receive the pay/award;
- Describe procedures, guidelines, and mechanisms to administer the plan ensuring equity, fairness, and safeguards against its misuse; and
- Identify the expected duration of the plan.

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 employees' efforts. Approved plans are subject to review no less than once annually to assess the feasibility and appropriateness of continuing them. Approved plans may be eliminated when deemed appropriate by the Department Director or the City Manager.

### **2.8.3.1 Healthy Challenge Payout**

Healthy Challenge Payout refers to the Employee Wellness Incentive Program that rewards employees for maintaining or improving their health during the program year. By completing specific required activities, all benefit-eligible employees will be eligible for the Wellness Award Payout Program.

Employees may earn up to \$250 in wellness pay in a calendar year by completing the required actions.

To receive the wellness pay, an employee must be an active employee in the pay period that the pay is distributed. Employees who retire, resign, or are involuntarily terminated after establishing eligibility for wellness pay but before the wellness pay is distributed will not receive wellness pay.

### **2.8.3.2 Education/Certification Incentive Pay for Marshals**

To provide incentive to Marshals (including the City Marshal and Deputy City Marshals) to enhance their professionalism through education or training, either education or certification pay is authorized (in addition to normal pay). Marshals must complete their initial probation to be eligible for Education/Certification Incentive Pay. See the *Glossary* for definitions of "education" and "certification incentive pay."

The requirements for certification established by the Texas Commission on Law Enforcement (TCOLE) are used as guidelines for education/certification incentive pay.

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

The Education/Certification Incentive Pay Schedule for City Marshals is as follows:

*Education Pay*

- \$ 60.00 per month – Associate Degree
- \$120.00 per month – Four Year Degree

**Or**

*Certification Pay*

- \$ 30.00 per month – TCOLE intermediate certificate
- \$ 60.00 per month – TCOLE advanced certificate
- \$120.00 per month – TCOLE master certificate

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

- Completion of basic or advanced courses at an accredited college or university.
- Attainment of higher level state certification.
- Tuition reimbursement rules governing courses taken at colleges and universities outside of Tarrant County apply to the education incentive pay program. The only exception is any case where a City Marshal resides close to the school and the reimbursement was approved by the Human Resources Department.

To qualify for incentive pay, the employee must send the verifying transcripts and other pertinent documentation to assigned departmental personnel who will forward them to the Human Resources HRIS/Records Division for processing. The City Marshal's Office is responsible for notifying the Human Resources Department of any changes in an employee's education or certification level. The documentation must be submitted when the Marshal is eligible for incentive pay.

Education/certification incentive payments are included in first paycheck of each month, with appropriate retirement and tax deductions withheld. Marshals may draw either education incentive pay or certification incentive pay but not both.

Education/certification incentive payments start within one month after the Human Resources Department is notified of a City Marshal's qualification for such pay. In the event there is a delay between qualification and notification, there are no retroactive payments.

### **2.8.3.3 City Marshal Court Time**

Deputy City Marshals earn four hours of compensatory time for court time worked outside of the Deputy City Marshal's scheduled beginning and ending



work hours. To earn court time, a Deputy City Marshal must be required to report to court at least 30 minutes before the Marshal's normally scheduled shift begins or stay longer than 30 minutes after the Marshal's normally scheduled shift ends.

#### **2.8.3.4 Review and Evaluation of Incentive Plans**

Investigations or audits of special pay plans and programs can be performed when deemed necessary by the Internal Audit Department or the Human Resources Director or any other individual designated by the City Manager.

### **2.8.4 Special Merit Increases**

Special merit increases are a valuable tool available for Department Directors to reward or recognize the truly "exceptional" employee outside the pay-for-performance cycle. The purpose of a special merit increase is twofold:

- To retain valuable employees; and
- To recognize the long-term valuable contribution of an employee.

A Special Merit Increase request must be submitted by the employee's Department Director to the Human Resources Director for consideration. The request should provide sufficient detail to allow for an objective assessment of the justification for the request. The long-term financial impact of a special merit increase must be considered in light of the accomplishments of the employee. The financial reward of a special merit increase is substantial when compounded over time. The cost/benefit ratio of the special merit increase should be considered by the Department before making a request.

Alternatives with significantly less financial impact are:

- One-time special merit lump-sum awards, discussed in the section titled "*Incentive and Lump Sum Awards.*"
- Prospective merit increases limited to a specific period of time.

Employees on initial probation are ineligible for special merit increases.

If the Human Resources Director denies a request for a merit pay increase, the requesting Department Director may request the Department's Assistant City Manager to review the request and either approve or deny the request after receiving input from both the Department Director and the Human Resources Director.

### **2.8.5 Equity Pay**

With the approval of a Department's Assistant City Manager, a Department Director may request the Human Resources Director to evaluate the need for equity pay adjustments between employees within a department. The request for an equity pay evaluation must be

based on department-wide operational or production needs and not on the perceived needs or fairness of individual employees. Department Directors have a responsibility to avoid creating equity issues, when possible, in the selection, promotion, and reclassification of employees or in the reorganization of departmental functions.

## **2.8.6 Acting Pay**

Employees temporarily assigned to work in a position with a higher salary grade than their regular position may be paid acting pay in an amount between five and ten percent of their current base salary or at the entry of the new salary range, whichever is more. If an employee's salary prior to the addition of the acting pay is higher than the entry level of the higher position, the acting pay increase will be at least five percent.

Employees receive acting pay only for the time they are performing the duties of the higher-level position. Employees will be qualified for acting pay (including any leave or compensatory time used) upon their "first act up date" provided the period in which they are "acting up" is or is reasonably expected/planned to be longer than 30 days. Departments should not request acting pay if an "acting up" period is anticipated to be less than 30 days. Acting pay is limited to a maximum of one year (12 months).

Requests for acting pay must be submitted by the Department Director to the Human Resources Director or designee for approval. To be eligible for acting pay, employees must meet the minimum qualifications of the higher position. Employees who act in a non-supervisory position are expected to 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, but they must satisfactorily perform all the duties that arise.

Qualifications, assignment duration, and actual duties performed should be considered to determine when acting pay is appropriate. Employees in on-the-job training for a higher position are ineligible for acting pay. Department Directors of departments providing on-the-job training should develop a method to determine when to move employees from on-the-job training to an acting pay status.

Acting pay starts the first day of the next full pay period after the employee qualifies for acting pay. All efforts should be made by management and Human Resources to ensure acting pay is approved and begins timely. In cases where a delay may occur between qualification for acting pay and approval, acting pay may be compensated retroactively.

An employee acting in a higher position will receive the acting pay for hours worked as well as leave and compensatory time for the entire duration of the acting assignment. At termination, the employee is no longer in the acting capacity; the salary should be returned to the normal rate of pay prior to paying out any accrued leave. Nonexempt employees are paid overtime at the acting pay rate while receiving acting pay. Employees receiving acting pay may also earn shift differential pay in addition to acting pay, if the conditions for shift differential are satisfied. Please see the City policy regarding *Shift Differential Pay* above in this chapter.

## 2.8.7 Bilingual Skills Pay

Employees whose job duties require the use of bilingual skills may be eligible for additional compensation. To be eligible for bilingual skills pay, the employee must take and pass a language proficiency test administered by the Human Resources Department. If a language proficiency test is not available through Human Resources, employees must provide an appropriate certification from an accredited agency or institution to be eligible for bilingual skills pay.

Use of verbal skills only is compensated at \$100 per month. Use of writing skills is compensated at an additional \$25 per month for a total of \$125 per month. The availability of bilingual skills pay is based on the department's need for employees with bilingual skills and the department's budget. Bilingual skills pay must be approved by the Department Director.

The Human Resources Department has a list of employees who receive bilingual skills pay. This list is available on the intranet (<http://www.cfwnet.org/HR/>). Upon request, employees receiving bilingual pay are expected to assist other departments with translation. Refusal to assist may result in the loss of bilingual pay. Bilingual pay can be discontinued at any time at the discretion of the Department Director or designee as long as the employee no longer uses bilingual skills in the performance of their essential job functions.

## 2.8.8 Emergency Callback Pay

When an employee is called back to work an emergency after regular hours and after leaving the job site, the employee is eligible for emergency callback pay. Employees on call or on "standby" are not compensated with pay or compensatory time unless the employee is actually called back and performs work, or is entitled to pay for that time under the requirements set forth in the next section titled *On Call or Standby Duty*.

Both exempt and nonexempt employees can earn emergency callback pay. Nonexempt employees will be paid at one-and-one-half times their normal rate of pay or will accrue compensatory time at the rate of one-and-one-half times the hours worked. Exempt employees are only eligible for compensatory time accrued at the rate of one hour per hour worked, provided that their compensatory time balance does not exceed the 120-hour maximum. All compensatory time earned by exempt employees which exceeds the 120-hour maximum is forfeited.

Department Directors should maintain a consistent practice when compensating employees for emergency callback. For nonexempt employees, Department Directors should consistently compensate emergency callback with compensatory time or pay, but not both.

Rest periods of more than 20 minutes are not considered to be work time for emergency callback hours.

An employee receiving acting pay receives the acting pay rate when emergency callback

time is worked.

Emergency callback hours end when an employee's regular shift hours begin. Employees in a nonexempt position are paid emergency callback pay for all emergency callback hours worked, with a minimum of two hours paid for each callback. In the event of multiple emergency callbacks, each must be greater than two hours from the beginning of the previous one to be eligible for another two-hour minimum. If an emergency callback occurs within two hours from the beginning of a previous one, the subsequent callback is considered a continuation of the previous one. Only time actually worked during emergency callback is included in the calculation of a weekly overtime rate.

Employees on vacation should only be called back on duty in emergency circumstances.

Deputy City Marshals are compensated for no less than four hours for each emergency callback. In the event of multiple instances of emergency callback, each instance must be greater than four hours from the beginning of the previous call to be eligible for another four-hour minimum. If a subsequent emergency callback occurs within four hours from the beginning of the first callback, the subsequent callback is considered a continuation of the original callback.

Documentation stating the need for the emergency callback must be maintained in the department for a four-year period for possible review or audit.

### **2.8.9 On-Call or Standby Duty**

On-call or standby duty is only compensable when an employee is so restricted by such duty that the employee does not have free use of his or her time. These factors are used to determine eligibility for on-call or standby pay:

- Whether the employee has a Blackberry or city cell phone (thereby permitting mobility).
- The required response time after receiving a call.
- Whether the duty is absolutely mandated (no trade-offs with other employees and no consideration of emergencies).
- Disciplinary consequences, if any, for failure to respond to a call.

Department Directors or their designees are expected to establish on-call policies that are not so restrictive as to require compensation under the Fair Labor Standards Act or these guidelines.

### **2.8.10 Longevity Pay**

Longevity pay is additional compensation paid to eligible general employees for long-term, continuous service. Eligible employees include full-time and reduced schedule employees (employees who are regularly scheduled to work 20 or more hours per week) except those in the following job classifications: Department Directors, employees having executive

job family codes, and appointed officials.

After the 3rd, 4th, and 5th year of continuous service, eligible employees will receive an additional \$25 each month. Payments will be distributed on the last payday of each month.

After the 6th, 7th, and 8th year of continuous service, eligible employees will receive a total of \$50 each month. Payments will be distributed on the last pay day of each month.

After the 9th and each subsequent year of continuous service, eligible employees will receive a total of \$75 each month. Payments will be distributed on the last pay day of each month.

Longevity payments begin after the required years of continuous service have been met, based on the most recent hire date. To receive longevity pay, the following criteria must be met:

- An employee must complete the required years of continuous service; and
- An employee must be an active employee on the last day of the pay period for which longevity pay is paid.

For employees reinstated after disciplinary action, the terms and conditions of the reinstatement directive determine the impact, if any, upon longevity pay for these employees.

Full-time and reduced schedule employees receive longevity pay based on their authorized position. (Examples: a twenty hour per week employee would receive 50 percent of the longevity pay otherwise due if the employee was a forty hour per week employee; a thirty hour per week employee would receive 75 percent of the longevity pay otherwise due if the employee was a forty hour per week employee.)

Employees with interrupted service establish eligibility from the most recent date of employment.

## **2.8.11 Uniforms/Personal Protective Equipment**

### **2.8.11.1 Uniforms**

Some City departments require employees to wear uniforms. In some cases uniforms are provided; otherwise, a clothing allowance is provided to purchase these items. This is determined at department discretion.

In instances where uniforms are worn solely to identify a person as a City employee who is a member of a certain department or division, uniforms may be issued ninety (90) days from the start of employment. In other cases where a job safety analysis has identified a hazard that requires uniforms (e.g., leather boots), the equipment should be issued before the employee begins work (please see below for more information regarding personal protective equipment).

For maintenance and accountability, a uniform agreement may be necessary. The agreement, if utilized, will include terms of the organization's clothing allowance program. One element that must be included in all general employees' agreements is the financial responsibility at termination of employment. Specifically, if an employee separates from service within six months after uniforms are issued, the terminated employee must turn in his or her uniforms or one-half the cost of the uniforms will be deducted from their final paycheck. The deduction for uniforms not returned cannot reduce the employee's pay below minimum wage and will be adjusted as needed to prevent this from occurring.

#### **2.8.11.2 Personal Protective Equipment**

In some cases, where a job safety analysis has identified a hazard that requires uniforms (e.g., leather boots), employees are required to wear Personal Protective Equipment (PPE) to protect them from job hazards. Such equipment will be issued prior to the time the employee begins work. Departments will either issue these items to employees or a clothing allowance will be provided to purchase them.

For maintenance and accountability, a uniform agreement may be necessary. Employees who separate service from the City will have no financial responsibility for PPE.

## **2.9 Conditions of Pay**

### **2.9.1 Payroll Deductions**

Automatic payroll deductions can be made for legally mandated deductions and those associated with City-sponsored programs. Automatic payroll deductions are also available to pay membership dues for employee organizations and associations and for other City-offered services.

See HR Advisory: [Payroll Deductions](#) for guidelines and approval requirements for payroll deductions.

### **2.9.2 Recovery of Inaccurate Pay or Benefits**

It is the employee's responsibility to review their payroll information and deductions for accuracy. If an employee is overpaid, given more leave benefits than they are due, or receives any other benefit or compensation to which they are not entitled, whether due to error for any reason, an employee's misrepresentation, the misapplication of a policy, or an

error in processing, the employee is expected to notify his or her Timekeeper or the Department's Human Resources Coordinator. The City will take steps to recover the benefits or compensation. Likewise, any form of payroll deduction that results in an underpayment should be reported as well.

Employees are expected to repay the City upon notification of an overpayment error. Generally, employees are given the same amount of time to complete repayment to the City as the time during which the error or overpayment was made, unless otherwise provided for by agreement. For example, if an employee was overpaid for three pay periods, the employee would have three pay periods from the date of notification to complete repayment. Employees will not be allowed to repay the City over multiple pay periods if such payments would cross over into another calendar year.

Attempts will be made to establish an agreed method to recover overpayments. Failure to agree on a method may result in appropriate action initiated by the City to correct the issue, such as payroll deductions or reductions in pay rate. If such deductions would reduce the employee's pay below the minimum wage, the department should consult with the Classification and Compensation Division of the Human Resources Department. An employee's failure to cooperate in the recovery process could result in disciplinary action up to and including termination.

### **2.9.3 Deductions from Exempt Employees' Pay**

Exempt employees receive a salary that is intended to compensate them for all hours worked for the City. While it may be subject to modification from time to time, such as during salary reviews, an exempt employee's salary will be a predetermined amount that is not subject to reduction due to variations in the quality or quantity of the work performed, except as specifically allowed by law. The City prohibits the improper pay deductions specified in 29 CFR section 541.602(a).

Under the following circumstances, however, the City may deduct from an exempt employee's pay:

- For absences from work due to sickness, disability, or personal reasons when the employee has no paid leave to use;
- To offset amounts received by an employee for jury fees, witness fees, or military pay;
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of written workplace conduct rules;
- For penalties imposed in good faith for infractions of safety rules of major significance;
- For weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act; and
- For unworked days in the initial or terminal week of employment.

Employees' salaries may also be reduced for certain types of deductions such as their portion of health, dental, or life insurance premiums; state, federal, or local taxes; Medicare; or contributions to a 457 or pension plan. Further, reducing an employee's accrued vacation, personal, sick, or other form of paid time off for full-or-partial-day absences for personal reasons, sickness, or disability does not constitute an improper deduction.

It is the policy of the City of Fort Worth to accurately compensate employees in compliance with all applicable state and federal laws. To ensure that they are properly paid for all time worked and so that no improper deductions are made, employees must correctly report all work time and review their pay advice to identify any errors.

If an employee believes that an improper deduction has been taken from his or her pay, he or she should use the following reporting procedure. If the employee discovers an improper deduction within seven calendar days after the date of the relevant pay advice, he or she should contact his or her department's Human Resources Coordinator (HRC). If the error is not discovered within seven calendar days of the relevant pay advice or corrected within 20 days of submission, the employee or the HRC should contact their manager or supervisor. All improper reductions of pay in exempt employees' compensation should be reported, regardless of when they are discovered.

Any act of retaliation against an employee who questions his or her pay is strictly prohibited.

Reports of improper deductions will be reviewed as quickly as possible. If it is determined that an improper deduction has occurred, any underpayment will be reimbursed and efforts will be made to ensure that further improper deductions do not occur in the future.

#### **2.9.4 Pay Following Failure to Complete Probationary Promotion**

If, following a promotion, an employee is not able to perform the job successfully, and if the employee is returned to his or her previous job or one similar, the employee's pay is reduced to at least the employee's pre-promotional pay rate.

#### **2.9.5 Final Pay at Termination or Retirement**

Final pay for hours worked in a pay period before termination is directly deposited into the employee's primary designated account or pay card account on the pay day after the termination ePAR is processed.

Employees who terminate before the last day of the pay period do not earn vacation or short-term sick leave during that final pay period.

If a pay rate change other than Acting Pay occurs during the pay period in which the employee terminates, the employee is paid his or her terminal leave pay (including appropriate leave balances) at the pay rate in place on the date of their separation. Should



the employee be receiving Acting Pay at termination, the Acting Pay should be ended prior to paying out terminal leave.

Nonexempt employees are paid for accrued compensatory time at termination regardless of the reason for the termination. Exempt employees who voluntarily terminate or retire are paid for accrued compensatory time. Exempt employees who are involuntarily terminated or resign in lieu of termination may be paid for accrued compensatory time at the discretion of the Department Director in exchange for a release of claims. Employees are not paid for unused Major Medical Sick Leave (MMSL) at the time of retirement, resignation, or termination. Employees who are terminated before the expiration of their initial probation (including an extension of initial probation) are not paid for unused accrued vacation leave or short-term sick/family (STS/F) leave. The payment of any applicable accrued hours will be made via the employee's direct deposit information on file at the time of separation and will be sent separately but concurrently with the employee's final pay check.

A final payroll advice will be mailed to the home address of the employee on file at the time of separation.

The City can collect any money from the employee's final pay or terminal leave payout that is owed to the City for benefits, overpayments, and/or for any tools or equipment the department (or City) provided that are primarily for the benefit or convenience of the City. If the pay for the hours worked on the final paycheck is reduced to below the minimum wage, the Law Department needs to be consulted to ensure that FLSA regulations are not violated.

### **2.9.6 Prior Pay Period Adjustments for Pay or Leave Corrections**

Pay, leave, and other adjustments should be made to timesheets immediately after the pay period and up to 14 days after the end of the pay period. The reasons for adjustments must be documented by the timekeeper/person making adjustments and maintained with payroll records for the pertinent time reporting period. Any adjustments more than 14 days after the end of the pay period require the review and approval of the Human Resources Director to adjust the leave balances. The review request is submitted by the Department Director to the Human Resources Director. Corrections or adjustments due to "clerical" or timekeeper error do not require a waiver.

### **2.9.7 Daylight Saving Time Pay Considerations**

When a time change occurs during an employee's shift, the employee is paid for actual hours worked and can use leave time to make up any time lost for a complete shift because of a time change. Nonexempt and exempt employees assigned to an evening or night shift enter a start and stop time for hours worked within a shift so the Daylight Saving Time Rule can accurately adjust the time. Exempt employees not assigned to a shift report the actual hours worked.

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# 3. Classification

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## 3.1 Purpose and Introduction

The purpose of this chapter is to provide guidelines on employee classifications. The City of Fort Worth groups budgeted positions into classifications. The positions within a classification have similar duties and responsibilities. The City treats the positions in a classification as equivalent with regard to personnel and salary administration.

The Human Resources Department provides the classification specifications. The specifications describe the range of duties that are performed by employees in the class. The specifications include essential and other duties and responsibilities statements, qualifications, and working conditions of the classification. Classification specifications describe only the major duties and functions and are not intended to describe specific positions in detail.

Official classification 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 Department Directors; however, official class titles must be used when processing personnel action requests (PARs). A coding system designates each classification.

The Human Resources Director administers and maintains the classification system and may initiate studies of individual positions, a series of positions, classifications, occupational groupings or organizational units to maintain the integrity of the classification system. When the need for a new classification arises, the Human Resources Director establishes a new classification title and develops classification specifications for the new classification.

For questions about this chapter, contact the Classification and Compensation Manager in the Human Resources Department.

## 3.2 Reclassification

There may be occasions where an employee's classification needs to be reviewed and/or revised, such as when the employee's duties have changed substantially due to changes in organizational structure, staffing resources, technology, etc. The Human Resources Director must approve any reclassifications and 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.

Classification and position reviews are conducted upon the request of a Department Director or Human Resources 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.

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

Allocation of positions to a classification is based on a whole job analysis that includes, but is not limited to, consideration of the position's required expertise, decision-making responsibility, supervisory responsibilities, management control, contacts, physical effort, and working conditions.

Ordinarily, employees who are in reclassified positions must meet the minimum qualifications for the classification. At the discretion of the Department Director, an employee might not be required to meet the minimum qualifications if the employee has been performing the essential functions of the reclassified position at a satisfactory level for at least six months. In this situation, the Department Director must submit a written request for waiver of minimum qualifications to the Human Resources Director for review and approval or denial. The Human Resources Director's decision is final. Refer to Chapter 2 for additional information regarding compensation and reclassification.

### **3.3      Reclassification Appeals**

Department Directors may appeal classification recommendations made by the Human Resources Department. The Director must submit a written appeal providing specific information explaining the basis of the appeal to the Human Resources Director within ten business days after receipt of the reclassification recommendation. The Human Resources Director reviews the appeal and meets with Human Resources staff and, as necessary, the Department Director to reach a decision to approve or deny the appeal.

If the Human Resources Director denies the appeal, the Department Director may request the department's Assistant City Manager to review the request and either approve or deny the request after receiving input from both the Department Director and the Human Resources Director. If the issue is still not resolved, the Director may request review by the City Manager, whose determination shall be final.

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# 4. Employment

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## 4.1 Purpose and Introduction

This chapter serves to provide information on types of personnel actions and to inform employees of requirements and processes in regards to employment with the City of Fort Worth.

For questions about this chapter, call the HR Manager for Talent Acquisition and/or Classification/Compensation/Civil Service.

## 4.2 Personnel Actions

The following section details types of personnel actions within the City of Fort Worth.

### 4.2.1 Promotion, Demotion, Lateral Transfer

A promotion occurs when an employee moves into a job classification having a salary grade with a higher entry pay amount than the previously held classification.

A demotion occurs when an employee moves into a job classification having a salary grade with a lower entry pay amount than the previously held classification.

A lateral transfer occurs when an employee moves into a job classification with the same entry pay amount and a different job code from the previously held classification. A lateral transfer can also occur when an employee moves from one position to another position within the same classification, with no change in job code. Lateral transfers may be intra- or inter-departmental.

#### 4.2.1.1 Lateral Transfers

Department Directors may decide that it is in the organization's best interest to laterally transfer an employee. If the Department Director requests a non-disciplinary lateral transfer, and the Human Resources Director or designee approves, the Human Resources Department will facilitate the transfer.

A lateral transfer between departments does not automatically result in a pay increase. If a pay increase is requested, it must be approved by the Human Resources Director. Before the Human Resources Director will consider such a request, the applicable Department Directors must both agree to the pay request.

#### **4.2.1.2 Lateral Transfers in the Same Job Family**

Jobs within the same job family may share a similar pay structure but require different qualifications. The jobs may entail different duties. Such lateral transfers require the approval of the Human Resources Talent Acquisition Division Manager.

If an employee's job code changes as a result of a lateral transfer and the duties and qualifications of the new and former jobs are similar, the employee only needs to meet the minimum qualifications for the new classification. If the job code changes and the job duties are dissimilar, the employee must meet the minimum qualifications for the new classification, and the lateral transfer must be approved by the Human Resources Talent Acquisition Division Manager before the lateral transfer takes place.

### **4.3 Conditions of Employment**

#### **4.3.1 Probationary Periods**

##### **4.3.1.1 Initial Probation**

The initial probation is a time when new employees, including rehired employees, become familiar with their job. The new employee determines whether he or she can perform the duties of the job. Likewise, the City determines whether the employee can perform assigned tasks satisfactorily and whether the employee complies with work rules and regulations.

Full-Time, Reduced Schedule, and Part-Time general employees are in an initial probationary status for six months from the date of hire unless they are enrolled in the Police or Fire Training Academy. General employees enrolled in the Police or Fire Training Academy remain in initial probationary status for the entire duration of their Academy enrollment and any additional period of time, as specified by the Texas Local Government Code, Meet and Confer Agreement between the City of Fort Worth and the Fort Worth Police Officers Association, or Collective Bargaining Agreement between the City of Fort Worth and Local 440.

Employees cannot be laterally transferred, promoted, demoted or reclassified during their initial probation. Employees may not apply for other positions within the City during their initial probation. Exceptions to this policy are allowed for part-time employees who currently have no City benefits in order to obtain a benefits-eligible position and employees who are transferring pursuant to an ADA reassignment. A probationary employee can be terminated at any time during the initial probation and

cannot file an appeal of their termination.

If there is any concern regarding the probationary employee's performance or behavior, it should be communicated in writing to the employee before the expiration of the probation period and the initial probationary period can be ended or extended. See *Probation Extensions* in this chapter for additional information.

Short-term sick leave is available for use during initial probation.. Earned holiday leave hours accrued can be used during the initial probation, with supervisory approval. During the initial probation period, an employee who has requested to use earned compensatory time shall be permitted to use such time within a reasonable period after making the request if, in the opinion of the Department Director, the use of compensatory time does not unduly disrupt the operations of the Department.

Other accrued leave benefits, such as vacation and Major Medical Sick Leave, are available for use with supervisory approval only after successfully completing the initial probation period. Personal holidays are subject to the use-or-lose date of December 31<sup>st</sup> annually. If the initial probation is extended, the use of accrued leave and personal holiday is at the discretion of the Department Director.

During his/her initial probation, employees can access funeral leave if approved by the Department Director. (See *Funeral and Bereavement Leave* in Chapter 5 for further information.)

#### **4.3.1.2 Probation after Lateral Transfer, Promotion or Demotion**

Employees who laterally transfer, promote or demote to a new position must serve a six-month probation from the date of the transfer, promotion, or demotion. This includes promotion into a reclassified position. This time is meant to provide a period when an employee becomes familiar with their new job. The promoted or transferred employee determines whether he or she can perform the duties of the job. Likewise, the City determines whether the employee can perform assigned tasks satisfactorily and whether the employee complies with work rules and regulations.

Employees have access to accrued leave during probation for a transfer, promotion, or demotion. These probationary periods are subject to extension like any other probationary period. (See *Probation Extensions* below.)

Lateral transfers that are temporary assignments or reassignments with no significant change in job duties and are within the same department are exempt from the six-month probation requirement.

Employees are not eligible to transfer or promote into other positions while

on disciplinary probation or probation following a lateral transfer, promotion, or demotion without approval from Department Director or designee. This is to ensure that both the employee and department have an adequate amount of time to assess fitness for the position and that training and resources are utilized wisely when someone enters a new position.

If a probationary employee cannot satisfactorily perform the assigned duties of the position into which he or she was promoted or laterally transferred, the Department Director or designee can return the employee into his or her former position, if still available, or into another comparable position, if such a position is available. If the promotion or lateral transfer was to another department, the two Department Directors or their designees may work together to find a solution. If the employee is returned or moved to a lower paying position, the employee's pay may be reduced to the employee's pay prior to the promotion or transfer. The reversal of the promotion is not considered a disciplinary demotion and therefore is not appealable. If the employee's original position is no longer available and if there is not a suitable alternative position, the employee's current Department Director will be responsible for terminating the employee.

#### **4.3.1.3 Disciplinary Probation**

Employees may be placed on disciplinary probation for serious performance, behavior or attendance deficiencies. (See Chapter 13 for information on *Disciplinary Probation*.)

#### **4.3.1.4 Probation Extensions and Adjustments**

Any type of probationary period (for example, initial, disciplinary, transfer, promotion, demotion probation) may be extended one time for up to three months at the discretion of the Department Director or designee. Such extensions must comply with the provisions for the original probation.

To extend a probation period, the supervisor must issue a written probation extension notice to the employee before the end of the original probationary period and submit a Personnel Action Request form. The notice must identify the reason(s) for the extension and what the employee must do to successfully complete the probation. A copy of the extension must be signed by the employee, witnessed, and submitted to the Human Resources Records Division. If the employee refuses to sign, the supervisor and witness should note it on the extension notice. Probation extensions are not appealable.

If an employee on initial probation, lateral transfer, promotion or demotion probation, disciplinary probation, or on an extended probation, is off work for any period of time during the probation, the probation period may be extended by the number of work days off in addition to an allowable extension. The employee must be informed of this extension in writing.

### **4.3.2 Secondary Employment**

Outside employment (including in a self-employed capacity) by any employee requires approval from the Department Director or designee and shall be considered secondary to duties performed as an employee of the City. Any request for secondary employment may be refused or, if approved, rescinded, if the Department Director or designee determines that it is incompatible with City employment or presents a conflict of interest.

Current employees who want to engage in secondary employment must obtain approval from the Department Director or designee before engaging in such employment. The employee must complete and submit a Secondary Employment Request form. An employee already working a secondary job at the time he or she applies with the City must also complete and submit a Secondary Employment Request form to seek permission to continue working the second job if hired.

If a secondary employment request is approved, employees may not use City work time, supplies or equipment to perform secondary employment work. Failure to disclose secondary employment may lead to disciplinary action up to and including termination.

### **4.3.3 Employee Personnel Records and References**

The Human Resources Department maintains an employee record for each employee. Typical documents kept in that record include new-hire information (e.g. onboarding paperwork, relevant federal forms such as the W-4, confidentiality selections, policy acknowledgements, residency requirements, statement concerning employment in a job not covered by Social Security, and employment conditions acknowledgement), performance reviews, address and tax-related change forms, disciplinary forms, promotion and lateral transfer paperwork as applicable, payroll related paperwork and authorizations of change in salary or rate, attendance records as applicable, separation related documentation, and other pertinent correspondence with the employee. While departments and supervisors may maintain similar records regarding employees, originals of any of the above should be sent to Human Resources.

Information in City employee personnel files is public, except as provided by applicable law, including specific statutory authorization of confidentiality. For example, upon official request the City can release the employee's name, sex, ethnicity, age, employment or appointment date, termination date, position title, salary, and department to which the employee is currently assigned.

Any person may inspect and review the public records by appointment during regular business hours by submitting a request in writing by fax, mail, email, in person or over the online public information portal (PIA) maintained by the Records and Information Management Office.

Confidential information contained in a City employee's personnel file is open for inspection by the employee themselves or the employee's authorized agent. Employees can



also review their personal information through employee self-service in PeopleSoft.

A City employee who objects to information or material in his or her permanent personnel file, because it is inaccurate or misleading, can request a correction with the Human Resources Director or designee within 30 days of the date that the employee knew, or should have known, that the disputed information was in the file, and the Human Resources Director, or designee, will determine if the information should be changed. This decision is final and cannot be appealed. This process does not apply to simple factual inaccuracies in an employee's personnel file, such as address and phone number or to disciplinary action or performance appraisals.

The City may, at its discretion, modify an employee's personnel record if, after termination, additional information becomes available which impacts an individual's eligibility for rehire.

#### **4.3.3.1 Employment References**

Employment verification inquiries should be referred to the Job Verification system, 1-855-901-3099 or <http://www.cccverify.com/>. Information released in response to requests to verify employment will be limited to an employee's hire date, job title, and salary range. Additional information will not be given without a signed release from the employee.

#### **4.3.4 Nepotism (Employment of Relatives) and Personal Relationships**

Employment of relatives is permitted; however, employees may not appoint or employ immediate family members, nor use their position to influence their appointment or employment. Employees shall not be placed in positions in which they would supervise or be supervised by an immediate family member; or be in a position where immediate family members could affect each other's employment, promotion, salary administration, or other related management or personnel transactions.

While the City encourages amicable working relationships between members of management and their subordinates, involvement in a romantic relationship or a personal friendship that compromises or creates a perception that compromises a member of management's ability to perform his/her job are prohibited. Any relationships and behavior outside the workplace between management and subordinates that lead to favoritism, or a perception of favoritism, are also prohibited. Any involvement of a romantic nature between a member of management and anyone he/she supervises, either directly or indirectly, is prohibited. Violation of this policy may lead to disciplinary action, up to and including termination, for the management employee involved in the relationship.

Failure by a supervisor to disclose their knowledge of a familial or personal relationship between employees that is prohibited by this section (including relationships involving the supervisor) to their supervisor or the Employee and Labor Relations Division of the Human Resources Department may result in disciplinary action, up to and including termination. Failure of an employee to disclose his or her involvement in a personal relationship that is prohibited by this section to their supervisor or the Employee and Labor Relations Division

of the Human Resources Department may result in disciplinary action, up to and including termination.

### **4.3.5 Searches of Work Areas and Employee Belongings on City Property**

Employees do not have a reasonable expectation of privacy with respect to items related to their work, for example, passwords, combinations, desk drawers, file cabinets, work areas, city vehicles, and lockers. Employees will be required to provide supervisors with passwords and keys upon request. Employees may only use personal locks on City property if approved by their supervisor or Department Director. Employee ownership of a lock is not determinative of privacy or a private space.

Employees should limit the amount of personal belongings that are carried or kept on City premises. The employee retains the responsibility and liability for any personal belongings brought to the workplace that are lost, stolen, or damaged.

#### **4.3.5.1 Searches based on Reasonable Suspicion of Policy Violation or Criminal Conduct**

The City may search or inspect work areas, desks, lockers, city vehicles, or equipment without prior notice or consent if the City has a reasonable suspicion that evidence of criminal conduct or work-related misconduct would be found in the place or thing that was searched; the place or thing that was searched was part of the workplace; and the search is reasonable in scope.

Personal belongings such as wallets, purses, backpacks, briefcases, pockets, coats, and cell phones will be subject to inspection if reasonable suspicion exists that the search will uncover evidence related to a possible policy violation, work misconduct or criminal act.

#### **4.3.5.2 Searches based on Business Need**

A supervisor may acquire access to any documents, computer data/history, emails, electronic media or device, voice mail messages, facsimiles, mail, packages, desks, offices, file cabinets, lockers, general working areas or City-provided vehicles and equipment to locate work-related materials whenever they are needed, including during an employee's absence.

### **4.3.6 Global Positioning Systems**

The City may choose to equip some or all of its vehicles used by employees with Global Positioning System (GPS) devices (e.g., Automatic Vehicle Locators or AVLs) or internal cameras in order to track and monitor workplace conduct and/or the location of City vehicles, including those that are assigned to specific employees.

### **4.3.7 Lunch and 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. Rest periods cannot be used at the beginning or end of the work day to shorten the work day. Employees will be compensated for authorized rest periods.

Lunch periods may be offered for Full-Time employees. The Department Director or their designee can determine whether a lunch period will be offered, in addition to scheduling and deciding the duration of lunch periods. Employees will not be compensated for lunch periods when they are completely relieved from duty unless authorized by the Department Director or designee. As a general rule, designated lunch periods cannot be used as time worked in order to shorten the work day. However, supervisors may authorize employees to work through all or part of their lunch periods in order to accommodate leaving work earlier than normal. Such permission should be requested and granted in writing.

Departments may consult with the Human Resources Department for assistance in administering rest and lunch period policies.

### **4.3.8 Professional Dress Policy**

City of Fort Worth employees must maintain a neat, professional appearance, appropriate to their assigned duties. Employees are responsible for using good judgment, wearing appropriate attire that is clean and in good repair, maintaining high standards of good grooming and personal hygiene, and for presenting an appearance that meets the professional standards of the City of Fort Worth. Department Directors may modify the dress code as needed to fit worksite conditions and address safety issues. Individuals shall be permitted to dress consistently with their gender identity.

On normal business days, “business casual” attire or uniforms are required for most City employees. Examples of appropriate business casual attire include: slacks, blazer/sport coats, sweater or cardigans, knit golf shirts, polo shirts, shirts with City emblems, collared shirts, vests with appropriate shirt underneath, skirts of appropriate length for a professional environment, boots, loafers or pumps.

“Business Professional” or City-sanctioned work attire is required to present a professional appearance for meetings, special events, presentations, council meetings or when representing the City on special occasions. Examples of appropriate business professional

attire include: traditional two or three piece suit with tie, slacks and sport coat/blazer, dress shirt with collar and tie, dress shoes or boots, pant suits, blouses/shells, and dresses and skirts of appropriate length for a professional environment.

Clothing designs or visible tattoos or body art that could be perceived as offensive are prohibited at work.

The City Manager can declare “Special occasion” days. Such days may include Stock Show Day(s), training days, and heritage celebration days. On such days, the City Manager can specify appropriate dress guidelines to follow.

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 for the Department Director to grant exceptions to the dress standards.

A supervisor should meet with employees not appropriately dressed to discuss the matter. The employee will be required to change to appropriate clothing at the supervisor’s request. If it is necessary to leave work to do so, employees are required to use their own leave time and return to work in appropriate dress as directed by their supervisor. If no leave time is available, the absence will be without pay. Repeated incidents of inappropriate dress may result in disciplinary action up to and including termination.

#### **4.3.9 Use of Fragrances in the Workplace**

Employees are expected to be sensitive to others in the use of fragrances on their person and/or in their work spaces (e.g. perfumes, cologne, air fresheners, etc.). If a fragrance negatively affects another person in the workplace or visiting City facilities, the employee may be required to remove the source of the fragrance. If it is necessary to leave work to do so, employees are required to use their own leave time. If no leave time is available, the absence will be without pay.

#### **4.3.10 Participation in Special Events and Voluntary Committees**

Attending or participating in special events or voluntary committees during regular work hours may be permitted with prior approval from the Department Director. The time is not paid by the City and employees must use personal leave to be compensated. If an employee is required by their Department Director to attend, assist with or provide services at an event or on a committee, the City will compensate the employee for their time. Examples of special events include celebrations, charitable functions, humanitarian efforts, and non-job- related committees associated with special events, employee benefits or non-City programs.

#### **4.3.11 Participation in City-Sponsored Events**

If an employee attends an official City-sponsored event during scheduled work time, it is considered work time. Supervisor approval is necessary for an employee to attend such events. If an employee attends a City-sponsored event while off work, it is not work time and the time will not be compensated. Examples include City-sponsored health fairs, donating blood, retirement preparation meetings, and open enrollment meetings.

#### **4.3.12 Court Duty**

Those employees who are subpoenaed or must attend Court or legal proceedings for a City-related legal matter will be compensated for the time spent preparing for and attending

court proceedings during their regularly-scheduled work time. Employees who initiate legal action against the City will be compensated for the time they actually spend attending court proceedings, depositions and mediations during their regularly scheduled work hours. But, those employees will not be compensated for the time they spend preparing for any legal proceedings, including meetings with attorneys or representatives. Employees will not be compensated for time spent conducting or preparing for personal or private legal business or preparing for related legal proceedings.

#### **4.3.13 Purchase of City Property and Services**

The Fort Worth City Code prohibits City employees from either directly or indirectly purchasing any property or services from the City, with the exception of those that are provided to City residents, such as water and sewer services. In addition, the Fort Worth City Charter prohibits City employees from having a direct or indirect financial interest in a contract with the City. There are certain narrow exceptions to these rules. For example, a City employee is entitled to participate in some City grant programs that are funded by the United States Department of Housing and Urban Development, but only if that employee is not connected in any way with oversight of those programs. If you and/or any member of your immediate family are contemplating a business transaction that could be connected with the City, you should contact your supervisor or the City Attorney's Office for direction. Any employee who knowingly violates these rules is subject to disciplinary action, up to and including termination.

#### **4.3.14 Smoking in the Workplace**

In accordance with Chapter 29.5 of the City Code, all City of Fort Worth buildings and facilities are "smoke free." City employees must adhere to this policy and bring it to the attention of persons visiting City buildings and facilities. City vehicles are considered designated work areas under this policy and are "smoke free." This prohibition includes the use of cigarettes, pipes, and cigars. The use of electronic cigarettes, e-cigarettes, or personal vaporizers is also prohibited, unless they are used in connection with a Tobacco Cessation Program authorized through the City's Wellness Program. Smokeless tobacco, unlit cigarettes, or chewing tobacco products may also be prohibited in buildings, facilities, and vehicles due to hygiene or professional appearance concerns at the discretion of the Department Director or designee. Departments must notify employees of the prohibition of these items in writing (e.g. departmental/divisional policy or signage) as appropriate.

Employees who take "smoke breaks" must comply with the City's Rest Periods policy. No additional breaks or rest periods are granted to employees who smoke.

#### **4.3.15 Prayer in the Workplace**

The City of Fort Worth is prohibited from discriminating against employees on the basis of belief in any religion, or nonbelief in religion. The City is required to allow its employees to individually express their religious beliefs to the greatest extent possible, consistent with the requirements of the law and workplace efficiency.

The expression of religious beliefs should not cause a disruption to other employees or the work environment and should not interfere with the performance of essential job functions. Any requests for religious accommodation should be made by contacting the Employee and Labor Relations Division of the Human Resources Department. Additionally, religious harassment will not be permitted.

The City is prohibited from requiring its employees to participate in religious expression as a condition of employment. This includes situations such as employee meetings, conferences, holiday luncheons, retirement receptions, and office parties. In lieu of a prayer, the employees may begin holiday luncheons with a moment of silence.

This does not prohibit employees from engaging in religious practices on an individual basis, such as reading a religious book at the employee's desk during a break.

Employees are allowed to display religious material such as books, pamphlets, scriptures, quotations, pictures, angels, crosses, nativity scenes, altars, and other similar items in their own personal workspaces as long as they do not give the appearance of being on display to coworkers or the public in order to proselytize/impose religious beliefs on others.

Invocations at City Council Meetings are excluded from this policy.

#### **4.3.16 Political Activity**

Political activities of City employees are governed by Section 2-186 of the City Code. Employees, excluding Department Directors, Assistant City Managers, the City Attorney, and the City Manager, may take an active part in another person's political campaign for City Council while off duty. Employees are prohibited from taking an active part in their own, or any other person's, political campaign for an elected position during working hours or while wearing a City uniform. The term "taking an active part" includes, but is not limited to, wearing campaign-related clothing or accessories (e.g., buttons, nametags); posting political items in or around the employee's office or workspace (e.g., stickers, posters, cartoon, figurines, or signs); making a political speech; making financial contributions; distributing; or displaying on City premises, campaign or campaign-related literature, signs, bumper stickers or insignia; writing a letter; signing a petition; or actively soliciting votes. Political campaign includes a candidate or political party. City premises includes City owned and/or leased buildings, parking lots and parking garages.

The City does not prohibit employees from becoming a candidate for public office. No disciplinary action shall be taken against an employee, including terminating the employment of the employee, solely because the employee becomes a candidate for public office. An employee who becomes a candidate for public office must fulfill all the duties and responsibilities associated with his or her employment.

City employees may actively campaign in any national, state, county, city (as excepted above) or school board election on their own time and away from their job site. All City employees are encouraged to exercise their constitutional right to vote. For complete information, see City Code Section 2-186.

### **4.3.17 Nursing Mothers**

A City employee is entitled to express breast milk at the workplace. The City supports the practice of expressing breast milk and will make reasonable accommodations for the needs of employees who express breast milk. The City provides a reasonable amount of break time for an employee to express breast milk each time an employee has a need to express the milk. Each department shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from other employees and the public, which may be used by the employee to express breast milk. Breastfeeding employees shall have access to a sink with hot water and soap for washing hands and rinsing breast pump parts. Expressed milk can be stored in workplace refrigerators in the break room or the employee's personal cooler. All expressed milk must be labeled with the employee's name. As with any personal food item, handling and supervision of the expressed milk is the sole responsibility of the employee.

The City will not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted her right to express breast milk at the workplace.

Employees who plan to express milk during work hours need to communicate with their supervisors regarding space and scheduling needs. Supervisors or a department-designated coordinator should promptly work with nursing mothers to find a suitable place in compliance with this policy. For informational materials about breastfeeding or for assistance in setting up a suitable temporary location to express breast milk, supervisors and employees should contact the Human Resources Wellness Division. A City department is only required to maintain a location for expressing breast milk when an employee has a need to do so. But departments are also encouraged to plan ahead and consider where a suitable location might be designated quickly in the event the need arises.

To the extent that is feasible, nursing mothers should use the amount of time normally allotted for breaks and lunch periods to express breast milk. If the employee uses a break that would otherwise be compensated, she must be compensated in the same way that other employees are compensated for that break time. If, however, an employee uses a break that would otherwise not be compensated, she will not be compensated for the break time. There may occasionally be times when a nursing mother needs more than her usual amount of time to express breast milk. On such occasions supervisors may, depending on the needs of the individual worksite, allow the employee additional paid time, allow her to make up the additional time at the end of the work day, or use compensatory time or available leave that can be used for such purposes, e.g., vacation leave, holiday leave, or personal holiday leave.

### **4.3.18 Parent/Teacher Conferences**

Attending parent/teacher conferences is an important work/life event for parents with school-age children. Department managers and supervisors should be flexible and attempt to revise work schedules or duties to allow employees the time to attend these conferences.

Employees may use available vacation leave, compensatory time, holiday leave or personal holiday leave to attend these conferences.

Department Directors should establish departmental guidelines for allowing employees to attend parent/teacher conferences while minimizing work disruption or loss of productivity. Department Directors can require documentation that an employee has attended a parent/teacher conference.

### **4.3.19 Children in the Workplace**

In rare cases, it may be necessary for employees to bring their children to the worksite during regular work hours for short periods of time. In such instances, this period of time should not exceed one hour.

Circumstances which may warrant the presence of children at the worksite during regular work hours include:

- A breakdown of child care arrangements.
- Before or after scheduled doctor appointments.
- Brief visitation of parent's worksite and to meet coworkers.

In such cases, the following guidelines should be followed:

- Prior approval must be obtained from the supervisor.
- Children must be escorted and supervised at all times.
- For safety reasons, children will be prohibited from office equipment (e.g., shredders, paper cutters, printers, copiers, etc.), manufacturing areas, hazardous material areas, forklift or pallet jack traffic areas, areas requiring security clearance, and areas requiring safety equipment or clothing.
- Children will not be permitted in public service areas.
- Children will not be permitted to ride in city vehicles.
- Employees are responsible for the actions of their children. If the child is disruptive, the employee will be asked to take the child out of the workplace.
- Children with contagious illnesses are not allowed at the workplace.

A Department Director or designee may set additional guidelines to fit the operations at a particular location or facility. Upon approval, Department Directors may permit employees to participate in "Take Your Child to Work" day events and may limit or prohibit such events at specific sites or facilities.

Permission to bring a child to work is a privilege, not a right or entitlement. Department Directors or designees make decisions in the best interest of the organization regarding bringing children to work and these decisions are final.



## 4.3.20 Working from Home

Definitions – As used in this section:

“In-Person Day” means a day the employee is physically present in the employee’s regular workplace and working the employee’s regularly-scheduled work hours.

“Remote Work Days” means working an 8-hour work day from the Remote Work Site on a regular, temporary, on-going, and/or rotational basis rather than from the employee’s primary work location.

“Remote Work Site” means the employee’s place of residence or another management-approved or assigned location.

The provisions in this section apply to all City employees, whether they are exempt or non-exempt, full-time, reduced-schedule, part-time, temporary, or seasonal.

During in-person days and remote work days, employees are obligated to comply with the PRR’s and all other applicable City and departmental rules, policies, and practices.

The employee’s duties, obligations, responsibilities, and conditions of employment with the City remain consistent with the employee’s classification and are the same on remote work days as they are for in-person days, as if they were working at their primary workplace.

An employee’s work schedule, which may include a combination of in-person days and remote work days, will be set by the employee’s department and is subject to revision, at the sole discretion of the department, as the needs of the department require. Working remotely is not an employee right or benefit, and there is no change to existing benefits if working remotely. The employee's work hours and pay rate will remain unchanged and the amount of time the employee is expected to work will not change.

Texas Workers’ Compensation law shall apply to any illness or injury sustained while the employee is working remote work days. The employee shall immediately report any work-related injury occurring at a remote work site and provide the supervisor with all relevant information related to the incident. Workers' Compensation benefits shall only apply to injuries arising out of and in the course and scope of employment as defined by Section 401.011 (12), Texas Labor Code.

The employee must maintain safe working conditions and practice appropriate safety habits, including setting aside a designated work area in the home that is acceptable, safe and free from hazards. Employee is responsible for self-certifying that their home working environment has a clear and defined workspace that is kept clean and orderly

The City shall not be held liable for injuries to third parties and/or members of the employee’s family on the employee’s premises.

Citizens, clients or customers shall not be served “in-person” at the employee’s place of residence without the advance permission of the supervisor.

The employee is fully responsible for ensuring proper use of any City-supplied equipment. The City will provide for repairs to and/or support of City equipment and software at a City office or by telephone. In-home support will not be provided. If required by the employee’s job duties, the employee shall provide, at the employee’s sole expense, a suitable internet connection at the remote work site sufficient to enable the employee to perform his or her job duties without unreasonable interruption. The employee must ensure that all City equipment, software, data, and/or supplies are returned to the City if the employee separates from City employment.

If the employee is using their personal computer for City business, the employee shall contact the IT Department and install any anti-viral or other security products required by the IT Department and the City. If the employee uses personal equipment, the City accepts no responsibility for its maintenance and repair or any associated costs. Any supplies the employee needs related to his or her job duties should be obtained from the City, when feasible. Any expenses for supplies or equipment purchased by the employee will not be reimbursed by the City, unless the employee receives advance approval from the employee’s supervisor. The employee shall be solely responsible for maintenance and repair of the employee’s personal equipment even though it is being used for work-related purposes. If the employee’s personal equipment fails or is interfering with the ability to perform his or her job duties, the employee is expected to immediately notify his or her supervisor.

In accordance with state law, if records of official City business are maintained on an employee’s personal device, that data is considered public information of the City. It is subject to production under a Public Information Act request, and the employee is its temporary custodian with the responsibility to maintain and produce the information unless the employee has moved it to a City device or system. Employees are strongly encouraged to get information regarding official City business moved off of their personal devices and on to City systems as soon as possible.

Requests to use sick leave, vacation or other paid or unpaid leave must be approved by Management in the same manner as if the person were working an in-person day. If the employee is unable to work due to sickness or injury, or is unable to report for work at the employee’s scheduled time, the employee must follow the department’s existing procedure for timely notifying the employee’s supervisor of the employee’s absence or tardiness.

An employee must keep management apprised of any new or revised accommodation requests as outlined under the Americans with Disabilities Act (ADA).

#### **4.3.21 Employee Organizations and Associations**

City employees can join, organize or maintain membership in an employee or labor organization if desired. 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 laws 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 that interferes with the ordinary and orderly conduct of the City government's business.

Unless provided by statute, governmental employees of Texas cities have no legal right to bargain collectively. Consistent with this policy, state law denies City officials the power to enter into a collective bargaining contract or unconditional promise with any employee group or employee organization that is not authorized by state statute.

Solely as a convenience to City employees belonging to an employee association or labor organization, the City of Fort Worth deducts dues when specifically authorized by the employee and where the deductions comply with City policy. Membership in such organizations and/or any related payroll deductions do not affect an employee's job or standing as a City employee.

#### **4.3.22 Employee Identification Badge**

All City employees are issued an Employee Identification Badge with photo and employee number when they are hired. New Full-time, Reduced Schedule, Part-Time, Temporary, and Seasonal employees receive their Employee Identification Badge at a time designated by their supervisor. Contractors who will be working on site will also be issued identification badges.

The Employee Identification Badge is City property. It can only be used for identification purposes and for employee access to City buildings and equipment (such as printers/fax machines). It must be worn so that the employee's name and photo are clearly visible. The employee must wear the badge in City facilities and when dealing with the public. Access to secure locations or emergency situations must be approved by an Assistant City Manager. The employee must wear the badge when engaged in City business unless working conditions make wearing the badge hazardous or impractical. The Department Director must give approval for an employee to not wear the badge due to hazardous or impractical conditions. Old, faded or damaged badges should be replaced as soon as possible.

Note: City Marshal personnel when in uniform, are not required to wear an Employee Identification Badge, but must have the badge in their possession.

If an employee loses their Identification Badge, the employee should immediately contact their department's Human Resources Coordinator (HRC) for a replacement badge and so that the card can be immediately deactivated by submitting a request to ITS.

When an employee's employment ends, the department's HRC will retrieve the Employee Identification Badge and other City property. If an employee terminates employment without notice, the department's HRC will immediately submit a request to ITS to cancel any access associated with the Identification Badge. The HRC will attempt to contact the terminated employee to retrieve the Identification Badge and other City property in the ex-employee's

possession. If an employee terminates employment with notice, the department's HRC must submit a request to ITS to cancel any access associated with the Identification Badge on the employee's last day worked. The City may charge a former employee a reasonable fee if the employee does not return City property after the employee's employment ends, and may deduct that reasonable fee from the former employee's final paycheck.

### **4.3.23 Inclement Weather/Disaster Policy**

In inclement weather or disaster, it may be necessary to limit City services. In these situations, the Assistant City Manager for Emergency Management will make the determination and issue a declaration. Personnel essential to services that must be carried out during inclement weather or disasters may be required to report to work at these times. Departments are required to identify essential personnel as needed in their department.

If an official declaration is not made, employees should consider their own safety and the safety of others when deciding whether to report to work. If it is not possible or advisable for the employee to report to work, departmental absentee procedures should be followed. If inclement weather or disaster (declared or not) prevents an employee from reporting to work or requires the employee to leave work, appropriate leave (e.g. vacation, comp time, Personal Holiday, or accrued holiday) must be used. The employee may, with supervisory approval, work additional hours within the same work week to make up 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 Manager must be consulted.

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

### **4.3.24 Furloughs**

Employee furloughs may be declared by the City Manager when necessary for financial reasons. 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, furloughed employees are paid on an hourly basis during that workweek. Subject to the exceptions described below, furloughed employees are not required or 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 as required by the Department Director.

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

#### **4.3.24.1 Nonexempt Employees During Furloughs**

During any week that a furlough is mandated, nonexempt employees will have their normal workweek reduced to the designated number of hours in the workweek.

#### **4.3.24.2 Exempt Employees During Furloughs**

When a furlough is mandated, exempt employees are considered nonexempt, and work only the designated hours in that workweek. A mandatory furlough and the resulting deductions from pay do 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.

#### **4.3.24.3 Other Furlough Considerations**

Leave accruals are reduced during the pay period in which a furlough is taken in proportion to the reduction in the number of hours worked. Accrued leave benefits, such as vacation or compensatory time, cannot be taken or used in lieu of a furlough.

Furlough days can be used to access major medical sick leave and are not considered a break in service for employees who are on major medical sick leave.

Workers' compensation weekly benefits are not affected by furlough days. City-provided workers' compensation supplements are not paid on furlough days.

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.

#### **4.3.24.4 Exceptions to Furlough Policy**

Situations may arise that 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 an employee must work more hours than designated in a workweek in which a furlough is in effect, the hours are compensated at straight-time up to 40 hours worked and at time and one-half for hours over 40.

During a furlough week, an employee called back to work an emergency after regular working hours and after having left the job site, or to work a double shift, earns emergency callback pay at time and one-half for a minimum of two 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 up to 40 hours must be furloughed in another workweek. Supervisors and managers need to closely monitor and approve emergency callback to control unnecessary overtime costs.

## 4.4 Non-Disciplinary Terminations

### 4.4.1 Reduction in Force

A "Reduction in Force (RIF)" occurs when the City ends the employment of a group or class of one or more employees (who are "laid off") for reasons related to changes in the organization, the availability of funds, or other reasons related to the effective operations of the City. Laid-off employees are not considered to have been terminated for performance or disciplinary reasons. Laid-off employees who have not completed their initial or extended probation period at the time they are laid off will not be eligible for any of the benefits set out in the RIF policy. Departments reducing their workforce pursuant to a RIF must develop a written RIF plan. The plan must use the following criteria, in the following order of priority:

- Departmental/Division goals.
- Employee productivity.
- Employee skills, knowledge, and abilities.
- Employee tenure.

Using these criteria in order of priority means that, in assigning weight to the various criteria used in the RIF plan, the department must consider these criteria in the stated order of importance. All of the stated criteria should be used in developing the RIF plan, as applicable to the circumstances unique to each RIF situation. RIF plans must be reviewed and approved by the Employee and Labor Relations Division of the Human Resources Department before employees are given notices that they will be laid off.

#### 4.4.1.1 Guidelines for Developing RIF Plans

Below are the guidelines and criteria for developing Reduction-In-Force (RIF) plans. These guidelines are to be followed as a department develops its plan and RIF criteria. Each step below describes a section that must be included in the RIF plan.

**Section 1:** Department/Divisional Goals – this section identifies the outcomes that the department is trying to achieve through the layoff and restructuring. (e.g., in order to become more efficient in providing customer service, the dispatch function has been centralized into a dispatch unit and as a result of new efficiencies, fewer call takers are needed at branch

locations.) The following need to be considered:

- Current and future needs of the departments.
- Current and future positions & skills needed in the department.
- Which services should be discontinued and where resources should be reallocated

The first step is to determine the position(s) to be eliminated and the classifications of these positions. Whenever possible, it is best to eliminate positions that are currently vacant. This section of the RIF plan must take into consideration the business plan of the department/section and the management goals of the City.

Once it has been determined which positions will be eliminated, the next step is to determine which employee(s) in the positions to be eliminated will be laid-off. Generally, all departmental employees in the same classification of the position to be eliminated must be considered for lay-off. However, if the goals of the department in implementing the RIF are best served by including only employees in classifications in certain divisions, work groups, or other identifiable and separate groups, within the department, then the department does not have to include all employees in the same classification. The department must explain how the employees included in the RIF plan were selected.

A matrix format is suggested for the RIF plan. The rows of the matrix will be used for each of the employees within the classification. The columns of the matrix will be used for each of the criteria that will be used to identify the employee(s) who will be laid-off.

For the criteria used to evaluate employees for RIF, the weight of the criteria can be established by assigning point values to each criterion. Then each employee in the affected classification is evaluated against the criteria and

the appropriate number of points is recorded in the cell at the intersection of the employee and the criteria. There is no requirement for the total number of points to add up to 100 points. Any point system can be used. The points or weight that is given to each criterion may vary across departments based on department need and function. Human Resources staff will be available to assist with development of criteria and their associated points. All RIF plans must be reviewed and approved by the Employee and Labor Relations Division of the Human Resources Department before the plan can be implemented.

**Section 2:** Criteria and points – the second section of the RIF plan will be composed of the RIF matrix with the criteria used and the points assigned to each criterion. The following criteria must be included in the matrix. With approval of the Employee and Labor Relations Division of the Human Resources Department, other job-related criteria may also be used. The

mandatory criteria are:

- Employee productivity – this column of the matrix identifies the criteria that will be used to analyze the performance and productivity of each employee. The following need to be considered:
  - Performance appraisals (review period is the previous 2-3 years)
  - Key productivity indicators/measurements (e.g., calls/hr., investigations per month, complaints etc.)
  - Disciplinary actions
  - Safety/driving record

HR suggests that departments not create criteria for attendance since attendance should already be factored into performance appraisals and disciplinary issues. Do not penalize employees for use of approved time off or use of job-protected leave such as USERRA or FMLA.

- Employee knowledge, skills, and abilities (“KSAs”) – the knowledge, skills and abilities should relate to the current requirements of the job. Also, future mission-critical KSAs that will be required as part of the future direction of the department or responsibilities of the position can be considered. The following must be considered, as applicable to the position and classification:
  - Education level (High School Diploma, Bachelors, Masters, Post-Graduate)
  - Operational skills (e.g., backhoe operator, handling irate complainants)
  - Licenses & certifications that are relevant to the job
  - Languages (speak, write & read)
  - Proficiency in software programs (Access, Excel etc.), hardware equipment
  
- Technical Skills
- Industry Knowledge (e.g., call center, nursing, engineering).
  
- Employee tenure – Things that need to be considered:
  - Years with CFW
  - Years in department with CFW
  - Years in the profession

Once the matrix is completed, the points by employee are added across the criteria and the employee with the lowest score will be the first employee to be laid-off.

#### **4.4.1.2 Reemployment of Laid-Off Employees**

If an employee has completed his or her initial or extended probationary



period prior to being laid off, and is reemployed within one year as a Full-Time, Reduced Schedule or Part-Time employee, any uncompensated leave time he or she had accrued as of the date the employment ended will be restored and immediately available for use, in accordance with the policies applicable to the type of leave. Employees who are rehired more than one year after being laid off will be considered to be new hires with no right to any restoration of leave provided herein.

An employee who has completed his or her initial or extended probationary period at the time he or she is laid off will be compensated for unused leave as outlined in the Personnel Rules and Regulations.

An employee who is laid off and later reemployed by the City as a Full-Time or Reduced Schedule employee will have his or her pension benefits determined by the terms of the applicable retirement ordinance, which is subject to change.

#### **4.4.2 Employee Resignation**

Resignations should be in writing, signed by the employee, and must state the effective date of the resignation, which must be at least two weeks after the notice is given. A brief, signed statement identifying the effective date of the resignation is adequate. The reason(s) for resigning may be provided but is not necessary. Upon receipt of verbal or written notice of the employee's intention to resign, the department can accept the resignation notice by confirming, in writing, the employee's stated effective date of resignation, and the department will then begin processing the employee's termination.

Employees who do not provide at least two weeks' notice of intention to resign will not be eligible for rehire. Individuals who resign in lieu of termination or who are terminated for rule violations are not eligible for rehire.

When an employee provides notice of resignation, they must actually work the two weeks' notice provided to be considered eligible for rehire, unless the department determines an earlier termination date may be beneficial. If the employee is resigning due to internal transfer or promotion, the supervisor of the position they are leaving may release them to their new position sooner than two weeks as business needs dictate and if the supervisor of the position they are transferring or promoting to is willing for them to start work sooner. The employee's reemployment status will not be negatively affected if they are released from the position they are exiting sooner than they indicated on their initial resignation notice with supervisory approval. The City reserves the right to place the employee on paid administrative leave for all or any part of the period of time between when the notice was given and the effective date of resignation, instead of allowing the employee to continue working, whenever the Department determines that the best interests of the City, or the Department, warrant such action. The City may require the employee to use accrued leave in addition to administrative leave.

When an employee gives more than two weeks' notice of resignation, the City can either:  
1) accept the resignation, effective on the date designated by the employee; or 2) reject the

resignation and propose to the employee a different effective date of resignation. If the employee rejects the City's proposal, then the City can inform the employee what their last day of work will be, and require the employee to use their accrued paid leave to cover the time between their last day of work and the effective date of resignation. If the employee does not have sufficient accrued leave to cover this period of time, the City will place the employee on administrative leave for the period of time from the date when the employee's accrued leave is exhausted until the effective date of the resignation. The Department should consult with the Human Resources Department before rejecting the employee's proposed resignation.

Nothing in this policy will prevent the City from terminating the employment of an employee after the employee has given notice of resignation, if the circumstances, either before or after the employee gave notice of resignation, warrant termination.

Failure to report to work in accordance with an employee's normal work schedule, or to give proper notice regarding an absence during the time after the employee gives notice of intention to resign and the effective date of the resignation, may be considered an unexcused absence, and may constitute job abandonment. Leave approved prior to the date the employee gave notice of intention to resign is exempt from this provision. Job abandonment is normally considered a voluntary resignation and the employee will generally not be eligible for rehire. Individuals resigning in good standing are eligible to be rehired.

Any appeal or complaint being processed at the time of resignation or termination will not be processed and will be administratively closed. The City may continue to investigate the substance of the complaint, and take appropriate action if the City determines that such an investigation and action are in the City's best interests. If a complaint is formally filed with an external entity, the review of the complaint may be placed on hold or closed depending on the nature of the complaint and its disposition by the external entity.

Individuals who want to withdraw a resignation must submit a written request to the Department Director explaining the reasons for the withdrawal. If the Department Director allows withdrawal of the resignation, the effective date of the withdrawal must be before the terminated employee's final pay and terminal leave payout occurs. Otherwise, the individual must follow the City's Reemployment policy to regain employment. An employee's attempted or successful withdrawal of resignation does not give the employee access to the appeal and complaint procedures.

## **4.5 Termination Processing**

Assigned department personnel are responsible for collecting City-issued property, such as the employee ID card, keys, cell phones and other items, during the termination process. A completed out-processing form should list the City property not returned and its cost. See HR Advisory: *Out Processing Terminating Employees* for more information.

A department's human resources coordinator or designee must notify the Human Resources Records Division in writing when an employee who had access to the

personnel/payroll screens terminates, transfers or promotes and no longer should have access. The employee's access to the HRIS/Payroll system is removed from the system upon receiving the notification.

See *Benefits after Employment Termination* in Chapter 6 for information about how different types of termination affect various benefits.

#### **4.5.1 Voluntary Termination**

Individuals desiring reemployment within one year after leaving in good standing (voluntary separation with a satisfactory work record) may be rehired by their former department on a noncompetitive basis, if a vacant position in the classification exited is available. Rehired individuals have the same status as new employees. Any accrued leave time from prior City employment will not be restored upon reemployment. Reemployed individuals receive adjusted service dates to reflect their previous service with the City.

#### **4.5.2 Involuntary Termination**

Individuals involuntarily terminated for non-disciplinary reasons, such as inability to satisfactorily perform the job, medical reasons or as a layoff, are eligible to be considered for reemployment. Such cases are considered on a case-by-case basis by the Human Resources Director or designee. Individuals involuntarily terminated for work rule violations (disciplinary reasons) are not eligible for rehire. Any former limited-duration bans on rehire have been converted to ineligible for rehire.

See *Reinstatement* in Chapter 14 for the policy on the reinstatement of involuntarily terminated employees.

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# 5. Leave

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## 5.1 Purpose and Introduction

This chapter provides general guidelines for accruing, using, and administration of different types of leave available to general City employees. Employees who misuse or abuse any leave benefit are subject to appropriate disciplinary action, up to and including termination of employment. In general, employees will earn leave types applicable to their employment status on a per-pay-period basis. If an employee is placed on leave without pay, the employee does not earn leave benefits during that time.

For questions about this chapter, call the HR Manager for Benefits or HRIS/Records.

## 5.2 Vacation Leave

The City of Fort Worth provides paid vacation leave to general employees who occupy a Full-Time or Reduced Schedule, nonelected position. Employees begin accruing vacation leave after they have worked a full pay period. Use of vacation leave is generally allowed to employees in the initial probation period.

Employees cannot use more than 15 consecutive work days of vacation without written approval from their Department Director or designee.

If a City holiday occurs while an employee is on approved paid leave, it is counted as a paid holiday and no time is deducted from the employee's leave balance.

The operational needs of the department may require supervisors to request that employees explain the circumstances of their requested leave, so the supervisor can decide whether to approve the leave request. If requested, failure to provide information or documents concerning the requested leave could result in the denial of leave. Supervisors may rescind previously approved vacation leave because of work issues. The supervisor must consider the consequences to the employee of which the supervisor is aware (prepaid travel expenses, family issues, employee morale) compared to the operational needs of the department in deciding whether to deny or rescind requested leave.

Employees must have an adequate vacation leave balance available to use at the time of their requested time off. Employees cannot "borrow" from future leave accruals. When an employee is using vacation leave, all available leaves are accrued at the same rate as if the employee was at work. Employees with 400 or more hours of accrued vacation leave as of the beginning of the calendar year (January 1) must use at least

80 hours of vacation and/or short term sick family leave (or a combination of both, as applicable) before the end of the calendar year (December 31). Failure to use at least 80 hours will result in the loss of accrued vacation leave in an amount equal to the difference between 80 hours and the total number of hours of vacation leave the employee used during the calendar year. This is generally referred to as the “use it or lose it” rule. Vacation leave hours sold back and donated vacation leave hours are not included in the 80-hour usage requirement.

Department Directors may contact the Human Resources Director to request a waiver of a specific "use it or lose it" provision as related to vacation hours. The requests should identify the business or work-related reasons why an employee was not able to use the leave that would be lost without the waiver. Special assignments, critical projects, or the employee being assigned to serve in a higher or unfamiliar capacity represent situations that may be acceptable business reasons for waivers. Time off work because of injury, illness or any type of extended absence is not an acceptable basis for a waiver. The decision of the Human Resources Director regarding whether to grant or deny the waiver is final.

Employees who retire, resign or are terminated (after completion of their initial probation, including an extension period) will be paid for all unused vacation leave. Employees who are terminated before the expiration of their initial probation (including an extension of initial probation) are not paid for unused accrued vacation leave. Employees whose employment ends before the last day of a pay period will not be paid for vacation leave accrued during their final pay period. Employees whose employment ends at the end of a pay period (and who worked or were on approved leave during the entire pay period) will be paid for vacation leave accrued during that pay period.

The chart below demonstrates the rate of vacation leave accrual for Full-Time employees:

<b>*Tenure w/City (Years)</b>	<b>Accrual Rate Per Pay Period (Hours)</b>	<b>Accrual Rate Per Year **(Number of Days)</b>
<b>0 to 5 years</b>	<b>4.62</b>	<b>15</b>
<b>Over 5 years to 10 years</b>	<b>5.23</b>	<b>17</b>
<b>Over 10 years to 15 years</b>	<b>5.54</b>	<b>18</b>
<b>Over 15 years to 20 years</b>	<b>6.15</b>	<b>20</b>
<b>Over 20 years</b>	<b>7.08</b>	<b>23</b>
<p><i>*An employee's Vacation Leave accrual rate changes at the beginning of the 6th, 11th, 16th, and 21st year of service with the City. For example, the beginning of the 6<sup>th</sup> year occurs when an employee has worked 5 years and 1 day.</i></p> <p><i>**Based on eight-hour work days.</i></p>		

An employee with a break in service with the City of less than one year will be given an adjusted service date (which is considered a new date of employment). The adjusted service date will be determined by the Human Resources Department. The employee will be considered to have had continuous service with the City from the adjusted service date and will accrue vacation leave accordingly. A service break of more than one year cancels all previous service credit toward vacation accrual or any other leave accruals.

Reduced Schedule employees accrue Vacation Leave in the proportion that their work time compares to a regular 40-hour workweek. For example, a Reduced Schedule employee who works 20 hours in a work week will accrue half as much Vacation Leave as an employee who is scheduled to work 40 hours in a work week.

## 5.3 Sick Leave

Sick Leave (SL) is available to any general employee who is employed in a Full-Time or Reduced Schedule position and is a member of the Fort Worth Employees' Retirement Fund beginning January 1<sup>st</sup>, 2021, and moving forward. SL that has been accrued by Probationary employees can be used as long as the other documentation requirements (below) are met.

SL can be used if an employee:

- Cannot perform assigned duties because of an illness or injury.
- Has a medical, dental, ocular, or other health care appointment.
- Needs to access major medical sick leave or workers' compensation benefits.
- Needs to provide care for an immediate family member with a serious health condition.

SL can be accrued up to a maximum of 1040 hours. Immediate family member under this policy is defined in the *Glossary*.

Supervisors may require documentation to verify the need for SL. All documentation should be submitted to the department's Medical Records Custodian (MRC). If the documentation is determined to be inadequate, the employee will be given a reasonable amount of time to provide adequate documentation. Failure to timely provide documentation could result in the denial of leave and disciplinary action up to and including termination.

Use of Sick Leave will not count towards any annual "use or lose" requirement for general employee vacation leave.

Employees who retire, resign or are terminated, are not paid for any unused SL. Employees will only accrue SL for the last complete pay period prior to their termination or resignation effective date. Employees will accrue SL for the pay period in which their termination or resignation is effective if the entire pay period is worked and their termination/resignation date is the last day of the full pay period.

All full-time general employees will accrue 3.08 hours of SL per pay period (i.e. 80 hours in a full calendar year). Reduced schedule employees accrue SL in the proportion that their work time compares to a regular 40-hour workweek. For example, a Reduced Schedule employee who works 20 hours in a work week will accrue half as much SL as an employee who is scheduled to work 40 hours in a work week.

### **5.3.1 Funeral and Bereavement**

An employee can use up to 24 hours of accrued SL per occurrence to attend or plan funerals for, or mourn the death of, an immediate family member who has died. SL can be used for funeral or bereavement, including related activities, only in connection with the death of an immediate family member. See the *Glossary* for the definition of “immediate family member.” Probationary period employees can use SL for funerals/bereavement.

## **5.4 Major Medical Sick Leave**

The City provided major medical sick leave (MMSL) to general employees in Full-Time or Reduced Schedule positions, and who were members of the Retirement Fund prior to January 1<sup>st</sup>, 2021. For employees who have an MMSL balance, it is available for use after the employee completes their initial probationary period, or any extended probation period unless the Department Director approves such use during the extended probation period.

MMSL was provided to recuperate from serious medical conditions, or keep medical appointments related to prior use of MMSL for a serious medical condition. MMSL cannot be used to take care of family members.

An employee can use MMSL when the employee must be off work for more than 56 consecutive work hours because of a personal medical condition. To access accrued MMSL, employees must first use 56 consecutive work hours of other accrued leave, such as vacation, sick, short-term sick/family, holiday, personal holiday, compensatory time, and/or time off without pay. Appropriate documentation must be completed and submitted to the City’s third-party FMLA administrator before the employee can use MMSL.

An employee on MMSL shall keep the department’s MRC informed about their condition or status and provide an anticipated return date, supported by pertinent documentation. The MRC will keep the employee’s supervisor apprised of the employee’s status in terms of returning to work, but shall not pass on information regarding the employee’s medical condition, diagnoses, treatment (including medications) or prognosis. Employees on MMSL for more than 12 weeks, who have exhausted all available FMLA leave, and are unable or fail to return to work, will be referred to the City’s Employee and Labor Relations Division and/or the Risk

Management Division. The City will engage in an interactive process with any employee with a disability who is in this situation to determine if a reasonable accommodation is needed so the employee can return to work, consistent with the requirements of the Americans with Disabilities Act (ADA) and corresponding Texas law.

Employees returning to work after being on MMSL who must be off periodically for continuation of care related to the initial medical condition (e.g. physical therapy, chemotherapy, follow up doctor appointments, follow-up corrective surgery, and treatment of complications from the initial medical event, etc.) have immediate access to MMSL. However, if an employee is diagnosed with a new, qualifying medical condition, then the employee would be required to use other types of leave (or take unpaid leave if no accrued leave is available) to cover the first 56 hours.

Employees are not paid for unused MMSL at the time of retirement, resignation or termination. However, at retirement, remaining MMSL is added to an employee's length of service by the Employee Retirement Fund, in accordance with the current retirement ordinance, which is subject to change. Service time is adjusted to exclude time-off without pay.

If accrued MMSL is used to supplement temporary income benefits (TIBS) for worker's compensation and/or disability supplement pay (DSP), the employee must use 56 consecutive hours of other available accrued leave and/or leave without pay before MMSL may be used. The 56 hours cannot be incremental and cannot be applied to an incremental TIBS 7-day waiting period. The 56 hours must be applied to normally scheduled hours. See *Time and Attendance Rules for Workers' Compensation Employees* in Chapter 10 for additional information.

If an employee with a non-occupational injury or illness, who is using MMSL, has exhausted available FMLA leave and will not be able to return to work with or without reasonable accommodation, the employee may be laid off even if the employee has accrued MMSL or other personal leave available for use. (See *Return-to-Work Program* in Chapter 11 for layoff policy and *Final Pay at Termination or Retirement* in Chapter 2 for terminal leave pay.)

## **5.5 Short-Term Sick/Family Leave**

Short-Term Sick/Family Leave (STS/F) was available to any general employee who was employed in a Full-Time or Reduced Schedule position and was a member of the Fort Worth Employees' Retirement Fund prior to January 1<sup>st</sup>, 2021.

STS/F can be used if an employee:

- Cannot perform assigned duties because of an illness or injury.
- Has a medical, dental, ocular, or other health care appointment.
- Needs to access major medical sick leave or workers' compensation benefits.



- Needs to provide care for an immediate family member with a serious health condition.

Immediate family member under this policy is defined in the *Glossary*.

Supervisors may require documentation to verify the need for STS/F. All documentation should be submitted to the department's Medical Records Custodian (MRC). If the documentation is determined to be inadequate, the employee will be given a reasonable amount of time to provide adequate documentation. Failure to timely provide documentation could result in the denial of leave and disciplinary action up to and including termination.

Use of STS/F leave will count towards any annual "use or lose" requirement for general employee vacation leave. Employees who retire, resign or are terminated (after completion of their initial probation, including an extension) are paid for all unused STS/F. Employees who are terminated before the expiration of their initial probation (including an extension of initial probation) are not paid for unused accrued STS/F.

## **5.6 Family and Medical Leave Act**

The Family and Medical Leave Act (FMLA) entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons. The Support for Injured Service Members Act of 2007 (also known as Military Family Leave) allows eligible employees to take up to 26 weeks of leave in any 12-month period. Applicable paid leave must be used concurrently with FMLA leave unless none is available. The 12-month period begins with the first day of FMLA leave. It is not based on the calendar year. The City measures the 12-month period as a rolling 12-month period measured backward from the date an employee uses leave under this policy. When an employee takes FMLA leave, the City subtracts the time taken during the last 12 months from the available leave (12 weeks, or 26 weeks for the care of an injured or ill service member) to determine the balance remaining.

### **5.6.1 Eligibility**

Only eligible employees are entitled to take FMLA leave. An eligible employee is one who:

- Has worked for the City for at least 12 months; The 12 months of employment do not have to be consecutive (including temporary or seasonal work). If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count; however, with the exception of a break in service due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or if there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service.

- Has at least 1,250 hours of service for the City during the 12 month period immediately preceding the leave.

## **5.6.2 Leave Entitlement**

Eligible employees may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent (but not a parent-in-law) who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to 26 workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the service member. The single 12-month period for military caregiver leave is different from the 12-month period used for other FMLA leave reasons.

For purposes of FMLA, serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

## **5.6.3 Intermittent Leave**

Under some circumstances, employees may take FMLA leave on an intermittent or Reduced Schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or Reduced Schedule leave requires the employer's approval. Examples of intermittent leave 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. Reduced Schedule leave is leave based on a modified schedule that reduces the usual number of hours per work week, or hours per work day, that an employee is scheduled to work.

Only the time 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 are in hours. The hours charged should be cumulative until such time as the total is equivalent to 12 normal workweeks.

The City can temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position better accommodates the employee's need for intermittent leave or a 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.

#### **5.6.4 City Leave and the FMLA**

Employees who are absent due to an FMLA-covered reason must use accrued paid leave (e.g. Vacation, Sick, Short Term Sick Leave, Major Medical Sick Leave, and Compensatory Time), if any, that is applicable to the reason for the FMLA leave request. FMLA leave is used concurrently with appropriate, accrued city leave so that the employee will continue to be paid while on FMLA leave. For example, if an employee uses FMLA leave to care for a family member, the employee cannot use any type of leave that can only be used for employee illness (e.g. Major Medical Sick Leave). It is the employee's responsibility to correctly designate the type of leave that he or she wishes to use to run concurrently with his or her FMLA leave. The reason for this requirement is so that the employee will continue to be paid while on FMLA leave, to the extent that the employee has sufficient applicable accrued leave available. Employees cannot take unpaid FMLA leave if they have sufficient applicable accrued paid leave available to cover all or a portion of the time they are on FMLA leave.

Employees approved for continuous FMLA leave who have no accrued paid leave are carried in a without pay status and will not accrue leave benefits. Employees must use all appropriate, accrued paid leave before being allowed to take FMLA leave without pay. Employees approved for intermittent FMLA leave will accrue leave benefits in a pro-rated fashion based on how many hours they work during a work week.

Employees who are off work for FMLA leave may not work secondary employment, or engage in any activity, that is inconsistent with restrictions as prescribed by the FMLA certification.

#### **5.6.5 Spouses Employed by the City**

If spouses are employed by the City, and each wishes to take leave, the combined total leave that the spouses can take for the birth or adoption of a child, placement of a child in foster care, or to care for a parent with a serious health condition, is limited to 12 weeks. This limitation does not apply to leave for either spouse's own serious health condition or the serious health condition of a child.

If both spouses work for the City and each wishes to take leave to care for a covered injured or ill military service member, the spouses may only take a combined total of 26 weeks of leave.

## **5.6.6 Health Care Benefit Continuation**

The City maintains its responsibilities towards the employee's group health coverage during FMLA leave. The City and employee maintain the same coverage under the same conditions that they would had the employee been working.

When an employee is on FMLA leave, the employee must pay his or her required group health contributions to keep their coverage in effect. Employees should make payment arrangements with the Human Resources Department Benefits Division. Failure to make required contributions can result in cancellation of the employee's and their 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 costs for maintaining the employee's healthcare coverage during the period of time the employee was on unpaid FMLA leave. The cost will be deducted from the employee's final check, or billed to the employee if the employee fails to return to work for a reason other than the continuation, recurrence or onset of the employee's own serious health condition or because of other circumstances beyond the employee's control. Circumstances not addressed by this section should be referred to the Human Resources Department's Employee and Labor Relations Division.

## **5.6.7 FMLA Leave Process**

If possible, employees should notify the City's third-party FMLA administrator or their departmental Medical Records Custodian (MRC) of the need to take leave prior to FMLA leave beginning. When the MRC receives such notification, if the employee has been off work for three consecutive days, without approved leave, or if the MRC, HRC, or management learns that an employee absence may be for an FMLA-qualifying reason, the MRC must:

- Instruct the employee to contact the City's third-party FMLA administrator

OR

- Contact the City's third-party FMLA administrator on the employee's behalf to initiate the leave process
- The City's third-party FMLA administrator will inform the employee if their leave has been designated as FMLA protected. The notification must 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 City's third-party FMLA administrator will notify the employee in writing what additional information is necessary to make the

certification complete and sufficient. Failure to submit adequate certification within seven calendar days may result in a denial of leave.

- The MRC must enter the start date of the employee's leave, track, and code appropriately in PeopleSoft if the leave period is for more than one pay period.

### **5.6.8 FMLA Leave Exhaustion**

Employees who qualify for the protections of the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), as amended, may request an extension (either paid or unpaid) of their leave of absence after FMLA leave is exhausted, as a reasonable accommodation. The City's third-party FMLA administrator will make a recommendation to Human Resources. The Department Director or designee will review each such recommendation on a case-by-case basis, and confer with the Human Resources Employee and Labor Relations Division before making a determination about whether the request for accommodation is reasonable.

If an employee with a non-occupational injury or illness has exhausted available FMLA leave and will not be able to return to work with or without reasonable accommodation, the employee may be laid off even if the employee has accrued MMSL or other personal leave available for use. (See *Return-to-Work Program* in Chapter 11 for layoff policy and *Final Pay at Termination or Retirement* in Chapter 2 for terminal leave pay.)

### **5.6.9 FMLA Fitness-for-Duty Certification**

As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, the City's third-party FMLA administrator may require an employee to obtain and present a certification from the employee's health care provider, at the employee's expense, that the employee is able to resume work. Additionally, the City may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. In order to require such a specific certification, the City will provide the employee or the FMLA administrator with a list of the essential functions of the employee's job and the FMLA administrator will indicate in the designation notice that the certification must address the employee's ability to perform those essential functions. The employee then will be required to provide a certification from the employee's health care provider that the employee can perform all of the identified essential functions of his or her job.

An employee has the same obligations to participate and cooperate (including providing a complete and sufficient certification or providing sufficient authorization to the health care provider to provide the information directly to the City's third-party FMLA administrator) in the fitness-for-duty certification process as in the initial certification process.

## 5.7 Holidays

The City of Fort Worth observes a regular holiday schedule and also provides employees with personal holidays. When an employee is said to “observe” a holiday, this means the employee is not required to work that day, even though the employee is regularly scheduled to work.

### 5.7.1 Scheduled Holidays

The City of Fort Worth observes the following scheduled holidays:

- New Year’s Day – January 1
- Martin Luther King’s Birthday – the third Monday in January
- Memorial Day – the fourth Monday in May
- Independence Day – July 4
- Labor Day/September 11 Remembrance Day – the first Monday in September
- Thanksgiving Day and Thanksgiving Friday – the fourth Thursday in November and the following day – Friday
- Christmas Day – December 25

The City recognizes two holiday calendars. One calendar is for the City observed holiday and the second holiday calendar is for the actual holiday. Employees are assigned to either the observed holiday calendar or the actual holiday calendar.

For the observed holiday calendar, if New Year’s Day, Independence Day or Christmas falls on a Saturday or Sunday, the City-observed day for that holiday will be the Friday before or the Monday after the actual holiday.

For employees assigned to the actual holiday calendar, all holiday benefits will occur on the actual holiday, regardless of the day of the week the holiday falls on.

Holiday calendars will be established at the beginning of each calendar year setting out the dates for City-observed holidays and the actual holiday for those that fall on Saturdays or Sundays. An employee cannot observe both the actual holiday that falls on a Saturday or Sunday and the City-observed holiday.

An employee who works on a holiday can elect to earn up to eight hours of holiday leave instead of receiving holiday pay for hours worked. An employee who is not scheduled to work on an observed or actual holiday will receive up to eight hours of holiday leave for

the same number of hours the employee is off on the holiday. When holiday leave is taken, the hours used are treated like hours worked for the purpose of calculating eligibility for overtime.

Departments must submit an ePar to assign employees to the actual holiday calendar. All employees will default to the observed holiday calendar unless an ePar is submitted to move the employee to the actual holiday calendar. Employees should only be moved between the observed and actual holiday when there is a change in job status (transfer; promotion; etc.) or in January of each year.

### **5.7.2 Maximum Holiday Leave Accrual**

Holiday leave accrual is limited to 128 hours on January 1<sup>st</sup> of each year. An employee's holiday leave balance may exceed 128 during the calendar year; however, any hours exceeding 128 on the next January 1<sup>st</sup> are forfeited. Maximum payment upon termination of employment is 128 hours.

### **5.7.3 Personal Holidays**

In addition to the scheduled holidays, general employees receive two (2) Personal Holidays (PHL) at the beginning of the calendar year. With supervisory approval, a personal holiday can be taken on any scheduled work day, and it may be taken in less than eight-hour increments. If not used before the end of the calendar year, the personal holidays are forfeited.

The number of annual PHL hours awarded are pro-rated based on the Full-Time equivalent ("FTE") of the authorized position. For example, an employee with an FTE of .5 would receive 8 hours of PHL, rather than 16.

New employees may not take a personal holiday during their initial probation. Employees whose initial or initial extended probationary period ends during pay period 26 do not receive a personal holiday until the next calendar year.

Personal holidays can also be awarded as recognition for reaching specific tenure thresholds based on adjusted service time. (See *Annual Employee Service Awards in Chapter 8* for further information.)

Employees who resign their employment or are involuntarily terminated will not be paid for unused personal holidays upon separation from employment with the City.

## **5.8 Leave of Absence Without Pay**

A Department Director can authorize an employee to take a leave of absence without pay for reasons that benefit both the City and the employee or in cases where an employee has an urgent need for time off (e.g. personal or family member illness or injury or

catastrophic damage to residence) and does not have available leave. The employee must submit a written request for leave of absence without pay to the Department Director or designee. It must outline the reasons for the leave and the amount of time requested. In extenuating circumstances, the request can be made verbally. The Department Director or designee either approves or disapproves the request, explaining the decision in writing so as to be in compliance with the requirements of the FMLA, as applicable.

Department Directors and their designees must be mindful that the Family and Medical Leave Act provides for up to 12 (or 26 weeks in the case of a military caregiver) of unpaid leave for circumstances covered by the Act. The availability of applicable FMLA Leave must be considered when reviewing requests for leaves of absence without pay.

Employees will not receive special pay, holiday pay, holiday accrual or accrue any leave benefits (vacation, sick, short-term sick/family leave, major medical sick leave) while in a Leave of Absence Without Pay or unpaid FMLA leave status. Special pays such as longevity pay and wellness pay will not be paid until the employee returns to work and is no longer in a Leave of Absence Without Pay status. Employees will also still be required to make arrangements to pay for benefit premiums when not in a Leave of Absence Without Pay status. Failure to make arrangements for payment of benefit premiums may affect the employee's insurance status. If an employee will be on a Leave of Absence Without Pay for more than a pay period, the department's HRC should change their status in PeopleSoft accordingly.

Revocation of a leave of absence, if not FMLA-protected, may occur if the reason for requesting the leave was misrepresented, or if the needs of the department justify the revocation.

Employees are encouraged to update their supervisors on their status and discuss any changes to their circumstances with their supervisors to make adjustments to the terms of their leave of absence.

Failure to return to work when a leave of absence without pay expires can result in disciplinary action, up to and including termination.

Employee requests for 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), must be denied if the employee has appropriate and accrued leave or compensatory time available except in the cases of employees who are off on Military Leave in a without pay status. See *Paid Military Leave* below for information on the leave policy for employees on military leave. If the supervisor approves time off from work, the employee must use all of his or her accrued leave before being placed on a Leave of Absence Without Pay status.

If the supervisor denies the request for time off and the employee does not come to work, the employee may not be paid and the employee can be disciplined for absence from work without approved leave. The employee's time off is then coded as disciplinary time off



without pay.

Both exempt and nonexempt employees can be carried in a without-pay status for less than one day with only supervisory approval because of personal reasons or illness or injury. A without-pay status for less than one day does not require Director approval and can occur because:

- 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, or
- The employee chooses to use leave without pay.

## 5.9 Military Leave

The Uniformed Services Employment and Reemployment Rights Act (USERRA) encourages non-career military service by minimizing employment problems resulting from military service. It minimizes disruption of the lives of service members and prohibits discrimination against service members. Texas statutes have similar laws to protect employees who serve in state military forces, reserves, and search and rescue teams.

Under USERRA, employers cannot deny absences to employees so they can perform military service. Persons protected under the Act include persons who perform duty, voluntarily or involuntarily, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard also gives rise to rights under USERRA. In addition, under the Public Health Security and Bioterrorism Response Act of 2002, certain disaster response work (and authorized training for such work) is considered "service in the uniformed services." Departments may request documentation, such as duty orders, to substantiate the use of military leave. HRIS/Records must be notified via an ePar if an employee is on paid or unpaid military leave.

### 5.9.1 Paid Military Leave

Full-Time, Reduced Schedule, Part-Time, Temporary, Seasonal, and Probationary employees can receive up to 15 work days of paid military leave per fiscal year during the entire period of deployment. If absent more than 15 work days for military duty, the employee may request to be placed on leave of absence without pay even if the employee has available leave or may use any accumulated vacation, holiday, personal holiday or compensatory time, if eligible, for leave hours in excess of the 15 work days. If an employee is placed on leave without pay, the employee does not accrue leave benefits during that time. Please see the *Leave of Absence Without Pay* policy above for further information. Military leave time is not counted as hours worked for the purpose of overtime calculation. Military supplement pay (please see relevant policy below) may be available upon annual City Council approval.

Military duties include service and training conducted in connection with the 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, absence for an examination to determine fitness for duty, and absences for performing funeral honor duties. Both voluntary and involuntary duty is covered.

#### **5.9.1.1 Paid Military Leave Under Texas Law**

*(Revisions made to this section, 5.8.1.1, for correction purposes on 9/29/17.)* An employee who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the individual's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a fiscal year. In cases where military duties covered by federal and state law both apply, paid leave under state law will run concurrently with (and not in addition to) paid leave for federal military duty. Unused military leave does not carry forward from one fiscal year to the next.

During a military leave of absence, the employee may not be subjected to loss of time, efficiency or performance rating, personal time, sick leave, or vacation time. When relieved from duty, the employee is entitled to be restored to the position the employee held when ordered to duty.

An employee who has taken paid military leave may request a statement of the number of workdays for which the employee claimed paid leave in that fiscal year. Requests may be submitted with their departmental/divisional Human Resources Coordinator (HRC) or the Human Resources HRIS/Records Division.

#### **5.9.1.2 Military Supplement Pay**

The purpose of Military Pay Supplement is to assist employees who will be absent from their City jobs as a result of being called to active military service on an involuntary basis as a result of national security. Supplemental pay will only be available to military personnel called to active duty for these operations if supplemental pay has been approved by City Council. The intent of this program is to minimize an employee's loss of pay due to involuntary activation into military service.

Employees receiving supplemental pay must:

- be called to active Full-Time military duty status
- have exhausted all of the 15 days of annual paid military leave (from October 1 – September 30)

- be a Full-Time or Reduced Schedule non-elected employee on the payroll of the City and a member of the Retirement Fund

Supplemental pay will be provided on a graduated scale for up to one full year (365 calendar days) for employees receiving Military Pay (base pay plus additional pay such as housing allowance, combat pay and other special pay) that is less than 100% of their total City pay (base pay plus additional pay such as assignment pay, incentive pay, shift differential pay, civil service longevity and bilingual pay.) Overtime pay and Holiday Overtime Pay is not factored into the total pay provided by the City.

The Military Pay Supplement will be calculated as follows: for 100% Supplement, subtract the total monthly military salary from the total monthly City salary. If a negative number or zero results, no supplement is provided. If a positive number results, supplement will equal the number. To reconcile the difference in pay schedule between the military and the City, pay rates will be converted to daily rates. Please see the example of how the Military Pay Supplement is calculated below:

*Employee's total City pay rate is \$1100/biweekly and the employee's total military pay is \$1800/month.*

- *Step 1: Convert pay to daily amount.*
  - *City daily rate =  $\$1100 \times 26 \div 365 = \$78.35/\text{day}$*
  - *Military daily rate =  $\$1800 \times 12 \div 365 = \$59.18/\text{day}$*
- *Step 2: Calculate the difference between City pay rate and military pay.*
  - *$\$78.35 - \$59.18 = \$19.17$*
- *The City of Fort Worth will pay the equivalent to \$19.17/day for up to one full year (365 days), and \$0 for the remainder of time the employee is on Full-Time military leave.*

Employees who were called to Active Duty prior to November 2, 2004, and who are still on Active Duty will receive Military Pay Supplement at the 100% level from November 2 for one full year or until they are deactivated, whichever comes first.

Military Pay Supplemental Benefit shall be renewed with each subsequent activation by an employee. Example: Employee is deployed from November 15, 2014 to June 16, 2015, and is then released from active duty. The employee is later reactivated from December 1, 2015 to November 1, 2016. The employee will receive Supplemental Pay Benefit for up to one year for each period of activation.

Employees seeking supplemental pay will be required to submit a written request to their department's Human Resources Coordinator (HRC). The

written request should contain relevant information needed to calculate the supplemental pay involving military rank, years of service, and additional military pay. Employees must also submit a copy of their military orders and provide appropriate documentation of military pay (such as their two most recent pay advices) to receive any supplemental pay.

In the event that the employee is unable to submit the written request for supplemental pay in a timely manner due to deployment or provide proof of all military pay upon activation (e.g., paycheck stub); if a hardship arises and is verified, alternate arrangements will be made to estimate the amount of military pay, subject to verification later. Upon receipt of the appropriate documentation of total military pay, the appropriate amount of underpay or overpay will be calculated for the appropriate time period. Any overpayments will be required to be refunded to the City.

The employee's current health, dental, and high-option life insurance benefits will remain in effect while the employee's leave of absence is being paid with his/her accrued vacation or similar leave. The normal premium contributions will continue to be made by payroll deduction. Employees may drop their medical benefits coverage at the time they are called to active duty and may re-enroll upon their return to City employment. They will be reinstated without a waiting period upon their return to employment.

After exhausting his/her accrued leave, or if the employee is no longer on the payroll or the salary difference check is less than the amount of payroll deductions, the employee will be responsible for mailing direct payments for the normal monthly premium contributions for Health, Life and Dental coverage. The employee will also have to make arrangements with the vendors for other voluntary deductions, such as credit union payments, child support and long-term disability.

## **5.9.2 Reemployment Rights**

If an employee leaves City service for active duty in the United States Armed Forces, the employee is entitled to return to City service at the pay rate they would have attained, with reasonable certainty, if they had been continuously employed during the period of service. The employee must have been granted a leave of absence and must return within prescribed time limits to a position in the classification previously held. The prescribed time limits are as follows:

- If training/service is up to 30 consecutive days, the deadline is completion of training/service plus travel time to residence plus eight hours.

- If training/service is 31 to 180 days, the deadline is 14 days after completion of training/service.
- If training/service is 181 days or more, the deadline is 90 days after completion of training/service.

If the leave was more than 30 consecutive days, the City requires that the employee provide documentation to establish that the re-employment application is timely, the employee has not exceeded the limit on duration of service, and the employee’s separation or dismissal from the military was not disqualifying. The types of documents will vary from case to case, but may include Department of Defense (DD) 214 Certificate of Release or Discharge from Active Duty, copy of duty orders prepared by the facility where the orders were fulfilled, letter from the commanding officer, certificate of completion from military training school, discharge certificate showing character of service, or copy of extracts from payroll documents showing periods of service.

Employees are allowed to use their vacation and/or compensatory time while on military leave, but they are not required to do so. Federal law prohibits discrimination and/or retaliation against service members who invoke their rights to reemployment after military service.

#### **5.9.2.1 Reemployment Rights Eligibility Criteria**

Service personnel seeking reemployment must meet the following criteria:

- Held a civilian job when the employee commenced military duty covered by the Act.
- Gave notice to the City regarding absence for military training or service. Requests for leave under USERRA may be made verbally or in writing. The advance notice amount is not specified by the Act, but thirty days’ notice is strongly recommended. As much advance notice as possible, written or verbal, is required, unless precluded by military necessity or otherwise impossible or unreasonable.
- Must not exceed the five-year cumulative limit (per employer) on service.
- Must not have been released from service under other than honorable conditions.
- Must report back to civilian job in a timely manner or make timely application for reemployment.

Military service or training excluded from the five-year cumulative limit includes:

- Instances where the service personnel is unable to obtain release from service/training before expiration of five-year period.

- Instances where it has been determined and certified by the Secretary of the service to be necessary for professional development or for completion of skills training or retraining.
- 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.
- Active duty service during a war or a national emergency.
- Active duty service in support of a critical mission or requirement of the uniformed services.
- Service performed when called in Federal service as a National Guard member.

The City may not be required to reemploy a person if the circumstances have so changed as to make such reemployment impossible or unreasonable; such employment would impose an undue hardship on the City; or the employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurring period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period. Any denial of reemployment must be reviewed by the Employee and Labor Relations Division before notification to the returning employee occurs.

#### **5.9.2.2 List of Reemployment Rights**

Eligible service members have the following rights:

- The re-employment of service members must be prompt.
- If absence is less than 90 days, the service member is entitled to placement into the exact job held prior to absence.
- 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."
- Continuation of seniority benefits as if service member had been continuously employed (no break in service).
- Train or re-train service member (if necessary) to permit reentry into the workplace.
- Reinstate personal and family health insurance coverage.
- Make reasonable efforts to accommodate service members disabled during duty. If a service member is convalescing from an illness or injury incurred in the performance of duty, the employee may submit an application for reemployment at the end of the recovery, not to exceed two years.

### **5.9.2.3 Reemployment Rights Under Texas Law**

The City may not terminate the employment of an employee who is a member of the state military forces of Texas or of any other state because the employee is ordered to attend authorized training or duty. After release from service, the employee is entitled to return to the same employment held before the service, and may not be subjected to the loss of time, efficiency or performance rating, vacation time, or any benefit of employment. As soon as practicable after release from service, the employee must give notice of intent to return to work, either in writing or by e-mail. Any denial of reemployment must be reviewed by the Employee and Labor Relations Division before notification to the returning employee occurs.

## **5.10 Jury Duty Leave**

All Full-Time, Reduced Schedule, Part-Time, and Temporary exempt employees called to jury duty on a regularly scheduled work day may receive jury duty leave. Jury duty plus other hours worked in a work week shall never exceed 40 hours. When an employee has worked more than 40 hours in a work week, including jury duty hours, the time coded as jury duty must be reduced by the number of hours over 40 worked in that work week, even if that reduction eliminates all of the jury duty hours. Employees must verify their time spent on jury duty.

## **5.11 Blood Bank Donation Leave**

Full-Time employees can earn up to six hours of vacation leave time in a calendar year by donating blood to the Carter Blood Center during City-sponsored blood drives or by presenting proof of a donation made at an external site. Reduced Schedule, Part-Time, and Temporary employees can receive up to six hours of compensatory time per calendar year for their blood donations. One hour of leave time is accrued for each pint of blood donated by the employee, up to a maximum of six hours. Proof of donation at external sites should be sent to the Human Resources Wellness Division to get credit.

## **5.12 Time off for Promotional Examinations and Interviews**

Employees may take time off with pay to apply and compete for other positions with the City. It is expected that managers and supervisors will support employee efforts to pursue career opportunities within the City and that employees may apply, interview, and have discussions about career opportunities on City time. The employee must obtain supervisory approval prior to taking time off to pursue internal career opportunities.

## **5.13 Time Off to Vote**

Because of early voting opportunities afforded citizens, employees should not need time off to vote; however, supervisors may approve time off in unusual circumstances. Under state law, if

the polls are open for two consecutive hours outside of an employee's working hours, an employer is not required to release the employee from work to vote. If the polls are not open for that period of time, employees are allowed to leave work to vote. Their time off is without pay or they may use appropriate accrued leave time or compensatory time.

## **5.14 Pregnancy Leave and Accommodations**

Pregnancy-related absences and job accommodations are governed by the particular leave policies that are applicable, including major medical sick leave, vacation, sick, short-term sick/family leave, holiday, personal holiday, compensatory leave, Family Medical Leave Act leave, Voluntary Leave Bank leave and leave without pay.

The City will make reasonable efforts to accommodate any physical restrictions - as determined by the employee's medical care provider and the City's third-party FMLA administrator - that are related to an employee's pregnancy. This can include limited duty assignments. If a physician certifies that the employee is unable to perform the duties of the employee's permanent work assignment as a result of the employee's pregnancy and if a temporary work assignment that the employee may perform is available, the employee may be assigned to a temporary work assignment. See *Non-occupational Injury/Illness Return to Work ("RTW") Rules in chapter 11 for further information.*

## **5.15 Voluntary Leave Bank**

The Voluntary Leave Bank program provides for the continuation of income for those employees who are members of the program, 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.

### **5.15.1 Eligibility for Enrollment**

Employees who are eligible to participate include any Full-Time and Reduced Schedule 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.

A newly hired employee may become a member of the Voluntary Leave Bank Program within the first 30 days of their employment, but the employee cannot access the Voluntary Leave Bank until completion of their initial probationary period. Employees who enroll during open enrollment cannot access the Voluntary Leave Bank until May 1<sup>st</sup> of the benefits year for which they are enrolling. An employee who fails to become a member during an open enrollment period may become a member during the next open enrollment period.

### **5.15.2 Accessing Voluntary Leave Bank Hours**



Members may be eligible to draw from the Voluntary Leave Bank after exhausting all their accrued leave balances, including major medical. Members may draw a maximum of 240 hours that can be used in any 12-month period. In no case can an employee draw more than 240 hours from the Voluntary Leave Bank for any single occurrence.

Access to the program is based on the approval of the member's leave by the City's FMLA vendor.

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

Employees off work cannot accrue leave benefits (short-term sick/family leave, major medical, vacation, sick, family leave) while using Voluntary Leave Bank hours.

Members drawing leave from the Voluntary Leave Bank may not engage in secondary employment work during the time covered by the leave drawn from the Voluntary Leave Bank.

Upon returning to work after using leave from the Voluntary Leave Bank, eight hours shall be deducted from a member's accrued vacation leave as soon as the member has accrued eight hours. Accrued vacation leave will reflect the required hours' deduction immediately upon the employee's return to work.

Each member may also be required to donate an additional four hours when the Voluntary Leave Bank falls below 960 hours. Human Resources Department records will be used to monitor leave donation and usage. Participating employees will be notified of the need for the additional contribution and must authorize the transfer of additional leave hours to continue membership in the program. Participating employees who opt not to transfer the additional leave hours will be withdrawn from the Voluntary Leave Bank.

The City Manager may terminate the program if he or she determines that it is not in the best interest of the City of Fort Worth. If the Voluntary Leave Bank is terminated, for that reason, the remaining leave in the bank will be used until depleted. If the Voluntary Leave Bank is determined to be operated in violation of any laws, the program will be terminated, and all hours in the leave bank will be forfeited.

## **5.16 Vacation Leave Donations**

Employees may donate accrued vacation leave to another employee's donated leave account. No other type of leave or time may be donated. The purpose of the donation is to ensure continuing income for another employee who must be absent from work (continuously or intermittently) because of a major personal illness or injury or because of an immediate family member's major illness or injury which requires the presence of the employee.

An employee is eligible to receive donated vacation leave if:

- The employee or employee’s immediate family member has a major illness or injury which requires the employee to be off work;
- The employee has 40 or less hours of accrued leave;
- The employee's Department Director approves the request to solicit vacation leave. (Consideration should be given to employee's record of absenteeism, discipline, work performance, tenure, and other relevant considerations); and
- The employee is not on initial, extended or disciplinary probation.

A major illness or injury includes any medical condition that qualifies under the sick leave, short-term sick/family leave, family illness leave, and major medical sick leave policy. Appropriate medical certification must be provided for employees or equivalent documentation for immediate family members.

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 be transferred to the voluntary leave bank. Donated vacation hours will be donated on an equal basis and will not be prorated even if the salaries of the donators and recipients differ.

To be eligible to donate vacation leave, an employee must have completed the initial probation and must have a balance of 80 hours of accrued vacation leave after the donation. Donated vacation leave does not count toward the number of hours required that an employee must “use or lose” under the vacation leave policy.

## **5.17 Vacation Leave Sell Back**

Employees may sell back up to 40 hours of Vacation Leave each year if they have a vacation leave balance of at least 120 hours left after their sellback, if authorized by the City Council in the City’s budget. The vacation leave sell back is typically available to participating employees on the first pay day in December but this is subject to change. Vacation sell back hours do not count toward the number of hours required that an employee must “use or lose” under the vacation leave policy.

## **5.18 Service Award Leave**

Employees receive an additional 8 hours of personal holiday leave beginning with 15 years of service and in 5 year increments thereafter. See *Annual Employee Service Awards* in chapter 8 of this policy manual for more information about leave associated with receiving a Service Award.

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# 6. Benefits

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## 6.1 Purpose and Introduction

The City of Fort Worth understands that the health and well-being of its employees and their families are vital to ensuring a strong, productive, and dedicated employee base. As such, the City currently offers a variety of benefits to eligible employees and retirees and their eligible dependents. This chapter will describe available benefits.

For questions about this chapter, please call the Benefits Manager in the Human Resources Department.

## 6.2 General Benefits Information

The City contributes toward the cost of some benefits, such as retirement, medical benefits, basic life insurance, and the Employee Assistance Program (EAP). In addition, the City makes other benefits available to employees, although the City does not contribute toward the cost; examples of these types of benefits include dental insurance and disability insurance.

More complete information regarding available benefits can be found by contacting the Benefits Division of the Human Resources Department or by consulting available benefits guides and plan summaries, and the *HR Benefits webpage*. Benefits information is generally provided to each employee at orientation and is also available from Human Resources on request.

With very limited exceptions, the City can make changes to its benefit offerings at any time; these changes could include discontinuing benefit programs or changing the rates at which the City contributes toward benefit costs. In general, employee benefits, except for previously accrued retirement benefits, are not guaranteed to continue, and City contributions to any benefit program are subject to sufficient funds being available and allocated in the annual budget process.

## 6.3 Medical Benefits for Active Employees

The City provides medical benefits to eligible individuals in the form of a self-funded group medical plan.

### 6.3.1 General Employee Health Center Plan

The Health Center Plan provides primary care physician services via the City's health centers and also provides coverage for other qualified doctors' visits, hospital stays, and pharmaceuticals. Please check your benefit guides and plan summaries for more information regarding group medical plan options for general employees.

The participating employee and the City both contribute to the cost of participation. The

participating employee may pay co-pays, deductible and a coinsurance depending on services rendered.

### **6.3.2 High Deductible Health Plan and Health Savings Account**

An employee who enrolls in the City's High-Deductible Health Plan (HDHP) is provided with a Health Savings Account (HSA) that can be used to pay eligible health care expenses. The City contributes to the employee's HSA in an amount determined by the City each year as part of the budget process, and employees can also make contributions. Employee contributions may be payable on a pre-tax basis (resulting in lower taxable income), depending on the employee's individual circumstances and subject to maximum contribution limits set by the federal government each year. Employees are advised to contact a financial professional for assistance with tax-related questions.

An employee's HSA belongs to the employee, who can take the account with him or her on termination or retirement. Balances in the HSA can be carried forward from year to year.

Employees who are enrolled in another health plan that is not a qualified High-Deductible Health Plan or through a spouse's employment are not eligible for the Health Savings Account. As a result, they will not be eligible for the City's HDHP but are still eligible to enroll in the Health Center Plan.

Employees enrolled in the HDHP with an HSA are not eligible to participate in a Flexible Spending Account for health care expenses. (See section "Flexible Spending Accounts" below for more information.)

## **6.4 Flexible Spending Accounts for Active Employees**

The Flexible Spending Account (FSA) Plan allows an employee to set up one or more accounts to pay for certain eligible expenses using pre-tax dollars. The FSA Plan is governed by Section 125 of the Internal Revenue Code. An employee participating in the FSA Plan will designate an amount to be deducted from wages and placed into the account(s) for use in paying for certain health care and dependent care expenses.

Eligible expenses must be incurred during the plan year (January 1 through December 31), and all claims for reimbursement must be received on or before March 31 of the following year. If the entire balance of the account(s) is not exhausted by claims for reimbursement submitted before the deadline, remaining balance in the account(s) that exceeds the rollover limit will be lost.

An employee participating in the high-deductible health plan with a health savings account (HSA) is not eligible to participate in the FSA for health care expenses. (See section "Medical Benefits" above for more information.)

## **6.5 Dental/Vision Insurance for Active Employees**

The City offers eligible individuals access to dental and vision insurance offered by a third-party insurance company. Premiums for dental and vision insurance are the sole responsibility of the participant and are deducted from wages on a pre-tax basis. The City does not contribute to the cost of participation.

## **6.6 Life Insurance for Active Employees**

The City provides each active employee a basic term life insurance policy at no cost to the employee. Employees may purchase additional/supplemental life insurance through the City. The City does not contribute to the cost of the supplemental life insurance policy.

## **6.7 Employee Assistance Program (EAP) for Active Employees**

The City offers an Employee Assistance Program (EAP) to all active employees and their dependents. The EAP offers individuals the opportunity to consult with professional service providers to help resolve personal problems. Services under the EAP are limited to a specified number of appointments per year. Ongoing assistance beyond the EAP limits may be available as part of the City's medical benefits depending on the situation and applicable coverage.

## **6.8 Critical Incident Stress Management (CISM) for Active Employees**

In the event of a catastrophic incident at the workplace (such as a robbery, assault, or injury or death of an employee), the Employee Assistance Program (EAP) will make available an on-premises EAP provider of crisis counseling.

## **6.9 Wellness Services Program for Active Employees**

The City of Fort Worth offers a Wellness Program to promote physical and mental health and wellbeing and to provide opportunities for increased health and wellbeing through education and positive lifestyle changes. Information about upcoming classes is included in the City's electronic employee newsletter (The Roundup) and available through the Wellness Division of the Human Resources Department.

### **6.9.1 Participation Guidelines**

The following participation guidelines are intended to allow all employees to have equal access to Wellness program benefits and to maintain proper work coverage at all times.

Any Blue Zones activity is approved for participation on work time, if it occurs during the participant's normal work schedule (subject to supervisory approval).

Hours spent participating in all other Wellness activities do NOT count as hours worked.

Participation in classes, seminars, workshops, or programs by employees during work hours is solely at the supervisor's discretion. However, supervisors are encouraged to allow employees to flex their time and work additional hours during the same week in order to offset class participation time. The supervisor shall have discretion in approving or disapproving flex time participation, but special consideration should be paid to consistency in approvals and disapprovals for similarly situated employees.

Flex time will be granted only in cases where proper work coverage is maintained at all times. A supervisor has the right to rescind preapproved flex time if absenteeism or workload, whether unforeseen or scheduled, creates a need for employee coverage.

In the event that a section/division/workgroup cannot allow all interested employees to participate due to the number of requests received, the supervisor will be responsible for maintaining a rotation list to ensure proper work coverage and equal participation opportunities for all employees.

Participation in wellness activities is voluntary, and therefore, the City is not liable for injuries sustained by employees during their participation in these activities. As a general reference, injuries that occur during non-pay status are not compensable. Non-pay status consists of time before work, after work, and non-paid time during the workday. It is the employees' responsibility to consult with their physician before beginning any wellness activity that may involve physical activity.

Any flex time approved for Wellness participation may not alter the total number of hours to be worked in the employee's regular work week schedule. Any proposed changes in schedule for participation should be reviewed in advance by the appropriate timekeeping staff to ensure compliance with applicable work-hour laws.

## **6.10 Disability Insurance for Active Employees**

Employees may elect to purchase long-term disability insurance through the City. The City does not contribute to the cost of long-term disability coverage.

## **6.11 Deferred Compensation Plan for Active Employees**

The City offers a deferred compensation plan that allows an employee to direct that a portion of his or her wages be placed into a savings/investment account for use in retirement. This plan (also known as a "457 Plan" because it is subject to Section 457 of the Internal Revenue Code) is administered by a third party. Generally, the City does not contribute to the 457 Plan. Putting money into the 457 Plan could have positive consequences for the participating employee's income tax situation; employees should consult a financial professional for personal tax matters.

## **6.12 Other Voluntary Benefits for Active Employees**

The City also offers employees access to certain other voluntary benefits. The City does not

contribute to the cost of these other benefits. The City may continue to offer other voluntary benefit products in the future. Contact the Benefits Division of Human Resources to find out more about other voluntary benefits that may be available.

## **6.13 Benefits Effective Date**

All benefits for new hires or newly eligible participants, except participation in the 457 plan, begin the first of the month following 30 days of employment. In the event of a “life-changing event,” benefits begin effective with the life-changing event date. (See *Electing and Changing Benefits* below for information on changes in coverage.)

## **6.14 Electing and Changing Benefits**

As part of the orientation process, new employees are informed about all available benefit programs. Employees must make their selections within 30 days of starting work with the City.

All City benefits operate on a “plan year” that runs from January 1<sup>st</sup> through December 31<sup>st</sup>. After initial selection, benefits can generally only be changed during the designated annual open-enrollment period, during which a participant elects their benefit options for the following plan year.

However, changes can be made outside of the open-enrollment period if a “life-changing event” occurs. Examples of “life-changing events” include marriage, divorce, birth or adoption of a child, death of a dependent, loss of outside group health coverage, and change in employment status. A full definition of the term can be found in the *Glossary*.

In general, a covered individual who wants to revise his or her benefits coverage because of a life changing event must do so within thirty (30) days of the event occurring. However, if the event is the birth or adoption of a child, an employee has up to sixty (60) days to make the election.

## **6.15 Proof of Dependent Eligibility**

Proof of eligibility must be provided in order to enroll a dependent. In addition, the City periodically performs audits to ensure that all enrolled dependents meet eligibility criteria, and proof of eligibility may be required in connection with this type of audit.

Proof of eligibility may include social security numbers, birth certificates, hospital certificates of live birth, divorce decrees, adoption papers, guardianship papers, income tax returns, marriage licenses, or other reasonable documentation as requested by the City.

## **6.16 Benefits after Employment Termination**

### **6.16.1 Medical/Dental/Vision Insurance after Termination**

Medical, dental, and vision insurance coverage ends at the end of the month in which the employee terminates, unless the employee is qualified to continue coverage and elects to continue coverage through COBRA. (See Section 6.16.3 Continuing Coverage after Termination Under COBRA below for further details.)

An employee who is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination is eligible for medical coverage through the City in retirement. (See Section 6.18.1 Medical Insurance as a Retiree below for further details.)

## **6.16.2 Continuing Coverage after Termination under COBRA**

Upon termination from the City, an individual may be eligible to obtain continued medical, dental, or vision insurance coverage for a limited period under COBRA if certain criteria are met.

The City's COBRA administrator will send all separated employees information about options available under COBRA within fourteen (14) days after the COBRA administrator receives notice of a former employee's separation from the City. Separated employees have 60 days after the date he/she receives the notice of the right to continue coverage to submit an application requesting COBRA coverage.

No City subsidy is provided for COBRA coverage.

## **6.16.3 Life Insurance after Termination**

The City-provided basic life insurance coverage generally ends on the effective date of an individual's termination from the City. An individual can convert his or her City-provided life insurance policy to an individual policy in order to continue coverage after terminating from the City.

The individual must call the life insurance provider or the Benefits Division to request the conversion form and obtain information about the cost of premiums. Completed conversion forms must be submitted within thirty one (31) days of the termination date.

An individual who is under the age of 60 and has been classified as being disabled from his/her own occupation on a permanent or temporary basis may have his/her life insurance premiums waived. If the premium waiver is granted, the individual retains the same level of basic term life insurance coverage at no cost.

Employees may contact the Benefits Division for details about applying for a premium waiver.

## **6.16.4 Deferred Compensation Plan after Termination**

If an employee is enrolled in the City's deferred compensation (i.e., 457) plan prior to termination, the employee has three options with respect to existing account balance:

- Leave the money in the current 457 account(s).



- Rollover all or a part of the funds to an individual retirement account (IRA) or to another employer's plan.
- Take a distribution (withdrawal) from the account(s), subject to any applicable tax and penalty.

After termination, if an individual would like to withdraw their funds or roll them over to another plan, he or she should contact the 457 plan administrator directly for the appropriate paperwork.

An individual participating in the 457 Plan may request that all or a portion of terminal leave pay be deposited into the 457 account. Such a request must be received by the Human Resources Benefits Division prior to the effective date of the individual's separation from the City. Failure to timely submit a request will result in its rejection.

### **6.16.5 Flexible Spending Accounts after Termination**

An employee who is participating in the Flexible Spending Account (FSA) Plan at the time of termination from the City can continue to incur eligible expenses chargeable to or reimbursable from that person's flexible spending account(s) through the effective date of termination.

If the individual timely elects to continue their FSA participation through COBRA after termination, he or she will be able to continue to incur eligible expenses through December 31st or through the end of the month in which the COBRA continuation premium was paid, whichever occurs first.

All claims for reimbursement related to flexible spending accounts must be received on or before March 31<sup>st</sup> of the year following the year in which the expense was incurred.

### **6.16.6 Health Savings Account (HSA) after Termination**

An employee's HSA belongs to the employee, who can take their HSA with him or her upon termination. Any fees associated with the maintenance of the HSA will be the responsibility of the terminated employee unless the terminated employee will either be (i) receiving or (ii) in process to receive City of Fort Worth Retirement benefits and is eligible for and elects to continue medical coverage through the City in retirement.

### **6.16.7 Voluntary Insurance and Benefits after Termination**

Final premiums and contributions for all voluntary insurance and benefits are taken out as a payroll deduction from an employee's last paycheck. To continue coverage after termination, the individual must contact each benefit provider to arrange for alternate billing.

## **6.17 Benefits Upon Rehire**

### **6.17.1 Benefits Upon Rehire 30 days or Less Post Termination Date**

Employees who are rehired and whose start date is 30 days or less from their termination date

will have their previously selected benefits (medical, dental, vision, life insurance, etc.) reinstated as though there was no lapse in employment. Their original hire date will be considered for the purpose of determining eligibility for retirement medical benefits.

### **6.17.2 Benefits Upon Rehire Greater than 30 days Post Termination Date**

Except in the case of rehire following a reduction in force termination, employees who are rehired more than 30 days from their termination date will be treated as a new hire for the purposes of benefits enrollment. For the purpose of retirement medical benefits they will be treated as an employee who was hired after 2009 and will not be eligible for any City subsidy toward retiree premium payments.

### **6.17.3 Benefits Upon Rehire after a Reduction in Force**

Employees who are rehired within one year after being laid off during a reduction in force will have their previous hire date considered for eligibility for the City subsidy for retiree health insurance provided (i) that hire date was prior to January 1, 2009 and (ii) during the time period they were not working for the City, they did not cash out their pension benefits. Individuals who are rehired more than one year after being laid off will be treated as an employee who was hired after January 1, 2009 and will not be eligible for any City subsidy toward retiree premium payments.

### **6.17.4 Benefits Upon Rehire after Retirement**

An employee who is rehired into a regular, full time position after (i) retiring and (ii) receiving retirement benefits will have to enroll in the City's active health insurance plan. The employee will no longer receive a pension check from the Fort Worth Employees' Retirement Fund. Once the employee leaves the City's employment, they will continue to be eligible for the City's retiree health insurance plan at the City subsidy level they were receiving when they first retired.

### **6.17.5 Benefits Upon Reinstatement**

An employee who is reinstated following an appeal to court or hearing officer after an involuntary termination will have their insurance reinstated as of the day they return to work.

Their original hire date will be considered for the purpose of determining eligibility for retirement medical benefits.

## **6.18 Retiree Benefits**

### **6.18.1 Medical Insurance as a Retiree**

An employee who is either (i) receiving or (ii) in process to receive City retirement benefits at the time of termination is eligible for medical coverage through the City in retirement. The employee has sixty (60) days from termination date to enroll or, if obtaining alternate coverage through a spouse or non-City job, to defer him/herself and eligible dependents into the retiree

medical benefits plan; failure to take one of these actions will prevent any enrollment in the future. An employee who is not (i) receiving or (ii) in process to receive City retirement benefits at the time of termination is not eligible for retirement medical coverage through the City.

#### *Coverage through Other Employer in Retirement*

A retiree who takes a job with an employer other than the City and has health insurance available to them through their own employment after retiring from the City is required to enroll in the medical plan of their employer and to defer coverage for themselves and their eligible dependent(s) with the City.

A retiree's spouse who has other health insurance coverage available due to the spouse's own employment is required to enroll in the medical plan provided by his/her employer and defer enrollment into the City's retiree health insurance plan. It is not required that the retiree and eligible dependent children also defer coverage and join the spouse's medical plan.

Deferral of retiree medical coverage due to other active employee coverage at another employer does not render the retiree/dependent(s) ineligible for retiree health insurance once that coverage ends so long as timely re-enrollment occurs. When their non-City active employment ends, the retiree has 30 days to enroll themselves and applicable dependents into the City's health insurance plan. Only dependents who were previously deferred can enroll in the City's health insurance plan at that time.

Declining retirement medical insurance for any reason other than a deferral due to non-City active employer coverage is a permanent decision, and the individual (retiree/dependent(s)) will not be able to re-enroll in the City's retiree medical insurance plan in the future.

### **6.18.2 Dental/Vision Insurance as a Retiree**

An employee who is either (i) receiving or (ii) in process to receive City of Fort Worth retirement benefits at the time of termination may continue accessing third-party dental and/or vision insurance through the City provided the employee also either elects or defers retiree medical insurance coverage. The employee has 60 days from the date of termination to enroll him/herself and eligible dependents in the dental and/or vision plan(s). In addition the retiree has the option each year during annual open enrollment period to add, change or discontinue dental and/or vision insurance. The City does not contribute to the cost of dental and/or vision insurance.

Retirees who waive medical coverage permanently are not eligible to enroll in the City's dental and/or vision plans.

### **6.18.3 Health Savings Account as a Retiree**

Retirees who enroll in the HDHP are also eligible for the City contribution to their HSA each year that the City opts to make a contribution. The retiree can also make their own contributions to their HSA directly to the vendor for future healthcare expenses. Retirees should contact their personal financial advisors about retiree contributions, IRS limits, and tax consequences.

Retirees who are enrolled in another health plan that is not a qualified High Deductible Health Plan such as Tri-Care, Medicare Part(s) A and/or B or as a retiree from another employer are not eligible to enroll in the HDHP.

#### **6.18.4 Life Insurance as a Retiree**

The City-provided life insurance coverage ends on the effective date of an employee's termination from the City. An individual can convert his or her City-provided life insurance policy to an individual policy in order to continue coverage after terminating from the City. The employee must call the life insurance provider to request the conversion form and information about the cost of premiums. Completed conversion forms must be submitted within thirty one (31) days of the effective date of termination.

The City provides a \$5,000 burial policy for retirees upon their death. The City reserves the right to end this program at any time.

#### **6.18.5 Other Benefits as a Retiree**

Retirees still have access to the City's voluntary benefits platform which provides the retiree with the opportunity to find discount programs such as lower cost car insurance, discounts on rental cars and hotels as well as discounts for big ticket items such as a big screen TVs. Retirees cannot set up payroll deductions for purchases made through the City's voluntary benefits platform.

#### **6.18.6 Wellness Services Program for Retirees**

The City of Fort Worth offers a Wellness Program for non-Medicare retirees on the City's health insurance (and their non-Medicare spouses) to promote physical and mental health and wellbeing and to provide opportunities through education and positive lifestyle changes. Information about upcoming classes is available through the Wellness Division of Human Resources.

#### **6.18.7 Years of Service and Retiree Benefits**

Employees hired prior to October 25, 1988 or those hired after October 25, 1988 but before January 1, 2009 and that have 25 or more years of service will be eligible for the highest retiree subsidy offered by the City.

An employee, hired prior to January 1, 2009, who terminates employment with the City for any reason other than retirement and returns to City employment after January 1, 2009 will be considered to be an employee who was hired after January 1, 2009 and will not be eligible for a City Subsidy.

An employee who has entered the DROP is still considered an employee of the City and the years of service while in the DROP will count as years of service towards the goal of 25 years of service for those hired before January 1, 2009. For example, an employee who started with the City prior to January 1, 2009 and enters the DROP with 23 years of service and remains in

the DROP for 2 additional years would be eligible for the highest retiree subsidy offered by the City at the time of the employee's retirement.

The City retiree health insurance subsidy is not a guaranteed benefit. The City Council may decide to end the subsidy at any given time.

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# 7. Performance Management

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## 7.1 Purpose and Introduction

The City's performance appraisal process is designed to provide supervisors a means to: (1) assess and document employees' work performance; (2) explain expectations; (3) ensure employees' work efforts are meeting City and department goals; (4) inform employees if they have performance deficiencies and make suggestions for improvement; and (5) recognize exceptional performance and/or accomplishments.

For questions about this chapter, please contact the Organizational Development Department.

## 7.2 Performance Appraisal

It is the responsibility of the employee's supervisor to complete the performance appraisal. Prior to the beginning of the performance period, the supervisor should establish job objectives and expectations for the employee. The supervisor should meet with the employee to review the objectives, the expectations, and the performance standards to be used in evaluating the employee.

For each performance appraisal cycle the supervisor will utilize the prescribed City of Fort Worth evaluation program and prepare the appraisal document accordingly. Performance appraisal ratings need to be objective and not subjective, ratings should be substantiated in the summary section.

Throughout the performance cycle there should be a level of consistent communication between both the supervisor and the employee. The supervisor will meet with the employee to discuss the performance appraisal and provide feedback. The employee will sign, through the prescribed medium, the performance appraisal acknowledging receipt, this does not necessarily indicate the employee's agreement with its content. An employee may submit comments related to their evaluation within five business days from the date of receipt. Comments may be added through the prescribed medium.

## 7.3 Performance Improvement Plan

If the performance appraisal indicates that performance improvement is required in one or more areas, the supervisor may place the employee on a Performance Improvement Plan (PIP). A PIP is not considered disciplinary action and is instead an action plan for improving performance. It should describe the deficiencies in performance and give the employee specific actions they must take to improve performance. It should also

include a deadline by which the employee must demonstrate improvement. Supervisors can contact the Organizational Development Department for assistance in writing a PIP.

If the employee's job performance does not improve to a satisfactory level before the end of the time limit specified in the PIP, the employee may be disciplined. For example, the employee may be placed on disciplinary probation if they do not exhibit improvement in their performance while on a PIP. Departments should consult with the Employee and Labor Relations Division if an employee is on a PIP and they do not appear to be exhibiting a satisfactory level of improvement in their work performance.

Employees who have received a PIP during the performance period are not automatically prevented from receiving a performance-based pay increase.

## **7.4 Performance Management Cycle**

Employees receive a performance review every six months. The standard review periods are October-March and April-September, though shorter or longer cycles may be allowed depending on the employee's start date or other relevant organizational changes. New employees receive a performance review when they have completed their initial six-month (or extended) probation. The Pay for Performance program may be adjusted at any time to meet the need of the city.

## **7.5 Transition from Probationary Review to Common Performance Review Schedule**

After completing initial probation, an employee's review converts to the common six-month performance review cycle. New employees will usually have one appraisal cycle that will be either shorter or longer than six months based on date of hire.

Employees whose probationary review occurs between July 1 and December 31 will receive their next review in April, for the period ending on March 31st. Employees whose probationary review occurs between January 1 and June 30th will receive their next review in October, for the period ending on September 30th. Please refer to the chart below as an illustration of this transition. The performance cycle may be adjusted to meet the needs of the city and notification will be made to all employees prior to changes taking affect.

<b>Month of Hire</b>	<b>Probationary Review Due</b>	<b>Next Review Period</b>
January	July	July - March 31
February	August	August - March 31
March	September	September - March 31
April	October	October - March 31
May	November	November - March 31
June	December	December - March 31
July	January	January - Sept 30
August	February	Feb - Sept 30
September	March	March - Sept 30
October	April	April - Sept 30
November	May	May - Sept 30
December	June	June - Sept 30



## 7.6 Performance Pay Increases

The Pay for Performance program provides performance-based pay raises for Full-Time, Reduced Schedule, and Part-Time employees. In years when the program is included in the adopted budget, supervisors will recommend performance raises that are commensurate with the employee's performance results in the previous fiscal year. The City's fiscal year is October 1-September 30. Recommendations are subject to approval by the Department Director. The Pay for Performance program may be adjusted at any time to meet the need of the city and employees will be notified prior to changes taking affect.

### 7.6.1 Eligibility for Pay for Performance

To be eligible for the program, an employee must be a Full-Time, Reduced Schedule, or Part- Time employee as of March 31st of the previous fiscal year.

An employee is not eligible for the program if he or she meets one or more of the following criteria:

- Is a Temporary employee
- Was hired or re-hired into Full-Time, Reduced Schedule, and Part-Time position between April 1st and September 30th of the most recent fiscal year
- Was promoted, transferred, or reclassified between April 1st and September 30th of the most recent fiscal year and received a raise of 10% or more
- Received a special merit increase of more than 5% during the most recent fiscal year.
- Received an involuntary demotion during the most recent fiscal year.

### 7.6.2 Pay for Performance Considerations

#### Performance Pay for employees receiving acting pay:

If an employee is receiving acting pay at the time of the pay raise, the percentage increase will be based on the employee's regular pay rate rather than the acting payrate.

#### Performance Pay for employees who are paid above the top of the pay range:

If an employee's regular pay rate is higher than the maximum of their pay range, the employee will be eligible for a lump sum payment rather than an increase to their pay rate. The lump sum will be calculated by multiplying the supervisor's recommended percentage increase by the maximum pay rate for the pay range.

Performance Improvement Plans:

An employee who was on a Performance Improvement Plan (PIP) during the previous fiscal year is eligible to receive performance pay at their supervisor's discretion. The employee's supervisor will consider the totality of their performance during the performance year when making a pay raise recommendation.

Employees on Military Leave:

An employee who was on military leave during the performance year will be considered for a performance raise in accordance with Uniformed Services Employment and Reemployment Rights Act (USERRA) requirements.

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# 8. Employee Development, Incentives and Training

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## 8.1 Purpose and Introduction

The City of Fort Worth is committed to the development and training of its employees and providing opportunities for professional and personal growth to promote the City's mission of "Working together to build a strong community." To meet that goal, the City provides programs that will strengthen and improve the knowledge, skills, and abilities necessary for employees to perform assigned functions, educate employees about City policies, encourage personal growth, and assist supervisors and employees in complying with policies, practices, and laws. Training needs are identified through discussions with supervisors and employees, surveys and feedback, observations, and critical needs. The City strives to evaluate and assess its training programs and opportunities on a continual basis to ensure that specified training needs are being met. Supervisors may also consider training and development activities in performance appraisals.

The City of Fort Worth desires to demonstrate its appreciation for its employees and provides incentives, when possible and appropriate, such as tuition reimbursement and certification pay to assist employees who desire to enhance their productivity and effectiveness in performing their assigned duties.

General in-house and on-site training is provided by the Human Resources and/or Performance and Budget Departments. Funds may be made available in departmental budgets so that employees, with supervisory approval, can attend seminars, workshops, and training opportunities to develop and increase their work skills and abilities.

For questions about training or employee service awards, call the Performance Administrator in the Performance and Budget Department. For questions about tuition reimbursement, call the HR Manager for Benefits.

## 8.2 Tuition Reimbursement Program

The Tuition Reimbursement program addresses the City's commitment to employee growth and development. Reimbursed tuition must be directly related to an employee's current job or to a position with the City that requires the educational preparation. The employee's department reviews and approves tuition reimbursement requests, in consultation with Human Resources.

Funding for this program is subject to City Council approval and is limited to the fiscal year in which funds are budgeted. The program may be suspended at any point due to

City-wide fiscal constraints. In years when the program is funded, employees who meet the program criteria will be reimbursed for eligible expenses up to the individual employee cap. Information on the individual cap and tuition reimbursement process is available by contacting the Benefits Division of the Human Resources Department.

Applicants must submit a completed application to a designated Human Resources Department representative for review and verification of eligibility. The approval of a course or a degree plan is not a guarantee of a promotion or obtaining a position that requires or uses the training. Information regarding the tuition reimbursement application process and deadlines is available by contacting the Benefits Division of the Human Resources Department.

### **8.2.1 Eligibility Requirements for Tuition Reimbursement Program**

An employee may qualify to receive reimbursement for one degree at each level while employed with the City. For example, an employee may receive tuition reimbursement for one degree at the high school/GED level, one degree at the associate level, one degree at the undergraduate (bachelors) level, and one degree at the graduate (masters) level. Degrees that may have been obtained prior to City employment will not impact eligibility for tuition reimbursement during employment. For example, if an employee has obtained an undergraduate degree prior to employment, they may still be eligible for tuition reimbursement for an additional undergraduate degree while employed with the City if other eligibility requirements are met.

Doctorate level degrees (Ph.D.) are covered only if in a field highly-related to the employee's current classification with the approval of the Human Resources Director or designee.

Doctorate level degrees in Law (J.D.) are not eligible for reimbursement. Undergraduate, graduate, and doctorate-level degrees in religion are not eligible for reimbursement.

The requirements for an employee to apply for tuition reimbursement are:

- Must be a Full-Time employee participating in the City's retirement fund. Reduced Schedule, Part-Time, Temporary, or Seasonal employees are not eligible. Please see chapter 12 for additional information regarding position types.
- Must have successfully completed their initial probation and any extended probation before the published deadline for tuition reimbursement applications.
- Employees who are on probation due to a departmental change or a promotion are eligible to apply for tuition reimbursement provided that their new supervisor approves.
- Cannot currently be on disciplinary probation or have received a Performance Improvement Plan (PIP) during the most recent performance appraisal.
- Must have the approval of their supervisor and Human Resources before the deadline designated for tuition reimbursement applications.
- Cannot have any outstanding amounts on previous reimbursement overpayments.

To be eligible for reimbursement for an undergraduate course, an employee must attain a course grade of “C” or higher in a graded course, or a “pass” grade in an ungraded course.

To be eligible for reimbursement for a graduate course, an employee must attain a grade of “B” or higher in a graded course, or a “pass” grade in an ungraded course.

All courses must be taken and coursework must be done off duty. 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.

Courses that are not eligible for reimbursement under this program are: (1) Seminars and conferences; (2) Seminars, training, and review courses that deal with professional certifications or licensing; (3) audited courses or for noncredit, continuing education courses for which there is no grade; and (4) credits obtained through the College Level Examination Program (CLEP).

Individual departments may reimburse employees for classes that are not eligible for reimbursement under this program, such as short seminars, review courses, or certifications dependent on budgetary considerations and consistent with departmental policy and practice.

**The following are eligible tuition-related reimbursable fees** *(added for clarification on 6/1/18):*

- Tuition (paid by student or student loan)
- General University Fee(s)
- Registration Fee(s)
- Course Fee(s)
- Lab Fee(s)
- Library Services Fee(s)
- I.T. or Distance Learning Fee(s)

**Fees that are not eligible for tuition reimbursement include but are not limited to** *(added for clarification on 6/1/18):*

- Books/Resource Fee(s)
- Payment/Installment Plan Fee(s)
- Parking Fee(s)
- Late/Drop/Add Fee(s)
- Deposits/Breakage Fee(s)
- Supplies
- Medical/Health Insurance
- Room & Board

Incomplete forms or forms without all required documents attached may not be processed.

Forms and requests turned in beyond the published deadline will not be approved, processed, or paid.

College programs such as mini-terms/mini-sessions, distance learning, or quarter terms that are not set on a semester basis are eligible 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.

Courses must be taken at an accredited school, junior college, college, university, technical or trade school. (See Glossary for definition of accredited school.)

## **8.2.2 Administration, Payments, and Maximum Reimbursement**

Tuition Reimbursement is paid only once for each approved course per each degree level. Reimbursements are made as soon as practicable after receipt of the required paperwork, including an itemized receipt.

An employee who receives financial assistance for their education from another source must disclose the source and amount on the Tuition Reimbursement Application. The City does not pay for tuition and mandatory fees paid by other sources, such as scholarships, grants, Veterans benefits, or other subsidies. Any employee who receives reimbursements from the City for expenses that were paid by other sources must repay 100 percent of those funds before becoming eligible for any future reimbursements from the City.

The City's total tuition reimbursement cannot exceed the employee's education expenses.

## **8.2.3 Tuition Reimbursement Appeals**

If an employee requests tuition reimbursement and the request is denied by the Department Director, the employee can contact the Human Resources Manager for Benefits to try to resolve the dispute. The HR Manager for Benefits will discuss the dispute with the Human Resources Director. If the Human Resources Director disagrees with the Department Director's decision to deny an employee's request for tuition reimbursement, the Department Director and the Human Resources Director will work to reach a solution. If the Department Director and the Human Resources Director cannot agree, the Human Resources Director will discuss the appeal with the Assistant City Manager (ACM) of the Department Director. The final decision on the appeal is made by the ACM according to the provisions of this Tuition Reimbursement Policy.

## **8.2.4 Reimbursement Payback Provision**

An employee who receives an overpayment or incorrect amount of reimbursement is required to notify the Benefits Division of the Human Resources Department within 14 calendar days of receipt of the erroneous reimbursement. Employees are responsible for monitoring their pay advices and verifying reimbursement amounts. Employees are also expected to repay the City any overpayment. It is the responsibility of any participating employee to timely notify the Benefits Division of an overpayment. Failure of an active employee to timely notify the Benefits Division of an overpayment may result in

disqualification from receiving future tuition reimbursements and/or disciplinary action up to and including termination. Failure of a terminated employee to timely notify the Benefits Division of an overpayment of tuition reimbursement may result in the employee not being eligible for rehire.

Overpayment reimbursement may be deducted from an employee's paycheck and/or final paycheck with Human Resources Director (or designee) approval. Employees will be notified by the Benefits Division of any pending payroll deductions in regards to tuition reimbursement payback prior to the payroll deduction.

If an employee resigns or is involuntarily terminated before completing a course, the City is not obligated to pay reimbursement. An employee who voluntarily terminates, resigns, or retires within 12 months after receiving tuition reimbursement must repay 100% of the reimbursement. An employee who voluntarily terminates, resigns, or retires more than 12 months but less than 2 years (24 months) after receiving tuition reimbursement must repay 50% of the reimbursement.

An employee who is involuntarily terminated, or terminated because of a reduction in force, medical disability, or as a result of occupational injuries or illnesses, is not required to repay the money received for educational reimbursement and is not subject to the payback provision.

## **8.3 Annual Employee Service Awards**

The Annual Employee Service Award recognizes employees' tenure and dedication to service. One way to show this appreciation is by recognizing years of service with the City. Continuance of this and any employee recognition program is dependent on fund availability in each fiscal year's budget.

### **8.3.1 Eligibility**

All Full-Time, Reduced Schedule, and Part-Time employees become eligible for Service Awards at five-year intervals beginning with their fifth anniversary, with exceptions as noted below.

### **8.3.2 Presentation**

Employees eligible for a Service Award will receive from the City a Service Pin or equivalent award. The Service Pin or equivalent award is presented by the employee's Department Director or designee in a manner approved by the Department Director.

Full-Time and Reduced Schedule employees who are eligible for a 15-year Service Award are also awarded one service award personal holiday at the beginning of the year in which they reach the 15-year service time milestone. Full-Time and Reduced Schedule employees will also receive one service award personal holiday every five years following the 15-year Service Award in addition to the regular personal holidays all eligible employees receive. For

example, an employee who has worked for the City for 20 years will receive three personal holidays that year, but will only receive two personal holiday for their 21<sup>st</sup>, 22<sup>nd</sup>, 23<sup>rd</sup>, and 24<sup>th</sup> years. They will then receive three personal holidays again in their 25<sup>th</sup> year. The service award personal holiday must be used by the end of that calendar year. This is in addition to the personal holidays given to all full-time and reduced schedule employees as part of leave benefits. (See *Personal Holidays* policy in Chapter 5 for further information.)



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# 9. Safety Program

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## 9.1 Program Purpose and Introduction

The City is committed to providing a safe and productive work environment and strives to protect all employees. This is accomplished through the City's Safety Program which strives to save lives, prevent workplace injuries and illnesses, and protect the health and safety of all employees. This program provides guidelines for workplace safety and preventing illness and injury at work; governs compliance with safety-related policy and practice; prescribes training customized for avoidance of workplace dangers in different types of work environments; and enacts proactive measures to continually increase safety awareness and compliance according to observed trends.

For questions about this chapter, call the Risk Management Division of the Human Resources Department.

### 9.1.1 Role of Risk Management Division, Human Resources

The Risk Management Division of the Human Resources Department administers the City's Safety Program and establishes requirements, rules, and procedures applicable to all employees for the effective administration of the program.

Risk Management has the authority to establish a centralized safety committee; conduct routine accident investigations, safety inspections, and safety program audits to ensure program compliance; and to temporarily suspend work activities at any departmental employee work site that is deemed an imminent danger to the health and safety of employees.

### 9.1.2 Role of Department Director

In regards to the City's Safety Program, Department Directors shall be responsible for:

- Appointing a professional-level employee to serve as the department's safety coordinator (DSC). Large departments that annually experience large numbers of accidents and injuries should appoint one or more qualified full-time safety professional(s).
- Developing and maintaining a department-specific occupational health, safety and accident prevention plan(s) in accordance with Human Resources requirements.
- Including in the department's operating budget adequate funding for safety programs and training, personal protective and other safety equipment.

- Consulting with the Risk Management Division of the Human Resources Department to establish a departmental Accident Review Board (ARB). Departments should work with Risk Management regarding ARB processes as needed. Please see policy regarding the *Accident Review Board* in this chapter below or call the City's Risk Management Division for further information.

### **9.1.3 Department Safety Coordinator (DSC) Responsibilities**

After appointment by the Department Director, DSCs shall be responsible for the following components of the City's Safety Program:

- Serve as the liaison between the department and the assigned Safety Officer in the Risk Management Division regarding employee occupational health and safety matters affecting the department.
- Assist the Department Director to develop and maintain the department's safety and accident prevention plan(s) in accordance with Risk Management Division requirements. The department's plan(s) must be approved by the Risk Management Division and by the Department Director.
- Attend scheduled mandatory DSC Meetings. The meetings are chaired by the Risk Management Division. The meeting will be used to communicate safety policies and procedures and other safety-related materials.
- Work with supervisors and managers to perform job safety analyses on hazardous equipment, hazardous work duties, and hazardous work sites.
- Provide and/or coordinate safety training and establish a safety training schedule for departmental employees.
- Establish workplace safety inspection reports and schedules for the department.
- Serve as a professional safety resource to the department's Accident Review Board.
- Maintain all records of safety training, safety inspection reports, and accident investigation reports in accordance with Risk Management requirements and city records retention schedules.
- Provide quarterly and annual accident reports and statistics to the Department Director and department management team, to include suggestions for future accident prevention.

## **9.1.4 Authority of Department Safety Coordinator**

DSCs shall have the authority to: (1) conduct routine accident investigations; (2) conduct safety inspections and safety program audits to ensure program compliance; (3) require safety training for departmental employees; and (4) temporarily suspend work activities at any departmental employee work site that is deemed an imminent danger to the health and safety of employees.

## **9.1.5 Role of Supervisors and Managers**

### **9.1.5.1 Duties and Responsibilities for Ensuring a Safe Workplace**

Supervisors and managers shall be responsible for the following in regards to the City's Safety Program:

- Ensure that new employees receive an initial orientation regarding how to safely perform their job duties before the employee is allowed to perform the job. Supervisors shall not allow employees to perform work for which the employee has not received training for safe performance of the job.
- Provide repeated and documented (including employee acknowledgement) safety training to employees as necessary or required.
- Require employees to use and properly maintain safety equipment, including required personal protective equipment, safety apparel and work clothing. Supervisors and managers shall not require employees to work without appropriate equipment and apparel to safely perform the job.
- Require employees to maintain equipment according to manufacturer recommendations and recommended maintenance schedules.
- Require employees to visually inspect equipment prior to use.
- Require work zones to be properly marked for safety hazards prior to commencement of work by employees.
- Communicate to employees the requirement that employees must promptly report all accidents and injuries within 24 hours or the beginning of the next shift following the accident/injury. Supervisors shall obtain written acknowledgement from employees of this requirement on an annual basis at the time of annual performance appraisals.

- Hold employees accountable for their safety performance.
- Promptly investigate all accidents in accordance with established procedures and requirements. Supervisors and managers are expected to also use good judgement and discretion in determining appropriate actions to take in considering findings from the Accident Review Board (ARB) or other entities.
- Notify the department safety coordinator within 24 hours of each accident and injury to subordinate employees. If the injury is serious, notify the safety coordinator at the time of the accident.
- Notify the designated Risk Management Safety Officer or Risk Management manager immediately of any serious accident and/or life-threatening injury to subordinate employees.
- Attend all required safety trainings.
- Consistently serve as a role model for safe work behavior at all times.

#### **9.1.5.2 Supervisors' and Managers' Accountability for Safety**

Any manager or supervisor who fails to train and instruct their employees regarding safety policies, standards, regulations, rules, procedures, processes and commonly accepted safe work practices is subject to disciplinary action up to and including termination.

Any manager or supervisor who fails to require their employees to use required safety equipment, including personal protective equipment, is subject to disciplinary action up to and including termination.

### **9.1.6 Role and Responsibilities of Employees**

City employees shall be responsible for the following in regards to the City's Safety program. Failure to comply with these requirements may result in disciplinary action, up to and including termination.

- Know, understand, and follow safety regulations and rules that apply to the employee's job and the work being performed.
- Attend all required safety trainings.
- Wear personal protective equipment and work clothing required for safe job performance.
- Use other safety equipment, apparatuses and devices provided for safe job performance.

- Maintain assigned equipment according to recommended maintenance instructions and maintenance schedules.
- Possess a valid Texas driver's license required for the type of vehicle to be operated, if required by the employee's position or job functions. Employees who move to Texas from out of state, they are required to obtain a valid Texas driver's license within 90 days of moving to Texas, in accordance with state law. Human Resources may conduct driver's license records checks with the Texas Department of Public Safety to identify employees whose license is suspended or revoked.
- Obtain, maintain and possess personal automobile insurance coverage if the employee drives his/her personally owned vehicle in the performance of City business. In the event of a vehicle accident involving an employee's use of a personal vehicle while on City business, the City shall look first to the employee's personal auto insurance coverage for liability coverage.
- Complete the City's Vehicle Use Form annually and complete a Defensive Driving course at least every three years, if the employee drives on City business, whether in a City vehicle or personal vehicle, in the course and scope of the employee's job duties
- Fasten seat belts and harnesses while driving or riding in City-owned vehicles and privately-owned vehicles used for City business.
- Report immediately all hazards, unsafe conditions, unsafe equipment and unsafe acts of others to a supervisor, manager, department safety coordinator, or to the Risk Management Division.
- Provide a written report of all accidents and injuries in which the employee is involved or that the employee observes or learns of, to their immediate supervisor or manager within 24 hours, or at the beginning of the next shift. Failure to report an accident or injury may result in disciplinary action up to and including termination of employment.

#### **9.1.6.1 Employee Accountability for Safety**

Each employee is accountable for safely performing their job. If the employee is doing the job correctly, then the employee is doing the job safely. An employee who fails to observe and follow safety policies, standards, regulations, rules, procedures, processes and commonly accepted safe work practices is subject to disciplinary action up to and including termination. An employee who fails to use safety equipment provided, including personal protective equipment, is subject to disciplinary action up to and including termination.

## 9.2 Safety Rules, Regulations and Requirements

### 9.2.1 Safety Regulations

The City recognizes and follows the regulations below as primary standards and rules for workplace safety of employees:

- Title 29, Code of Federal Regulations, Occupational Safety and Health Act of 1970; Part 1910 for General Industry; and Part 1926 for the Construction Industry (Commonly referred to as the OSHA Standards) <http://www.osha.gov/law-regs.html>
- Regulations passed under the Commercial Vehicle Safety Act of 1986, Title 49, Code of Federal Regulations (CFR), Part 380 Special Training Requirements, Part 382 Controlled Substances and Alcohol Use and Testing, Part 383 Commercial Driver's License Standards, and Part 384 State Compliance with Commercial Driver's License Program. <http://www.fmcsa.dot.gov/regulations/title49/b/5/3>
- The Texas Commercial Driver License Act of 1989, as codified in the Chapter 522 of the Texas Transportation Code, as amended. <http://www.statutes.legis.state.tx.us/Docs/TN/htm/TN.522.htm>

The Risk Management Division may identify other regulations and standards and/or may develop and maintain other similar standards, regulations, rules and procedures as necessary to supplement OSHA standards for the health and safety of City employees. City employees, supervisors and managers shall follow these standards, regulations, rules and procedures unless a specific standard or regulation is waived by the Risk Management Division.

### 9.2.2 Safety and Accident Prevention Program

The Risk Management Division develops, maintains and implements a citywide occupational health, safety and accident-prevention program and plan that includes the major elements of an effective program as identified in the federal Occupational Safety and Health Administration's (OSHA) "Safety and Health Program Management Voluntary Guidelines." The Risk Management Division may develop procedures and processes as necessary for the effective administration and implementation of the Citywide Safety and Accident Prevention Program.

All City departments and all City employees shall support and follow the Citywide Safety and Accident Prevention Program plan and subsequent procedures and processes developed by the Risk Management Division. City departments shall also develop, maintain and implement health and safety programs and plans, consistent with the Risk Management's Citywide Safety and Accident Prevention Program, that address hazardous conditions to which employees of the department are routinely exposed in the performance of their jobs.

## **9.2.3 Requirements Related to Illnesses and Communicable Diseases**

### **9.2.3.1 Assisting Employees Who Become Ill at Work**

Employees who become ill at work should be attended to immediately. If the employee's medical condition is potentially serious or life threatening, the attending personnel should immediately call 911.

In nonemergency situations when the employee cannot continue working, the employee should seek medical attention from a doctor or hospital of his or her choice. If the employee requests assistance, the supervisor or designee must assist the employee in contacting the employee's designated emergency contact to arrange transportation for the employee. It is the employee's responsibility to seek assistance for arranging such transportation. If transportation cannot be arranged through the emergency contact, a supervisor or designee may arrange for transportation of the employee to his or her residence or to another location designated by the employee. The expense of transportation arrangements as applicable will be the responsibility of the employee.

### **9.2.3.2 Contagious and Communicable Diseases**

The City follows the recommendations promulgated and published by the U.S. Centers for Disease Control (CDC), Tarrant County Health Authority, and/or the City's occupational health services contractor.

The City reviews each communicable disease situation on an individual case-by-case basis. If a manager or supervisor suspects a contagious or communicable disease outbreak or exposure incident in the workplace, they should immediately contact the City's Risk Management Division in Human Resources for assistance. Any employee who feels they may have been exposed to a contagious or communicable disease should inform their department management or contact the Risk Management Division as soon as they are aware of the potential exposure.

Employees who contract a contagious disease that may be transmitted from one person to another via work-related contact are expected to seek appropriate medical attention and remain out of work until medically approved to return to the workplace. If employees come to work and may be suspected of having a contagious or communicable disease that could significantly impact others in the workplace, they may be required by the Department Director or Human Resources to leave the workplace and remain off work until such time that the infected employee may no longer transmit the disease to another person via work-related contact. The employee would be required to use accrued leave or be on leave without pay if no accrued leave is available. The Department Director may require

the employee to provide to the department Medical Records Custodian (MRC) a medical release from a medical doctor before allowing the employee to return to work.

### **9.3 Commercial Driver's License (CDL) Program**

The City maintains a fleet of commercial motor vehicles that are operated by CDL-qualified drivers. Questions regarding the CDL qualifications can be directed to the Risk Management Division.

### **9.4 Accident Review Board (ARB)**

It is incumbent upon every member of this organization to promote and cultivate a culture of safety within the City of Fort Worth. All employees are expected to work safely and ensure that all safety rules and regulations are observed by themselves and others. It is the obligation of every employee to address and report unsafe conditions and actions. To assist in cultivating a culture of safety, departments shall establish an Accident Review Board (ARB) or utilize the centralized Safety Committee through the Risk Management Division to conduct reviews of vehicular accidents, property damage, and work-related injuries. Typically, large departments will establish a departmental ARB and smaller departments will refer matters to the centralized Safety Committee for review. The ARB or centralized Safety Committee will review all vehicular/equipment accidents, and any work-related injuries that lead to treatment from a licensed medical provider. For each case reviewed, the ARB or centralized Safety Committee will identify the root cause and classify vehicular accidents as either Chargeable/Non-Chargeable or non-vehicular accidents as Preventable/Non-Preventable. The ARB or centralized Safety Committee may recommend preventative actions to ensure hazards discovered during the review process are properly addressed.

#### **9.4.1 Departmental Investigation**

Before the Accident Review Board or Safety Committee assembles to review an accident or injury, the investigation of that incident by the department must have already taken place. The investigation should include a review of the driver and/or injured employee's detailed written statement, the accident report, police report(s) as applicable, pictures and/or diagram of the accident scene, witness statement(s) as applicable, any supporting documentation, and the investigator's written report, which summarizes the investigation that was conducted. The investigation materials will be provided to the ARB or centralized Safety Committee for review.

#### **9.4.2 ARB Processes**

It is strongly recommended that accidents and incidents be reviewed by the ARB or centralized Safety Committee within 30 days from the date of occurrence and that if reviews occur beyond 30 days, there is a documented reasonable justification for the delay. The objective of the accident review process is to determine the preventability of events



that result in vehicular/equipment accidents and employee injuries, and to recommend appropriate organizational or individual preventative action(s).

The departmental ARB shall consist of a Facilitator and Board Members appointed by the Department Director. The composition of the ARB should fairly portray the units within a department, provide adequate representation from all areas of operations, and include members to represent all levels of employment, with alternates for each member serving on the board. All determinations will be made by a majority vote of board members present.

The Facilitator will conduct ARB meetings, record and maintain pertinent information concerning board activities, compile necessary documents for distribution at the meetings, notify workers, supervisors, and ARB members of future meeting details, participate in interviews and information gathering, and vote as needed (only when there is a tie among the accident review board or when sitting in place of an absent board member). ARB members will participate in interviews and information gathering, discuss findings and make individual recommendations, vote, and if unable to attend a regularly scheduled meeting, the ARB member must contact his/her alternate and make arrangements for that person to attend.

During an ARB meeting, the Facilitator will call the meeting to order and make note of present members. The ARB will review the investigation packet, provide the involved employee an option to provide a statement and answer questions from ARB members, interview the supervisor and witnesses (as applicable), engage in discussion as needed, and vote on the classification of the incident as chargeable or not (for vehicle accidents) or preventable or not (for non-vehicular accidents). Vehicle accidents will be classified as chargeable if the employee is found to be in violation of a traffic law or departmental regulation which is a contributory factor in the accident. Non-vehicular accidents will be classified as preventable if the employee has failed to do everything reasonably expected to avoid the accident. For example, if it is determined that the employee was not cautious, used poor judgment, and/or did not follow safety-related policies, procedures, or practices, the accident may be classified as preventable.

### **9.4.3 ARB Authority and Requirements**

The ARB has authority to request additional information concerning the investigation of accidents and unsafe conditions or practices. The ARB does not have the authority to initiate disciplinary action as a result of their findings. The ARB is required to record all proceedings and findings in writing and maintain those documents in accordance with the City's record retention guidelines. It is strongly suggested that the ARB consult with the Risk Management Division in Human Resources as needed and share records as requested by Risk Management so that trends and preventative actions can be monitored City-wide.

### **9.4.4 ARB Findings and Appeal Process**

Findings of the ARB shall be provided in writing to the Manager of the division to which the employee is assigned with a copy to the Risk Management Division. Within five (5) business days of receiving the ARB's decision, the Division Manager will notify the employee

and his/her supervisor in writing of the decision and inform the employee of his/her right to appeal. Any appeals of the ARB's decision must be made in writing to the Facilitator within five (5) business days of notification of the determination and should state why the employee thinks the accident should have been determined to be non-chargeable or non-preventable.

Questions regarding the ARB process can be directed to the Risk Management Division of the Human Resources Department.

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# 10. Occupational Injury Benefits Program

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## 10.1 Purpose

The City strives to ensure that employees who are injured in the course and scope of performing their jobs are provided available supports and assistance toward the goal of returning to work as healthy and as quickly as possible. This policy will provide information on resources available in such situations. City employees may be eligible to receive workers' compensation medical benefits and income benefits if injured in the course and scope of performing their jobs.

The City of Fort Worth's workers' compensation program is a self-insured workers' compensation program as defined by the Texas Labor Code, §504.011(1). The City provides workers' compensation benefits to employees in accordance with the Texas Labor Code and Administrative Rules (Admin. Rules) adopted by the Texas Department of Insurance, Division of Workers' Compensation (DWC).

The Occupational Injury Benefits Program applies only to compensable injuries sustained in the course and scope of employment. Injuries that are not compensable are considered non-occupational injuries. Compensability of injuries and payment of workers' compensation benefits are governed by the Texas Labor Code and the Admin. Rules (Please see *Glossary* for applicable definitions of terms used in this Chapter).

For questions about this chapter, call the Assistant Director or the HR Manager for Risk Management.

## 10.2 Duties, Responsibilities, and Authority within the Occupational Injury Benefits Program

### 10.2.1 Role of the Risk Management Division

The Occupational Injury Benefits Program is administered by the Risk Management Division of the Human Resources Department. The Human Resources Department establishes requirements, rules and procedures for the effective administration of the program.

### 10.2.2 Role of Department Director

Department Directors shall appoint a professional-level employee and an alternate as the department's Workers' Compensation Coordinator (WCC), who shall serve as the department's single point of contact for workers' compensation and return-to-work

coordination purposes.

### **10.2.3 Role of Workers' Compensation Coordinator (WCC)**

Department WCCs shall be responsible for the following with regard to the City's Occupational Injury Benefits Program:

- Coordinate with Human Resources, the Third Party Administrator (TPA), and injured departmental employees and their supervisors regarding the City's occupational injury benefits and return-to-work programs, and report issues and problems promptly to Human Resources for resolution.
- Obtain information from injured employees, coworkers and their supervisors that is required by state workers' compensation laws and regulations and as required by the City's Personnel Rules and Regulations (PRRs) and Human Resources procedures to establish, investigate, and manage claims for workers' compensation benefits; and timely report such information on forms as required by state law, the PRRs and Human Resources.
- Contact injured employees prior to follow-up doctor appointments to remind them (1) of the appointment, and (2) that they must provide a completed DWC-73 to the WCC following the appointment.
- Monitor claims while employees are receiving occupational injury leave benefits; monitor injured employees' ongoing eligibility to receive Disability Supplement Pay (DSP).
- Serve as or assist the department/division timekeeper with records and dates pertaining to injured employees' lost time and/or transitional duty time to ensure that time and attendance records accurately reflect periods of lost time and transitional duty as determined by the claims adjuster handling the workers' compensation claim and/or Human Resources; assist the timekeeper with records and dates pertaining to the payment of DSP in accordance with the PRRs. Recoup any overpayments to injured employees/claimants according to procedures established by Human Resources and Payroll.
- In accordance with the rules and instructions from Human Resources, post in the workplace and maintain all DWC-required notices relating to workers' compensation.
- Provide quarterly and annual reports to the Department Director and department management that summarize employee injuries and claims of the department.
- Monitor and track an injured employee's health care appointment attendance and inform the MRC (as needed) if an employee fails to attend a health care appointment.

### **10.2.4 Authority of Workers' Compensation Coordinators**

In regards to the City's Occupational Injury Benefits Program, Departmental WCCs shall have the authority to:

- Require employees and supervisors to provide required information and to complete and file such forms as necessary to comply with the Texas Labor Code, Admin. Rules, City PRRs, and Human Resources procedures; and
- Report non-compliance by employees and supervisors to departmental management and to the Risk Management Division of the Human Resources Department.

#### **10.2.4.1 Authority of Medical Records Custodians**

Department Medical Records Custodians (MRCs) shall be responsible for the following in regards to the City's Occupational Injury Benefits Program:

- Coordinate with the department's WCC and injured/ill departmental employees and their supervisors regarding the protection of the confidentiality of medical records received by the City;
- Receive, maintain and retain employee medical records and information, as well as maintain the confidentiality and proper release of such records and information in accordance with the City's Administrative Regulation - *Protection of Medical Information*;
- Promptly provide workers' compensation medical records to the Risk Management Division as required by the personnel rules and regulations and by Human Resources procedures; and
- Ensure FMLA leave is designated and runs concurrently with occupational injury leave as applicable and available.

#### **10.2.5 Role of Supervisors and Managers**

In regards to the Occupational Injury Benefits Program, supervisors and managers are responsible for communicating to employees that they are required to report all accidents and injuries to a supervisor or manager within 24 hours or at the beginning of the employee's next shift. This communication can be done through such means as departmental policy, staff meetings, departmental training opportunities, or other means as effective per business needs. Written employee acknowledgement regarding this notification requirement will be obtained when employees are initially hired and should be renewed on a regular basis (e.g., annually or bi-annually) by supervisors or managers.

When notified by an employee that an injury has occurred, supervisors and managers must complete the Employer's First Report of Injury form (DWC-1) the same day of the injury or at the beginning of the supervisor's or manager's next shift. Notification by the employee may be either verbal or in writing. The supervisor or manager, rather than the employee, must complete the DWC- 1, and submit the DWC-1 to the department's WCC.

If medical treatment is sought by the employee, supervisors and managers must do the following:

- (1) Inform the injured employee that she or he must seek medical treatment for the injury from a Primary Treating Physician within the Blackstone Health Care Network, unless a serious medical emergency exists. See Section 10.6 of these Personnel Rules and Regulations for more details.

- (2) Provide to the injured employee the “City of Fort Worth Blackstone Provider Group 504 Medical Care Program Acknowledgement Form”. See Section 10.6.7 for more details.
- (3) Require the injured employee to submit a completed, signed DWC-73 “Work Status Report” to the department’s MRC and/or WCC following each medical examination visit to a workers’ compensation examining doctor. The DWC-73 is not required when the employee is taken to a hospital emergency room or is admitted to a hospital. However, a medical release from the hospital that specifies the patient’s work status is required in place of the DWC-73.

Supervisors and managers are required to provide transitional duty assignments to employees, if such assignments are available, when an employee is released by an examining doctor to return to work with restrictions, and ensure that duties being performed while an employee is on transitional duty are within the examining doctor’s identified restrictions. The supervisor or manager will work with the WCC to provide a bona fide offer of employment to the return-to-work employee if there are physical/medical restrictions.

## 10.2.6 Claim Reporting Requirements

In regards to the City’s Occupational Injury Benefits Program, employees are responsible for timely reporting any injury that occurs in course and scope of performing their jobs and complying with required appointments, communicating with their department, and providing pertinent documentation or information in a timely manner.

### 10.2.6.1 State of Texas Workers’ Compensation Requirements for Employees

In summary, the State of Texas has established the following specific requirements that injured employees must follow in order to qualify for workers’ compensation benefits.

**Notification Requirement.** The employee must notify a supervisor or manager within 30 days of injury. Notification may be either verbal or in writing. If notification is not received within 30 days from the date of injury, the employee’s claim for workers’ compensation benefits may be denied. The date of injury for an occupational disease is the date the employee knew or should have known that the disease (injury) may be related to their job.

**Claim-Filing Requirement.** The employee must file form DWC-41, “Employee’s Claim for Compensation for a Work-Related Injury or Occupational Disease” within one (1) year of the date of injury or within one year of the date the employee knew or should have known an occupational disease may be work related. This form must be filed with the DWC at the address provided on the form. If the DWC-41 is not received by DWC within one (1) year from the date of injury, the employee’s claim for workers’ compensation benefits may be denied. Details of the State of Texas workers compensation requirements and regulations are located at the following links:

- Texas Labor Code: <http://www.statutes.legis.state.tx.us/>
- Texas Administrative Code, Title 28, Part 2:  
[http://txrules.elaws.us/rule/title28\\_part2](http://txrules.elaws.us/rule/title28_part2)

### **10.2.6.2 City of Fort Worth Workers' Compensation Requirements for Injured Employees**

The City of Fort Worth has established the following requirements and procedures that an employee with an on-the-job injury must follow. An injured city employee must:

- Comply with the Texas Labor Code, Admin Rules, and City PRRs for workers' compensation.
- Complete and sign the City's notice of injury form, "Employee's Report of Injury to the City of Fort Worth." Submit the form to the WCC within 24 hours of the date of injury, or at the beginning of the employee's next shift (if the 24-hour window falls outside normal business hours such as on a weekend or holiday, or on a day the employee is not scheduled to work).
- Complete and sign the City's "*Authorization to Release Medical Information*" form. Complete the form within 24 hours of the date of injury, or at the beginning of the employee's next shift. Submit the form to the department's WCC.
- Seek medical attention for the injury from a Primary Treating Physician or referral physician from within the City of Fort Worth's "Blackstone Health Care Provider Network" (Blackstone Network). Refer to Section 10.6 of these Personnel Rules and Regulations for more details of the Blackstone Network.
- Sign the City's "City of Fort Worth Blackstone Provider Group 504 Medical Care Program Acknowledgement Form". See Section 10.6.7 for more details.

Attend all scheduled health care provider appointments unless good cause exists for not attending. The employee must notify the healthcare provider and the department's WCC if unable to attend a scheduled health care provider appointment prior to the appointment time, if possible.

- Provide DWC-73 form completed by an examining doctor to the WCC following each doctor appointment. The DWC-73 form should be turned in on the same day as the doctor appointment or, if not possible, on the next business day.
- Attend all dispute resolution hearings and medical appointments scheduled by DWC, unless good cause exists for not attending.

### **10.2.6.3 Working a Second Job While on Workers' Compensation**

An employee who is taken off work by an examining doctor may not work a second job and at the same time be paid workers' compensation income benefits and/or city disability supplement pay. Working a second job and receiving workers' compensation income benefits may be considered a willful and intentional attempt by the injured employee to fraudulently obtain workers' compensation benefits. The injured employee may be in violation of the pertinent Texas Labor Code provision and may be subject to administrative penalties and fines from the Texas Department of Insurance, Division of Insurance, and could be ordered to pay restitution for benefits received. In addition, an employee who works a second job while on workers' compensation shall not receive disability supplement pay (DSP) from the City. Requests for a waiver from the requirements of this section should be directed first to the employee's Department Director. If the Department Director determines that the request for a waiver is justified, he or she will forward the waiver request to the Human Resources Director, who will approve or deny the request. If the Department Director determines that the request for a waiver is not justified, no waiver will be submitted to the Human Resources Director.

### **10.2.6.4 Workers' Compensation Benefits Coverage for Off-Duty Employees**

This section applies to 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 own injury or death.

- 1) Employees who respond to an imminent threat to life or physical well-being, while off duty, will be considered acting within the course and scope of their employment with the 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: 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.

#### 10.2.6.5 Compliance

An employee's failure to comply with state law and/or the City's policies regarding Workers' Compensation may result in the suspension or denial of DSP benefits, and/or may result in disciplinary action up to and including termination in accordance with City personnel policies and procedures.

### 10.3 Disability Supplement Pay (DSP)

General employees receiving workers' compensation temporary income benefits (TIBS) under the Texas Labor Code may also be eligible to receive disability supplement pay (DSP) from the City.

To qualify for DSP and to maintain eligibility to continue receiving DSP an employee must not be:

- an employee scheduled to work less than 40 hours per week (i.e. Reduced Schedule or Part-time, Temporary, or Seasonal employee);
- in the initial employment probationary period or an extension of the initial probationary period; or
- on disciplinary probation.

To remain eligible to receive DSP, an employee must comply with all provisions of the preceding sections entitled *City of Fort Worth Workers' Compensation Requirements for Injured Employees*, and *Working a Second Job While on Workers' Compensation*.

The amount of DSP an employee may be eligible to receive is based on the following:

LENGTH OF SERVICE	DSP AMOUNT CALCULATION
Within the initial or extended probationary period	Not Eligible
From the end of initial or extended probationary period to five (5) years of service	50% of Normal pay minus Weekly TIBS Formula: (REG x .50) – TIBS = DSP
Five (5) years to ten (10) years of service	75% of Normal pay minus Weekly TIBS Formula: (REG x .75) – TIBS = DSP

Ten (10) or more years of service	100% of Normal pay minus Weekly TIBS Formula: (REG x 1.00) – TIBS = DSP
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DSP shall be paid based on the injured employee’s normally scheduled hours. DSP begins after the TIBS waiting period of the first seven days of lost time. The employee must use accrued leave (e.g. vacation, compensatory time, short term sick/family leave) for normally scheduled hours during the TIBS waiting period. If accrued leave is not available, the employee is placed on unpaid leave of absence.

City Marshals will receive full salary the first seven days of lost time consecutive or intermittent. Beginning on the eighth day, eligible Marshals will receive DSP according to their length of service. DSP shall be paid based on the injured Marshal’s normally scheduled hours.

An employee must coordinate with their workers’ compensation coordinator (WCC) to use accrued leave to supplement their pay up to the normal weekly gross pay. The combination of DSP plus workers’ compensation TIBS plus accrued personal leave benefits cannot exceed an employee’s normal pay in any week of a pay period. If an employee is overpaid by the City for DSP, or is overpaid by a combination of DSP and income benefits from the TPA that exceed the employee’s normal pay, the employee must agree with the department to a reimbursement schedule and reimburse the city for the overpayment.

DSP benefits shall be suspended whenever an employee who is receiving workers’ compensation benefits desires to go on vacation. DSP benefits may be reinstated after the employee returns from vacation, if the employee otherwise remains eligible to receive DSP.

An employee who is not eligible to receive DSP or whose payroll deductions exceed the combined DSP and accrued leave usage amount is placed in an “arrears status” for the employee's portion of health insurance premiums, credit union loans, and other such authorized payroll deduction, or the employee must make other arrangements for payments while on leave without pay. The deductions placed in arrears will be continued when the employee returns to work per the conditions set forth in the repayment agreement. All normal paycheck deductions (e.g., taxes, health and dental insurance premiums, court ordered child support, and picked-up retirement contributions) will continue to be deducted from disability supplement pay.

Disability supplement pay shall end at the earliest of the following:

- The employee is placed at Maximum Medical Improvement by a doctor, and no longer is entitled to workers’ compensation Temporary Income Benefits (TIBS)
- The expiration of one year cumulative of lost time from work for which the employee is entitled to TIBS

Disability supplement pay shall not be paid to an employee who is receiving other types of workers’ compensation income benefits (impairment income benefits, supplemental income benefits, lifetime income benefits).

If there are overpayments of disability supplement pay, regardless of cause, the amount of the overpayments will be recovered in whole or in partial payments from future paychecks, as agreed upon by the department and the employee and set forth in a repayment agreement. The recovery may begin while the employee is on lost time or transitional duty. In no case will such a recovery reduce an employee's pay check so that he or she would be paid less than minimum wage for the hours actually worked. Overpayments of income benefits made by the TPA shall be recovered by the TPA from future income benefits.

## **10.4 Time and Attendance Rules for Employees Receiving Workers' Compensation**

The following time reporting rules apply to employees receiving workers' compensation medical and/or income benefits for a compensable injury.

### **10.4.1 Day of Injury**

The day of injury is a full day of normal pay at the employee's normal pay rate. If the shift carries over into the next day, time is recorded as normal pay for the entire shift.

The injured employee must use accrued leave for normal scheduled hours during the TIBS waiting period, except for City Marshals who receive DSP at normal pay for normal scheduled hours during the TIBS waiting period. If accrued leave is not available during the TIBS waiting period, the employee will be placed on leave without pay during the TIBS waiting period.

### **10.4.2 Lost Time**

Lost time is time away from work because of a compensable on-the-job injury.

#### **10.4.2.1 General Lost Time Policies**

DSP shall begin after the TIBS seven-day waiting period has expired. DSP ends at the first occurrence of the following:

- when the employee reaches Maximum Medical Improvement (MMI);
- when the employee is returned to work in either full duty or transitional duty capacity; or
- when the employee has 365 days (cumulative) of lost work time.

The employee may use available accrued leave to further supplement the employee's TIBS and DSP, up to the gross amount of the employee's normal pay.

If accrued major medical sick leave (MMSL) is used to supplement TIBS and DSP, the employee must use 56 consecutive hours of other available accrued leave and/or leave without pay before MMSL may be used. The 56 hours

cannot be incremental and cannot be applied to an incremental TIBS 7-day waiting period. The 56 hours must be applied to normally scheduled hours. See *Major Medical Sick Leave* policy in chapter 5 for further information.

The employee continues to accrue all leave while on lost time for a compensable injury. An employee off work for a compensable injury accrues vacation leave and sick leave, but does not accrue holiday leave or receive holiday pay. The employee shall not earn special pays while on lost time for a compensable injury.

An employee who is off work for more than three consecutive work days should be notified by their MRC that the absence will be reported as FMLA leave. FMLA leave will run concurrently with lost time for a compensable injury. See *Family Medical Leave Act* policy in Chapter 5 for further information.

DSP shall not be paid on furlough days.

While on lost time, an employee cannot use workers' compensation leave (WCL) to attend doctor appointments.

#### **10.4.2.2 Vacation While on Worker's Compensation**

An injured employee who is taken off work by his/her doctor due to the injury but desires to go on vacation must notify his/her supervisor or manager that he/she intends to take the vacation. The employee shall provide to his/her supervisor/manager documentation from his/her doctor stating the employee is physically able to go on the vacation. The employee must use available accrued leave during the vacation period. If accrued leave is unavailable, the employee must go on unpaid leave of absence. The City will not pay temporary income benefits or line of duty injury leave of absence benefits during any vacation period. This applies to injured employees who are receiving workers' compensation benefits for partial days of lost time from work as well as employees who are receiving workers' compensation benefits for full days of lost time from work.

#### **10.4.2.3 Other Medical Conditions While on Worker's Compensation**

An injured employee with a compensable injury who must be off work due to a serious medical condition that is unrelated to the compensable injury must notify his/her supervisor or manager that he/she must be off work due to the unrelated medical condition. The employee shall provide to his/her supervisor/manager documentation from his/her doctor stating the employee is unable to work due to the unrelated medical condition. The employee must follow City personnel Rules and Regulations related to sick time and the Family Medical Leave Act. The employee must use available accrued leave during the recuperation period. If accrued leave is unavailable, the employee

must go on unpaid leave of absence. The City will not pay temporary income benefits or line of duty injury leave of absence benefits during any recuperation period.

An injured employee who has been released by a doctor to return to work with restrictions to duty (i.e., restricted duty; limited duty; transitional duty) and the employee needs to be away from work due to an unrelated injury for a period of three days or less must notify his/her supervisor or manager that he/she must be off work due to the unrelated medical condition. The employee must follow City personnel Rules and Regulations related to sick time and the Family Medical Leave Act. The employee must use available accrued leave during the recuperation period. If accrued leave is unavailable, the employee must go on unpaid leave of absence. The City will not pay temporary income benefits or line of duty injury leave of absence benefits during any recuperation period.

This policy applies to injured employees who are receiving workers' compensation benefits for partial days of lost time from work as well as employees who are receiving workers' compensation benefits for full days of lost time from work.

Please see the section above titled Vacation While on Worker's Compensation for further information as it applies to injured employees who are receiving workers' compensation benefits for partial days of lost time from work as well as employees who are receiving workers' compensation benefits for full days of lost time from work

### **10.4.3 Transitional Duty for a Compensable Injury**

An employee working in a transitional (limited) duty assignment must record their work time as transitional duty (LDU) hours if restrictions or limitations to duty are specified by an examining doctor. While on transitional duty, an employee cannot work overtime, cannot earn overtime pay or compensatory time, and cannot be on call or on stand-by duty if in conflict with medical restrictions or limitations to duty as specified by an examining doctor. An employee on transitional duty may use available accrued leave in accordance with normal leave request procedures.

If an employee who has been released to return to work takes a prescription drug prescribed by an examining doctor that adversely affects the employee's job performance, or the safety of the employee or others, the employee must either not come to work and utilize their department's absence notification procedures, or leave the workplace after notifying their supervisor, and must use available accrued leave. If accrued leave is not available, the employee will be placed on leave of absence without pay.

#### **10.4.4 Workers' Compensation Leave (WCL)**

An employee who is on transitional duty or who has returned to full duty is allowed two hours per day of WCL from work, including travel time, to attend a health care appointment related to the compensable injury. Additional time may be allowed if the employee provides proof from the health care provider justifying the additional time. Such proof must state the time of arrival at the appointment and the departure time. In no event will WCL exceed four (4) hours in one day.

If the employee works a night shift, the employee is allowed WCL during the day to attend a doctor or other health care provider appointment for a compensable injury. In addition, the employee may receive the appropriate shift differential for the WCL hours. During the work week that includes this appointment, the employee is required to coordinate with the employee's supervisor to reduce the employee's scheduled hours by the number of WCL hours taken.

If the employee works a day shift and has a doctor or other health care provider appointment for a compensable injury on a day off, the employee is allowed WCL hours to attend the appointment during the day off. During the work week that includes this appointment, the employee is required to coordinate with the employee's supervisor to reduce their scheduled hours by the number of WCL hours taken.

WCL is paid at the employee's normal pay rate and does not count toward their 40-hour work week. WCL does not count as hours worked for the purpose of calculating eligibility for overtime.

#### **10.4.5 Maximum Medical Improvement (MMI)**

The following rules apply when an examining doctor has determined that an employee with a compensable injury has reached MMI (See *Glossary*):

- The date Human Resources receives the document from an examining doctor that places an employee at MMI shall be the date for time reporting code changes related to MMI.
- If, after the employee has reached MMI, an examining doctor releases the employee to return to work full duty, the employee may be eligible to utilize Major Medical Sick Leave benefits for continuing medical conditions related to the compensable injury. The employee must meet all requirements specified by the MMSL policy.
- The employee must submit a written request to the Department Director requesting use of MMSL. Documentation from an examining doctor to justify the leave must be provided to the departmental MRC to support the employee's request.
- If, after the employee has reached MMI, an examining doctor determines the employee is unable to return to work due to a compensable injury, the employee's department will refer the employee to the Human Resources Employee and Labor Relations Division to engage in an interactive process (Please refer to the *Glossary* for more information.) with the employee and assess the appropriateness of the employee's situation for ADA

accommodations. See *Inability to Perform Essential Job Functions* in Chapter 11.

- The employee must use accrued leave, and may request use of MMSL while they are unable to work.

If, after the employee has reached MMI, the examining doctor releases the employee to return to work full duty with no restrictions, the employee is not eligible for further TIBS. If, because of an examining doctor's restrictions on an employee's return to work, the employee must be off work and lose time due to the compensable injury, the employee must use available accrued leave, including MMSL, or, if none is available, request approval for a leave of absence without pay.

If, after an employee has reached MMI, an examining doctor determines the employee is able to return to work from a compensable injury, but with restrictions to duty, the employee's department will refer the employee to Human Resources to engage in an interactive process and for potential initiation of the ADA accommodations process. See Chapter 11, Section entitled *Inability to Perform Essential Job Functions*. The department and Human Resources will determine if the employee can perform the essential functions of the job with a reasonable accommodation for the duty restrictions. If a reasonable accommodation can be provided by the department, the employee is returned to work in a modified-duty capacity. If a reasonable accommodation cannot be provided by the department, the employee continues the interactive process with Human Resources for ADA accommodations assistance. The employee must use available accrued leave, including MMSL, or, if none is available, request approval for a leave of absence without pay, until the interactive process is completed and an employment decision has been made.

## 10.5 Workers' Compensation Control Group

A workers' compensation control group (WCCG) is available to department supervisors and managers to temporarily fill positions occupied by employees who are unable to work or who are in a less than full-duty status because of an occupational injury or illness.

The employee's department must continue to pay the salary of an employee transferred into the WCCG when the employee is in a less than full-duty status.

## 10.6 Blackstone Health Care Provider Network

In accordance with the Texas Labor Code, §504.053, the City of Fort Worth has contracted with certain health care providers to provide a network for medical treatment and care of City of Fort Worth employees who are injured in the course and scope of employment. This workers' compensation network is known as the "Blackstone Health Care Provider Network" (Blackstone Network). The Blackstone Network has been developed as part of the City's contract for third party workers' compensation claims administration services. Through the Third Party Administrator (TPA) and a health care credentialing subcontractor, the City directly contracts with certified health care professionals to provide medical care to City employees through the Blackstone Network. The effective date of the Blackstone Network was October 1, 2016.

### **10.6.1 Purposes of the Blackstone Network**

The purposes of the Blackstone Network are two-fold:

- provide the highest quality medical treatment and services available to injured City employees
- return injured employees to the workforce as soon as the employee is medically able to do so

### **10.6.2 Blackstone Network Website**

The Blackstone Network maintains a website that contains information for employees, supervisors and health care providers regarding the Network. Included on this website is a list of providers by medical specialty that are authorized to participate in the Blackstone Network. The URL of the website is: <http://Blackstonecfw.com/>.

### **10.6.3 Medical Treatment of Injured Employees**

City of Fort Worth employees who are injured in the course and scope of employment are required to seek medical treatment for their injury from a contracted health care provider within the Blackstone Network.

Failure of a City employee to obtain medical treatment and services from an authorized Blackstone Network health care provider will result in denial by York RSG for payment of such treatment and services, and the employee shall be responsible for payment of medical services rendered.

Employees must select a treating doctor from among the list of Primary Treating Doctors on the Blackstone Network website. If an employee's Primary Treating Doctor makes a referral to a specialty doctor, such referrals will be made to a specialty doctor on this list.

A Blackstone Network provider must authorize any and all lost time away from work.

### **10.6.4 Exceptions to Medical Treatment by Blackstone Network Providers**

If an emergency situation exists, the injured employee may go to any emergency medical facility for medical treatment. A medical emergency is defined as the sudden onset of acute symptoms of sufficient severity that necessitates immediate medical attention. Once the medical emergency situation has passed, the injured employee must then select a Primary Treating Provider from the list of Blackstone Network providers for all subsequent medical care.

If medical services are required by a health care provider that is not in the Blackstone Network, provisions will be made by the TPA to authorize reasonable and necessary medical care by outside providers for payment by the TPA and the City's self-insured workers' compensation program. At the discretion of the TPA, such health care providers



may be supplied with an application to become an authorized provider in the Blackstone Network.

“Legacy claims”, i.e., those claims with dates of injury that pre-date implementation of the Blackstone Network on October 1, 2016, are evaluated by the TPA and credentialing subcontractor on a case-by-case basis to determine if these claims should be brought into the Blackstone Network.

### **10.6.5 Health Care Provider Applications to become an Authorized Blackstone Provider**

Health care providers may submit an application to the TPA to request becoming an authorized provider in the Blackstone Network. City employees may also nominate health care providers for the Blackstone Network. All applicants will be thoroughly reviewed and credentialed by the TPA and credentialing subcontractor. Only those health care providers that are approved by the TPA and credentialing subcontractor may participate as a contract provider in the Blackstone network. Requesting health care providers are offered no assurance that their application will be approved.

### **10.6.6 Blackstone Employee Acknowledgement Form**

Upon receipt of notification of an on-the-job injury or illness, the Departmental Workers' Compensation Coordinator must provide the injured employee with a “City of Fort Worth Blackstone Provider Group 504 Medical Care Program Acknowledgement Form”. The employee is required to sign and return the form to the Departmental WCC within 24 hours of receipt of the document. Upon receipt of the signed acknowledge form, the Departmental WCC should forward the document via fax, email or hand delivery to HR Risk Management. This notification / acknowledgement form is provided on the HR Forms page on the City's intranet. Link: <http://www.cfwnet.org/hr/forms.htm>.

## **10.7 Dispute Resolution**

A claim for workers' compensation is a claim against the City of Fort Worth. Any and all disputes that may arise among parties to a workers' compensation claim shall be resolved or adjudicated in accordance with the Texas Labor Code, Chapter 410, and by Admin. Rules 140 through 152.

Employees have the right to professional assistance regarding their claim for workers' compensation. Such professional assistance is available at no cost to the injured employee from the Office of Injured Employee Counsel, an agency of the State of Texas.

Employees also have the option to retain legal representation regarding their claim for Workers' Compensation. If the employee hires an attorney and TIBS are being paid, the attorney's fees can be deducted from weekly TIBS payments made by the TPA. If TIBS are not being paid, arrangements for the payment of attorney's fees must be determined between the employee and his or her attorney.

The City shall not provide legal representation to an employee to assist the employee during

dispute resolution proceedings concerning Workers' Compensation benefits.

## **10.8 Noncompliance**

Employees who fail to comply with the provisions of the Texas Labor Code and Admin. Rules are subject to potential administrative violations and penalties as set forth in Texas Labor Code Chapter 415.

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# 11. Return-to-Work Program

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## 11.1 Purpose and Introduction

The City provides a return-to-work (RTW) program to assist employees in returning to the workforce as soon as the employee is physically and medically able following both work-related and non-work related injuries and illness. The Risk Management Division of Human Resources administers the City's RTW program.

For questions about this chapter, call the Risk Management Division's Return-To-Work Coordinator.

## 11.2 Role Return-To-Work Coordinator

The City has a RTW coordinator in the City's Human Resources Department, as well as RTW coordinators within each City department.

The Human Resources RTW coordinator . . .

The department's RTW coordinator also serves as the departmental workers' compensation coordinator (WCC). (See Chapter 10 on *Occupational Injury Benefits Program*, specifically the section entitled *Role of Workers' Compensation Coordinator (WCC)*.)

In addition to the role set out in Chapter 10., the WCC/RTW coordinator shall be responsible for the following:

- Communicate with doctors regarding the availability of transitional duty for injured employees and to obtain DWC-73 "Work Status Reports" (DWC- 73).
- Communicate with managers, supervisors, and employees regarding doctor-identified restrictions to duty of employees.
- Monitor the work status of employees who are on lost time or transitional duty as the result of their injury and medical condition; maintain routine contact with injured employees to monitor their work status; and monitor and track transitional duty assignments.
- Assist supervisors in identifying and providing transitional duty assignments based upon the employees' skills, knowledge, ability, recovery period, status of maximum medical improvement (MMI), and duration of doctor-imposed restrictions to duty.

- Assist supervisors with providing bona fide offers of employment (BFOE) in conformance with 28 T.A.C. § 129.6 to employees returning to work on a transitional duty assignment.

## **11.3 Returning to work after an Occupational Injury**

### **11.3.1 Applicability**

This section only applies to employees who sustain a compensable job-related injury, illness or disease.

### **11.3.2 Employee Duties and Responsibilities**

Employees returning to work following an occupational injury shall be responsible for the following:

- Informing the examining doctor that the City provides transitional duty opportunities.
- Obtaining a fully completed and signed copy of form DWC-73 “Work Status Report” from an examining doctor during each medical examination.
- Providing the DWC-73 to the Medical Records Custodian (MRC) and/or WCC after each medical appointment with an examining doctor.
- Reporting to work on the effective date of an examining doctor’s release to return to work, or at the beginning of the next scheduled work day or shift.
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### **11.3.3 Occupational Injury Return To Work Rules**

Employees returning to work following injury or serious illness must provide, to the department MRC and WCC/RTW coordinator, a DWC-73 “Work Status Report” completed and signed by an examining doctor. This completed form must be provided on the day of the medical appointment or at the beginning of the employee’s next scheduled work day or shift. The employee must report to work on the effective date of the examining doctor’s release to return to work or at the beginning of the employee’s next scheduled work day or shift. The employee must remain off work until the effective date of the release to return to work.

If the employee has restrictions that prevent an immediate return to full duty, the department will attempt to identify a temporary or alternative duty assignment, which shall be documented by the department in a Bona Fide Offer of Employment (BFOE), signed by the employee. If the department is unable to identify a temporary or alternative duty assignment, the department’s RTW coordinator shall notify the Human Resources Department RTW coordinator who will try to locate other temporary duty assignments throughout the City. The employee’s original department pays the employee’s salary if the employee is temporarily assigned to another department.

If a temporary or alternative assignment cannot be provided, the employee must remain off work. The off-work period is considered lost time due to the compensable injury, and the employee will continue to receive TIBS. The off-work lost time status continues until the first occurrence of any of the following:

- A temporary or alternative assignment becomes available that meets the employee's qualifications and restrictions;
- The employee reaches maximum medical improvement (MMI); or
- The employee is released by an examining doctor to perform the employee's essential job functions, with or without reasonable accommodations.

Unless an extension is requested through the Human Resources Employee and Labor Relations Division and is considered reasonable under the circumstances, temporary or alternative duty assignments end at the first occurrence of any of the following:

- 180 calendar days (cumulative) of transitional duty assignment;
- Attainment of MMI as determined by an examining doctor, or as required by the Labor Code or Admin. Rules; or
- A release by an examining doctor to perform the employee's essential job functions, with or without reasonable accommodations.

Temporary or alternative duty assignments shall not be considered permanent duty assignments and a. Department Director, in consultation with Human Resources, may terminate a temporary or alternative duty assignment at any time based on the business needs of the department.

If an employee is provided with a BFOE and refuses, the refusal to accept and sign the BFOE may result in suspension of temporary income benefits (TIBS), and also may result in disqualification from eligibility for city disability supplement pay (DSP).

An employee who fails to report to work in accordance with a BFOE will be deemed to have refused the BFOE, which may also result in suspension of temporary income benefits (TIBS), as well as disqualification from eligibility for city disability supplement pay (DSP). The employee is responsible for providing or arranging his/her own transportation to and from work when released to work on transitional duty by an examining doctor.

If an employee who has been released to return to work takes a prescription drug prescribed by an examining doctor that adversely affects the employee's job performance or the safety of the employee or others, the employee must either not come to work and utilize his department's absence notification procedures, or leave the workplace after notifying his supervisor, and use available accrued leave. If accrued leave is not available, the employee will be placed on leave of absence without pay.

An employee whose job duties require moderate to heavy physical demands may be required to pass a job-related human performance evaluation (HPE) as a prerequisite to returning to work full duty.

An employee who reaches MMI and is unable to perform the essential functions of the job with or without a reasonable accommodation will be directed to the Human Resources Employee and Labor Relations Division to engage in the interactive process. . See *Inability to Perform Essential Job Functions* below for further information.

### **11.3.4 Medical Examinations; Designated Doctor Examinations**

The employee may be required to attend a designated doctor examination (DDE) under the pertinent Labor Code and Admin. Rules to determine the employee's ability to work. If the designated doctor determines the employee may return to work either with or without restrictions to duty, then the employee must return to work on the effective date of the designated doctor's release, or the beginning of the next work day or shift after the effective date of the release. If the DDE report is delayed in being sent to the employee and the City, the date that Human Resources receives the DDE report shall be the effective date for the employee to return to work.

### **11.3.5 Compliance**

An employee's failure to comply with any requirement of the RTW Program for Occupational Injuries may result in the suspension or denial of DSP benefits, and also may result in disciplinary action up to and including termination in accordance with city Personnel Rules and Regulations (PRRs).

## **11.4 Returning to work after a Non-occupational Injuries, Illnesses, or Disability**

### **11.4.1 Applicability**

The section only applies to employees who sustain an off-the-job injury, illness, or disease or who become disabled or pregnant. Employee Duties and Responsibilities

### **11.4.2 Employee Duties and Responsibilities**

Employees returning from a non-occupational injury, illness, disease, or who have become disabled or pregnant shall be responsible for the following:

- Following the procedures set forth in the Leave chapter (Chapter 5) for requesting and using short-term sick/family leave, major medical sick leave and FMLA leave for non-occupational injuries and illnesses.
- Reporting to work on the effective date of an examining doctor's release, or the beginning of the next scheduled work day or shift.

### **11.4.3 Non-occupational Injury/Illness Return To Work (“RTW”) Rules**

If an employee is absent from work for more than three (3) consecutive days, and the employee has not reported that the absences are because of an occupational injury or illness, the department may require that the employee have his/her doctor complete and sign the City’s “Non-occupational Designation of Duty Status Form (DDS).” If the department requires the DDS form but the doctor refuses to complete it, the employee shall obtain alternative documentation signed by the doctor that provides information regarding the employee’s ability to work, including any restrictions, and the expected duration of any such restrictions. The employee must provide the completed DDS or alternative documentation to the MRC on the same day of the medical examination, or at the beginning of the employee’s next scheduled work day or shift.

In cases where an employee is returning to work from a non-occupational injury or illness, they must provide to the department MRC a DDS form or alternative medical release completed and signed by a doctor. When released to return to work by an examining doctor, without restrictions, the employee must report to work on the effective date of the doctor’s release, or at the beginning of the employee’s next scheduled work day or shift.

If the employee has physical or medical restrictions, all transitional duty assignments must be documented by the department in a Non-Occupational Transitional Duty Assignment form, signed by the employee. The department should consult with Human Resources as needed regarding the letter or process. An employee’s refusal to accept and sign a non-occupational transitional duty assignment will result in the employee remaining off work and the employee must use available accrued leave, or unpaid leave if accrued leave is not available. Transitional duty assignments to employees injured in the course and scope of employment shall be given preference over transitional duty assignments to employees with non-occupational injuries or illnesses.

For transitional duty assignments, pregnancy will be considered by the City as the equivalent of a non-occupational injury or illness. If a pregnant employee’s medical care provider certifies that the employee is unable to perform the duties of her regular work assignment because of her pregnancy and a transitional duty assignment is available in the same department that the employee can perform, consistent with the restrictions established by the employee’s medical care provider, the employee shall be placed in that transitional duty assignment until such time as the restrictions are no longer applicable.

Before refusing to provide an employee with a transitional duty assignment, the department’s RTW coordinator shall notify the Human Resources RTW coordinator. The Human Resources RTW coordinator will work with the employee’s department to try to locate transitional duty within that department or another city department. The employee’s original department pays the employee’s salary while on transitional duty in another department.

If the employee’s department is unable to provide transitional duty or the Human Resources

RTW coordinator is unable to locate transitional duty in another department, the employee must remain off work and must use available accrued leave, or be placed on leave without pay. The off-work status continues until the employee is released by an examining doctor to full duty.

Unless an extension is requested through the City's Employee and Labor Relations Division and is considered reasonable under the circumstances, transitional duty assignments end at the first occurrence of one of the following:

- 180 calendar days (cumulative) of transitional duty
- The employee is released by an examining doctor to perform the essential functions of his or her regular job, with or without reasonable accommodations

After 120 days of transitional duty, the City's Employee and Labor Relations Division and Human Resources RTW Coordinator shall engage the employee in a discussion or interactive process regarding the employee's limitations or restrictions to work, continuing transitional duty assignment, and any accommodation(s) the employee may identify that could reasonably be provided by the department that might enable the employee to perform the essential functions of the employee's regular job.

After 180 calendar days of transitional duty, an employee who is unable to perform the essential functions of his or her regular job duties, with or without a reasonable accommodation, will be directed by the department RTW coordinator to the Employee and Labor Relations Division to begin an interactive process, which may result in proceeding with the

ADA accommodations process. See Section *Inability to Perform Essential Job Functions* below for additional information.

A Department Director, in consultation with the Employee and Labor Relations Division and Human Resources RTW Coordinator, may terminate a transitional duty assignment based on the business needs of the department, as substantiated by the Department Director.

Employees must pass a job-related human performance evaluation (HPE) as a prerequisite to returning to work full duty if the employee's job duties require moderate to heavy physical demand requirements as determined by Human Resources. The Employee and Labor Relations Division will engage an employee in an interactive process to discuss reasonable accommodations if the employee asserts that a disability prevents the employee from passing the HPE but the employee can perform the essential functions of the job with or without a reasonable accommodation.

#### **11.4.4 Independent Medical Examinations (IME)**

Situations may arise from an employee's non-occupational injury, illness or disease in which an Independent Medical Examination (IME) may be required. Such situations include but are not limited to the following:



- The employee's doctor refuses or fails to timely complete the city's "Non-Occupational Designation of Duty Status (DDS)" form or provide alternative documentation with required information;
- To determine the employee's ability to perform the essential functions of the employee's regular job, with or without accommodation; or
- To determine the employee's eligibility to use MMSL.

In such situations, the Risk Management Division of Human Resources will determine whether an IME is appropriate. If Human Resources determines that an IME is appropriate, the Human Resources RTW coordinator will coordinate with the employee to try to agree on a doctor to perform the IME. If the employee and the Human Resources RTW coordinator cannot agree on a doctor to perform the IME, the Human Resources RTW coordinator will select the doctor to perform the IME and that selection is final. The employee's home department shall pay the costs of an IME. The employee shall be required by the Department Director to attend an IME coordinated by Human Resources. Failure of an employee to attend an IME may result in disciplinary action up to and including termination. If the employee is not already off work, the employee shall be placed on administrative leave during the IME process.

If the employee's doctor refuses or fails to timely complete the city's DDS form, the results of the IME will be final and binding. The employee will remain off work and must use his or her available accrued leave unless and until the IME doctor releases the employee to return the employee to work with or without restrictions, and no questions arise about the employee's ability to perform the job functions.

If the employee's ability to perform the essential functions of his or her regular job, or the employee's eligibility to use MMSL, is the issue, the employee shall be required by the Department Director to attend the IME. If the IME agrees with the employee's evaluating doctor's assessment, then the issue is resolved. If the IME does not agree with the employee's evaluating doctor's assessment, a subsequent IME shall be required. The employee must use his or her applicable accrued leave during the second IME process. The Human Resources RTW Coordinator will work with the employee to agree upon a doctor to perform a subsequent IME. If the employee and the Human Resources RTW coordinator cannot agree on a doctor to perform the IME, the Human Resources RTW coordinator will select the doctor to perform the IME and that selection is final. The results of the subsequent IME will be final and binding.

If an IME doctor determines the employee may return to work either with or without restrictions to duty, then the employee must return to work on the effective date of the IME doctor's release, or the beginning of the employee's next scheduled work day or shift. Otherwise, the employee must remain off work and must use available accrued leave until released to return to work. Failure to return to work may result in disciplinary action up to and including termination.

## **11.5 Inability to Perform Essential Job Functions**

### **11.5.1 Applicability**

This section applies to occupational, as well as non-occupational, injuries, illnesses and medical conditions.

### **11.5.2 Ability to Perform Essential Job Functions**

Except during the temporary duty period discussed in this chapter, an employee returning to work following an injury or illness must be able to perform the essential functions of his or her regular job, with or without a reasonable accommodation.

An employee who is unable to perform his or her essential job functions, including under the circumstances discussed in *Occupational Injury Return to Work Rules* or *Non-Occupational Injury/Illness Return to Work Rules*, may receive assistance from Human Resources to identify other possible employment opportunities within the City through an “interactive process.”

### **11.5.3 ADA Accommodations**

The Human Resources RTW Coordinator and/or a member of the Employee and Labor Relations Division shall meet with the employee and department representatives to discuss and explain the options and sources of assistance that are available to the employee relative to employment with the City.

Beginning with this “interactive process” meeting, the employee may have to be placed on a leave of absence, during which time the employee must use available accrued leave, or be placed on a leave of absence without pay, until a determination can be made regarding continued employment.

During the interactive process period, the Employee and Labor Relations Division will engage with the affected employee as required under the Americans with Disabilities Act, as amended. This interactive process will include efforts by the employee, the City’s FMLA/ADA third party administrator, the Employee and Labor Relations Division, and the Human Resources Talent Acquisition Division to find a vacant position for which the employee meets minimum qualifications, if the employee can perform all of the essential functions of the job, either with or without a reasonable accommodation. This interactive process will be limited to vacant positions that exist during this period.

The City is not required to create a position, nor is the City required to dislocate a current employee from his/her position, in order to accommodate a person’s disability. If a suitable alternative position is identified, the employee will be placed in the alternative position.

If the employee secures another position within the City while still engaged in the

interactive process, the process ends upon employment in the new position. If the interactive process ends with no viable continued employment solution for an ADA accommodation, the employee will be laid off.

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# 12. Types of Positions

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## 12.1 Purpose and Introduction

This chapter describes and provides limitations and information related to the various types of positions at the City. For purposes of determining position duration, hours scheduled to be worked in a workweek, and benefits, the following categories have been established: Full-Time, Reduced Schedule, Part-Time, Temporary, and Seasonal.

For questions about this chapter, please contact the Talent Acquisition Manager in the Human Resources Department.

## 12.2 Duration of Positions and Information Related to Retirement Fund Participation

In order to comply with federal, state and local laws regarding retirement system participation, and to preserve the favorable tax treatment of the Retirement Fund, these guidelines regarding the allowable duration for certain positions with the City must be strictly followed.

### 12.2.1 Full-Time Employees

Full-Time Employees are those who are working in authorized, budgeted positions with no set end date and who are scheduled to work at least 40 hours per workweek. These employees are considered to be working “full time,” and are eligible for benefits and Full City Contributions where applicable.

Full-Time employees:

- Are eligible for Retirement Fund participation.
- Are eligible for healthcare (medical and pharmacy) benefits, including the Full City Contribution. The amount of the City’s contributions toward healthcare benefits is reevaluated annually for all participating employees as part of the City’s budget process.
- Are eligible for paid leave benefits.

## 12.2.2 Reduced Schedule Employees

Employees in this group are those who are working in authorized, budgeted positions with no set end date and are scheduled to work at least twenty but less than forty (20–39) hours per workweek.

Reduced schedule employees:

- Are eligible for Retirement Fund participation.
- May be eligible for healthcare (medical and pharmacy) benefits. If the employee's actual hours worked per workweek average 30 or more during a Look-Back Measurement Period, the employee is eligible for and will be offered healthcare benefit coverage, including the designated Full City Contribution during the next 12 months, if they elect coverage. The City's contribution toward healthcare benefits is reevaluated annually for all participating employees as part of the City's budget process. See the *Glossary* for further information on Look-Back Measurement Periods.
- Are eligible for paid leave benefits on a pro-rata basis, based on the hours they are regularly scheduled to work in a workweek in comparison to 40. Please see chapter 5 for further information on pro-rated paid leave benefits.

## 12.2.3 Part-Time Employees

Part-Time employees are those who are scheduled to work 19 hours or less per workweek in positions that are not limited in duration.

Part-Time employees:

- Are not eligible for pension plan participation and instead participate in the FICA Alternative Plan.
- Are not eligible for healthcare insurance.
- Are not eligible for paid leave benefits.

## 12.2.4 Temporary Employees

Temporary Employees are hired to work in project-oriented positions or in the City's administrative temporary pool, in assignments that are expected to last not more than one year. Temporary Employees may be scheduled to work any number of hours per workweek. Departments may extend Temporary Employees' positions for no more than one additional year with approval from the Budget Office. There will be no waivers of this restriction.

Temporary positions are generally used to:

- Make up for staffing shortages;

- Provide additional help in times of workload peaks or emergency;
- Assist in completing time-sensitive projects; or
- Perform special projects or short-term work.

#### Temporary Employees:

- Are not eligible for pension plan participation and instead participate in the FICA Alternative Plan.
- Are not generally eligible for health (medical and pharmacy) benefits. However, beginning January 1, 2015, in accordance with federal law, employees in this group may be eligible for healthcare (medical and pharmacy) benefits if their actual work hours average 30 or more per workweek over a rolling Look-Back Measurement Period. If eligible, each employee in this category will receive the Full City Contribution. Each Temporary Employee's eligibility for healthcare benefits and Full City Contribution is periodically reevaluated on an on-going basis in accordance with federal law; for all participating employees, the amount of Full City Contribution is annually reevaluated as part of the City's budget process. See the *Glossary* for further information on Look-Back Measurement Periods.
- Are not eligible for paid leave benefits.

Persons may not be hired into temporary positions to perform the duties and tasks of existing regular, authorized positions on a long-term basis. Temporary Employees are not a substitute for regular, authorized positions.

A current City employee may not be hired into a temporary position while also serving in a regular, classified position.

### **12.2.5 Seasonal Employees**

Seasonal positions are positions that will last for no longer than five months in a year. Seasonal employees may be scheduled to work any number of hours in a workweek. Seasonal positions are generally used to perform seasonal, short-term, or sporadic functions, such as umpire and lifeguard positions, and are not intended to serve as regular, authorized positions.

#### Seasonal employees:

- Are not eligible to participate in the pension plan and instead participate in the FICA Alternative Plan.
- Are usually not eligible for health (medical and pharmacy) benefits. However, employees in this group may be eligible for healthcare (medical and pharmacy) benefits if their actual work hours average 30 or more per workweek over a rolling Look-Back Measurement Period. If eligible, each employee in this category will receive the Full City Contribution. Each Seasonal Employee's eligibility for healthcare benefits and Full City

Contribution is periodically reevaluated on an on-going basis in accordance with federal law; for all participating employees, the amount of Full City Contribution is annually reevaluated as part of the City's budget process. See the *Glossary* for further information on Look-Back Measurement Periods.

- Are not eligible for paid leave benefits.

Persons may not be hired into seasonal positions to perform the duties and tasks of existing regular, authorized positions on a long-term basis. Seasonal Employees are not a substitute for regular, authorized positions.

In general, City employees are not hired into a seasonal position while also serving in a regular, classified position. However, the FLSA (the "Act") provides that where local government employees, "solely at their option, work occasionally or sporadically on a part-time basis for the same public agency in a different capacity from their regular employment, the hours worked in the different jobs shall not be combined for the purpose of determining overtime liability under the Act." A Department Director or designee should contact the Classification and Compensation Division of the Human Resources Department to consult on instances where an employee inquires freely, without explicit or implicit coercion by the employer, about a seasonal employment opportunity where it may be of benefit to the City.

### **12.2.6 Evaluation for Conversion**

Any employee converted to a regular, authorized position from a part-time (19 hours or less) or seasonal position is required to attend the New Employee Orientation Program (NEOP).

### **12.2.7 Transfer of Employees between Departments**

Departments may agree to transfer employees on a temporary basis from one department (the Originating Department) to another (the Temporary Department).

#### **Duration of Temporary Assignment**

An employee may be temporarily assigned to another Department for up to 12 months. When the employee has been in the temporary assignment for 6 months, the Originating Department and the Temporary Department will reevaluate the assignment, and, if appropriate, the Originating Department and the Temporary Department may agree to extend the assignment for an additional 6-month period. A temporary assignment is not intended to exceed 12 months total and shall automatically terminate at the end of the 12-month period, unless an additional extension has been approved by the City Manager or designee.

At any time during the temporary assignment, the Originating Department may issue a written recall notice to the Temporary Department providing notice that the employee will be reassigned to the Originating Department. The temporary assignment will terminate at the end of the next pay period following two weeks from the date of the notice, unless the Temporary Department agrees to terminate the temporary assignment at the end of a pay

period within the two-week notice period. The Originating Department shall provide written notice of the recall to the employee.

### **Employee Classification**

When an employee is on temporary assignment, the employee classification is unchanged. For example, full-time employees will remain in full-time positions, reduced-schedule employees will remain in reduced-schedule positions, and part-time employees will remain in part-time positions. Likewise, non-exempt employees may be temporarily assigned to work in other non-exempt positions, and exempt employees may be temporarily assigned to other exempt positions, but non-exempt employees may not be temporarily assigned to exempt positions, and exempt employees may not be temporarily assigned to non-exempt positions.

### **Qualifications**

Employees must meet the minimum qualifications of the job to which they are being temporarily assigned.

### **Compensation**

An employee on temporary assignment will receive a rate of pay equal to or greater than their current rate of pay in the Originating Department. During the temporary assignment, the Temporary Department will assume the cost of benefits and salary up to the current pay rate of the temporary assignment position. If the employee's rate of pay in the Originating Department is higher than the current pay rate of the position to which the employee will be temporarily assigned, the Originating Department will subsidize the employee's rate of pay to make it equal to their current rate of pay in the Originating Department.

### **Responsibilities of the Departments**

#### *Job Title, Description, and Supervisor*

The Temporary Department will provide the job title, job description, and name of the supervisor to the Originating Department and the employee. During the temporary assignment, the employee will be assigned the regular duties of the temporary position and shall report to a supervisor in the Temporary Department.

#### *ePAR Transfer*

The Originating Department shall complete the necessary ePAR Payroll transfer, which will implement the assignment of salary and benefits to the Temporary Department and change the reporting structure and oversight in the HCM system. The Originating Department's position number will remain vacant and assigned to the Originating Department on the Personnel Master List (PML). At the conclusion of the temporary assignment, the Temporary Department shall complete the necessary ePAR, the Originating Department must approve the ePAR, and HRIS will process the ePAR to conclude the temporary assignment.

#### *Attendance, Timekeeping, and Leave Approval*

During the temporary assignment, the Temporary Department shall be responsible for ensuring the entry of all schedules, time worked, and approval of all time and attendance in



the HCM System, and processing any leave requests or absences.

### *Appraisals, Feedback, and Discipline*

During the temporary assignment, if the employee worked in the Assigned Department whether Original or Temporary for at least 120 days prior to transfer, the Department with the greater number of days will be responsible for completing the regular performance reviews and the other Department will submit performance data to the Assigned Department for inclusion into performance evaluations and appraisals. The Assigned Department shall be responsible for any appraisal and completion of any goal setting and/or checkpoint requirements in the HCM eAppraisal System, with input from the other department as appropriate. The Temporary Department will address employee conduct issues and will be responsible for determining and administering the appropriate course of action, including discipline up to and including termination, that arise during the temporary assignment.

### **Termination of Temporary Assignment**

The Temporary Department Director, in consultation with Human Resources, may terminate a temporary assignment based on employee performance or the business needs of the Temporary Department. The Temporary Department Director will contact the Originating Department Director prior to termination of the temporary assignment.

An employee who declines a temporary assignment, or who chooses to end a temporary assignment without the agreement of the Originating Department, shall be considered to have voluntarily resigned his or her employment.

### **Temporary Assignment's Relationship to Original Assignment**

A temporary assignment shall not be considered a permanent assignment or permanent job/position with the City. Should the Temporary Department wish to offer the employee a regular position during the temporary assignment, the standard HR waiver of recruitment process shall be followed, and if approved, the decision to accept the offer would be at the discretion of the employee. If the employee accepts such an offer, the Temporary Department would assume full responsibility for the employee in the same manner as any other new hire, demotion, or promotion.

## **12.3 Minimum Qualifications**

Individuals must generally meet the Minimum Qualifications of the position, including those selected for part-time or seasonal positions. If a qualified person cannot be hired for a position, a Department Director may hire an individual who does not meet minimum qualifications and pay that person at a rate of at least five percent (5%) below the typical entry-level salary for the position. Department Directors must request and obtain submit a waiver for approval to the Human Resources Director when hiring an individual who does not meet the minimum qualifications for a position.

In limited situations, Department Directors may hire or promote employees who do not meet minimum qualifications at a pay rate that is five percent (5%) below the entry-level of a position's salary range. This can be done in lieu of a "trainee" position or when qualified

individuals cannot be hired or promoted. To do so requires approval by the Human Resources Director.

Employees who are hired below the entry-level of a salary range remain at that rate until acquiring the qualifications necessary to meet the minimum qualifications for the classification. These employees are eligible for across-the-board (ATB) and performance-based-pay increases, provided that the increases do not put them at or above the entry-salary level.

## **12.4 Requirements for Hiring Retired Employees**

Employees are prohibited from ending their employment with the City at the point they have maximized their pension benefits only to immediately return to a position which qualifies for Retirement Fund participation. This course of action can jeopardize the favorable tax treatment of the Retirement Fund. Requests to hire a former City of Fort Worth employee who is receiving retirement benefits from the Retirement Fund into a non-pension-eligible (i.e., seasonal or part-time 19-hour) position must be approved by the Human Resources Director. Such a retiree must be separated from the City for at least one year before being hired to any position. A request to hire a retiree must include:

- The date the retiree left the employment of the City;
- The City Department(s) for which the retiree worked;
- The need for hiring the retiree, as opposed to hiring a non-retiree;
- The proposed pay the retiree will receive in his or her new position;
- The duration of the position and hours for which the rehire is expected to work; and
- An explanation of the job duties the retiree will perform.

Other factors for rehiring the retired employee may be considered. Representations should not be made to or plans made with employees who are planning to retire regarding any future employment of them by the City after their retirement. Decisions to retire or leave the employment of the City should be made based on an employee's intent to no longer work for the City.

Retirees who are rehired to work in a position that qualifies for Retirement Fund participation are converted to active status and their retirement benefits shall cease.

## **12.5 Anniversary Date**

If a Part-Time (less than 19 hours) or Seasonal Employee is hired into a Full-Time or Reduced Schedule position, the employee's date of employment for retirement, longevity, and leave accrual purposes is the date the individual became a Full-Time or Reduced Schedule employee.

## **12.6 Seasonal Pay Plan**

Pay rates for Seasonal Employees are set at the discretion of the hiring Department Director. Factors that may be considered in determining the appropriate salary include:

- The entry level salary of the classification that is comparable to the limited duration position;
- Whether the employee is performing some or all of the tasks assigned to incumbents in the comparable classification;
- The current market salary for such positions (realizing the City's salary structure is not based solely on outside market salaries);
- How many hours the employee will be working;
- The employee's past tenure and performance; and
- Whether the position is a training-type assignment.

At the hiring Department Director's discretion, Seasonal Employees performing at a satisfactory level are eligible for any salary adjustment approved by the City Council in the annual budget that does not specifically exclude Seasonal employees. The raises are not automatic and are made at the discretion of the Department Director.

Compensation for Seasonal Employees returning from previous service with a documented satisfactory work history is determined according to the factors listed above and the availability of funding.

## **12.7 No Paid Holidays**

Employees occupying Seasonal or Part-Time (less than 19 hours) positions are not eligible for paid holidays.

## **12.8 Council Aides (District Directors)**

This section serves to define the employment status of Council Aides and to ensure consistent application of procedures and practices for Council Aides. This includes the compensation policy and reporting relationship of Council Aides as well as their unique status as Temporary

City employees. Council Aides are personal staff of elected officials (Mayor and Council Members) with a unique Temporary employment status. The Mayor and other elected members of the City Council select and are responsible for supervising, disciplining, and terminating their respective Council Aides. The working title for a Council Aide is District Director, which can be used for items and situations such as business cards, written or verbal communications, and e-mail signatures.

The Mayor and each Council Member may choose to have one Full-Time Aide or two part-time Aides. A Council Aide who is scheduled to work 40 hours per week is considered to hold a Full-Time position. A Council Aide who is scheduled to work no more than 20 hours per week is considered to hold a Part-Time position. Each Elected Official monitors his or her Council Aide's schedule, work hours, and performance; is responsible for establishing the Council Aide's work schedule, duties, and responsibilities; and is

responsible for approving any time off. Due to the demands of the Elected Officials' schedules, the day-to-day oversight may be delegated to the Chief of Staff; however, all supervisory responsibilities and hiring and termination decisions for a Council Aide are solely those of the Elected Official.

Council Aides are subject to and must comply with the City's Personnel Rules and Regulations and Administrative Regulations; however, Aides cannot utilize the disciplinary appeal process and are not entitled to certain City benefits (addressed below).

Council Aides are not allowed to perform any political activities while they are working on City time. Council Aides may perform political activities on a voluntary basis or be paid personally by the Elected Official for any personal time spent on political activities.

The employment duration of a Council Aide is dependent on the term of the hiring Elected Official; during the Elected Official's term, the Council Aide is employed at-will and may be terminated at any time with or without notice and with or without cause. When the Elected Official leaves office, for whatever reason, the Council Aide's employment as a Council Aide will cease at the same time unless the successor Elected Official chooses to retain the Council Aide. If an Elected Official leaves the City Council without an immediate successor, the City Manager has the authority to retain the individual serving as a Council Aide as a Temporary City employee to handle the administrative duties of the Council District. In this situation, the individual will no longer be considered to be a Council Aide or a member of the Elected Official's personal staff but will be employed on the same terms and conditions as other Temporary City employees.

### **12.8.1 Council Aide Compensation and Benefits**

Council Aides are not subject to or protected by the provisions of the Fair Labor Standards Act because they are selected by an elected official to be a member of his or her personal staff, in accordance with 29 U.S.C. § 203(e)(2)(C). As such, Council Aides are paid a fixed amount weekly, are not entitled to overtime pay, and cannot earn compensatory time. The Aide's compensation rate will depend on whether the Council Aide is considered to hold a Full-Time or Part-Time position, but the amount does not fluctuate based on the number of hours the Council Aide actually works in a week. In order to ensure compliance with applicable minimum wage laws, at the time of hiring and in connection with any salary adjustment, the Human Resources Department shall determine the maximum number of hours that each Council Aide may work each week based on that individual's weekly salary and shall inform the Council Aide and the hiring Elected Official of the limit.

The maximum compensation for Council Aides will be determined by the Council during the annual budget process, and the amount agreed to may be the same for all Council Aides or may vary based on individuals' time in their positions or specific responsibilities. The City Council as a body will address other personnel and salary issues (e.g., furloughs) that will be applicable to all Council Aides.

Council Aides are not eligible to participate in the City's Retirement System or to receive other benefits available to full-time or Reduced Schedule City employees, except as noted in the following paragraph. As with all City Employees, Council Aides do not contribute

to Social Security (FICA). Instead, Council Aides make tax-free contributions in the amount of 8.25 percent to their individual accounts in a FICA Alternative plan. Contributions and earnings from these accounts are available to employees once they leave City employment. Funds are generally taxable at the time of withdrawal.

Full-Time Council Aides and Part-Time Council Aides who work an average of at least thirty (30) hours per week are eligible for access to the City's health plan and receive the same City contribution as Full-Time City employees. This change in contribution is intended solely to comply with the federal Patient Protection and Affordable Care Act, 42 U.S.C. §§ 18001 *et seq.*, and does not change the employment status or classification of any Council Aide or entitle any Council Aide to receive any additional benefit or protection.

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# 13. Employee Conduct

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## 13.1 Purpose and Introduction

The City is committed to promoting the wellbeing of its employees by maintaining high standards of work performance and professional conduct. The purpose of this chapter is to set forth the City's expectations for employees, and the discipline to follow in order to address unacceptable behavior, conduct, and related employment problems in the workplace, or outside the workplace when conduct impacts an employee's ability to do his/her job and/or influences the City's overall effectiveness.

The ultimate goal of this chapter and its procedures is to help employees become fully contributing members of the organization. Conversely, this policy is also designed to enable departments to fairly and effectively discipline and/or terminate employees whose conduct and/or performance does not improve or where the misconduct and/or unacceptable performance is of such a serious nature that an offense warrants termination.

For questions about this chapter, please call the Employee and Labor Relations Manager or the Employee and Labor Relations helpline at 817-392-7997.

## 13.2 Maintaining a Respectful Workplace

Mutual respect is one of the core values of the City and is necessary to accomplish the City's mission of "*Working together to build a strong community.*" The City is committed to promoting an environment where employees respect each other regardless of their roles and levels of responsibilities and expects all employees to be respectful and professional towards their supervisors, co-workers, citizens, and anyone doing business with the City. It is also the policy of the City of Fort Worth that employees will be treated with respect by supervisors, other employees, and people who are doing business with the City.

Examples of respectful and professional behavior include the following:

- Treating others with civility and courtesy
- Engaging in active listening
- Speaking calmly and showing a commitment towards resolving issues and problems
- Respecting and valuing the contribution of others, regardless of their role or status
- Demonstrating patience, being engaged, and listening to the concerns of others

- Listening to and following the directives of supervisors
- Being attentive to requests from co-workers across the City and helping each other in achieving work objectives
- Effectively and productively managing disagreements with co-workers to avoid disruptions in the workplace
- Recognizing and respecting individual differences
- Abiding by applicable rules and policies, and addressing any dissatisfaction with, or violation of, policies and procedures through appropriate channels (e.g. chain of command or Human Resources)
- Demonstrating commitment to a culture where employees cooperate and collaborate to work together toward effective outcomes
- If in a leadership role, modeling respectful and professional behavior for subordinates as an effective coaching mechanism

City employees are expected to refrain from disrespectful and unprofessional behavior, such as:

- Using threatening or abusive language, profanity, or language that is intended to be or perceived by others to be demeaning, berating, rude, or offensive
- Shouting/Yelling/Raising your voice in way that intimidates others
- Intimidating, demeaning, or bullying others
- Making threats of violence, retribution, or harm
- Using racial or ethnic slurs
- Making inappropriate jokes or using insults regarding someone's personal characteristics including sexual orientation, race, culture, age, appearance, disability or illness
- Teasing, name calling, ridiculing, or making someone the subject of pranks or practical jokes
- Using sarcasm or cynicism as a personal attack on others
- Spreading unsubstantiated rumors or gossip
- Making actual or threatening inappropriate physical contact
- Throwing tools, office equipment, or other items as an expression of anger, criticism, or threat, or in an otherwise disrespectful or abusive manner
- Engaging in any pattern of disruptive behavior or interaction that could interfere with the workplace or adversely impact the quality of services

### **13.2.1 Employee Responsibilities**

City of Fort Worth employees are responsible for engaging in and promoting workplace behavior that creates and maintains a respectful environment that promotes effective teamwork. It is the responsibility of every employee to report behaviors that are detrimental to this environment. Employees can report such behaviors to their supervision or to the Employee and Labor Relations Division of the Human Resources Department.

## **13.2.2 Management and Supervisory Responsibilities**

Managers and supervisors have a greater responsibility and are held to a higher standard, 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 take action to stop it, including reporting incidents of harassing behavior to the Human Resources Department.

Managers have a responsibility to control the release of information only to employees who have a need to know.

When a rule or regulation allows for Department Director or designee discretion, the Department Director has the discretion to establish a policy that will be applied uniformly, in a nondiscriminatory manner, in all similar situations.

## **13.2.3 Discrimination and Retaliation**

The City of Fort Worth prohibits employment discrimination on the basis of race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV). In addition, the City prohibits retaliation against employees who exercise their statutory rights under state and federal employment laws. The City also prohibits retaliation against employees who exercise their rights under City policies; however, this policy does not confer additional rights to the employees under any law. It is against the policy of the City of Fort Worth for any supervisory personnel (or personnel with the ability to do so) to retaliate (that is, impose an adverse employment action) against any individual who reports discrimination or harassment, opposes a discriminatory practice, or participates in an investigation of such reports.

### **13.2.3.1 Filing a Complaint or Report of Discrimination or Retaliation**

Employees wishing to file a complaint of discrimination or retaliation, and supervisors who have had potential discrimination or retaliation reported to them, should contact the Employee and Labor Relations helpline at 817-392- 7997 or see chapter 14 for additional information on the complaint resolution process.

## **13.2.4 Harassment-Free Workplace**

City employees have the right to work in an environment free of unlawful harassment (*please see the Glossary for a definition of harassment*). Unlawful harassment is a form of employment discrimination that may violate Title VII of the Civil Rights Act of 1964 (Title VII), the Age Discrimination in Employment Act of 1967 (ADEA), or the Americans with Disabilities Act of 1990 (ADA).



No employee should be subjected to unlawful harassment, and employees must not encourage or condone such overtures or conduct, whether verbal or physical. Any employee who engages in, perpetuates or condones unlawful behavior is subject to disciplinary action. Likewise, any individuals who are conducting business with the City (including current or prospective contractors, vendors, citizens, interns, volunteers, or agents thereof) are expected to treat employees with respect and to conform to the same workplace standards of conduct as City employees. Immediate and appropriate corrective action shall be taken in response to unlawful harassment of City employees or by employees toward nonemployees.

Petty slights, annoyances, and isolated incidents (unless extremely serious) may not rise to the level of violations of this policy; however, they may nonetheless be unacceptable for the workplace and can be addressed by the *Inappropriate Conduct* policy below. To be unlawful and a violation of this policy, the conduct must be based on an employee's protected class (see *Glossary for a definition of protected class*) status and create a work environment that would be intimidating, hostile, or offensive to reasonable people.

#### **13.2.4.1 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:

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

Examples of conduct that may constitute sexual harassment, particularly if repeated, pervasive, or severe in nature, include: bringing sexually explicit pictures, photographs, cartoons or objects to the workplace or sending through electronic communications; repeated requests for dates, sexual bantering, jokes or teasing; sexual innuendoes, gestures or leers; touching someone in a way that makes them uncomfortable; stalking or assault.

A supervisor violates this section if the supervisor grants opportunities or benefits because of a subordinate employee's submission to the supervisor's sexual advances or requests for sexual favors, or if the supervisor denies opportunities or benefits because of a subordinate employee's rejection or refusal to submit to the supervisor's sexual advances or requests for sexual favors.

Supervisors who pressure subordinate employees for sexual favors in return

for employment opportunities or benefits will be terminated after an appropriate pre-decision process, if the allegations of harassment are confirmed.

#### **13.2.4.2 Harassment Based on Protected Status**

Slurs or jokes, and other verbal or physical conduct relating to an employee's protected status, constitute harassment when this conduct:

- Has the purpose or effect of creating an intimidating, offensive, or hostile working environment (*Please see Glossary for a definition of hostile working environment*).
- Has the purpose or effect of interfering with an employee's work performance.
- 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, harassment based on a protected status may be present. The unwelcomeness, frequency, and severity of the behavior determine whether harassment has occurred.

For questions about whether harassing behavior meets the definition(s) above, please contact the Employee and Labor Relations helpline at 817-392-7997.

#### **13.2.4.3 Filing a Complaint or Report of Harassment**

Employees victimized by harassment that is based on protected status, any employee who witnesses behavior that appears to rise to the level of harassment, or supervisors who have had potential report(s) of harassment should immediately contact the Employee and Labor Relations helpline at 817-392-7997. Please see chapter 14 for additional information on the complaint resolution process.

### **13.2.5 Inappropriate Conduct**

The City has determined that the most effective way to limit harassing conduct is to address misconduct, even if it does not rise to the level of harassment actionable under the law. 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 should not occur and are inappropriate in the workplace. Behavior that may not be based on a protected status, and/or is not severe or pervasive, for example, may fall under this policy instead of the

## City's Harassment-Free Workplace policy.

Examples of such behavior include: bringing sexually explicit pictures, photographs, cartoons or objects to the workplace or sending them through electronic communications; obscene, profane or abusive language; terms of endearment such as "doll," "honey," "sweetheart" or "babe"; the sending of sexual, racial, ethnic, religious jokes, cartoons in e-mail, faxes or other forms of communication; making racial, ethnic or religious slurs or demeaning comments; horseplay, pranks, jokes (verbal, electronic, printed or in any other medium) that demean people or have sexual, racial, ethnic, religious, or political themes.

Inappropriate conduct does not have to be based on a protected status to be prohibited. Inappropriate conduct may not involve physical conduct and may not be severe or pervasive but is conduct that is nonetheless inappropriate and/or disruptive and will not be tolerated. Inappropriate conduct also includes behavior that negatively impacts or impedes someone else's ability to perform their job duties. An employee's intentions and motives are not the decisive factors in considering alleged inappropriate conduct; the effect of the behavior on others is the main determining factor.

### 13.2.5.1 Bullying

The purpose of this policy is to communicate to all employees, including supervisors and managers, that bullying behavior is not tolerated at work. Employees found in violation of this policy may be disciplined, up to and including termination.

For the purposes of this policy, bullying is defined as repeated inappropriate behavior that intimidates or demeans others, either directly or indirectly, whether verbal, physical or otherwise, at the place of work and/or in the course of employment. Reports of alleged bullying behavior should be reported to the Employee and Labor Relations Division at 817-392-7997. Isolated occurrences of behaviors listed below and/or incidents of a less severe nature may be referred to department or City management (that is those who supervise the employee(s) alleged to engage in bullying behavior) to address at the discretion of the Employee and Labor Relations Division.

Bullying may be intentional or unintentional. However, it must be noted that when an allegation of bullying is made, the intention of the alleged bully is not decisive; it is the effect of the behavior on the individual that is important. The City considers the following types of behavior examples of bullying:

- **Verbal bullying:** Slandering, ridiculing or maligning a person or his or her family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.
- **Physical bullying:** Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area

or property

- **Gesture bullying:** Nonverbal threatening gestures; glances that can convey threatening messages.
- **Exclusion:** Socially or physically excluding or disregarding a person in work-related activities.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace, particularly if repeated or severe in nature:

- Persistent singling out of one person.
- Shouting or raising voice at an individual in public or in private.
- Using verbal or obscene gestures.
- Not allowing the person to speak or express himself or herself (i.e., ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Ignoring or interrupting an individual at meetings.
- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (e.g., giving an unreasonable work load, removing work duties, withholding information, assigning meaningless tasks, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Assigning menial tasks not in keeping with the normal responsibilities of the job.
- Taking credit for another person's ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
- Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).

### 13.2.6 Violence in the Workplace

The City of Fort Worth is committed to providing a safe and secure work environment. Violent behavior or acts of violence between employees, or such action between an employee and any other person in connection with their City employment, is prohibited.

Any person who engages in violence or threats, verbal or physical, should be removed from the premises as quickly as safety permits. The Department Director has the option of placing restrictions on an employee's or citizen's physical access to City premises pending the outcome of an investigation. Department Directors must consult with the Employee and Labor Relations Division, the City Marshal, and the Legal Department before exercising this option.

Employees and supervisors must report threats and violent behavior to department management and contact the Employee and Labor Relations Division for guidance. Employees should take personal safety precautions, which may include evacuating employees, and immediately contact the Police Department (call 911) or the City Marshal's Office (817-392-6688) for severe threats or acts of violence.

Workplace violence is behavior sufficiently severe, offensive or intimidating to cause an individual to reasonably fear for his or her personal safety or property. Such behavior creates an unsafe, threatening, abusive or intimidating work environment. Any personally offensive, threatening or intimidating behavior is not tolerated.

Violent behavior on the job includes, but is not limited to:

- Actual physical or aggressive contact directed toward another person (e.g. hitting, punching, pushing, and kicking).
- Intentional destruction or threat of destruction of City or another person's property.
- Threatening or expressing intent to cause physical harm.
- Improper or excessive surveillance/monitoring of another person.
- Stalking (please see Glossary).
- Veiled threats (e.g. "I know where you live," "Let's take it outside," "You better never run into me in a dark alley.") of physical harm or similar intimidation.
- A display of unusual agitation or excitement, possibly accompanied by incoherent and/or irrational behavior that may compromise the safety of others and/or make others feel unsafe.

Supervisors are expected to offer support to victims of workplace or domestic violence. This support includes encouraging the victim to use the services of the Employee Assistance Program. Supervisors have discretion to grant a victim leave for medical, court or counseling appointments related to trauma or victimization. Supervisors may also consider special accommodations or adjustments to employee work schedules, locations or working conditions to enhance employee safety.

Employees must report potential violations of the Violence in the Workplace policy to the Employee and Labor Relations Division or to their supervisors. Supervisors should take appropriate action to stop the conduct and notify the Employee and Labor Relations Division. During an investigation, ELRD will maintain confidentiality of the complainant, witnesses, and the accused to the greatest extent possible to maintain the integrity of the investigation and to make participants in the process as comfortable as possible in their cooperation with the investigation process. ELRD will notify investigation participants that because the City is a public entity, there is a possibility that information gathered in the investigation may be released to the public, with or without a Public Information Request.

In appropriate circumstances, the City's Law Department may ask the Texas Attorney General's office to determine whether state law provides that information related to such an investigation can be withheld from public disclosure. Following the completion of the investigation, the City Manager's Office may choose to share information from any employment investigations with the media and/or other parties, as appropriate. Information gathered during investigations of complaints against sworn civil service employees will be subject to Texas Local Government Code Section 143.089, and other protections that may exist under state law.

A violation of this policy is a serious violation of the Employee Conduct provision and may be grounds for disciplinary action up to and including termination. Depending upon the relevant facts, an act of off-duty violent conduct may also be grounds for disciplinary action up to and including termination.

### **13.3 Ethical Standards of Conduct**

It is critical for all employees that public trust is upheld. The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the City. Employees have an obligation to conduct themselves in accordance with the City's ethics rules. Employees who violate these regulations may be subject to disciplinary action, up to and including termination. A supervisor should contact the Employee and Labor Relations Division for assistance if a situation arises that might implicate the ethical standards of conduct.

Employees are required to comply with the City of Fort Worth Code of Ethics, Sec. 2-236 of the City Code. An employee who violates the City's Code of Ethics could be the subject of a complaint to the Ethics Review Commission, which has the authority to recommend that the City Manager issue disciplinary action against the employee, or receive disciplinary action, up to and including discharge. See the City's webpage for more information on the Ethics Review Commission: <http://fortworthtexas.gov/boards/ethics-review-commission>.

In regards to expectations for ethical standards of conduct, consistent with the City's Ethics Code, it is required that:

- Government decisions and policy should be made in the proper channels of the government structure;
- No employee or employee's spouse or domestic partner should have any substantial interest, as defined in the City's Ethics Code, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity, or incur any obligation of any nature that is in conflict with the proper discharge of his/her duties in the public interest;
- Employees are not to use their positions for personal gain, or for the gain of their spouses or domestic partners;
- No employee shall accept or solicit, or knowingly allow his or her spouse or domestic partner to accept or solicit, any benefit, including a promise of future employment, gift, favor, service or thing of sufficient economic value (which might reasonably tend to influence or give the appearance of influence in the discharge of

official duties) from any person, group, or business entity.

- No employee shall grant, in the discharge of official duties, any improper favor, service or thing of value to any person, group, or business entity;
- No employee shall disclose any confidential information that is gained by reason of their position or use such confidential information to advance any personal interest, financial or otherwise;
- No employee shall use his or her position, City facilities, personnel, equipment or supplies for private gain;
- Employees shall disclose to their supervisors the existence of any interests in any person, business entity or property involved in any pending City decision-making;
- Employees shall uphold the laws and regulations of the United States, the state of Texas, and the City of Fort Worth, and never be a party to their evasion;
- Employees shall never make any private promises or give or accept any special favors or privileges for themselves or their families that could be construed as influencing the performance of governmental duties;
- Employees shall not engage in any business with government, directly or indirectly, that is inconsistent with the conscientious performance of governmental duties;
- Employees who have questions about the ethics rules should consult with their supervisors for a determination regarding the proper course of action. Supervisors should ask their Department Directors or the Employee and Labor Relations Manager if they have questions;
- Employees who have accepted gifts or who have been offered gifts must report the gifts to their immediate supervisors within five business days of accepting or being offered the gift.

### **13.3.1 Improper Endorsements**

This policy relates only to endorsements that an employee makes in his or her capacity as a City employee, as a representative of the City, or while being identified as an employee of the City. This policy applies whether the employee makes the endorsement while on work time or not.

Except as described herein, endorsements by City employees are generally prohibited to avoid a potential conflict of interest as described in the City of Fort Worth's Code of Ethics. City employees are required to fulfill their responsibilities while avoiding any endorsement activities that impair or appear to impair their judgment in the discharge of their official duties. However, allowable endorsements are as follows:

- Endorsements that are unsolicited by the vendor or anyone acting on its behalf, for example:
  - an employee answering an impromptu question from a colleague from another City regarding what accounting software the City of Fort Worth utilizes and whether the employee thinks it performs well, and
  - an employee presenting the favorable results of a pilot program to City decision-makers in making a determination on a purchase.

- Endorsements made as part of a reference check or due diligence by an entity seeking to conduct business with a vendor where the vendor has listed the City as a current or former client for that purpose. Employees contacted under these circumstances should request approval from their department head prior to providing information to the requesting entity.
- Endorsements approved by the City Manager. Any endorsement approved in writing by the City Manager after the terms and circumstances of the endorsement have been presented to him or her for review is allowable.

### **13.3.2 Prohibition on Seeking or Accepting Gifts**

The City expects employees to avoid improper influence or the appearance of improper influence in dealings with the public. Employees cannot solicit, directly or indirectly, any gift from an existing or potential City supplier or customer. This prohibition includes gifts to the employee's spouse, domestic partner, son, daughter, or any other person in whose welfare the employee has a direct and substantial interest.

Employees should avoid the appearance of impropriety. Employees cannot accept gifts from a City supplier or customer if a reasonable person would believe that the offered item would provide an appearance of improper influence. Employees should never accept cash from a City supplier or customer, regardless of the amount. Employees should never accept an item that is valued at \$50.00 or more because the employee could be subjected to criminal penalties for doing so. If an employee is offered or accepts a gift that is valued at less than \$50.00, the gift might still be perceived as giving the appearance of improper influence and thus employees are discouraged from accepting most gifts. Ordinarily, accepting a small advertising token, such as an ink pen, hat, coffee mug, or mouse pad, will not violate the ethics rules. The employee is required to notify the employee's immediate supervisor for approval within five business days after a gift is offered or accepted. Even if a supervisor approves the acceptance of a gift, it is possible that the employee might be the subject of a complaint filed with the Ethics Review Commission, which could recommend that the City Manager issue disciplinary action.

If the gift is determined to be inappropriate, the employee should refuse the gift in a polite and respectful manner. If a gift has already been delivered, it should be returned. If the sender does not want to accept the return, the employee should report the gift to the Department Director who will document the receipt of the gift and forward the gift to a local charity, along with a letter documenting the situation. This prohibition includes gifts to a spouse, domestic partner, or any other person within the first degree of relation to the employee.

See the *Glossary* for the definitions of "gift" and "person within the first degree of relation."

#### **13.3.2.1 Miscellaneous Rules about Gifts**

Employees may usually attend public functions sponsored by suppliers as



approved by their departmental supervisor. Examples of public functions include: groundbreaking ceremonies, receptions, dedications, completion of project parties, and exhibitor receptions at conferences. Supervisors should review attendance at public functions for compliance with the City's Ethics Code and this chapter of the City's Personnel Rules and Regulations.

Employees may participate in education activities sponsored by current or potential City suppliers when participation 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 are paid by the City, except those activities that are associated with the purchase, study and review of apparatus or equipment and/or supplies for the City and as the activities may be provided in an approved contract.

Employees can participate in discount purchasing when discounts are part of a marketing program sponsored by a current or potential supplier or local merchant, provided that the discount is made available to an entire group of employees.

Under state law, it is a criminal offense for an employee in any City department performing regulatory functions or conducting inspections or investigations to solicit or accept any gift from a person that the employee knows to be subject to regulation, inspection or investigation by the employee or his or her department.

Under state law, it is a criminal offense 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 that the employee knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his or her discretion.

Employees must contact their supervisors or Department Directors if they have questions about gifts or to request further interpretation of these guidelines. (Requests from Department Directors should be sent to the Human Resources Director.)

Employees who violate this policy may be subject to disciplinary action, up to and including dismissal.

### **13.3.3 Reporting Illegal or Unethical Conduct**

If an employee believes that inappropriate, unlawful, or unethical conduct has occurred, they should report the suspected offending conduct to their supervisor or Department Director. If employees do not feel comfortable reporting the matter to their supervision or Department Director, they can report the issue to the Employee and Labor Relations Division of the Human Resources Department or utilize the City's third-party reporting

tool, which can be accessed via the City's intranet page, or by calling the 24-hour hotline at 888-NOW-4ACT (888-669-4228). Employees may choose to remain anonymous when providing information.

## 13.4 Absenteeism

Absence management is a key component in increasing overall workplace productivity and employee morale. The purpose of this section is to provide guidance in applying administrative procedures and establishing lines of communication for dealing with employee absences. Supervisors should educate employees so that they understand the City, departmental and divisional policies and procedures pertaining to time and attendance. This should be done with all new employees and it is advisable to review with all employees on a regular basis. If a supervisor feels that an employee may be developing an absenteeism problem, the supervisor should talk to the employee when a problem is first identified and make sure that the employee understands the importance of being a reliable employee and the consequences if excessive absenteeism continues. Attendance records should be maintained on all employees in a manner that is effective for each supervisor.

If absenteeism becomes a problem and impacts work productivity or employee morale, the supervisor should take stronger action, including closely monitoring the employee and maintaining documentation on the absences, reasons given for the absences, and previous discussions with the employee regarding the absences. Once the problem has been documented, the supervisor should take action that is appropriate to the situation, including imposing discipline, if necessary. Absences due to FMLA-qualified events cannot be addressed via discipline.

Absenteeism may impact an employee's pay or be the cause of disciplinary action up to and including termination. Disciplinary action may result for the following actions:

- Taking excessive or unscheduled absences (See *Glossary* for definition of unscheduled absence.) or tardiness in reporting for work or returning from lunch or breaks.
- Engaging in patterns of similar absences/tardiness situations, such as calling off work without prior authorization, leaving work early without prior authorization, or being absent or coming in later on Mondays, Fridays, around holidays, etc.
- Failing to timely notify supervisor of tardiness or absence.
- Being absent without supervisory approval.
- Failing to follow departmental call-off policies or practices.
- Being absent for three consecutive days and not notifying the supervisor, MRC, or approved departmental authority.

Individual departments and larger divisions within departments need to prepare clear, written policies and procedures pertaining to absenteeism or tardiness. Absenteeism and tardiness policies should clearly address:

- Whom to call and in what manner (e.g., whether the employee needs to speak

directly with a supervisor, whether it is acceptable to text or e-mail, whether it is acceptable to leave a message at a designated number, etc.);

- When to call;
- What information to provide;
- What constitutes acceptable and unacceptable reasons for absences/tardiness;
- Verification (documentation) requirements;
- Unacceptable patterns of absenteeism/tardiness; and
- The consequences for ongoing incidents of violations of the attendance policy, including, but not limited to, unscheduled absenteeism/ tardiness, failure to provide required documentation, etc.

Time off with pay is an employee benefit and not a right. A supervisor may deny an employee's request for time off if the absence is likely to have an adverse impact on work or other employees (except for instances where absences may be covered by the Family Medical Leave Act). Unapproved absences may be unpaid even if an employee has accrued leave available. A supervisor may also deny an employee's access to accrued leave and rescind previously approved time to be off work, if the reasons for the leave are found not to be valid or if there is a pattern of leave abuse. Departments must contact the Employee and Labor Relations Division regarding instances where an employee's access to accrued leave for absences is denied prior to that payroll record being submitted for payroll processing.

## 13.5 Conduct Warranting Disciplinary Action

Disciplinary action may be taken based upon any of the items below. This list is not all-inclusive. It is a guide that summarizes the majority of situations in which discipline should be imposed. Misconduct should be assessed on a case-by-case basis. A supervisor may determine that discipline is justified for behavior that is not on this list, if the supervisor is able to explain the reason that discipline is the most appropriate response in that situation. (See the *Glossary* for definitions of terms used in the list.)

- Failure to perform assigned work.
- Failure to perform work in a satisfactory manner, including failure to meet deadlines and /or requirements regarding quantity and quality of work.
- Failure to observe policies, procedures, rules, regulations or standards.
- Failing an alcohol or drug test, including the refusal to consent to a test, or refusing to provide a breath or urine sample, or failing to provide a breath or urine sample without sufficient medical justification when directed to do so pursuant to City policy.
- Possession and/or illegal use of drugs (including prescription drugs) and/or alcohol on the job. (See *Drug and Alcohol-Free Workplace* below for further information.)
- Failure of any employee to report an on-the-job injury, accident or violation of safety rules timely (i.e., within 24 hours for on-the-job injuries and immediately for any situation where safety risks and liability issues are possible).
- Engaging in behavior that threatens the safety of self, co-workers or the public.
- Possessing a record or pattern of unsafe work behavior, as evidenced by an incident of serious negligence or multiple preventable accidents, as determined by the ARB and/or supervisor review.

- Lack of attention, accuracy, caution or judgment; carelessness; negligence; or recklessness in performing work that results in waste of time and resources or creates dangerous or inappropriate situations.
- Excessive time spent on non-work activities during work time, including, but not limited to personal conversations, excessive coffee or smoke breaks, as well as personal use of electronic devices, such as use of the Internet, telephone, cell phones, blackberries, or PDAs.
- Viewing, displaying or disseminating provocative, sexually explicit or obscene activities at the workplace and/or on City equipment.
- Excessive or unscheduled absence or tardiness (Please refer to the *Glossary* for further information on tardiness) in reporting for work or returning from lunch or breaks.
- Absence without supervisory approval.
- Working for personal gain while on medical leave of absence in violation of doctor's restrictions.
- Failure to notify supervisor of absence or tardiness in accordance with departmental attendance policies or practices.
- Misrepresentation or failure to adequately document the need to be off work.
- Failure to come to work for three consecutive days without calling a supervisor or a Medical Records Custodian (MRC) or giving any type of notification to a departmental authority (job abandonment).
- Failure to maintain or operate equipment, tools or vehicles in an appropriate and safe manner.
- Abuse, misuse, misappropriation or unauthorized removal of City money, financial resources, time, software (*Please also see the City's Administrative Regulation regarding copyrighted software for your information*), and/or property.
- Falsifying, misrepresenting or omitting information for the benefit of one's self or others.
- Cheating, forging or entering false reports on official City documents including, but not limited to, time and attendance records, employment applications and supporting documents.
- Engaging in behavior that is inappropriate or disruptive in the workplace (such as yelling, use of profanity, name-calling, excessive gossiping that negatively impacts productivity, etc.).
- Sabotage
- Dishonesty
- Failure to cooperate in an internal administrative process, whether as a witness, person with relevant knowledge or subject of the investigation (e.g. departmental fact-finding, Human Resources investigation, Accident Review Board, etc.)
- Failure of a supervisor to timely refer a complaint of discrimination, harassment, or retaliation to the Employee and Labor Relations Division.
- Sleeping on the job (before issuing discipline, contact MRC to assess if medically related)
- Discourteous treatment of others.
- Insubordination
- 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 or consuming these substances during work hours.
- As a City employee, giving or accepting gifts, money or favors in exchange for some benefit to one's self or others.
- Failure to maintain confidentiality and sharing information with persons who do not have a need-to-know.
- Violation of written City, departmental, divisional, Administrative Regulations, City Charter work rules, procedures or policies.
- Unauthorized removal or use of property.
- Disrespectful or unprofessional conduct in the workplace (e.g. yelling, using profanity, using demeaning or abusive language, using racial slurs, etc.).
- Misuse or misrepresentation of one's position or authority.
- Failure to return to work upon conclusion of an authorized leave of absence, disciplinary suspension or failure to return to work after having been released to work by a doctor.
- Failure to maintain professional credentials and/or licenses required for the position.
- Failure to meet background requirements for the position.
- Off-the-Job Conduct — Conduct that would likely impair the trust of the public, including public intoxication, illegal drug activity or other criminal activity, and slandering or defaming public officials, appointees or other City employees.
- Violation of the City's Harassment rule.
- Violation of the City's Violence in the Workplace rule.
- Violation of the City's Inappropriate Conduct rule.
- Violation of the Social Media rule.
- Violation of the Ethical Standards of Conduct rules, the City's Ethics Code and the ethics provisions of the City's Charter.

## 13.6 Disciplinary Action

Discipline is used as a tool to assist an employee in taking responsibility for his or 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.

### 13.6.1 Role of the Supervisor

In regards to the disciplinary action process, the supervisor has the following responsibilities:

- To clearly explain to the employee what the job expectations are.
- To guide and assist the employee in the performance of job duties through coaching and counseling.
- To inform the employee of the rewards 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 when an employee fails to behave properly or engages in

misconduct on the job or fails to perform assigned duties satisfactorily. Discipline is not primarily punitive. It is primarily an opportunity for the supervisor to teach, inform the employee of behavioral or performance shortcomings, and explain how to correct those shortcomings in a respectful and confidential manner. When a supervisor exercises discipline, the stated City values of exceptional customer experience, accountability, ethical behavior, diversity, mutual respect, and continuous improvement should guide both the content and presentation of the discipline.

Some employees may need to strengthen their knowledge, skill or abilities to perform a job satisfactorily. In that case, more training and guidance should be given. If, after additional training and guidance, the employee still cannot perform the job assignments satisfactorily, appropriate disciplinary action should be initiated.

Behavioral problems must be corrected by the employee. If the supervisor determines that the problem is behavioral, the supervisor must explain to the employee the negative consequences of continued misbehavior on the job.

### **13.6.2 Steps in Taking Discipline**

The following is an overview for completing and administering discipline.

#### **Investigate Promptly**

Before issuing disciplinary action, the supervisor must conduct a fact-finding investigation. In most situations, the supervisor should investigate within thirty (30) days of the date that the supervisor discovers a potential problem with an employee's performance or behavior. In rare situations, the supervisor might investigate after thirty (30) days, but the supervisor should be able to provide a credible reason for the delay.

Interview the employee, as well as any fact witnesses (including the person who may have brought forth the issue being considered for discipline). As part of the fact-finding process, obtain the employee's side of the story. Meet with the employee before taking disciplinary action and take notes of the employee's response to the incident. It demonstrates a commitment to be fair and thorough, as well as a commitment to conduct a balanced review of what occurred. The supervisor must reserve judgment about whether to impose discipline until after the supervisor has evaluated the employee's statement/information. The supervisor should also interview any other individuals (whether they are employees or not), who might have witnessed or have pertinent facts regarding the behavior that is in question.

#### **Document the Fact-finding**

The employee's name, employee number, supervisor, department/division, and job title, as well as the effective date of the discipline, should be documented on notes, witness statements, and any other documents related to the investigation. Have the witnesses write their recollections of the incident, and then interview them based on their statements. Gather all documents that are relevant to the situation for review.

## **Determine Appropriateness of Discipline**

The supervisor should decide whether or not the incident most likely happened as alleged. If so, the supervisor should consider any circumstances that might justify the behavior or mitigate the severity of the misconduct. The supervisor may also consider the employee's disciplinary record when deciding the appropriate level of discipline to issue.

Any discipline affecting an employee's pay or work status (such as suspensions, reductions in pay or leave, disciplinary probation, pre-demotion, pre-termination, and termination) must be sent to the Employee and Labor Relations Division (ELRD) for review and recommendations prior to issuing the discipline to the employee.

## **Document the Disciplinary Action**

If it is determined that discipline is warranted, the supervisor should complete a Disciplinary Action Form (which can be obtained from ELRD or via the Human Resources Forms webpage) including the following:

- Include the facts that describe the employee's infractions, and the dates that they occurred.

Include a summary of the employee's disciplinary record, if the record is used to support the level of discipline. The disciplinary record should include the level of the previous discipline and a brief description of the reason for the disciplinary action.

- Summarize the employee's response, obtained during the initial fact-finding process, in the *Employee Explanation of Incident* section of the City's Disciplinary Action Form.
- Choose the appropriate level of discipline and indicate this on the first sheet of the Disciplinary Action form.
- Include the City and/or Departmental rules violated in the next section of the form.
- Include what the expectations are for the employee regarding his or her future performance or behavior.

## **Disciplinary Action Administration Meeting**

If the supervisor decides to administer discipline, the supervisor must meet with the employee to deliver the disciplinary notice to the employee in writing. The supervisor may choose to ask their supervisor or a peer to sit in the meeting to administer discipline as well. The employee should sign the document indicating receipt, but not necessarily agreement with the propriety of the discipline.

If the employee refuses to sign to show receipt, then the supervisor must document that refusal with a witness signing the document. During the disciplinary administration meeting, the supervisor must make a copy of the disciplinary action to give to the employee, indicating that the employee received a copy, but refused to sign, if applicable. The employee may submit a response or a rebuttal, which is documented by writing/filling

in the *Employee Response to Disciplinary Action* section of the City's Disciplinary Action Form or providing a rebuttal on additional sheets. The rebuttal must be confined to the discipline at issue or it may be rejected, and it must be submitted to the supervisor no later than the end of the next business day following the disciplinary meeting. The supervisor should attach a copy of the employee's rebuttal (if any) to the disciplinary notice for the personnel file.

Within 10 business days after the disciplinary meeting, the supervisor (or designee) shall submit a copy of the signed discipline (of any level) to the Human Resources HRIS/Records Division for filing.

### **13.6.3 Documentation**

Supervisors should document discussions with employees. Various city policies and regulations, as well as state and federal fair employment laws (anti-discrimination in the workplace laws), require employers to maintain and retain documentation explaining decisions. On-the-job decisions are subject to questioning or challenge during the internal appeal process, for unemployment claims, and potentially with external sources or in legal proceedings. Good and adequate documentation provides supervisors with the information to respond to challenges. On the documentation, supervisors should include the date and location of the discussion, the subject matter of the discussion, as well as a list of other employees who are present, and indicate they are the author of the documentation.

Supervisors that do not have an office or location to do paperwork should always have pens, notebooks or paper, or a laptop in their vehicles and on the job, so they can document concerns, problems or incidents that may occur on the job site. Supervisors should have a file for each employee who works under their supervision, maintained confidentially in a secure location (e.g., electronically or in a locked file cabinet in a central office, etc.).

### **13.6.4 Disciplinary Action Types**

The City does not have a progressive discipline policy. Supervisors are not required to impose a lower level of discipline before progressing to a higher level of discipline. Disciplinary matters are evaluated individually, and the level of discipline is imposed based on the circumstances of each situation. The types of disciplinary action a supervisor may take are, in order of severity (from least severe to most):

- Oral Warning (Documented Counseling)
- Written Warning
- Suspension (or equivalent reduction in pay)
- Disciplinary Probation
- Demotion
- Termination



No more than one type of discipline may be issued for the same triggering event (for example, an employee may not receive a demotion and a suspension for the same infraction). Multiple violations of policy/triggering events may result in multiple levels of discipline. For example, if found that the employee engaged in inappropriate conduct, and on a separate occasion misused City resources, the department could choose to issue a suspension and disciplinary probation together. The Human Resources Department Employee and Labor Relations Division is available for consultation and guidance.

Supervisors must decide the appropriate disciplinary action to take for the situation. Factors to consider include:

- Severity of problem or degree of negligence.
- Number and nature of previous disciplinary actions.
- Whether previous disciplinary actions were imposed for similar reasons.
- Frequency of previous problems (including the time lapse between disciplinary actions).
- Employee's work record.

**Note:** If an employee with an injury or illness receives a disciplinary action, the injury or illness does not stop the disciplinary process but the action should be delayed or deferred until the employee is released to return to work. In such instances, contact the Employee and Labor Relations office for guidance.

Supervisors should meet privately with employees to discuss performance or behavioral problems when they first arise. Counseling with an employee does not require the supervisor to place a disciplinary record into the employee's personnel file. The supervisor should maintain notes of the meeting with the employee. This is a Pre-Decision or non-disciplinary action.

#### **13.6.4.1 Oral Warnings (Documented Counseling)**

Oral warnings (Documented Counselings) are issued for minor policy, procedural, or conduct infractions. Infractions of this type would not endanger the health or welfare of any employee or citizen, or the overall operations of a department. The employee cannot appeal an oral warning.

#### **13.6.4.2 Written Warnings**

Written warnings are issued for more serious policy, procedural, or conduct infractions; when an oral warning (documented counseling) has already been given and an infraction occurred again; or when the nature of the offense requires more than an oral warning (documented counseling). The employee cannot appeal a written warning.

#### **13.6.4.3 Suspension**

Suspension without pay is issued for serious rule violations, gross negligence, misconduct or insubordination; when less severe discipline has

previously been given; or if the incident is too severe for a warning but not egregious enough for more severe discipline.

Typically, employees are not suspended for more than five days without pay; however, supervisors can suspend employees for up to and including ten days. The supervisor determines what days are used. If workloads make it inconvenient to the work team or severely lessen productivity, the suspension may be delayed. Multiple days without pay may be spread over several weeks, if deemed appropriate. For the purposes of this policy, a day is considered an eight-hour workday.

#### *Reduction in Pay Alternative*

Suspension without pay and reductions in pay rate are considered equivalent disciplinary actions. Supervisors and managers can discipline employees by reducing their pay rather than suspending them without pay as long as the pay reduction does not reduce the employee's pay below minimum wage. Reductions in pay serve the same disciplinary purpose as suspensions. The advantage of exercising this option is the employee must be at work, so the work group does not suffer because of the employee's absence.

A reduction in pay of ten percent for one pay period is equal to a suspension of one day without pay. A reduction in pay of five percent for two pay periods is equal to a suspension of 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 pay rate ten percent for three pay periods or five percent for six pay periods. Reductions in pay may not exceed ten percent per pay period. For example, if an employee works ten-hour days, four days a week, this should not be reason to exceed the ten percent per pay period pay deduction.

**Note:** Special circumstances pertaining to exempt employees under FLSA: Employees exempt under the Fair Labor Standards Act are not subject to disciplinary suspensions without pay for increments of less than one full day. For violations of safety rules of major significance or for workplace conduct rules, exempt employees are subject to disciplinary suspensions without pay in full day increments. Additionally, exempt employees are subject to disciplinary suspensions without pay for a full work week for performance deficiencies, but exempt employees cannot be subject to disciplinary suspensions without pay for less than a week unless the suspension is for a violation of workplace conduct rules.

Time spent resolving issues under the City's 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. See *Pre-Decision Procedures* for further information.

#### **13.6.4.4 Disciplinary Probation**

Disciplinary probations are issued for very serious performance, behavior or attendance deficiencies. It is a very serious disciplinary action. When an employee is on disciplinary probation, the employee is possibly one step from termination. Supervisors must give serious consideration before placing an employee on disciplinary probation. The supervisor outlines the provisions of the probation into the disciplinary action form as follows:

The supervisor can establish a disciplinary probationary period from one (1) to a maximum of six (6) months. When deciding the duration, the supervisor should consider factors like the severity and number of violations, time between earlier violations, work record, evaluations, other relevant documented information, and whether the problem is habitual (which would suggest that a lengthier period is needed). The supervisor should identify the behavioral changes that must take place, and explain the consequences of failure to improve and to perform in an acceptable manner. Disciplinary probations may be extended one time for up to three months at the discretion of a Department Director or designee. Disciplinary probation extensions must be done in writing prior to the original end date of the disciplinary probation. Please see chapter 4 for more information on probation extensions.

Supervisors must meet periodically with employees during their probation to provide feedback on the employee's progress. The supervisor must meet with the employee at the end of the probation to evaluate and discuss his or her progress and what action, if any, to take next. The supervisor should prepare and file meeting notes and, if possible, obtain employee acknowledgement on the information discussed.

The employee is not guaranteed employment for the duration of the disciplinary probation. If during the disciplinary probation it appears that the employee cannot or will not change behavior or improve job performance, the supervisor can initiate a termination action.

#### **13.6.4.5 Demotion**

Demotions are issued for work performance or job-related conduct that does not meet established standards or for the inability to improve performance. Demotions can be considered for employees who would be successful in a lower position with less responsibility or with lower expectations. A pre-demotion meeting must be held to demote an employee. Supervisors must follow the same procedures that are outlined in the *Pre-Decision Procedures* in the following section of this chapter to minimize the possibility that the action is modified or reversed later.

If an employee, to avoid disciplinary action, agrees not to appeal a transfer into a lower position, a memo should be prepared for the employee's signature. The memo should explain the reasons for the demotion, the

employee's new classification and pay rate (a minimum five (5) percent reduction in pay rate) and state that the employee is not contesting the demotion. An uncontested demotion will not be held against an employee to promote conciliation and won't be considered disciplinary.

#### **13.6.4.6 Termination**

Terminations are issued for work performance or behavior after other disciplinary measures have failed or when a first-time incident occurs that warrants the most severe discipline. See *Pre-Decision Procedures* below for further information.

### **13.6.5 Pre-Decision (Pre-Termination/Pre-Demotion) Procedures**

#### **13.6.5.1 General Procedure**

Supervisors considering termination or demotion of employees who have completed initial probation (including extended initial probation), or who are Full-Time, Reduced Schedule, or Part-Time, must first provide notice to, meet with and consider the responses of the affected employee. Supervisors must draft a written notice to advise the employee of the Pre-Decision meeting and why discipline is being considered. Employees on initial probation or in temporary or seasonal positions are not entitled to a Pre-Decision meeting. Department Directors, assistant Department Directors, and division heads (e.g., Managers, Superintendents) are not entitled to a Pre-Decision meeting. Other City employees may also be ineligible for a Pre-Decision meeting based on the position's reporting structure within the department and other factors such as the level within the structure, whether there are any direct reports, and the position's FLSA status (exempt vs. non-exempt). The final eligibility determination will be made by the Employee and Labor Relations Division which is a final decision.

The written notice to the employee should include the following:

- Notice that a pre-decision meeting has been scheduled. Identify the date, time, and place of the meeting.
- Background events (including past disciplinary actions) that led to considering the disciplinary action.
- Quote the policy/policies, regulation(s) or procedure(s) that the employee violated. The violation quoted is the basis for the disciplinary action under consideration.
- Describe the triggering event and the employee's actions that are in violation of the policy/policies that was/were quoted. The policy/policies violated must relate to the incident being cited as the reason for discipline, and policy/policies cannot be added at a later time if demotion or termination are decided upon.
- Identify the specific disciplinary action that is being considered and invite the employee to respond to the content of the memorandum.

- Include a statement that the employee will be immediately placed off work until the scheduled meeting (typically three business days is sufficient) and whether paid administrative leave will be provided. Include information regarding what occurs if the employee reschedules the meeting and/or if the department does and a deadline for the meeting to occur. If the supervisor is considering termination, the employee will be asked to turn in City-issued equipment, including keys, tools, ID and so on, before he or she leaves. See below for further information.

If allowed by the Department Director, the employing department should notify the employee that they may have a representative at the meeting.

If termination is being contemplated, when notice of the Pre-Decision meeting is provided to the employee, the employing department should:

- immediately place the employee off work on administrative leave;
- Allow the employee to remain on administrative leave until the scheduled meeting (typically three working days is sufficient); and
- Obtain all City-issued equipment, keys, tools, ID card, etc.

The employee may request that the Pre-Decision meeting be rescheduled. If granted by the Department Director or designee, the employee's administrative leave pay will not continue beyond the time of the originally scheduled meeting. If the Pre-Decision meeting is rescheduled by the department, the employee will remain on administrative leave until the Pre-Decision meeting is held.

If the employee is already on leave without pay, they will only be compensated for the Pre-Decision meeting time. The Department Director or designee should determine a specific deadline for the rescheduling and convening of the meeting. The following example may be used:

*The purpose for the meeting is to allow you an opportunity to respond to the reasons being considered to terminate your employment. You are allowed to have a representative at the meeting **[Optional sentence that can be included if Department Director allows representation.]** You may request that the meeting be rescheduled; however, administrative leave will only be paid until the date of the originally scheduled meeting. To reschedule, you must contact \_\_\_\_\_ no later than 5:00 pm. If the meeting is rescheduled in a timely manner, it must be convened by \_\_\_\_\_. Failure to convene the meeting by \_\_\_\_\_ will result in your forfeiture of a pre-decision meeting and a decision will be made based upon the information we have. You will not be penalized if due to unforeseen events the \_\_\_\_\_ deadline cannot be met by the department. You will be off work until the meeting. Please turn in all City-issued keys, cell phones, I.D.*

*badges and any other City-issued documents and or equipment. Items may be returned to you as needed following the Pre-Decision meeting if the decision is to take an action other than termination.*

### **13.6.5.2 Pre-Decision (Pre-termination or Pre-Demotion) Meeting**

The Pre-Decision meeting should include the employee, the employee's representative (if allowed by the Director), the immediate supervisor involved, and one other supervisor, preferably a manager, such as a Division Head, Assistant Director or the Director. If the employee brings an attorney as a representative, an Assistant City Attorney must also be present. Departments should contact the Legal Department for representation in these instances. The meeting must follow this general agenda:

- Explain the purpose of the meeting. Present the employee with the information gathered and give the employee an opportunity to respond.
- Listen to the employee and take notes on what is said. Avoid arguing or debating with the employee. Listen and focus upon the information being presented.
- When the employee completes his or her rebuttal, explain that a final decision will be made and a certified letter containing the decision will be mailed within five (5) business days. Work time (based on employee's work schedule) between the conclusion of the meeting and the effective date of either the employee's return to work or his or her termination will be charged to administrative leave.

If the employee's rebuttal contained valid points or raised questions regarding the accuracy of the information gathered, the department should investigate as needed.

If the employee cannot attend a Pre-Decision meeting (because of illness, incarceration, etc.) or if the designated departmental employee determines it is in the best interest of the City to conduct it through correspondence, invite the employee to provide a written response within five business days. This method may be used instead of the meeting; however, before this option is exercised, discuss it with the Employee and Labor Relations Division.

### **13.6.5.3 Decision Letter**

After completing the Pre-Decision meeting, if disciplinary action is warranted, the department should prepare a brief letter on department letterhead. The letter should reference the Pre-Decision meeting, list the attendees at the Pre-Decision meeting, summarize the employee's rebuttal to the charges, state the decision made and explain appeal rights. The Decision Letter should be sent via certified mail within five business days after the meeting. In cases of extenuating circumstances where the

department cannot meet the five-business day timeline (e.g. the decision-maker is out of the office due to a family emergency), the department may request an extension from the Employee and Labor Relations Manager or designee and must notify the employee.

If the disciplinary action is modified or not executed based upon the findings of the investigations, the letter should report the results of the investigation, explain what decision has been made, direct the employee to return to work on a specific date and time, and report to a specific person. Upon his or her return to work, the employee should be given a written notification of the terms and conditions under which he or she is returning to work.

## **13.7 Employee Assistance Program (EAP)**

The City's Employee Assistance Program (EAP) helps employees with a broad range of problems that can adversely affect their personal lives as well as their occupations. EAP can provide access to resources for counseling employees with alcohol misuse and drug abuse problems. EAP also helps employees with problems, difficulties, and/or stresses on or away from the job that can adversely impact an employee's ability to perform assigned duties or behave properly on the job.

Personal counseling to deal with personal crises, such as financial problems, marital problems, parenting issues, and any other life stressors can be effectively addressed through the Employee Assistance Program. (See the Human Resources Website for Benefits—Wellness Program or contact the Human Resources Wellness Division for more information about EAP.)

Supervisors may recommend and encourage employees to use the EAP. They can make management referrals when deemed appropriate (for example, inexplicable deterioration in job performance, dramatic changes in conduct, or behavior that causes safety concerns). Management referrals include informal, formal and mandatory referrals. Mandatory referrals to EAP for internal or external counseling are considered regular work hours for pay and scheduling purposes and may be included as part of a requirement related to formal disciplinary action, or stand alone. Failure of an employee to comply with a mandatory referral to EAP may result in disciplinary action, up to and including termination. Before making a management referral, including a mandatory referral, the supervisor should contact the Wellness /EAP Coordinator. Supervisors should also contact the Wellness/EAP Coordinator if they are in need of training for management referrals.

## **13.8 Drug and Alcohol-Free Workplace**

City employees are prohibited from possessing or consuming alcohol or illegal drugs in the workplace, or from being under the influence of illegal drugs or alcohol while on duty. Employees who do so will be severely disciplined, up to and including termination. Before disciplining an employee under this section, the supervisor must follow the *Pre-Decision Procedures* in this chapter.

## 13.8.1 Drug and Alcohol Testing

### 13.8.1.1 Drug Testing

The City requires drug testing of some employees for public safety, workplace safety, and accountability. The City requires employees to take drug tests in the following situations:

- Pre-employment. Applicants and candidates for positions (involving promotions, demotions, and transfers) will be drug tested if the testing is related to a specific job requirement. For example, employees who operate motor vehicles that are regulated by the U.S. Department of Transportation (DOT) and those applying for the following safety-sensitive (Please see *Glossary*) job categories may be tested: police cadets, marshals, firefighter trainees, heavy equipment operators, van drivers, fleet mechanics, lifeguards, property room attendants, most maintenance workers (depending on their duties), some custodial employees (depending on their duties) helicopter pilots, animal control employees who have access to euthanasia drugs, employees who perform traffic control, employees who monitor water quality, and employees who work with corrosive chemicals. This list is not intended to be all-inclusive and the Risk Management Division of the Human Resources Department will maintain a controlling list of City positions which will require testing. Applicants are not hired if they fail an alcohol or drug test or refuse to consent to a test under the same conditions applicable for employees. An applicant who fails a drug or alcohol test is not eligible for employment for a minimum of 6 months after failing the test. The Talent Acquisition Division of the City of Fort Worth will review and determine the eligibility of applicants for employment after that point.
- Random. Employees who are tested for pre-employment, pre-promotional, demotions, transfers, and reclassifications will also be subject to random testing
- Post-accident. Employees who are involved in vehicular accidents while on duty are subject to drug tests. The City routinely examines the root cause(s) of accidents to identify strategies for accident prevention. Post-accident testing allows the City to examine whether impairment contributed to the cause of the accident.
- Reasonable cause. Employees who, while on duty, exhibit symptoms of being under the influence of drugs, as determined by a supervisor who is trained to recognize the symptoms, will be required to submit to a drug test.
- EAP return to work.\*
- EAP follow-up test.\*

*\*Only applies after a previous positive test has occurred or after completion of treatment.*



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

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines/Methamphetamines

### **13.8.1.2 Alcohol Testing**

Testing for alcohol is conducted for the following reasons:

- Random. Employees who operate motor vehicles that are regulated by the U.S. Department of Transportation (DOT) are subject to alcohol testing.
- Post-accident. Employees who are involved in vehicular accidents while on duty are subject to drug tests. The City routinely examines the root cause(s) of accidents to identify strategies for accident prevention. Post-accident testing allows the City to examine whether impairment contributed to the cause of the accident.
- Reasonable cause. Employees who, while on duty, exhibit symptoms of being under the influence of alcohol, as determined by a supervisor who is trained to recognize the symptoms, will be required to submit to an alcohol test.
- EAP return to work.\*
- EAP follow-up test.\*

*\*Only applies after a previous positive test has occurred or after completion of treatment.*

A violation occurs (a) when the employee has a breath alcohol concentration (BAC) confirmation test level of 0.04 or greater or (b) when an employee consumes alcohol while on duty.

Fort Worth voluntarily complies with DOT regulations for employees who operate motor vehicles that are legally classified as commercial motor vehicles (CMV's). All employees who operate CMV's will be tested for alcohol and drugs pursuant to DOT requirements.

The Human Resources Department determines whether positions are subject to random alcohol and drug testing based upon existing federal guidelines for identifying safety sensitive positions and employees who operate motor vehicles that are regulated by the DOT. Employees who are assigned to safety-sensitive positions have duties that include:

- Operation of City vehicles, personal vehicles or non-DOT equipment on City business.
- Police/Fire/Marshal public safety duties.

- A high level of safety consciousness.

### **13.8.1.3 Employee Assistance Program (EAP) for Drug-Related/Alcohol Abuse Issues**

The Employee Assistance Program (EAP) is available to assist employees in dealing with drug-related or alcohol abuse issues for those who desire help. Employees can seek assistance by contacting the Wellness Division of the Human Resources Department or by contacting EAP directly.

Employees will not be disciplined if they voluntarily seek help from EAP BEFORE they are notified for a random, post-accident, or reasonable cause drug or alcohol test.

If an employee has voluntarily sought help from EAP in the past or is currently compliant with EAP services, they are still subject to post-accident or reasonable-cause drug or alcohol tests in accordance with City policy.

## **13.8.2 Drug and Alcohol Prohibitions**

The following are prohibited in the workplace or while on duty:

- Alcohol consumption in the workplace (e.g., office, on any City property, in City vehicle or personal vehicle while on duty, worksite, etc.).
- Being under the influence of alcohol while on duty.
- The use, possession, distribution, dispensation, transportation, sale or manufacture of illegal drugs that violates state and federal controlled-substances acts.
- The illegal use of prescription medicines.
- Being under the influence of prescribed or over-the-counter medication on duty when the use causes impairment of job performance.

## **13.8.3 Criteria for Employee Testing**

### **13.8.3.1 Random Testing**

Employees who are in safety-sensitive or DOT positions are randomly selected for testing. Each employee has an equal chance of selection. Employees in safety-sensitive positions are tested for drugs randomly at an annual rate of 20 percent. Employees in DOT positions are tested for drugs randomly at an annual rate of 50 percent, and tested for alcohol randomly at an annual rate of 25 percent.

### **13.8.3.2 Promotion, Demotion, Transfer, Reclassification**

Employees moving into safety-sensitive or DOT positions are tested for

illegal drugs before the promotion, demotion, transfer or reclassification. An employee testing positive for alcohol or misuse of a prescription medication prior to a promotion or transfer to a safety-sensitive and/or DOT position will be referred to the Wellness Coordinator for assessment. (See *Employee Assistance Program* in this chapter above for further information.) If it is the employee's first violation, the personnel action will be cancelled and the employee cannot reapply for other City jobs for six months.

### **13.8.3.3 Reasonable Cause**

When a supervisor, 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 illegal drugs. A supervisor without the required training including the "reasonable cause" training cannot require the testing. An untrained supervisor must find another supervisor or manager who has been trained to determine whether there is a reasonable cause for alcohol or illegal drug testing. The Risk Management Division designee may also initiate a reasonable-cause alcohol and/or drug test.

### **13.8.3.4 Post-Accident**

If a City employee is operating a City vehicle on City business, a post-accident alcohol and drug test is required under these circumstances:

- Accident involving a fatality.
- Accident in which a person is transported for medical attention and the City driver receives a citation.
- Accident where a traffic citation is issued to the City driver or operator and a vehicle is towed.

The City's Risk Management Division designee may also initiate a post-accident alcohol and drug test when deemed appropriate.

When an accident meets the testing criteria, the employee must be tested for alcohol within two hours following the accident. If circumstances prevent an alcohol test from being administered within two hours, the supervisor must prepare and maintain a record that explains why a test was not administered. If the employee is not tested within eight hours after the accident, the supervisor must prepare and maintain a report that explains why a test was not administered, and the time to conduct an alcohol test for an employee ends. A copy of the report must be sent to the Risk Management Division designee.

When the accident meets the testing criteria, the employee must be tested for illegal drugs within 32 hours following the accident. If circumstances prevent the drug test from being administered, the supervisor must prepare and maintain a report stating why the test was not conducted. A copy of the report must be sent to the Risk Management Division designee.

### **13.8.4 Drug and Alcohol Violations**

An individual required to undergo a drug or alcohol test is required to sign a consent form to be prescribed by the City, and to report to a designated testing/collection site. Refusal to do so will be treated as a positive test for the purposes of disciplinary action and may result in disciplinary action, up to and including termination. The employee is required to go immediately to the location specified for the test. The employee must arrive within two hours at the designated site or a legitimate excuse must be provided to the supervisor and the Risk Management Division designee. The employee must provide documentation that the test was conducted within the prescribed timeframe. All drug and alcohol tests are conducted at City expense with the exception of the retest as discussed in the *Appeal and Retesting* section below.

#### **13.8.4.1 Positive Drug Test**

Upon confirmation of a positive drug test (based on a five-panel test), the Medical Review Officer (MRO) or designee contacts the employee to discuss the results. If the employee fails to communicate with the MRO, the Risk Management Division designee will be directly notified of the test results.

In the event of a confirmed positive drug test result involving an applicant, the MRO contacts the applicant and the Risk Management Division designee, who in turn notifies the hiring department that the applicant is not eligible for City employment.

#### **13.8.4.2 Positive Alcohol Test**

Alcohol testing is conducted by a trained Breath Alcohol Technician (BAT) using an Evidential Breath Testing (EBT) device. If a valid test result is less than 0.02, no further test is authorized and no action is taken. If a valid test result is 0.02 or greater, a confirmation test must be run.

If a valid test result is 0.02 to 0.039, the employee may not perform any DOT or safety-sensitive functions for at least 24 hours after the test, and is referred to the Wellness Coordinator or designee for assessment.

A violation of this rule occurs when the employee has a breath alcohol concentration (BAC) confirmation test level of 0.04 or greater. When this occurs the employee is referred to the Wellness Coordinator immediately for assessment.

### 13.8.4.3 Appeal and Retesting

A final applicant or employee may appeal the results of a positive drug test by requesting in writing that the collection site provide a part of the original urine sample (split sample) to another lab for retesting, all at the expense of the applicant or employee. **Employees and applicants will NOT be allowed to submit a different urine sample for testing.**

Following notification of a positive drug test by the assigned departmental employee or the Risk Management Division designee, the employee or applicant has three business days to notify the Risk Management Division designee (in writing) of the decision to request a retest using the split sample from the original urine specimen. The employee or applicant is then given up to five business days from the submission of the appeal of the positive drug test results to make payment in full (money order or cashier's check to the laboratory) for the retest expense. An employee is not allowed to return to work until the retest results are received by the Risk Management Division designee. The employee may use any accrued leave time with the approval of the Department Director or designee.

If the retest result is negative (indicating the positive result of the first test was wrong), the City reimburses the applicant or employee for the retest cost and any accrued leave time the employee was required to use while waiting for retest results. The leave time used is changed to "REG" time so the employee does not suffer a loss because of the erroneous test result.

There is no appeal/retest process for an alcohol test because alcohol leaves the system quickly.

### 13.8.4.4 Workplace Controlled Substance Violation Conviction

Employees who are convicted of controlled substances-related violations in the workplace under state or federal law or who plead guilty or nolo contendere to such charges must inform the Risk Management Division designee within five days of such conviction or plea. Failure to do so will result in disciplinary action, including termination from employment for a first offense. Employees convicted or pleading guilty or nolo contendere to such drug-related violations must notify the Wellness Coordinator and successfully complete a drug abuse assistance or similar program as a condition of continued employment or re-employment.

## 13.8.5 Forms and Instructions

<b>If you have questions about:</b>	<b>Then call:</b>
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Employee does not bring completed Drug Test Notification Form	Risk Management Division designee 817-392-7419 Mobile: 682-215-3914
Employee is uncooperative or refuses to consent to an alcohol or drug test	Risk Management Division designee 817-392-7419 Mobile: 682-215-3914
After-Hours Collection (Monday-Friday 7 p.m.-7 a.m.; Saturday after 5 p.m.; Sunday all day)	Step One Services 1-866-997-8371* <i>*If no one answers, call 214-283-2552.</i>

The following forms may be used in conjunction with drug and alcohol testing procedures:

*Authorization for Services Form Reasonable Cause or Post-Accident Supervisor’s Documentation*

This form is prescribed by the DOT. It is also used for non-DOT reasonable cause testing and non-DOT post-accident reasonable cause testing. The supervisor completes the form to the fullest extent possible. The form is used for both alcohol and drug reasonable cause testing. When used for Non-DOT testing, the supervisor indicates so by writing Non-DOT in the upper right corner. The supervisor must complete the form within 24 hours of calling for a reasonable-cause test. The form is distributed to the Risk Management Division designee, the employee, and the supervisor.

*U.S. DOT Breath Alcohol Testing Results Request*

If the employee wants a copy of the test results from an alcohol test, the employee must submit this form to the supervisor. The assigned department/division employee provides the form to the employee. (Contact the Risk Management Division designee for this form.)

*U.S. DOT Controlled Substance Testing Results Request*

Used when the employee wants a copy of the test results. The assigned department/division employee provides the form. (Contact the Risk Management Division designee.)

*U.S. DOT Controlled Substance Test Results*

This form is completed by the clinic. The clinic personnel have the form.

### **13.8.6 Discipline for Drug and Alcohol Policy Violations**

Before deciding whether termination or other discipline is appropriate under the Drug and Alcohol Policy, the supervisor must always follow the procedures of the *Pre-Decision*

*Procedures* in Chapter 13 of these regulations.

Subject to the procedures regarding pre-decision and termination processes described in Chapter 13, City employees shall be terminated for the following violations of the drug and alcohol policy:

- The use, possession, distribution, dispensation, transportation, sale or manufacture of illegal drugs.
- The consumption of alcohol in the workplace or while on duty.
- Using prescription drugs illegally while at work.

If it is determined that an employee tested positive for use of illegal drugs or is directly observed consuming alcohol or using prescription drugs illegally while at work, the employee shall be terminated.

A terminated employee in a safety-sensitive position regulated by the Department of Transportation (DOT) shall be referred to the Wellness Coordinator, as mandated by the DOT.

An employee will be disciplined, up to and including termination, under the following conditions:

- The first time an employee tests positive for illegal drugs, the employee shall be terminated.
- The first time an employee receives a positive test for alcohol use or the illegal use of prescription drugs on the job, the employee will not be terminated, but might be subject to another disciplinary action depending on the circumstances. The employee shall be referred to the Wellness Coordinator for assessment and training or treatment as appropriate to the situation. See section *Drug and Alcohol Testing* above for further information.
- The second time an employee receives a positive test for alcohol use or the illegal use of prescription drugs on the job the employee shall be terminated, regardless of the length of time that has lapsed between positive tests. Before terminating an employee, the supervisor must follow the disciplinary process in Chapter 13 of these regulations.
- An employee who is terminated for drug or alcohol violations is not eligible for reemployment with the City.
- An employee who refuses to promptly consent to or who obstructs in any way a drug or alcohol test will be terminated (after an appropriate Pre-Decision process has been followed).

Refusal to test includes:

- An employee who refuses to consent to a test.
- In the event of a urine test, an employee who fails to provide adequate urine for testing, without a valid medical explanation. A non-DOT employee may voluntarily agree to a blood test to avoid being terminated for refusing to be tested. A DOT employee does not have the blood test option.

- An employee who engages in conduct that obstructs the testing procedure by tampering with a urine sample, diluting a urine sample or substituting urine samples.
- 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.

An employee should be sent for a random test within 60 minutes following notification to the employee. A supervisor who notifies an employee of a random test too early (i.e. more than an hour prior to sending the employee) or who delays sending the employee immediately (i.e., more than one hour) after any type of test notification will be subject to disciplinary action.

### **13.8.7 Commercial Vehicle**

In the event of a fatality and/or extreme damage to property and/or serious injury arising out of the use or operation of a commercial vehicle, other employees (such as mechanics) may also be required to undergo an alcohol and drug test.

### **13.8.8 DOT Positions**

A DOT position (See *Glossary* for definition.) may require a commercial driver's license. DOT positions demand safety-sensitive responsibility from the time the driver begins work, or is required to be ready to work, until the time he or she is relieved from duty. The employee is expected to be drug and alcohol free during that time. A DOT position employee may not consume any alcohol from any source within four hours before reporting for duty.

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. If a DOT position employee refuses to undergo an alcohol or drug test, he/she will be terminated after an appropriate pre-termination process has been followed. He/She will also be referred to a 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.)

### **13.8.9 Medicines on the Job**

Employees may use over-the-counter or prescribed medicines on the job as long as the employee's performance is not adversely affected. If an adverse effect is observed that could result in an unsafe action or if an employee is unable to perform his or her assigned duties, the supervisor will relieve that employee from duty and may assist with the employee's travel arrangements to leave work.

If an adverse effect on the employee's performance is observed, the employee must provide documentation from a physician to support the need for the medicine. Failure to justify the use of such medicines will result in the employee being off work while the matter is reviewed. The employee may either be subject to temporary reassignment of duties or may be required to take appropriate leave.



### **13.8.10 Legitimate Use of Prescriptions or Over-the-Counter Drugs**

Employees are allowed to use prescribed or over-the-counter drugs as long as their performance at work is not impaired.

An applicant or employee who can document legal use of a prescribed drug containing an opiate, narcotic or amphetamine has a "medically explained" test result and that is not in violation of this policy. There is no loss of employment or opportunity for promotion or transfer. An employee may be referred to the Wellness Coordinator to evaluate his or 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 Wellness Coordinator works with the employee to address the issue.

### **13.8.11 Use of Controlled Substances that are Prescribed to a Person Other Than the User**

The use of a controlled substance is prohibited, and will be considered a positive drug test. An employee who uses another person's prescription medication in violation of this prohibition for the first time will not be terminated, but may be issued discipline after an appropriate Pre-Decision process is followed. Additionally, an employee who violates this prohibition for the first time shall be referred to the Wellness Coordinator for evaluation. An employee who is found to have violated this prohibition after testing for a promotion or transfer will have the job offer withdrawn and cannot apply again for the promotion or transfer for six months.

Employees should never give their own prescription medication to another employee or another individual for consumption. Employees who give their prescription to other individuals in violation of this prohibition will not be terminated for the first violation, but may be disciplined after an appropriate Pre-Decision process has been followed.

### **13.8.12 Suspicious Substances**

If a substance that appears to be an illegal drug is found within an area under the effective control of an employee (e.g., desk, office, vehicle, worksite, etc.), an investigation will be conducted by appropriate law enforcement agencies. If warranted, appropriate disciplinary action is taken. The employee may also be subject to criminal charges.

### **13.8.13 Treatment for Alcohol or Prescription Drug Abuse**

Any employee who fails an alcohol test or who has a positive drug test related to the illegal use of a prescription drug the first time and remains employed with the City must agree in writing to comply with individualized EAP-developed requirements. Employees will be required to cooperate with unannounced testing as directed by the Wellness Coordinator. If no follow-up testing is specified, the City's testing schedule will be followed. A non-DOT employee must agree to EAP unannounced alcohol and/or drug tests for 12 months, and 24 months for an employee in a DOT safety-sensitive position. Failure to agree in writing and/or failure to successfully comply with the EAP requirements may result in disciplinary action, up to and including termination.

An employee who fails an alcohol test or tests positive for drugs because of illegal prescription drug use is evaluated by the Wellness Coordinator for the need to be referred for counseling or treatment.

### **13.8.14 Employee Drug or Alcohol Treatment**

An employee who violates this policy will be referred to a counseling and/or treatment program. Employees who refuse to participate or fail to successfully comply with the counseling or treatment program shall be terminated after an appropriate pre-termination process has been followed.

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 inclusive:

- Checking oneself out of the program against medical advice.
- Being dismissed from the program.
- Non-compliance in fulfilling the program plan as designed by the program staff/counselors.
- Non-compliance in attending the EAP's required aftercare meetings.

After an employee returns to work following a positive alcohol test or drug test, any subsequent positive alcohol test and/or positive test for the illegal use of prescription drugs will result in the employee being terminated after an appropriate pre-decision process has been followed. The pre-decision process includes gathering the facts and considering all responses and mitigating circumstances that the employee might assert. If it is determined that the employee violated the policy for the second time, and the circumstances do not justify the violation, the employee shall be terminated regardless of the time between positive tests. The Wellness Division of the Human Resources Department will maintain record testing records and consult with supervision as needed.

### **13.8.15 Self-Referral Managed by Employee Assistance Program**

Employees may place themselves under formal Employee Assistance Program (EAP) case management as an "EAP self-referral" for chemical dependency (i.e., alcohol or drug-related) problems. Employees who place themselves under EAP case management and comply with this policy will avoid the random testing requirements of the drug and alcohol policy during their treatment.

Employees who place themselves in treatment or counseling for chemical dependency problems without EAP case management, or without notifying the EAP Coordinator in compliance, will NOT be exempted from the random testing requirements. An employee who discusses personal problems and/or chemical dependency problems with a supervisor, chaplain, minister, friend, or coworker did NOT self-refer and will NOT be exempted from random testing requirements. Employees must seek assistance in compliance with this policy in order to qualify for the benefits of EAP self-referral.

Employees who participate in EAP self-referral are required to:

- Sign a "consent to disclose document" allowing the Wellness Coordinator to contact the appropriate persons in the employee's department.
- Comply with the EAP/treatment/rehabilitation program conditions and directives.
- Report any incidents of relapse, interruption or discontinuation in the rehabilitation program to the Wellness Coordinator immediately.

An employee may not self-refer after a test (random, post-accident, reasonable cause, promotion/transfer, or EAP follow-up) has been scheduled; however, random drug testing is temporarily suspended during the employee's participation in the rehabilitation program managed by the Wellness Coordinator. Testing resumes when the rehabilitation program is complete or when the employee failed to comply with the rehabilitation program. An employee will not be disciplined for placing themselves into an EAP self-referral program. However, an employee's self-referral does not prevent the Department Director or designee from taking appropriate disciplinary action for the employee's performance or conduct for other work-rule violations.

### **13.8.16 Non-City-Sponsored Rehabilitation Program Participation**

Employees should notify the City's Wellness Coordinator within five business days after entering rehabilitation programs that are not sponsored or associated with the City. Notification may be by phone, but must be followed up in writing, which includes e-mail. Notification helps ensure that the employee will not be scheduled for a random drug test. Employees who are in a bona fide rehabilitation program (as determined by the City's Wellness Coordinator), who have complied with the protocols of the program for 28 days or less, will not be terminated or disciplined for testing positive while participating in the program. However, the City's Wellness Coordinator will request an assessment to determine appropriate changes to treatment.

### **13.8.17 Confidentiality, Records and Retention**

Information related to alcohol and drug tests is held in confidence consistent with the provisions of applicable law. The Wellness Coordinator and the designated Health Clinic retains confidential records relating to the substance abuse program, including training, testing, rehabilitation and litigation records. The Wellness Coordinator and the Clinic retain test information separate from the employee's personnel file. Records of individuals who pass a test are retained for at least one year. Records of individuals who fail a test are retained for at least five years.

#### **Drug and Alcohol Education**

Employees can request the following training through the Human Resources Department related to City drug and alcohol policies:

- Supervisors/Managers/Crew Leaders – Risk Management Division personnel conduct a three-hour Supervisor Drug/Alcohol Training throughout the year. This is a mandatory training for all supervisors/managers/crew leaders, including

supervisors of DOT employees, every three years.

- DOT Employees – Risk Management Division personnel conducts a Drug/Alcohol Training throughout the year for DOT employees. This is a mandatory training for all DOT employees, every three years.
- Non-DOT Employees – All employees may attend Drug/Alcohol Training with their supervisor’s approval. Other classes on alcohol and substance abuse are available upon request.

## 13.9 Notification of Arrest

All employees must notify their immediate or next-level supervisor/manager within 48 hours of being arrested or charged with any crime other than a minor traffic violation. Failure to do so may result in disciplinary action up to and including termination. The department supervisor/manager will then contact the Employee and Labor Relations Division of Human Resources who will, in consultation with the Department of Law, determine if any employment action is necessary as a result of the employee’s arrest.

For purposes of this policy, a “criminal charge” occurs when an individual is officially charged with a criminal offense by the prosecuting agency.

## 13.10 Criminal Convictions

Employees must inform their immediate or next-level supervisor/manager within 24 hours (or at the beginning of the next business day if the 24-hour timeframe would fall on a weekend day or holiday) of a criminal conviction for any criminal offense other than a Class C misdemeanor or the functional equivalent of a Class C misdemeanor. (In Texas, minor traffic offenses are Class C misdemeanors. “Functional equivalent” takes into consideration criminal convictions that occur outside of the jurisdiction of Texas. For instance, an employee vacationing outside of Texas could be involved in criminal conduct that might be classified as something else in that other jurisdiction.) Failure to do so may result in disciplinary action up to and including termination. The department supervisor/manager will then contact the Employee and Labor Relations Division of Human Resources who will, in consultation with the Department of Law, determine if any employment action such as administrative leave, modified duty, or formal discipline is necessary as a result of the employee’s conviction.

Employees whose job requires them to hold a valid commercial driver’s license (CDL) and are convicted of any criminal offense related to motor vehicle traffic control, other than a parking violation, must report such convictions to their immediate or next-level supervisor/manager within 24 hours (or at the beginning of the next business day if the 24-hour timeframe would fall on a weekend day or holiday). All other general employees are not required to report such convictions if they are for a Class C misdemeanor or the functional equivalent of a Class C misdemeanor.

A “criminal conviction” occurs when a judgment is entered convicting an individual of a criminal charge in a court of competent jurisdiction, and for the purposes of this policy includes a guilty verdict, a guilty plea, a plea of nolo contendere or no contest, deferred adjudication, and placement in a pretrial diversion program.

## 13.11 Payment of City Parking Citations, Moving Violations, and Fines

City employees are expected to pay delinquent parking citations, moving violations, and applicable fines (“Delinquent Violation”) that are owed to the City of Fort Worth unless they receive a waiver or lawful dismissal or discharge of those obligations through Municipal Court.

After a department receives notification of an employee’s failure to pay a Delinquent Violation, the department shall send the employee a written notice reminding them of their obligation to pay. Departments are also authorized to place an employee on administrative leave without pay for up to thirty (30) calendar days to address the Delinquent Violation.

City employees will have thirty (30) calendar days from the date the notification is sent to them from the City department to legally dispose of the Delinquent Violation or make acceptable arrangements through Municipal Court for the disposition of the Delinquent Violation. City employees may obtain information about their Delinquent Violation by doing the following:

- Go to the following link to see their case information:  
<https://courtpa.fortworthtexas.gov/eservices/search.page.3?x=84yRzNZMw3wsgYyXpAE1cQ>
- Call the City of Fort Worth Municipal Court at 817-392-6700 to get case information and options
- Visit a City of Fort Worth Municipal Court office in person between 8:00am-11:00am or 1:00pm -3:00pm to find out the case information, legal options, and to see a Municipal Court Judge. Available locations can be found at:  
<http://fortworthtexas.gov/municipalcourt/locations/>

Employees who do not legally dispose of the Delinquent Violation or make acceptable arrangements through City of Fort Worth Municipal Court for the disposition of the Delinquent Violation, as described in this policy, will be subject to disciplinary action, up to and including termination of employment.

## 13.12 Firearms at the Workplace

Employees may not carry or possess a firearm in the workplace unless they are required to do so as part of their assigned duties.

Employees licensed by the State of Texas to carry a handgun likewise may not carry or possess a handgun in the course or scope of their employment unless required to do so as part of their assigned duties.

Nothing in this policy is construed to prohibit or regulate the carrying of handguns in employee-owned motor vehicles by an employee. Employees are allowed to possess or store a

firearm in their personal vehicles while in a City parking lot.

Any employee violating this regulation will be disciplined, up to and including termination.

If a supervisor discovers or is informed by others that an employee may be carrying a weapon in violation of this policy, the supervisor should immediately inform the employee of the City's policy. If the employee is carrying his or her personal weapon in violation of this policy, the supervisor should tell the employee to secure the weapon in the employee's personal vehicle and then the supervisor should report the incident to the department's management so that proper action can be taken. If at any time a supervisor or any other employee feels threatened by an employee who may be carrying a weapon, the supervisor or employee should call the police or the City Marshal's office and take no action (other than what is necessary for their own safety) until the appropriate authorities arrive.

### **13.13 Pepper Spray, Mace, Tasers, and Knives**

The carrying and/or use of weapons such as pepper spray, mace, a taser, or a knife during the course of performing work duties must be approved in advance by the Department Director or designee and the employee must be knowledgeable about the use of these items. The Department is encouraged to have the employee document their acceptance of any liability that might result if items are used. The Law and Human Resources Departments should be consulted to determine appropriate documentation regarding liability. Using these items in a threatening manner is strictly prohibited.

### **13.14 Unauthorized Removal and/or Misuse of City Property**

The City of Fort Worth and its employees should generally only use City property, equipment, and facilities to provide services for Fort Worth citizens. The use of any City property, equipment, or facility for personal business or gain is forbidden, and any such action could result in disciplinary action up to and including termination after an appropriate Pre-Decision process has been followed as applicable. Use of electronic equipment is subject to the Administrative Regulation titled *Electronic Communications Resources Use Policy*.

### **13.15 Driving and Vehicle Usage**

Use of a City vehicle by an employee is neither a right nor a privilege but a trust conferred to facilitate necessary performance of job duties. City vehicles shall be assigned and used for authorized purposes only. Failure to comply with this policy may result in denying the employee's eligibility to drive a City vehicle and may result in the employee's reassignment, demotion, or termination.

The City maintains an Administrative Regulation titled *Use of City Vehicles* which is the controlling policy as related to City vehicles and driving in the course and scope of employment. The Administrative Regulation can be found on the City's intranet page at <http://www.cfwnet.org/administrative-regulations/default.htm>.

## 13.16 Solicitations

Solicitation by or of City employees on the job without the approval of the Department Director or designee or Human Resources Director is prohibited. Prohibitions under this policy do not apply to City-sanctioned solicitations such as the United Way campaign.

Raffles, auctions or other schemes organized and conducted by an employee for their personal gain or for another individual's gain are not allowed if other employees are solicited to participate or if the activity is conducted during employees' work time. This does not include raffles, auctions or other fund-raising events conducted by employees to raise funds for charities or other special events that are approved for Citywide participation by the City Manager (such as annual food drive, Cowboy Santa and so on).

Individual employee-to-employee selling of goods or products must not be done during work time or interfere with the operation of a department. Instances of employees collecting money and/or goods to donate to co-workers in times of need (e.g. death in the family, personal illness, house fire, and personal tragedy) are allowed with supervisory approval.

Requests for City-wide access to employees for the distribution of materials shall be made to the Human Resources Director. Requests will be reviewed according to these criteria:

- No cost should be incurred by the City in distributing the materials
- Materials promoting for-profit businesses will be considered only if the business has no local competitor or if the business has been selected through the City's normal bidding process to provide services to employees, such as insurance and investment firms
- Materials should be directed specifically to City employees, not to the public at large

Requests for distribution of the following types of materials will not be granted:

- Materials that are primarily commercial advertising by for-profit businesses
- Materials from any individual, group, or organization who has a current contract with the City (exceptions for updates from current vendors who provide employee benefits)
- Materials from any individual, group, or organization who reasonably anticipates entering into a contract with the City in the 90 days following the request
- Materials from any individual, group, or organization who has an interest in any matter on a current or future City Council agenda
- Materials that are part of a business' regular advertising campaign being directed to the public at large

Requests by vendors who seek access to a City facility to sell goods or services to City employees shall be made to the Department Director associated with the facility. Requests will be reviewed giving consideration to whether the goods or services provide a significant benefit to the employees assigned to or using the facility and whether the goods or services are of interest to a significant number of those employees.

Distributors of informational materials, newspapers or other advertising magazines may leave material on City property for use by employees or visitors. This practice is not encouraged or approved by the City, but it will be permitted as long as it is done in an

unobtrusive manner and in a neat and orderly fashion. The City reserves the right to limit the amount and physical format of material left on City property, as well as where this material is located.

The City has a long-standing relationship with local organizations (e.g. the Tarrant Area Food Bank and the United Way of Metropolitan Tarrant County), whose missions are consistent with City Council's Strategic Goals. Requests by additional charitable organizations for access to City employees for solicitation of donations shall be made to the Human Resources Director. Requests by external organizations are evaluated according to the following criteria:

- The organization must be tax exempt under Section 501(c)(3) of the Internal Revenue Code and the contribution the organization seeks must be deductible under Section 170 of the Internal Revenue Code.
- The organization must be headquartered in the City of Fort Worth and be governed by a voluntary board of directors.
- The organization must distribute at least 85% of its charitable receipts to health, welfare, social, or other human services programs within Tarrant County and the City of Fort Worth.

Requests made by City departments for solicitation of donations to programs initiated and conducted by the requesting department will be allowed if the program is a planned objective of the department.

Requests by employees or external organizations for solicitation of charitable contributions within a single department or City facility shall be made to the Department Director or the Department Director associated with the facility, as appropriate. Requests should be reviewed giving consideration to whether the requested activities are consistent with the mission of the organization and whether such activities would interfere with the day-to-day business activities of the department or facility.

## **13.17 Recordings and Pictures**

Employees must have approval from their supervisors before recording conversations or meetings or taking pictures on City-provided or personal devices. Recording conversations or meetings or taking pictures when management is unaware that it is occurring is prohibited and may result in disciplinary action, up to and including termination. An exception may occur if an employee judges that an immediate need to document a health, safety, or City liability concern is present or to document illegal activity, and it is not possible to obtain supervisory approval prior to recording or taking a picture. In such cases, a supervisor must be notified of the incident and provided the recording and/or picture at the earliest possible opportunity following the making of the recording or taking of the picture. For example, if a vehicle accident occurs between a City and private vehicle, the employee may need to take immediate pictures at the scene prior to the vehicles being towed or driven away and obtaining supervisory approval first might not be feasible with a limited timeframe.



## 13.18 Personal Social Media Usage

Employees are free to express themselves as private citizens on their personal social media sites or web logs (blogs). However, employees are prohibited from using language or images that are obscene or sexually explicit, or that ridicule, malign, disparage, or otherwise expresses bias, or implies violence or physical harm against any person or group based on race, gender, religion, national origin or other protected characteristic.

Any person identified as an employee of the City of Fort Worth on a publicly accessible site is also expected to maintain an online image that would encourage the public to have confidence in that employee. To this end, employees shall not post subject matter containing images or statements suggesting that the employee has engaged in theft, public intoxication, illegal drug activity, or other criminal behavior. Additionally, employees are prohibited from engaging in defamatory speech. Individuals who violate this policy may be subject to disciplinary action up to and including termination of employment.

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# 14. Complaint Resolution

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## 14.1 Purpose and Introduction

The City of Fort Worth endeavors to provide resources to assist employees who have disagreements and conflicts with other employees or supervisors. These resources range from facilitating personal discussions to resolving conflicts informally to investigating complaints of discrimination, retaliation, or harassment. Some resources are available only to Full-Time, Reduced Schedule, and Part-Time employees who have passed their six-month (or extended) initial probationary period and who work in certain positions, as explained in other sections of this policy. These resources may also include reviews and appeals of disciplinary suspensions, demotions, disciplinary probations, and terminations.

The complaint resolution procedures do not provide legal rights to employees. The procedures implement the Fort Worth City Code and may be rewritten by the City Manager at any time, for any reason.

The complaint resolution procedures serve as guidelines to process complaints and appeals. The Human Resources Director or designee may waive procedural rules for good cause. Failure of the City to follow the guidelines does not prevent the City from imposing discipline on employees, up to and including termination. The City encourages employees to discuss complaints with their supervisors, where appropriate, to reach a satisfactory resolution. In the processing of complaints and appeals, the City endeavors to provide a process in which employees are free from retaliation, restraint, interference, discrimination, or reprisal. Early resolution is encouraged and can be negotiated at any step in the complaint or appeals process.

The City of Fort Worth retains management rights. These rights include the daily management of operations, direction of the work force, maintenance of discipline, and the efficient use of the work force. More specifically, but not limited herein, management rights include the authority to: hire and determine employees' qualifications and ability; determine the number and location of facilities and employees; assign work; question and/or clarify job tasks and give work-related directives; transfer, promote, and lay off employees; evaluate employees and grant salary increases; create, modify, and abolish job classes, class specifications, and job duties; change or eliminate existing operations, methods, equipment, or facilities; contract out work; schedule working hours within the workweek; approve or deny use of accrued leave; schedule rest and lunch periods; and establish and enforce reasonable rules and regulations. Complaints that involve management rights are not processed unless the complaint describes a discrimination, harassment, or retaliation issue. Management rights that do not involve a discrimination, retaliation, or harassment issue are likely not subject to dispute resolution measures through the Employee and Labor Relations office or the City's appeal process and are generally referred to department management for review and appropriate action.

Employee performance appraisal ratings and merit increase issues are not appealable to Human Resources under the complaint resolution processes described in this chapter unless the rating or increase issue forms the basis of a complaint of illegal discrimination or retaliation. Employees can discuss concerns about their performance appraisals with their supervision.

The Human Resources Director or designee ensures complaints follow established procedures. The Human Resources Director or designee makes the final decisions pertaining to complaint resolution procedures, application, interpretation, and implementation.

For questions about this chapter, please call the Employee and Labor Relations Manager.

## **14.2 Complaints of Unfair Treatment**

This section applies to all general employees, whether they are Probationary, Full-Time, Reduced Schedule, Part-Time, Seasonal, or Temporary.

Employees who have complaints or disagreements with supervisors or general concerns of unfairness should first discuss their concerns with their supervisors and their departmental supervisory chain to resolve the matter. But an employee may bypass the supervisor to file a complaint against that supervisor.

Employees who have complaints (e.g., wage or overtime issues, workplace environment issues, FMLA issues, etc.), disagreements with supervisors or co-workers, or general concerns of unfairness may contact the Employee and Labor Relations Division of the Human Resources Department. Only complaints of unfair treatment (i.e., those that do not rise to the level of a violation of the discrimination or harassment policy) involving matters that occurred within the three months before the report date will be reviewed. The investigators may use their judgment and decide to review matters that occurred more than three months prior to the report date, depending on the severity of the complaint and the reasons for the delay in filing a complaint. Complainants must cooperate in the investigation and provide timely, complete, and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate may result in administrative closure of the complaint. Dependent on the nature, frequency, and severity of the matters presented in the complaint, it may also be determined that the complaint should be referred to the employee's department for review and action as appropriate. If not referred to the employee's department, the Employee and Labor Relations Division of the Human Resources Department will provide notification of the outcome of the complaint to the complainant, either verbally or in writing. Written notification of the outcome of a complaint to the complainant will be dependent upon the nature of the complaint. In cases where written notification is not provided, verbal notification will be made. If written notification of the outcome is provided, it will provide information on a need-to-know basis, and details of any actions taken with employees other than the complainant will not be included.

## 14.3 Discrimination, Retaliation, Harassment Complaints

This section applies to all general employees, whether they are Probationary, Full-Time, Reduced Schedule, Part-Time, Seasonal, or Temporary, and regardless of their assignment, title, or position with the City.

For purposes of this policy, “discrimination” refers to illegal discrimination that is based on any of the protected classes as defined in the *Glossary*.

For purposes of this policy, “harassment” refers to frequent or severe behavior that is unwelcome, distressing, or unpleasant. For more information about harassment, please refer to the *Harassment-Free Workplace* policy in Chapter 13 and/or the *Glossary*.

For purposes of this section, “retaliation” refers to an adverse employment action that is alleged to have been motivated by the following protected activities:

- The employee has taken leave under Family and Medical Leave Act (FMLA), 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 Department of Labor, regarding payment of wages and overtime under the Fair Labor Standards Act (FLSA).
- The employee has filed a discrimination charge or complaint based on a protected class (see *Glossary*) with the Equal Employment Opportunity Commission, Texas Workforce Commission, the Fort Worth Human Relations Commission, or the Employee and Labor Relations Division of the Fort Worth Human Resources Department.
- The employee has opposed an illegal discriminatory practice based on a protected class (see *Glossary*) 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.
- The employee exercised rights or made a complaint to his/her department or the Human Resources Department based on the employee’s veteran status under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).
- Whistleblower complaints\*

*\*While also a protected activity, this type of alleged retaliation has a different complaint process, as explained below.*

The complaint process provides an avenue for employees to report allegations of discrimination, retaliation, and/or harassment. It is against the policy of the City of Fort Worth for any supervisory personnel (or personnel with the ability to do so) to retaliate (i.e. impose an adverse employment action) against any individual who reports discrimination or harassment, opposes a discriminatory practice, or participates in an investigation of such reports.

Any complaint alleging discrimination, retaliation, or harassment shall be construed as a claim against the City of Fort Worth and will be investigated for review and advice of legal counsel unless otherwise determined facially invalid by Employee and Labor Relations. Any employee may file a complaint with the Employee and Labor Relations Division alleging discrimination or retaliation if that person has received an employment action that is perceived to be adverse (e.g., discipline, transfer, substandard performance appraisal). Employees who have resigned or who have been terminated may also file retaliation and discrimination complaints.

Complaints filed by a General employee alleging discrimination, harassment, or retaliation by a sworn Police Officer may be filed with either the Human Resources (Employee and Labor Relations Division) or Police (Internal Affairs) Department. Complaints filed in all other situations shall only be investigated by the Employee and Labor Relations Division. Individual supervisors shall not investigate complaints of discrimination, harassment, or retaliation, but must refer all complaints to the Employee and Labor Relations Division as soon as they have any knowledge of such complaints. Failure of a supervisor to timely refer a complaint of discrimination, harassment, or retaliation to the Employee and Labor Relations Division may result in disciplinary action for the supervisor, up to and including termination.

#### *Filing and investigation of complaints*

Complaints must be filed in writing with the Human Resources Department's Employee and Labor Relations Division. All reports must include the following information:

- Contact information, including name, address, and telephone number of the Complainant.
- The Complainant's employee number and position (or former position) with the City.
- The nature of the alleged adverse employment action taken against the Complainant.
- The date of the alleged adverse employment action taken against the Complainant.
- The name of the Complainant's supervisor.
- The name of the individual who allegedly caused an adverse employment action.
- The facts that are the basis for the complaint, including dates that incidents occurred; and
- Names of persons with knowledge of relevant facts, including a general statement of what they know. If it is determined from the provided information that a person named does not have information relevant to the investigation, that person might not be contacted.

Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate or provide complete and accurate information during the investigation process impedes the ability of the investigators to conduct a thorough review and will be noted in the findings as appropriate. It is the Complainant's responsibility to update contact information, in the event of a change.

During an investigation, ELRD will maintain confidentiality of the Complainant, witnesses, and the accused to the greatest extent possible to maintain the integrity of the investigation and to make participants in the process as comfortable as possible in their cooperation with the investigation process. ELRD will notify investigation participants that, because the City is a public entity, there is a possibility that information gathered in the investigation may be released to the public, with or without a Public Information Request. The exception to this may be complaints involving sexual harassment, which are generally more protected because of the sensitive nature of the allegations and subject matter. In appropriate circumstances, the City's Law Department may ask the Texas Attorney General's office to determine whether state law requires that information related to such an investigation must be withheld from public disclosure. Following the completion of the investigation, the City Manager's Office may choose to share information from any employment investigations with the media and/or other parties, as appropriate. Information gathered during investigations of complaints against sworn civil service employees will be subject to Texas Local Government Code Section 143.089, and other protections that may exist under state law.

Investigation findings, decisions, and recommendations are made on a case-by-case basis. The Human Resources Department, with the Department of Law, decides how the incident/allegation/complaint is investigated.

At the conclusion of the investigation, the Employee and Labor Relations Division will report the findings to the Law Department, who will share them with the employee's Department Director or designee, unless the facts of the situation make that inappropriate, in which case the findings will be forwarded to the appropriate Assistant City Manager. If the investigators conclude that City policy was violated, the Assistant City Manager or Department Director will review the findings with representatives from Law and Human Resources and will take action appropriate to the finding. The Complainant will be notified in writing of the decision and action taken. The Department Director's or Assistant City Manager's decision is final, concludes the complaint procedure, and may not be appealed.

In general, any details regarding relevant disciplinary action would not be shared with anyone other than the employee receiving the discipline and their supervisor. An employee who commits any serious breach of confidentiality under this policy may be disciplined, up to and including termination. Any employee who engages in retaliatory actions as defined in this policy may be disciplined, up to and including termination.

### *Deadlines*

The date the written complaint is received by the Human Resources Employee and Labor Relations Division will be considered the date the complaint is filed.

An employee must file a complaint of discrimination, harassment, or retaliation as defined in this policy within 300 calendar days of the date the adverse employment action occurred or was discovered by the employee through reasonable diligence.

## 14.4 Whistleblower Complaints

It is against the policy of the City of Fort Worth for any supervisor to take an adverse employment action against an employee because 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. This section applies to all current and former employees, whether they are (or were) Probationary, Full-Time, Reduced Schedule, Part-Time, Seasonal, or Temporary, and regardless of their assignment, title, or position with the City.

An employee or former employee must file a complaint of retaliation for reporting a violation of law by a public employee (“whistleblower” complaint) not later than the 90th day after the date on which the alleged adverse employment action occurred or was discovered by the employee through reasonable diligence. Employees who have resigned or who have been terminated may also file a whistleblower complaint. The date the complaint is received by the Human Resources Employee and Labor Relations Division will be considered the date the complaint is filed.

### *Filing and investigation of complaints*

Complaints must be filed in writing with the Human Resources Department’s Employee and Labor Relations Division. All reports must include the following information:

- Contact information, including name, address, and telephone number of the Complainant.
- The Complainant’s employee number and position (or former position) with the City.
- The nature of the alleged adverse employment action taken against the Complainant.
- The date of the alleged adverse employment action taken against the Complainant.
- The name of the employee’s supervisor.
- The name of the individual who allegedly caused an adverse employment action.
- 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.

Complainants must cooperate in the investigation and provide timely and accurate information relevant to the complaint as requested by the investigators. Failure of the complainant to cooperate or provide accurate information during the investigation process impedes the ability of the investigators to conduct a thorough review and will be noted in the findings as appropriate. It is the complainant’s responsibility to update contact information,

in the event of a change. This is a prerequisite to suit under the Texas Whistleblower Act.

During an investigation, ELRD will maintain confidentiality of the complainant, witnesses, and the accused to the greatest extent possible to maintain the integrity of the investigation and to make participants in the process as comfortable as possible in their cooperation with the investigation process. ELRD will notify investigation participants that because the City is a public entity, there is a possibility that information gathered in the investigation may be released to the public, with or without a Public Information Request. The exception to this may be complaints involving sexual harassment, which are generally more protected because of the sensitive nature of the allegations and subject matter. In appropriate circumstances, the City's Law Department may ask the Texas Attorney General's office to determine whether state law requires that information related to such an investigation can be withheld from public disclosure. Following the completion of the investigation, the City Manager's Office may choose to share information from any employment investigations with the media and/or other parties, as appropriate. Information gathered during investigations of complaints against sworn civil service employees will be subject to Texas Local Government Code Section 143.089, and other protections that may exist under state law.

Investigation findings, decisions and recommendations are made on a case-by-case basis. The Human Resources Department, with the Department of Law, decides how the incident/allegation/complaint is investigated. Appropriate disciplinary action is taken when the findings warrant it. The disciplinary action is decided upon in an executive summary meeting with representatives from Law, Human Resources and the Department Director or designee. If disagreement exists among the representatives, the Department's Assistant City Manager determines the disciplinary action.

At the conclusion of the investigation, the Employee and Labor Relations Division will report the findings to the employee's Department Director or designee, unless the facts of the situation make that inappropriate, in which case the findings will be forwarded to the appropriate Assistant City Manager, who will take action appropriate to the findings and notify the Complainant in writing of the decision and action taken. The Department Director's or Assistant City Manager's response is final, concludes the complaint procedure, and may not be appealed.

In general, any details regarding relevant disciplinary action would not be shared with anyone other than the employee receiving the discipline and their supervisor in an effort to maintain confidentiality. An employee who commits any serious breach of confidentiality under this policy may be disciplined, up to and including termination. Any employee who engages in retaliatory actions as defined in this policy may be disciplined, up to and including termination.



## 14.5 Appeals

An appeal is a formal protest over disciplinary terminations, demotions, suspensions without pay, reductions in pay, and disciplinary probation. Documented oral and written warnings are not appealable. Employees will not be subjected to retaliation, restraint, interference, discrimination, or reprisal for filing appeals.

The following City officers and employees may not file an appeal for discipline under this section:

- The Mayor, members of the City Council, and members of appointed boards;
- The City Manager and the Assistant City Managers;
- The Department Directors, Assistant Department Directors, and division heads (including Managers, and Superintendents);
- Municipal court system judges;
- City Internal Auditor;
- City Secretary;
- Temporary or Seasonal employees;
- Council Aides;
- Employees who are in their initial probationary period;
- The City Attorney;
- Assistant attorneys in the Department of Law; and
- Employees who are covered by civil service.

Other City employees may also be ineligible for an appeal based on the position's reporting structure within the department and other factors such as the level within the structure, whether there are any direct reports, and the position's FLSA status (exempt vs. nonexempt). The final eligibility determination will be made by the Employee and Labor Relations Division, and that decision is final.

All parties who are involved in the filing, processing, and investigating of appeals are expected to provide complete information relevant to the review at the beginning of the process. Information not provided at the beginning of the appeal process but brought up at later steps in the process may be rejected unless good cause is shown as to why the information was not brought up when the appeal was initiated. Information intentionally withheld during the review process will not be considered. Full and timely disclosure is expected.

If the employee alleges that illegal discrimination, harassment, or retaliation was the basis of the disciplinary action that they are appealing, the employee must disclose the discrimination, harassment, or retaliation allegations by providing the pertinent information as required above in the *Discrimination, Retaliation, and Harassment Complaints* section.

If an employee and/or the employee's representative fails to cooperate during the appeal process (e.g., fails to respond to requests for scheduling, fails to attend a scheduled hearing without notice, or fails to provide requested information needed to schedule a hearing with the Employee and Labor Relations Division) or displays a pattern of inappropriate or unprofessional conduct, the Human Resources Director has the authority to administratively close the appeal

and/or prohibit participation by the employee's representative. The Human Resources Director's decision is final.

The appellant-employee must notify the Human Resources Department Employee and Labor Relations Division that they would like to appeal discipline received within the required deadline as described on the discipline form (5 working days) or the decision letter (one week or 7 calendar days). The appellant employee must then meet with the Employee and Labor Relations Division at a time established by the Employee and Labor Relations Division in order to file an appeal. The employee's eligibility to file an appeal will be determined. If the employee is eligible to file an appeal, the process is explained to the employee. The employee is given the following forms, which must be completed and returned by the prescribed deadline:

- A one-page summary of the appeal process for the employee's reference;
- A form used to gather information about why the employee feels the discipline is not reasonable/unjustified, provided by the Employee and Labor Relations Division to be filled out and returned by the prescribed deadline to initiate the employee's appeal; and
- A form on which the employee should identify any representative and contact information for that person, the need for an interpreter or accommodation and an acknowledgement that the intake meeting has occurred.

#### **14.5.1 Deadlines and Extensions**

If the employee fails to pursue an appeal within the time limits set, the appeal will be considered settled and closed, based upon the last answer given by the supervisory representative of the City. If the City fails to respond to the appeal within the time limits set and a reasonable explanation is not given, the appeal is automatically moved up to the next step in the procedure if so desired by the appellant.

If any participant (e.g. appellant, Department Director, appeal investigators) wishes to have an extension, a written request (explaining the reason(s) for the request) must be submitted to the Employee and Labor Relations Division before the step's original deadline. The request will be reviewed by the Employee and Labor Relations Manager and approved or denied. No extension may exceed two weeks (14 calendar days), unless one of the two following conditions exist:

- The appellant or other participant pertinent to the appeal (e.g. Department Director, supervisor, pertinent witness, co-investigator, etc.) is not at work (or in the case of termination, not able to cooperate in the appeal process) due to a documented medical issue, FMLA certified leave, and/or being out on Major Medical Sick Leave. In this case, the appeal will be held in abeyance pending the participant's return to work (or in the case of termination, pending the ability to cooperate without medical restrictions), and at which time the appeal process continues per the timeframes prescribed in the PRRs; or
- The appellant alleges that illegal discrimination, harassment, or retaliation was the basis of the action that they are appealing. In such a case, the investigators assigned to the appeal may request an extension of up to thirty working days.

Only one extension request per step by any participant may be granted absent any extenuating circumstances.

#### **14.5.1.1 Termination or Resignation**

Employees who are terminated or who resign their employment with the City forfeit their right to have access to the Appeal Process for any level of disciplinary action with the exception of termination. Any appeal being processed at the time of resignation or termination for any level of disciplinary action with the exception of termination may not be processed and may be administratively closed. If an employee is terminated for disciplinary reasons, they may choose to initiate the City's Appeal Process for their termination and may raise any relevant issues during that process.

Employees who resign still have access to the discrimination/retaliation/whistleblower complaint processes even if their appeals are closed.

### **14.5.2 Appeal Process**

#### **14.5.2.1 Step 1: Appeal Investigation**

##### ***Step 1(a): Department Head Review***

After the appellant returns the form to initiate the appeal process, the Employee and Labor Relations Division may determine that it would be beneficial and appropriate for the relevant department head, or an ACM if the department head was the decision maker, to review the discipline and basis for the employee's appeal before moving forward with a Step1(b) investigation (see below). In such instances, the information collected when the employee filed their appeal will be provided to the department head for review. The department head will have 2 weeks (14 calendar days) to communicate his or her decision on the discipline to the Employee and Labor Relations Division and to provide the name of a co-investigator should the issue remain unresolved. The investigation will automatically proceed to Step 1(b) if the department head makes no change to the original discipline. If the department head modifies the original discipline, the Employee and Labor Relations Division will communicate the result of the department head review to the appellant employee. The appellant will then have 1 week (7 calendar days) from the time of the Employee and Labor Relations notification to indicate whether he or she wishes to continue the appeal process. If the Employee and Labor Relations Division receives no response by 5pm on the 7<sup>th</sup> calendar day after the notification is sent, the appeal will be administratively closed and the appellant employee will be so notified. If the appellant employee chooses to withdraw an appeal, the request to withdraw must be in writing.

##### ***Step 1(b): Employee and Labor Relations Division and Department Co-***

### ***Investigation***

The Department Director designates an employee to co-investigate the issue, along with the Human Resources Department. Departmental investigators should be manager level or above. The co-investigation team should meet with the appellant employee to discuss the issues before a written decision is prepared. The team has 3 weeks (21 calendar days) from the receipt of the Step 1(a) department head decision or the written notification of the appellant employee to continue the appeal following Step 1(a), whichever is later, to gather facts, speak with pertinent witnesses, and attempt to secure a resolution and respond in writing with their decision. Upon conclusion of the investigation, a determination is written and signed by the departmental and Human Resources co-investigators.

The appeal decision is mutually agreed upon by both Human Resources and the Department designee. The two departments may not appeal the determination reached by the co-investigators. All parties must comply with the determination. If Human Resources and the Department designee cannot agree, the appellant employee will be notified and will have the option to proceed to Step 2 of the appeal process as prescribed for the level of discipline they are appealing. If the Human Resources and the Department designee agree to modify/lower or rescind the level of the discipline originally given to the appellant employee, they should notify the Department Director of the basis for their impending decision and allow an additional response by the department for consideration. This notification can also provide adequate time for the department to take actions that will be necessary to effectuate the modification of the discipline.

Copies of the signed Step 1(b) determination are distributed to the employee, the Department Director, and the Human Resources Department. The Human Resources Department's Employee and Labor Relations Division maintains the complete appeal file.

An employee whose discipline is completely rescinded or modified to a level of discipline that is not appealable may not appeal the result. A letter of rebuttal may be added to the disciplinary documentation; however, it must address only relevant issues or else it may be rejected by the Human Resources Director.

#### **14.5.2.2 Step 2: Appeal Hearing and City Manager Review**

Failure to resolve the employee's appeal at Step 1 results in his or her option to proceed to Step 2 or to discontinue the appeal. If the employee decides to proceed to Step 2, the employee must contact the Human Resources Department's Employee and Labor Relations Division in writing within 2 weeks (14 calendar days) after the Step 1 response is sent to proceed with the Step 2 process.

#### ***Step 2(a): City Manager Review of Suspensions, Reductions in Pay, and Disciplinary Probation***

Once a request to progress to Step 2 for an appeal of a suspension, reduction in pay, or disciplinary probation is received, the Employee and Labor Relations Division will forward the request and related materials from Step 1 to the City Manager's Office, who will then have 10 days (or as soon as is practicable) to formulate a determination and respond to the Human Resources Director in writing. No new information can be presented at Step 2(a) unless extenuating circumstances can be shown, and allowance of new information at Step 2(a) will be at the discretion of the Employee and Labor Relations Manager. The determination of the City Manager's Office is final and non-appealable.

If the City Manager's secretary files an appeal, the final decision will be made by the City Council Legislative & Intergovernmental Affairs Committee, rather than the City Manager.

Copies of the City Manager's decision are distributed to the employee, the Department Director, and the Human Resources Department. The Human Resources Department's Employee and Labor Relations Division maintains the complete appeal file.

### ***Step 2(b): Hearing Officer and City Manager Review of Demotions and Terminations***

Failure to resolve the employee's appeal of a disciplinary dismissal or demotion results in his or her option to proceed to Step 2(b) or to discontinue the appeal. If the employee decides to proceed with a hearing before a hearing officer, the employee must contact the Human Resources Department's Employee and Labor Relations Division in writing within ten business days after the Step 1 determination is sent. The Human Resources Director or designee schedules and convenes the hearing. Hearings should be held within 90 days from the date of the request to proceed to Step 2. A Notice of Public Hearing will be posted at least 72 hours before the hearing, in accordance with state law. Compelling reasons for a hearing to be held after 90 days from the date of the request to proceed to Step 2 may be considered by the Employee and Labor Relations Manager.

The hearing officer only considers the issues that are contained in a written statement from the Department of Law stating the charges against the appellant and the rationale for the action taken. The employee is allowed, but not required, to file a position statement at the beginning of the hearing. Evidence presented at the hearing by either party must directly relate to those issues.

The hearing officer has subpoena power, and witnesses may be summoned by either party or by the hearing officer. Requests for the issuance of subpoenas must be received by the Human Resources Department at least three working days before the hearing date. (Employees summoned to testify are paid for their time at the hearing.) The rules of evidence do not apply but may be consulted for purposes of assessing the appropriate weight and credibility to attribute to evidence and as a guide for limiting evidence that is repetitive or not relevant.

The hearing is audio recorded and maintained in City records as a part of the employee's appeal file for two years. Either party, at its own expense, can have a court reporter record the proceedings.

Both parties may represent themselves or they may be represented by a person of their choice. Attorneys may represent either party.

In nearly all appeals, the hearing is expected to be completed in one day, but may be extended to a maximum of two days upon request of either party if the Employee and Labor Relations Division determines that the amount of evidence is likely to require the additional day. Each party will be given a maximum of one day to present its case. The time that each party expends on examination, cross-examination, and oral argument will be counted against that party's time limit. Ordinarily, a typical day will include a maximum of seven hours on the record. Lunch periods and rest breaks are not counted against either party's maximum. If either party asks for a recess other than an agreed rest break (such as consulting witnesses or making copies), the time will be counted against that party's maximum time limit.

By the beginning of the hearing, the parties will exchange witness lists, exhibit lists, position statements, and a copy of documents and other exhibits that are expected to be introduced as evidence. Unless the parties have made other agreed arrangements, the information will be provided in digital format (such as e-mail, on a jump drive, CD, or DVD).

### ***Order of Proceedings***

The hearing officer presides over and directs the hearing. The hearing officer may question the witnesses and ask questions about the documentary evidence to clarify statements and to ensure his or her understanding of the points presented.

The Department representative and the appellant present opening statements. The first opening statement is given by the party who has the burden of proof. Each party has ten minutes to briefly outline its position.

The Department representative and the appellant must present their evidentiary information (witness testimony and documentary material) as needed throughout the course of the hearing, but prior to closing statements. The party who has the burden of proof is first to present evidentiary information. Witness testimony should be pertinent to the issues being reviewed as part of the appeal process only. Witness testimony speaking only to a party's character is discouraged, unless the hearing officer determines that character evidence would serve a compelling purpose, such as in assessing a witness's truthfulness or in weighing controverting evidence.

Each party may examine and cross-examine witnesses and present documentary evidence and testimony. After the presentation of evidentiary information by both

parties, each party (Department representative and then the appellant) has ten minutes for closing statements. Closing statements should identify the conclusions each party believes the evidence shows. The party with the burden of proof is last to give a closing statement. The hearing officer adjourns the hearing after both parties complete their closing statements. Hearings may be limited to a two-day or 14-hour maximum time limit, whichever is more. After two days or 14 hours of hearing proceedings (whichever is more), the hearing shall be administratively closed by the Human Resources Director and the hearing officer's recommendation will be made on the information that was presented to that point.

Within ten working days after the appeal hearing, or as soon thereafter as practicable, the hearing officer prepares written findings and recommendations to be sent to Employee and Labor Relations who forwards them to the Human Resources Director, who forwards them to the City Manager or designee. Employee and Labor Relations will disclose the hearing officer's findings and recommendations only after the City Manager has made a final decision.

The City Manager, or a designee who is not in appellant's chain of command, reviews the hearing officer's findings and recommendations to determine whether to accept, modify, or reject the recommendation. The City Manager's or designee's decision is final. The decision is forwarded to the Human Resources Department. Appellant, employee representative, and Department delegate are prohibited from initiating contact with the City

Manager or designee regarding the appeal while the appeal is being reviewed.

Upon receiving the City Manager or designee's decision, the Human Resources Director or designee forwards 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, and the Human Resources Department. The Human Resources Department maintains a complete case file, which will include an audio recording of the hearing and a copy of all the exhibits that are entered into evidence at the hearing.

A terminated employee who is reinstated as a result of an appeal cannot appeal a lower level of discipline that is issued as part of their reinstatement. An employee whose discipline is completely rescinded or modified may not appeal a lower level of discipline that is issued as part of the appeal. A letter of rebuttal may be added to the disciplinary documentation; however, it must address only relevant issues, or else it may be rejected by the Human Resources Director.

### ***Hearing Officer Findings, Recommendations, and Authority***

Hearing officer findings and recommendations must be based upon a preponderance of the evidence (by the greater weight of the evidence presented).

The Department representative has the burden of proof, by a preponderance of the evidence, to show that the employee committed the alleged violations and that the

level of discipline was appropriate. If the appellant alleges that discrimination, harassment, or retaliation was the basis of the action, the burden of proof rests upon the appellant to establish by a preponderance of the evidence that discrimination, harassment, or retaliation occurred.

If the hearing officer determines that the disciplinary charges are sustained, the hearing officer recommends whether the good of the City requires that the appellant be permanently discharged or demoted from a higher to a lower position. If the hearing officer determines that the disciplinary charges are not sustained, the hearing officer recommends that the appellant be made whole.

Such recommendations are limited to a statement of whether the disciplinary charges against the appellant are sustained or not sustained, and the action recommended based on that finding. If the charges are sustained, the hearing officer may recommend that an appellant be awarded all or part of his or her back pay when it is found that such action would be appropriate. (See *Damages* below for further information.) The hearing officer must make a recommendation to reinstate, discharge, or demote the employee based on the case presented at the hearing even if the employee has cases pending in other proceedings regarding the facts that are relevant to the employee's termination. The hearing officer must not condition the recommendation on the conclusion of a case that is pending in any other proceeding, whether civil or criminal.

The findings and recommendations of the hearing officer are public record.

The hearing officer can close an employee's appeal if the employee fails to appear at a hearing without notice or good cause or does not provide contact or other information needed to schedule a hearing.

### ***Hearing Rescheduling***

Either party may request to reschedule the hearing by notifying the Employee and Labor Relations Division no later than 72 hours before the time of the hearing. Failure to request a rescheduling at least 72 hours before the time of the hearing may result in the appellant being charged a \$100 cancellation fee that will be used toward any payments to the hearing officer for short cancellation notice. A maximum of two rescheduling requests for the appellant may be granted. (Hearings rescheduled at the appellant's request reduce possible damage awards.) If, in the Human Resources Director's or designee's judgment, the request is reasonable, the hearing will be rescheduled. Requests that are deemed unreasonable are submitted for administrative closure to the Human Resources Director, whose decision is final.

When a Step 2 appeal hearing is rescheduled at the request of the appellant, any back pay and/or benefit awards are calculated from the originally scheduled hearing date. Rescheduled hearings that are initiated by the City do not reduce back pay or benefit awards. The appellant will not be penalized if the City causes the hearing to be rescheduled.



### ***Damages***

The hearing officer may make a recommendation regarding a reasonable back pay and benefits award during the Step 2 process. Appellants are expected to make reasonable efforts to mitigate (i.e., minimize) their back pay losses by seeking alternate employment after termination but before reinstatement. The City Manager makes the final determination on these matters and on any offset or the effect of any failure to mitigate back pay losses by seeking alternative employment. No punitive relief, attorney's fees, or other such relief can be awarded to appellants.

Back pay awards are limited to actual monetary losses of back pay, and benefits back pay awards are 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 back pay. If the appellant cannot provide such evidence, the City Manager may reduce the back pay by an amount the appellant could reasonably have earned if he or she had made reasonable attempt to locate other employment.

### **14.5.3 Reinstatement and Backpay**

Reinstatement occurs when an employee appeals an involuntary termination or involuntary demotion, the appeal is granted, and the employee returns to work in their previous position as a result of prevailing in the appeal. The service record of reinstated employees will reflect a break in service when involving an involuntary termination and full back pay is not awarded. Accrued leave benefits not paid at termination are reinstated and immediately available to the employee, unless the terms of the reinstatement specify otherwise. If the reinstatement provisions are silent on relevant reinstatement matters, those matters are processed as if full back pay was not awarded. Employees who are terminated are expected to make a good faith effort to find interim employment, in order to mitigate the City's back pay liability. If any back pay is awarded, the award will be reduced by the amount of income that the employee received, or should have received, during the appeal. Disagreements regarding the amount of offset will be determined by the City Manager. In cases where an employee has been reinstated following an appeal of a termination, any back pay awards should be reported to the Employee's Retirement Fund.

## **14.6 Reasonable Accommodation Review and Resolution for Persons with Disabilities**

Individuals who believe the City is not in compliance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), or who have been denied a requested reasonable accommodation under the ADA, may file a complaint with the Employee and Labor Relations Division ("ELRD") of Human Resources.

The Employee and Labor Relations Division researches the facts related to the complaint and

responds to the Complainant in writing. If the Complainant is not satisfied with the outcome, a written request for further review by the City Manager's Office must be submitted to the Human Resources Director within ten business days after receipt by the Complainant of the ELRD response. The City Manager or designee reviews the matter and prepares a final written response that is sent to the Complainant as soon as practicable.

## **14.7 Employee Representation**

Employees may have a single representative present during investigatory interviews, meetings, and while attending appeal meetings and hearings. Employees may change representation at any time; however, only one representative will be allowed at a time on any occasion. Requests from employees for representation at other/departmental meetings may only be granted at the discretion of the Department Director or designee. In the event that an employee has retained an attorney as his or her representative, a City attorney must also be present at any meetings with the employee and his/ or her attorney.

City employees, excluding supervisors and above, may represent other City employees not assigned to their same department. If an employee represents another employee, time spent as a representative during work hours is charged against the representative's personal leave time as applicable. If no personal leave time is available, the time logged is without pay.

If at any time the meeting organizer determines the employee's representative is disruptive or uncooperative, the employee will no longer be permitted to have representation.

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## 15. Glossary

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Below is an alphabetical list of terms used in this manual along with their definitions.

**Accredited school** - An educational institution approved by the Southern Association of Schools or its regional counterparts, or a technical training school or college approved by the Accrediting Commission of Career Schools or Colleges of Technology.

**Actual Holiday** – the calendar date that a holiday falls on and is generally recognized by law or societal custom as a holiday

**Additional shift** - A shift assigned to or directed to be worked by an employee to replace an absent employee or to provide adequate staffing for an event or activity. The assignment may be for a full or partial shift and must be approved by a supervisor.

**Administrative leave** - A type of paid leave used when an employee is temporarily relieved of his or her normal responsibilities, continues to receive regular pay and benefits, and is normally required to remain at home during regular work hours. This leave type is not charged against the employee's personal leave balances.

**Adverse employment action** - Action that materially affects the terms, conditions or privileges of employment.

**Alcohol test** - A scientifically recognized chemical test that establishes an individual's breathe alcohol level.

**Aliquot** - A portion of a specimen used for testing.

**Alternate duty assignment** - For purposes of the Return to Work policy, “Alternate Duty Assignment” is a job redesign or a placement to meet the needs and abilities of the individual, with work restrictions as determined by their treating physicians. Alternate duty is a transitional duty assignment, temporary in nature that is intended to bring an injured employee back to work until the employee is physically and mentally able to resume performance of his/her regular, full duty work.

**Appeal** - A formal protest of a disciplinary dismissal, demotion, or suspension of more than 10 days.

**Average weekly wage (AWW)** - The sum of all forms of remuneration paid to the injured employee for personal services in the 13 consecutive weeks immediately preceding the date of the injury divided by 13.

**Base Rate of Pay** – Pay received for a given work period that does not include overtime or special pays (holiday pay, shift differential pay, incentive/bonus pay and awards, lump-sum special merit pay, acting pay, bilingual skills pay, emergency callback pay, on-call or stand by duty pay, longevity pay, and clothing allowance).

**Bona Fide Offer of Employment (BFOE)** - An offer of employment to an injured employee who is returning to work with restrictions to duty as determined by an examining doctor and the return to work is for a transitional duty assignment (light duty, limited duty, modified duty or alternate duty). The BFOE meets the requirements specified in Rule 129.6, “*Bona Fide Offers of Employment*,” of the Texas Administrative Code.

**Business days** - Monday through Friday, between the hours of 8 a.m. and 5 p.m., excluding City holidays.

**Certification** - In the case of the education pay for Marshals, certification is 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.

**Certification incentive pay** - Extra Pay for successful completion of certified courses by the Texas Commission on Fire Protection Personnel Standards and Education (TCFPPSE) or the Texas Commission on Law Enforcement (TCOLE).

**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 from the 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).

**Chargeable collision** - One in which the employee's negligence, driver's error or traffic violation either caused or significantly contributed to the occurrence of the collision.

**City** - The City of Fort Worth.

**City vehicle** - A motor vehicle leased or owned by the City of Fort Worth.

**Coded hours** - Paid time that have payroll codes for other than actual "hours worked." Coded hours include pay for vacation leave, short-term sick/family leave, major medical sick leave, occupational injury, jury or court duty, military leave, compensatory time or holidays that fall on an employee's regular day off, holiday premium pay, donated leave or any other pay that is not for time worked. Coded hours also include time paid as a result of some "hours worked" such as emergency callback pay. Coded hours are not considered to be hours worked for the calculation of overtime hours. Paid time off on holidays, holiday leave and personal holiday leave are an exception to coded hours. These hours are treated as "hours worked" for the calculation of overtime hours.

**Collective bargaining** - 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.

**Commercial Driver's License (CDL)** - A license issued by the State to authorize an individual to operate a class of commercial motor vehicle.

**Commuting** - Direct travel in a city vehicle to or from the worksite(s) of an employee, including to or from an off-site parking facility including returns to the worksite(s) outside of the employee's normal work hours. Commuting is not in the scope of employment.

**Compensation** - Payment of an income benefit in accordance with the Labor Code, Chapters 408, 409, and 504, and in accordance with Chapters 126 through 132 of the Rules.

**Compensatory or "Comp" Time** - Paid time off earned by Non-exempt employees at a rate of one and one-half times the hours worked in excess of 40 hours in a work week and earned by Exempt employees at the rate of one-hour-worked, one-hour-accrued in excess of 40 hours in a work week. The FLSA allows non-exempt employees to earn compensatory time in lieu of overtime pay. A non-exempt employee may earn up to 120 hours of compensatory time and then any hours worked above 40 hours in that work week must be paid as overtime. Exempt employees can earn a maximum of 120 hours of compensatory time and accrual of compensatory time ceases until the exempt employee's compensatory time balance goes below 120 hours.

**Compensable injury** - An injury or occupational disease that arises out of and in the course and scope of employment for which compensation is payable in accordance with the Labor Code.

**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.

**Counseling** - An informal discussion between a supervisor and employee about the need to improve minor performance problems, or as a reminder of a policy violation.

**Course and scope of employment** - An activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer (City of Fort Worth) and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer.

**Covered service member** - For the purposes of the FMLA, 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 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 a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

**Customer** - Any person, firm or business that purchases, obtains or receives information, commodities or services from the City.

**Daughter** - For the purposes of the FMLA, a daughter is a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent (in loco parentis), 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.

**Day** - A consecutive 24-hour period of time within a workweek beginning at 12:01 a.m. For full-time employees, a day means up to eight hours within the 24-hour period of time for the purpose of defining time not worked during an employee's normal work shift. While an employee may be scheduled to work any number of hours during a workday, a day for the purpose of leave, time off work and compensation is up to a maximum of eight hours. For example, a day off work for a full-time employee for vacation, major medical sick leave, military leave, holiday, disciplinary leave, etc. would be a maximum of eight hours. A day for a reduced schedule employee is the ratio of hours worked in a week to 40 hours. For example, an employee who works 20 hours a workweek would have a ratio of ½ to eight hours or four hours a day. A day is also defined as eight hours for other purposes such as probation, longevity, etc.

**Demotion** - Movement into a classification having a salary grade with a lower entry pay amount than the previously held classification.

**Disability supplement pay (DSP)** - Pay from the city for the purpose of supplementing an eligible employee's weekly temporary income benefit for a compensable injury.

**Disability termination** - A termination type that occurs when the employee terminates from the City because of an illness or accident that renders the employee unable to perform the job. Disability termination can be from a job-related injury or disease or a non-job-related injury or disease. For job-related injuries or diseases, if approved for disability retirement, the employee has the opportunity to be vested in the City's retirement plan for full retirement, even if not employed by the City for up to five years. Non-job-related injuries, if approved for disability retirement, are treated the same as regular retirement for only the years of service rendered.

**Disciplinary probation** - A definite period of time (usually three to six months), during which an employee is expected to improve serious, specified deficiencies in performance, behavior, or attendance, while being monitored closely by a supervisor.

**Discrimination complaint** - When an employee alleges disparate (unequal) treatment. The acceptable basis upon which to file a discrimination complaint includes race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV).

**Division Head** - An employee in a management position that has decision-making ability and supervisory authority over a division or workgroup within a department. Examples of job titles that are considered to fall within this group include Manager and Superintendent.

**Doctor** - a doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice in the State of Texas.

**Documented counseling** - Also known as an oral warning. This type of discipline is issued for minor policy, procedural or conduct infractions and is provided to the employee in writing.

**Domestic partner** - A domestic partner is defined as an individual of the same or opposite gender as the employee, who is 18 years of age or older, who has lived in the same household as the employee for at least six months and shares resources of life in a close, personal intimate relationship with the City employee, neither of whom is married or related by blood, if, under Texas law, the individual would not be prevented from marrying the employee on account of consanguinity or prior undissolved marriage to another.

**DOT position** - A job where employees may operate commercial-type vehicles and for which a commercial driver's license (CDL) is required.

**Driving Under the Influence** - Driving a motor vehicle while in a state of intoxication. The Texas Penal Code, Chapter 49.01(2) defines intoxication as "not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; OR (b) having an alcohol concentration of .08 or more."

**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.

**Drug test** - A scientifically recognized chemical test administered in accordance with Department of Health and Human Services 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).

**DWC-73 Work Status Report (DWC-73)** - Texas Department of Insurance, Division of Workers' Compensation form that examining doctors are required to complete after a medical examination of an injured employee. The form identifies the injured employee's ability to work, and any physical restrictions to work.

**Employee** - An individual who is hired for compensation and who performs work for the City. This includes full-time, reduced schedule, part-time, seasonal, and temporary employees. A contractor or volunteer is not an employee.

**Employee Assistance Program (EAP)** - A program that assists 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.

**Equity Evaluation** – An objective assessment of compensation taking into account the experience, tenure, and/or performance of similarly situated employees and/or candidates within a certain classification, job series, work group, or department.

**Examining doctor** - A treating doctor, referral doctor, required medical exam doctor, or designated doctor who is authorized by the Labor Code and Rules to examine the medical condition of an injured employee. An opinion of a “designated doctor” is given presumptive weight when resolving questions about: (1) the impairment caused by a compensable injury; (2) the attainment of maximum medical improvement; (3) the extent of the employee’s compensable injury; (4) whether the injured employee’s disability is a direct result of the work-related injury; (5) the ability of the employee to return to work; or (6) issues similar to those described by items (1) – (5) above.

**Full City Contribution**- the amount budgeted by the City to be paid toward healthcare benefits for the majority of Full-Time Employees.

**Full duty** - Performance of the essential functions of the employee’s pre-injury job, with or without accommodation

**Functional Capacity Examination (FCE)** - An in-depth, detailed and technical medical assessment of a person’s physical abilities to perform the person’s job duties, administered by a licensed physical or occupational therapist. An FCE consists of a series of tests to measure physical strength, range of motion, and stamina of an injured person. The FCE is used to evaluate work tolerance, and the necessity for work restrictions. An evaluator skilled in functional capacity evaluation will use a battery of standardized tests, designed around key factors that include diagnosis, impairment, pain and functional limitation, referral questions, and, in some instances, the case resolution goal. An FCE is more detailed and comprehensive than the Human Performance Evaluation (HPE).

**Furlough** - 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 is not 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.

**General employee** - Employees who are required to join the Retirement Fund.

**Gift** - Any benefit, favor, service, advantage, privilege or thing of value that is transferred to an employee’s possession or use. Gifts could include, but are 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 that transferred to an employee’s possession. Gifts ordinarily do not include items that would not ordinarily be interpreted as affecting an employee’s impartiality, such as an occasional, moderately priced business lunch, potted plants or flowers, boxes of candy for office personnel, “gimme caps,” or advertising office supplies, such as pencils, calendars, or pens, or other token gifts of small value. All gifts that are transferred to employees might be subject to review by the City’s Ethics Review Commission.

**Harassment** - Negative, disrespectful, or oppressive actions of one person or group who mistreat another person or group. Harassment may include threats, insults, name calling, sabotage, and damage to property. Harassment may be based on sex, race, religion, or other protected categories, and may include express or implied threats of personal harm, including threats and demands.

**Hostile work environment** - A condition in the workplace in which harassment, based on protected class, occurs toward one or more employees; the harassment typically must be intentional, severe, recurring or pervasive, and interfere with an employee's ability to perform his or her job whether victim or witness; the victim or witnesses typically must reasonably believe that tolerating the hostile work environment is a condition of continued employment. In other words, the victim or witnesses typically must reasonably believe that they have no choice, but to endure a hostile workplace in order to keep their jobs.

**Holiday** - A period of eight hours designated by City Council as a day that nonessential City services and offices are closed and employees may take off from work with pay.

**Hours worked** - The time an employee is required to be on duty, on the employer's premises, or at a prescribed workplace.

**Human Performance Evaluation (HPE) - Human Performance Evaluation (HPE)** - A physical abilities test performed by a physical or occupational therapist. The HPE is a scientifically valid simulation of physical work performed by employees who are in moderate to heavy physical demands job classifications. The purpose of the HPE is to assess an employee's ability to pass the simulated work test prior to returning to work. The HPE is administered by the City's contracted preferred provider of occupational health services. The employee must attend and pass the HPE before returning to work after being off from a workers compensation illness or injury. The HPE is less detailed and less comprehensive than the Functional Capacity Evaluation (FCE).

**Illegal use of a prescription medicine** - Means taking medication that has been prescribed to someone else. It also means taking medication after the expiration date has passed or taking more medication than has been prescribed.

**IME doctor** - A doctor who performs an IME (Independent Medical Exam).

**Immediate family member** - In the case of all leave policies other than the Family and Medical Leave Act (FMLA), an immediate family member is defined as wife, husband, domestic partner, 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, stepsister, aunt, uncle, niece, nephew, sister-in-law, brother-in-law, step-sister-in-law, step-brother-in-law, grandmother-in-law and grandfather-in-law. This includes extended family members for domestic partners. For the purpose of Family Leave under FMLA, immediate family members are limited to an employee's spouse, children and parents.

**Income benefits** - Compensation made to an employee for a Compensable Injury.

**Independent medical exam (IME)** - A medical examination by a doctor who is not the employee's treating doctor or preferred medical provider under the city's health benefits program. The IME is performed by a doctor who is neutral and performs the medical examination to determine factors such as whether the employee: can return to work; has temporary or permanent disabilities; or has reached MMI.

**In loco parentis** - For the purpose of FMLA, "in loco parentis" may be established by providing day-to-day responsibilities to care for or financially support a child, or who had such responsibility for the employee when the employee was a child. Examples include a grandparent who assumes ongoing responsibility for raising a grandchild or an employee who provides day-to-day care for his or her unmarried partner's child (with whom there is no legal or biological relationship) but does not financially support the child.

**Insubordination** - Willful failure or refusal to follow specific orders or instructions of a supervisor.

**Interactive Process** - A request for reasonable accommodation or the recognition that a reasonable accommodation may be needed is the first step in an informal, interactive dialogue between the



individual and the employer. In some instances, before addressing the merits of the accommodation request, the employer needs to determine if the individual's medical condition meets the ADA definition of "disability," a prerequisite for the individual to be entitled to a reasonable accommodation. This process should facilitate an open exchange of information between the employee and employer. The goal is to ascertain the precise job-related limitations, how the limitations may be overcome with a reasonable accommodation, to identify potential accommodations and to assess their effectiveness.

**Job abandonment** - When an employee fails to come to work for three consecutive days without calling a supervisor or a medical records coordinator or giving any type of notification.

**Job carving** - a supported employment strategy designed to provide additional employment opportunities for individuals with autism and other disabilities.

**Job family code** - Represents a group of job classifications with similar job functionality and purposes, such as Public Safety, Service Trades, Clerical or Department Director. Classifications within a job family may include exempt and nonexempt classifications and classifications spread through the salary grades. A job family represents specific classifications in an occupational field.

**Labor code** - The Texas Workers' Compensation Act as codified in the Texas Labor Code, Title 5, Subtitle A.

**Lactation** - Expression of breast milk to store for a baby's later use.

**Lateral transfer (or transfer)** - The movement of an employee from one position to another position in the same classification with the same pay grade. A lateral transfer may be within a department or between departments.

**Life-changing event** - A life-changing event for the purpose of benefit eligibility and administration consists of one of the following:

- Death of the employee.
- Death of the employee's spouse.
- Death of an employee's dependent.
- Marriage of the employee.
- Divorce of the employee.
- Birth or adoption of a child.
- Loss of outside health coverage.
- Change of employee's employment status.
- Change in spouse's employment status.

**Limited duty** – See "Transitional duty" below.

**Limited Time/Duration Positions** – Temporary or Seasonal positions

**Long-term disability** - Type of insurance that protects income against a sudden loss due to a catastrophic illness or injury. It replaces lost wages due to the illness or injury.

**Look-back Measurement Period** - Refers to the period used to calculate the average number of hours an employee actually worked per work week in order to determine eligibility for health benefits and City contribution during the immediately ensuing "stability period" under provisions of the federal Patient Protection and Affordable Care Act (PPACA) that take effect January 1, 2015.

**Marshal** - Employees who are state-certified peace officers in accordance with the rules of the Texas Commission on Law Enforcement (TCOLE) and who work in the City Marshal's Office.

**Maximum medical improvement (MMI)** - The earlier of:

- 1) the earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated;

- 2) the expiration of 104 weeks from the date on which income benefits begin to accrue;  
or
- 3) the date a Commissioner of Insurance order for an extension of the 104 week period expires.

**Medical records custodian (MRC)** - Staff person designated by the Department Director to serve as the department's custodian of employee medical records. The MRC performs the functions specified in Administrative Regulation D-10 "Protection of Medical Information."

**Normal scheduled hours** - The hours of work scheduled by management that an employee is required to work for the routine performance of duties. Normal scheduled hours do not include overtime hours worked, on-call duty, or stand-by duty.

**Observed holiday** – the day that the City designates as a holiday, which generally means that an employee is not required to perform work on that day and that business offices may be closed, even though the day would normally be a business/work day if the holiday was not acknowledged. Typically, when the actual holiday falls on Saturday, the observed holiday will be on the previous Friday and when the actual holiday falls on a Sunday, the observed holiday will occur on the following Monday.

**Off-site parking facility** - City facilities and other locations along the employee's reasonable commute route to and from the worksite(s) that are determined to be adequately secure by the authorizing department and are approved for the purpose of parking a city vehicle during non-work hours. Selection of an off-site parking facility is made based in part on the convenience of the facility to an individual employee. Travel between an off-site parking facility and an employee's worksite(s) is not in the scope of employment.

**Off-site parking vehicle** - A city vehicle approved for use by authorized employees for a portion of his/her commute from the workplace to another City or other approved facility for the purpose of parking during non-work hours.

**On-call** - Occurs when an employee is not required to remain on the City's premises but is asked to leave word 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 asked to have a cell phone or other communications device available to receive calls. On-Call time is not work time, therefore, it is not paid time

**Oral warning** -Type of discipline issued for minor policy, procedural or conduct infractions. Also known as "Documented Counseling" because the oral warning must be documented in writing.

**Overtime**- The time worked in excess of 40 hours in a defined FLSA workweek. Hours actually worked and leave categories that are counted as hours worked for the purpose of computing overtime (Holiday Leave, Holiday Leave Accrued, Personal Holiday Leave, Special Personal Holiday Leave).

**Parent** - The biological or adopted parent of an employee or an individual who stands or stood in place of a parent (in loco parentis) to the employee when the employee was a child. This does not include "parents-in-law."

**Part-Time** - Part-Time employees are those who are scheduled to work 19 hours or less in a workweek. These employees are not eligible for healthcare insurance or leave benefits or participation in the pension plan. These employees participate in the FICA Alternative Plan and may be eligible for other benefits offered by the city. A Part-Time position is one in which an employee is scheduled to work 19 hours or less in a workweek.

**Pay period** - Regularly recurring period of 336 hours in the form of 14 consecutive 24-hour periods.

**Person within the first degree of relation** - Spouse or domestic partner, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law.

**PIP** - Acronym for Performance Improvement Plan. This is a plan written by a supervisor for the purpose of counseling an under-performing employee, and assisting the employee in improving the quantity and/or quality of the employee's work.

**Pre-decision meeting** - A meeting that allows an employee an opportunity to respond to the reasons being considered to demote them or terminate their employment.

**Program** - In regards to alcohol and drug misuse, refers to the City alcohol and drug abuse program that implements the policy and procedures for prevention, deterrence, and rehabilitation aimed at eliminating the possession, use, distribution, sale, or consumption of drugs or alcohol in the workplace.

**Promotion** - Movement into a classification having a pay grade with a higher entry rate than the previously held classification.

**Protected classes** - Race, color, national origin, sex, pregnancy, transgender status, gender identity, gender expression, religious affiliation, political affiliation or belief, age (over 40), sexual orientation, genetic information, veteran status, and disability status (including contagious diseases such as tuberculosis in the non-contagious state and HIV).

**Regular rate of pay** - Regular rate of pay includes: (holiday pay, shift differential pay, incentive/bonus pay and awards, special merit pay, acting pay, bilingual skills pay, emergency callback pay, on-call or stand by duty pay, longevity pay, and clothing allowance).

**Regular retirement** - A termination type that occurs when the employee terminates employment for the primary purpose of retiring from the City to receive a monthly pension.

**Regular termination** - A termination type that occurs when an employee resigns or is dismissed from City employment, either before or after being vested in the City retirement plan, and chooses to withdraw their contributions to the retirement plan in one lump-sum distribution.

**Remote parking facility** - A City facility or other approved location at which an employee is directed to park a City vehicle due to limitations at the primary site or for the operational convenience of the City. Selection of a remote parking facility is made without regard to the convenience of the facility to an individual employee. Travel between a remote parking facility and an employee's worksite(s) is in the scope of employment.

**Rule(s)** - Administrative rule(s) or regulation(s) promulgated and adopted by the Commissioner of Insurance, Department of Workers Compensation, as necessary for the implementation and enforcement of the Labor Code. The applicable Rule(s) are published in the Texas Register and are codified in the Texas Administrative Code, Title 28, Parts 2 and 6.

**Sabotage** - Destruction of City property or equipment or a deliberate action taken to undermine a coworker or department's work or productivity, either by active means, such as vandalizing equipment, or by passive means, such as refusing to meet productivity goals, i.e., a work slow-down.

**Safety-Sensitive** (*added for clarification on 9/29/17*) – A description of a job or position in which the employee's duties involve a significant risk of injury to others, to the degree that a momentary lapse of attention could have disastrous consequences.

**Scheduled hours** - A timekeeper or manager may assign any work schedule with any number of hours to any employee.

**Scope of employment** - Has the same meaning as set out in the Texas Tort Claims Act, being Tex. Civ. Practice and Remedies Code, Chapter 101, as it may be amended from time to time

**Seasonal employee** - Seasonal employees are scheduled to work 40 hours or more per week, but for no longer than five months in a year. These employees are not eligible for health or other benefits or participation in the pension plan. These employees participate in the FICA Alternative Plan and may be eligible for other benefits offered by the city. Any benefits provided to Seasonal employees

will be on a pro-rata basis, based on hours scheduled to be worked in a workweek in comparison to 40.

**Secondary employment** - Any job, work or business, part-time or full-time, for self or another person, firm, company or organization, for which salary or other economic benefits, including free or discounted goods or services, are received.

**Shift** - An assigned work schedule of consecutive regular hours that when worked or when leave is used result in the employee earning pay for a 40-hour work week. The number of assigned shifts or shift hours will not exceed 40 hours in a week. An assigned shift may result in shift hours occurring in two consecutive days. Shift hours will be reported on the day the hours were worked for pay, leave and benefits such as holiday time.

**Solicitation** - Requests for support, usually financial, for an organization or cause, such as a charity, religious organization, employee association, personal profit, or civic activity. Solicitations usually involve distribution of information and literature, and often include sales of products, and requests for donations of service, money, or goods.

**Son** - For the purposes of FMLA, a son is biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in place of a parent (in loco parentis), 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.

**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 are not spouses.

**Stalking** - Repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; excessive phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property.

**Standard hours** - Standard hours is based on the employee full-time equivalent (FTE). If the position is less than 1 the standard hours are reduced from 40. For example a position with .75 would have standard hours of 30. A FTE of .5 would have standard hours of 20. Leave and holiday hours are pro-rated based on the standard hours and FTE. Exempt employees earn compensatory time for all hours exceeding the standard hours in a work week. Non-exempt employees earn overtime or comp time for all hours exceeding 40 in a work week.

**Straight-time** – This term refers to an employee's regular pay rate for the hours worked during a work week, as opposed to over time.

**State Division of Workers' Compensation (DWC)** - Texas Department of Insurance/Division of Workers' Compensation, the State of Texas agency authorized by the Texas Legislature to implement and enforce the Texas Workers' Compensation Act in Texas.

**Substance abuse professional (SAP)** - In regards to alcohol misuse, refers to an individual who has clinical experience in recognition and treatment of alcohol/drug dependency and meets all DOT qualifications.

**Supplanting** – to deliberately reduce or reallocate state, local or agency funds because of the acceptance or anticipated acceptance of federal grant funds.

**Supplier** - Any existing or potential City vendor, consultant, developer, regulatory agency, or any public utility corporation having a franchise granted by the City.

**Suspension** - A period of time during that an employee is prohibited from reporting to work and/or performing any job duties. A suspension might be either paid or unpaid. Paid suspensions are usually issued during a time that an investigation is being conducted and it is necessary to remove

the employee from the workplace until a decision has been made about their employment. Unpaid suspensions are usually issued as disciplinary actions for work rule violations.

**Tardiness** – For timekeeping system purposes, clock-in times may be rounded up or down based on seven minute increments. For example, arriving for an 8:00 am shift at 7:52 am (more than 7 minutes early for your shift), might result in the payroll system recording your arrival time at 7:45am. Clocking in at 8:08 am may result in your start time being recorded in the timekeeper system as 8:15 am. Regardless of timekeeping rounding, you are required to notify your supervisor and receive approval as needed for early or late start times that differ from your work schedule. For disciplinary purposes, attendance and tardiness will be addressed based on your assigned schedule and any failure to be ready to work at the scheduled times.

**Temporary Employee** - An employee in a position that will last no longer than one year and which is project focused. Temporary employees may be eligible for health benefits depending on the number of hours they work (if they actually work an average of 30 hours or more over a designated “look-back period”). Temporary positions may be extended for up to an additional year by petitioning the Budget Office. These employees are not eligible to participate in the pension plan and instead participate in the FICA Alternative Plan.

**Temporary shift** - A supervisor removes an employee from his or her regular shift and temporarily assigns the employee to a different shift for training, minimum staffing, meetings or other reasons.

**Temporary income benefits (TIBS)** - Wage replacement benefits to an injured employee who loses wages because of time away from work due to a compensable injury. The amount of TIBS is equal to 70 percent of the employee’s average weekly wage, subject to the maximum benefit amount set by DWC.

**TIBS waiting period** - The first seven (7) calendar days of “disability” due to an injury. “Disability” under the Labor Code is defined as “the inability to obtain or retain employment” because of the injury. Disability is basically equivalent to days of lost time.

**TPA - third party administrator** - The organization under contract with the City of Fort Worth to provide workers’ compensation claims administration services in accordance with the Labor Code and in accordance with the Insurance Code, Title 13, Subtitle D, Chapter 4151, Subchapter A, *Third Party Administrators*.

**Transitional duty** – Formerly known as “limited duty”. A temporary return-to-work assignment based on an examining doctor’s assessment of the employee’s medical condition and identified restrictions to duty. Transitional duty may consist of: (1) temporary modifications to the employee’s normal job duties; (2) assignment to alternative duties within the department; or (3) assignment to alternative duties provided by another city department. A transitional-duty assignment is made through a bona fide offer of employment. A transitional -duty assignment is not a permanent work assignment or job. The transitional-duty assignment must be productive work, consistent with the evaluating doctor’s identified restrictions to duty, and the employee must possess the necessary skills to perform the assignment.

**Unprofessional conduct** - Conduct contrary to reasonable behaviors or expectations for an employee while at work or while conducting city business or representing oneself as a city employee on or off the job.

**Unscheduled absence** - An absence is unscheduled when an employee does not give advance notice and receive supervisory approval prior to the scheduled shift start time. Advance notice should typically be given at least 24 hours in advance of scheduled shift but supervisory approval can be given within less than 24 hours for emergency situations.

**Use of alcohol or a drug** - The consuming of an alcoholic beverage, the taking of a drug (whether orally, by inhalation, or by injection), or being under the influence of alcohol or a drug.

**Vacation leave** – Paid time used by an employee to take care of personal matters, to relax and to enjoy time off from work.

**Workers' compensation coordinator (WCC)** - Staff person designated by the Department Director to assist Human Resources in administering the workers' compensation program.

**Workers' compensation leave (WCL)** - Time away from work so that an injured employee can attend a health care appointment for a compensable injury. The time is recorded as "WCL" and is paid at the employee's regular pay rate.

**Work schedule** - The assigned, regularly reoccurring work shifts that an employee is expected to work in a workweek.

**Work time** - See "hours worked."

**Workday** - For most employees, the standard period of 24 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 eight-hour day for purposes of determining leave.

**Working day** - Days on which the affected employee is regularly scheduled to work. For purposes of suspensions, a working day is eight hours in duration, even if the employee is regularly scheduled to work more hours in a day. Therefore, a suspension of one day will equal eight hours without pay.

**Workplace/Worksite** - All City offices, facilities, construction sites, temporary laboratory sites, maintenance sites, vehicles and any other location where an employee is performing assigned duties. **Workweek** - The time span of seven consecutive 24 hour periods within which the City calculates overtime hours and corresponding compensation for nonexempt employees (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."

Department Directors or designee may adjust the work schedule to adequately cover the work to be performed. Changes in the workweek must be approved by the Human Resources Department and implemented in the pay system.

**Written warning** - A type of discipline issued for policy, procedural or conduct infractions that do not result in a loss of pay.

**Year** - A calendar year beginning January 1<sup>st</sup> and ending December 31.