



# ***Human Resources Policy Manual***

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# *Human Resources Policy Manual*

## **Good Governance and Code of Business Ethics Conduct**

### **The City's Philosophy**

Management employees with supervisory duties are responsible for ensuring that all their subordinates know and understand all city policies and procedures, including this Code of Business Conduct.

If you have any questions about the proper course of action in any given situation, consult your supervisor, Department Director or the Human Resources Department. No one will be allowed to justify a violation of this Code of Business Conduct by claiming lack of understanding, confusion, or ignorance concerning any provision or application of this Code of Business Conduct.

No one is ever authorized to direct an employee to commit an illegal or unethical act, or violate this Code of Business Conduct. Nor may anyone justify an illegal or unethical act by claiming it was ordered by someone in higher management.

Every employee is also responsible for reporting violations or suspected violations of any of the policies and principles contained in this Code, or in other city rules and practices. No disciplinary action will be taken against an employee who in good faith reports a suspected violation. Such violations or suspected violations should be reported to your supervisor or the Human Resources Director.

While we believe most issues can and should be handled through the normal chain of command, the Human Resources Director has been specially trained so that every employee knows suspected violations can be reported outside their chain of command. Callers reporting suspected violations to the Human Resources Director are not required to identify themselves. The Human Resources Director will respond to reports made. The Human Resources Director will advise the City Manager on all complaints.

We have made it as easy as possible for employees to fulfill their obligations to both understand our policies and report suspected violations.

#### **I. Maintaining Our Integrity**

If you suspect that an employee has made an improper business decision, accepted or given a bribe, kickback or improper gratuity, report your suspicion to the Human Resources Director.

#### **II. Accepting Gratuities**

Employees must inform their supervisor if they accept any meal or refreshment which is repetitive, unusual, or questionably motivated or worth more than \$50. Employees must also report any gift worth more than \$50. In-town or local meals shall not be charged to the City unless said meal is strictly a business meeting. Generally, such a reimbursed or City-paid meal must involve officials from outside the City of Midlothian, and in general should not occur more

than 6-8 times per year. Likewise, employees may accept paid-for meals as long as these legitimate and non-routine with regards to their frequency and are not questionably motivated. (Also see Code of Conduct in Chapter 5)

### **III. Relationships with Vendors, Suppliers and Others**

The City of Midlothian awards business in compliance with the competitive bidding process rules set forth in the Texas Local Government Code and the Texas Government Code.

Accordingly, the City of Midlothian awards business competitively, on merit and without favoritism. When selecting vendors, we consider the needs of the City and the value, cost and quality of the products and services they provide. We avoid situations that impair or compromise our judgment. Employees with questions should talk to their supervisor or the City of Midlothian Purchasing Agent. All laws requiring a competitive bid will be adhered to.

### **IV. Outside Employment and Business Activities**

City of Midlothian employees should have no relationship, financial or otherwise, with any supplier, competitor, or person that might create or appear to create a conflict of interest. Employees must report any situation to their supervisors that involves a real or apparent conflict of interest, including those involving relatives. Employees must also report to their supervisor any outside activity that could create an actual or potential conflict of interest. Failure to eliminate or report an actual or potential conflict of interest in which an employee may be involved may result in disciplinary action, up to and including dismissal.

### **V. Political Contributions**

City employees must comply with all laws and city policies that govern the use of city property or funds for political purposes. Except as specifically authorized, city funds may not be used for political purposes. Authorization requires a determination by both the Director of Finance and the City Manger.

### **VI. Suspected Fraudulent or Illegal Conduct**

Any suspected fraudulent conduct must be identified and investigated promptly.

Fraudulent or illegal conduct committed on or off the job may be grounds for disciplinary action, up to and including dismissal.

Fraudulent or illegal conduct includes, but is not limited to, any oral or written misrepresentation of facts, misappropriation of City funds, theft, improper reporting of time or expenses, wrongfully claiming employee or dependent benefits, or any other dishonest acts, done on or off the job, and whether done while working for the city or elsewhere, or whether committed prior to employment with the city.

Any employee charged with any crime, for conduct done on or off the job, must report the criminal charge to his supervisor immediately upon returning to work. Failure to report any criminal charge for conduct committed on or off the job, will result in disciplinary action leading up to and including dismissal.

If an employee charged with a crime is awaiting trial for suspected criminal conduct done on or off the job, the City may conduct an independent review of the facts and determine whether disciplinary or other employment action is warranted.

You are to report improper conduct or dishonest acts on or off the job to your supervisor, HR Director or City Manager.

## **VII. Client/Resident/Customer Care**

We treat clients/resident/co-workers with courtesy, honesty, and respect. City employees shall always strive to communicate clearly with customers/residents/clients and co-workers and are expected to treat them with respect.

We are city ambassadors to our customers/residents/clients. If you have any doubts about what to do in a particular situation, look at the issue from their prospective, and provide courteous and quality service.

Employees who have contacts with the public--especially personnel such as public works, police, fire, and customer service personnel who deal with customers every day--must:

- provide all customers the same high level of fair, courteous, professional, efficient and respectful treatment and service;
- in scheduling and performing work operations, refrain from engaging in inappropriate conduct, or language; and,
- never disparage coworkers or elected representatives (e.g., by stating, implying, or otherwise suggesting that they lack experience, integrity, or financial stability) in any communications with customers, suppliers, or third parties.

## **VIII. Privacy of Communications/Records**

Information provided to the city by customers must be kept private where possible and legally required, and can only be used for legitimate City-related purposes. Any request for open records should be immediately referred to the City Secretary for legal compliance.

Violating any of the following rules concerning privacy will not be tolerated, and will result in severe discipline up to and including termination of employment at the City of Midlothian:

- no customer record is to be tampered with;
- no one should use, personally or for the benefit of others, information from any such communication; and,
- information stored in the city's records, city computers, or city databases is not to be disclosed to unauthorized persons, regardless of whether they are city employees.

If anyone, including a law enforcement agency or representative of any other government body, asks for information concerning confidential information or private communications the City Secretary and Human Resources Director must be notified immediately.

Keeping customer records secure and private means:

- No employee will access, use or disclose customer records or reports, customer proprietary information or any other proprietary information without a valid business reason.
- Employees shall not gain access to their own records or those of family and friends without a valid business reason and must have prior approval from their supervisor.

Any questions concerning the privacy of customer's records should be discussed with your HR Director.

## **IX. City Property and Financial Reporting**

Taxpayers rely on public trust and accountability. City employees are responsible for reliable financial reporting. Our internal accounting controls help assure that financial transactions are recorded in a timely, accurate and fair way, and conform to Generally Accepted Accounting Principles.

Misrepresentation of financial information or other questionable accounting or auditing matters may result in fraudulent financial reporting. Employees must not undermine the integrity of financial information for any reason. As is the case with all of the requirements of this Code, violation of this provision will lead to disciplinary action up to and including dismissal.

State and Federal law requires that a city's records accurately reflect transactions, and that internal accounting controls provide reasonable assurances that:

- Transactions are carried out in an authorized manner.
- Transactions are reported and recorded in a way that permits correct preparation of financial statements and accurate records of assets.
- Access to assets is in accordance with management authorization.
- Comparisons between existing assets and records are made periodically, as appropriate, with action taken to correct discrepancies.

Violations of this law can result in criminal charges and imprisonment for employees.

Allegations or suspicions of financial reporting misrepresentations, other questionable accounting or auditing matters, or any questions regarding this law or the city's internal accounting controls, should be referred immediately to the Finance Director or City Manager.

## **X. City Funds**

Use city resources properly and only for the benefit of the city and its taxpayers.

All employees must be familiar with policies and guidelines applicable to handling city funds. Employees who handle funds, or maintain accounting records, are also responsible for their safekeeping. Funds refers to, and includes, all negotiable assets, including cash, checks, credit cards, gas cards, calling cards, money orders. City funds can only be used for appropriate purposes and must comply with all policies.

Managers must personally review expense reports submitted by subordinates to determine if they are proper. Anyone approving or certifying vouchers, reimbursement requests or bills should exercise reasonable and prudent judgment in making sure the expense and amounts are proper. Employees must spend city funds prudently. Managers must adhere to City Expense and Purchasing Guidelines.

Employees must also be sure to receive proper value when spending city funds, including personal funds that will be reimbursed. Credit cards, Purchasing Cards, gas cards and calling cards may be used only for approved business purposes.

Misuse of any city credit or calling card can result in disciplinary action up to and including termination of employment from the City of Midlothian.

Questions on the appropriate use of city funds should be directed to the Finance Director or Purchasing Agent.

## **XI. City Proprietary Information**

Employees must protect confidential information and ensure that it is not divulged to unauthorized people.

Employees are never allowed to use or disclose proprietary information without prior authorization and without a valid business reason. Proprietary information includes, but is not limited to, confidential customer information and data, customer lists, security procedures. Under the law, you are prohibited from unauthorized use or disclosure of proprietary information even after you leave your employment with the city.

Any attempt by an unauthorized person to obtain sensitive information, or gain access to secured city locations, should be reported immediately to the HR Director or the Police Chief.

In the course of doing business, when employees develop and gather information that is proprietary or intended solely for internal use, unauthorized disclosure of this information could compromise our privacy policies. Such information should never be placed on the Intranet unless access is restricted by a password and should only be used for business reasons.

Employees may also obtain proprietary or classified information about an outside organization. If you receive such information under the terms of a contract, you may be obligated to keep it confidential under a nondisclosure requirement. If you receive such information accidentally, notify your supervisor.

Access to proprietary information should be limited to those with a need to know.

If you have any questions about nondisclosure provisions or your obligations as an employee, contact your supervisor.

## **XII. Environmental Compliance**

The City of Midlothian complies with all environmental laws and regulations. The city is committed to preserving and protecting the environment. Employees must comply with all applicable federal, state and local laws and city policies concerning environmental safeguards.

If you have any questions, contact your supervisor.

## **XIII. Administering the Code of Business Conduct**

This introduction summarizes basic principles, and does not include all the rules and regulations that apply to every situation. Its contents should be viewed within the framework of City of Midlothian policies, practices, or instructions.

Each employee is expected to abide by the standards in the City of Midlothian Code of Business Conduct and by all city policies and guidelines. When you are faced with a situation that is unclear and you are unsure of which ethical decision to make, you should:

- **Analyze the situation.**
  - Identify the issue.
  - Consider the facts you know.
  
- **Consider the information; and if necessary, consult with others.**
  - Consider whether your decision violates a law or regulation.
  - Consider whether your decision is consistent with the City of Midlothian Code of Business Conduct and its policies and practices.
  - Consult and review the Code of Business Conduct.
  - Consult appropriate resources such as city policies and practices, your supervisor, Human Resources or senior management.
  
- **Take appropriate action.**
  - Compare the situation to the standards of conduct, values, and information contained in the Code of Business Conduct.
  - Make an informed decision.
  - Be sure that your action or decision is the right thing to do and supports the city's values, and is consistent with the policies contained in our Code of Business of Conduct.

All managers are required to administer and enforce the Code of Business Conduct within their areas of responsibility by ensuring that:

- Each employee annually reads the Code of Business Conduct and signs an Acknowledgment Form to this effect. This form is kept in the employees' official Human Resources file and documentation is noted in the employees' training record.

- Employees are aware that they may make a good-faith report of a violation or suspected violation of the law or Code without fear of reprisals.
- Any standards and procedures developed for their areas comply with the Code and are communicated to affected employees.
- Any violations or suspected violations of the Code of Business Conduct are reported to higher management and/or the HR Director.
- An employee who is separated from employment for violating this Code of Business Conduct will not be considered for re-employment with the city, nor will they be hired in any capacity.

Each year, employees are required to acknowledge to their supervisors that they have read, reviewed, and understand the Code of Business Conduct. An employee's refusal to acknowledge this review does not exempt that employee from knowing, understanding, and complying with the standards and policies contained in the Code of Business Conduct, and all other city policies and guidelines. Supervisors are responsible for providing a record of their subordinates' acknowledgments of having read, reviewed, and understood the City of Midlothian Code of Business Conduct.

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**Subject Matter Index**

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**i**

**CHAPTER 1**  
**ORGANIZATION**

**AUTHORITY**

- 1.00 City Council. The City Council of the City of Midlothian shall adopt and amend by Ordinance the following rules and regulations (City Charter Sec. 7.02). The City Council reserves the right to repeal, modify or amend these rules at any time. Changes will be communicated through appropriate organizational structure. Advance notice of such changes may not always be possible.
- 1.01 City Manager. The City Manager and/or his designee (the Human Resources Director) may develop necessary operational policies and procedures to implement these Rules. With the exception of matters reserved by State Law or City Charter to the City Council, the general and final authority for human resources administration rests with the City Manager. This authority may be delegated as necessary and proper to the Human Resources Director. When authority assigned in these rules and regulations to the City Manager is delegated, such delegation shall be in writing.
- 1.02 Human Resources Director. The Human Resources Director is responsible for recommending the implementation of pertinent human resources policies and rules to the City Council via the City Manager, and for administering those approved policies and rules on a day-to-day basis. The Human Resources Director will be the general manager of the Human Resources Department and be responsible for the Direction of the work and the staff (if any) of this department. The Human Resources Director will administer a broad human resources program which includes, but is not limited to:
- (a) recruitment and examination of applicants
  - (b) classification of positions
  - (c) salary determination
  - (d) employee information and counseling
  - (e) in-service training
  - (f) performance evaluation program
  - (g) leaves of absence
  - (h) maintenance and development of human resources standards and programs.
- 1.03 Department Head. Each Department Head is responsible within the scope of his authority for enforcing the provisions of these rules and related policies and procedures. Each Department of the City may develop internal rules, policies, and operating procedures consistent with these Rules. If a conflict arises, these Rules shall prevail.

## PURPOSE AND OBJECTIVES

- 1.04 The policies and procedures contained in this manual take precedence over all prior human resources or personnel policies and rules, and are in effect until amended, revised or rescinded by the City Manager and/or City Council. They do not constitute part of an employment contract, nor are they intended to make any commitment to any employee concerning how individual employment action can, should, or will be handled.
- 1.05 Employees are employed by the City of Midlothian "at will." **"At will" employees have no property interest in the positions they hold.**
- 1.06 These rules are part of the overall City Human Resources Management System which is designed to:
- (a) promote and increase efficiency, effectiveness and economy in the delivery of City services
  - (b) provide fair and equitable opportunity for qualified persons to enter and progress in a manner based upon merit and fitness as determined through fair and practical human resources management methods
  - (c) ensure that recruitment, selection, placement, promotion, retention and separation of City employees are based upon employee qualifications and are in compliance with Federal and State laws and regulations
  - (d) maintain consistent and up-to-date position classification and compensation plans based upon employee duties and responsibilities
  - (e) promote high morale among City employees through good working relationships through uniform human resources policies.
- 1.07 New policies or rules, or amendment to these policies or rules may be made at any meeting of the City Council. All new policies and/or rules, or amendments to existing policy or rule shall become effective on the date of their approval by the City Council on a date set by the City Council. All policies, rules, and amendments shall be printed for distribution to all departments that have employees covered by this manual.
- 1.08 Severability. If a court of competent jurisdiction determines that any provision of these Rules, or the application of such provision to any person or circumstance, is invalid, all other provisions and their applications will remain valid.

## HUMAN RESOURCES RECORDS AND REPORTS

- 1.09 Official Records. The Human Resources Director shall act as custodian of all official human resources records. At a minimum, each employee's record shall show:
- (a) administrative actions
  - (b) employment history

- (c) performance and/or merit evaluations
- (d) training documentation
- (e) related files and correspondence or documents required by law

1.10 Wage and Hour Records.

- (a) In accordance with the Fair Labor Standards Act (FLSA), the Finance Director/Payroll shall prepare, maintain, and preserve records on the wages, hours, and other conditions and practices of employment.
- (b) The Director of Finance shall maintain all other records related to City payroll and City employees required by the various Federal and State regulations. The City Manager may assign any portion of these responsibilities to the individual departments.
- (c) The Director of Finance, acting for the City, shall preserve these records in accordance with the FLSA and State retention schedules.

1.11 Change of Status Report. Each Department Head shall report the following information regarding their employees to the Human Resources Department:

- (a) appointments
- (b) transfers
- (c) promotions
- (d) demotions
- (e) changes of salary rate
- (f) other temporary or permanent changes in status

1.12 Official Personnel Folders (OPF). The Human Resources Department will maintain personal work history records on each active and inactive employee.

- (a) Access. Release of information contained in the Official Personnel Folder or other employee records is controlled by provision of the Texas Open Records Act. No information on current or former employees will be released to outside parties except by the Police Department for background checks or the Human Resources Director, or designee, who may release the following information regarding an employee or former employee in response to outside written inquiries:
  - (1) employee's name
  - (2) classification title and department
  - (3) status (*e.g.* regular full-time, temporary, etc.)
  - (4) salary
  - (5) hire date and/or termination date
  - (6) additional information, but only if the employee signs a release of information form.

(b) Official Personnel Folders or other employee records are open for review as follows:

- (1) An employee or his duly authorized agent may examine the employee's own records.
- (2) A City employee having supervisory authority over the employee may review the employee's records.
- (3) By order of a court of competent jurisdiction, any person may review such portion of any employee's records as may be ordered by the court.
- (4) An official of an agency of the State or Federal government or any other political subdivision of the State may inspect, by formal request, any portion of an employee's records when such inspection is deemed by the Human Resources Director to be necessary and essential to the pursuance of the proper function of the inspecting agency or deemed upon advice of the City Attorney (or attorney retained by the City) to be required by law.
- (5) Upon written request, an employee may receive a copy of any materials in his Official Personnel Folder.
- (6) City management and/or its duly authorized agents as deemed necessary by the City Manager and/or the Human Resources Director.

## **CHAPTER 2**

### **DEFINITIONS**

Many terms are self-explanatory and do not need further definition due to the common understanding of their use. Other terms, such as the following, are defined to assure consistent use:

#### **ADMINISTRATIVE LEAVE**

Administrative leave is paid leave, authorized by the City Manager when warranted by existing or unforeseen circumstances not otherwise provided for in the Manual.

#### **ADMINISTRATIVE WORKWEEK**

The administrative workweek for the City of Midlothian will begin at 12:01 a.m. Saturday and end at 10:00 midnight on the following Friday.

#### **ALCOHOL**

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

#### **ALCOHOL CONCENTRATION (OR CONTENT)**

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Test (EBT).

#### **ALCOHOL USE**

The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

#### **ALLOCATION**

The assignment of an individual position to an appropriate class on the basis of the type, difficulty, and responsibility of the work performed in that position. As used in these rules, employees are appointed to positions; positions are allocated to classes.

#### **ANNIVERSARY DATE**

The date on which an employee began their most recent employment.

#### **APPEAL**

A request by an employee or agent of the employee to management seeking relief from a disciplinary or adverse action taken against the employee.

**APPOINTMENT**

The employment of a person in a position.

**AWOL**

An unapproved absence that is in a non-pay status. Absent WithOut Leave.

**BREAK IN SERVICE**

Any leave of absence without pay that is in excess of 31 consecutive calendar days.

**CITY**

The City of Midlothian, Texas. This term includes any or all departments of the City.

**CITY COUNCIL**

The governing body of the City of Midlothian, Texas, comprised of a mayor and council members elected by the voting populace.

**CLASS**

A group of positions sufficiently similar in duties, responsibilities, authority, and qualifications for employment to permit combining them under a single salary range and applying equitable application of common standards of selection and compensation.

**CLASS LEVEL OR CLASS SERIES**

A set of classes within a job family which are closely related in terms of work performed and distinguished primarily by the level of responsibility and scope of duties assumed.

**CLASS SPECIFICATION**

A written description of class setting forth factors and conditions which are essential characteristics of positions in that class.

**CLASS TITLE**

A brief and descriptive designation of the type of work performed.

**CLASSIFICATION**

The designation of a title for each class, together with the specification for each class, as prepared and maintained by the Human Resources Director of designee.

**CLASSIFIED SERVICE**

This term includes all regular full-time and regular part-time employees of the City except for those who are expressly exempted by law or an Attorney General's opinion. The term excludes all temporary, grant, or seasonal employees and volunteers whether full-time or part-time.

**COLLECTION SITE**

A place where individuals present themselves for the purpose of providing body fluid or breath samples to be analyzed for specific controlled substances or alcohol. A collection site will have all the required personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and transportation of the samples to the approved testing laboratory, or for alcohol testing.

**COMPENSATORY TIME**

The accumulated hours granted to a nonexempt employee in lieu of overtime pay for hours worked in excess of the employee's regularly scheduled

- (a) 40 hour workweek or
- (b) 212 hour/28 day work period (for appropriate Fire Department personnel).

**CONFIRMATION TEST**

A second test for alcohol following a screening test, with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

**CONTINUOUS SERVICE**

The most recent period of City employment without a break in service.

**CONTRABAND**

Any article, the possession of which on City premises or while on City business causes an employee to be in violation of a City work rule or Federal, State or local law. Contraband includes illegal drugs and alcoholic beverages, drug paraphernalia, illegal weapons, firearms, explosives, incendiaries, stolen property, and counterfeit money.

**CONVICTION**

A finding of guilty (including a plea of *nolo contendere* or deferred adjudication) or imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of criminal statutes.

**DATE OF HIRE**

The effective date of the individual's employment with the City.

**DAYS**

Calendar days unless otherwise stated.

**DEMOTION**

The voluntary or involuntary movement of an employee from one position in one class to another position in another class having a lower maximum salary rate.

**DEPARTMENT HEAD**

The person in charge of a department reporting to, and designated by, the City Manager.

**DISCHARGE OR DISMISSAL**

The involuntary separation of an employee from employment with the City.

**DISCIPLINARY ACTION**

Action taken in an effort to correct violations of policy, rules, and/or regulations.

**DRUG TESTING**

The scientific analysis of urine, blood, breath, saliva, hair, tissue or other specimens of the human body for the purpose of detecting the presence of drug or alcohol.

**EMPLOYMENT STATUS**

Regular Employee. An individual occupying a full-time or part-time position on a unlimited continuing basis.

Temporary Employee. An individual occupying a full-time or part-time position as in interim replacement, to temporarily supplement the workforce, or to assist in the completion of a specific project. Employment assignments in this category are of limited duration, generally less than one year.

Full-Time Employee. An individual who has a regularly assigned work schedule of not less than 40 hours per administrative workweek (or 212 hours per a 28 day work period for applicable Fire Department employees.)

Part-Time Employee. An individual who has a regularly assigned work schedule of less than 40 hours per administrative workweek (or 212 hours per a 28 day work period for applicable Fire Department employees.)

Grant Employees. An individual who may be employed as full-time or part-time and whose position is dependent in whole or in part upon (and is paid from) funds generated by a Federal, State, or other type of Grant.

Volunteer. A citizen who offers their services to the City. Volunteers (including Volunteer Fire Fighters and Reserve Police Officers) are not employees of the City. As such, they have no employment status and receive no benefits (other than workers' compensation) or compensation for their services. Volunteers work solely at the appropriate Department Head's discretion.

**EMPLOYMENT LIST**

A list of applicants for City employment who have demonstrated possession of the requirements for specific position and who have completed and signed an application for the position.

**EVIDENTIAL BREATH TESTING DEVICE (EBT)**

A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on the Conforming Products List of Evidential Breath Measurement Devices.

**EXEMPT EMPLOYEE**

An employee who is not covered by applicable wage and hour laws of the Fair Labor Standards Act (FLSA).

**GENDER USAGE**

The use of terms such as “his,” “him,” and “he” will be construed to mean either male or female, as used in this manual.

**HEALTH FITNESS IMPAIRMENT**

A temporary or permanent mental or physical condition (including, but not limited to: injury either on or off the job, illness or other job-restricting condition) which diminishes or precludes one’s capacity for, or renders one unfit for performance of the essential job functions of their position.

**HOLIDAYS**

Those days defined by law or designated by the City Council on which there will be a cessation of normal business activity to celebrate or commemorate a particular event.

**IMMEDIATE FAMILY MEMBER**

The spouse or natural or adopted child of the employee (definition used for sick leave purposes) or other family member by marriage or blood who is living in the employee’s household.

**IMPAIRED**

Being under the influence of a prohibited substance to the extent the employee’s coordination, reactions, reliability, judgment, and/or motor senses are or appear to be adversely affected.

**IMPROPER CONDUCT**

Any conduct by an employee (connected or not connected with the employee’s official duties) which affects the employee’s ability to perform those duties or which reflects unfavorably upon the City, or any improper use of their position for personal advantage.

**INACTIVE EMPLOYEE**

An employee who is on an approved leave of absence without pay in excess of 31 consecutive days.

**INSUBORDINATION**

Refusal to obey orders, defiance of authority, or disregard of a written directive.

**JOB FAMILY**

A group of two or more classes similar with respect to the duties performed but different in terms of the nature and level of responsibilities assumed.

**LAY-OFF**

The involuntary separation of a regular full-time or regular part-time employee from his/her position due to reorganization, the lack of work, or the lack of funds.

**LEAVE**

Authorized or unauthorized absence from an employee's place of work.

**LEAVE OF ABSENCE**

An absence caused by vacation leave, sick leave, Family and Medical Leave (FMLA), leave without pay, administrative leave, court leave, military leave, or funeral leave.

**LWOP**

An approved leave without pay. Leave WithOut Pay

**MORAL TURPITUDE**

Moral turpitude involves dishonesty, fraud, deceit, misrepresentation, or deliberate violence or reflects adversely on a person's honesty or trustworthiness.

**NEGLIGENCE**

Failure to exercise the degree of care that a prudent employee would exercise under the same or similar circumstances.

**NON-EXEMPT EMPLOYEE**

An employee occupying a position that is subject to the overtime pay requirements of the Fair Labor Standard Act (FLSA).

**OVERTIME**

All hours worked by a non-exempt employee in excess of 40 hours per administrative workweek [for applicable Fire Department employees: all hours worked in excess of 212 hours per 28 day work period as authorized by the Fair Labor Standards Act, Section 207(k)].

**PERSONNEL ACTION**

Any action taken with reference to appointment, compensation, promotion, transfer, lay-off, dismissal, discipline, commendations, or any other action affecting the status of employment.

**POSITION**

A combination of current duties and responsibilities which are properly classified and assigned a job title and pay range.

**POSSESSION**

To have on an employee's person, or under their control, personal effects, motor vehicle (including personal vehicles or those owned, rented or leased by the City or at the City's expense), desk, locker, or any other area or item substantially entrusted to the employee's care and control.

**PROHIBITED SUBSTANCE**

Alcohol, illegal drugs, legal prescription drugs not prescribed by a treating physician, or other mind-altering or behavior-affecting substance, which adversely affects the employee's ability to perform his/her job duties.

**PROMOTION**

The advancement of an employee from a position in one grade to a position in another grade having a higher maximum rate of pay.

**RECLASSIFICATION**

A change in the class level of an individual position by raising it to a higher class, reducing it to a lower class, or by moving it to another class at the same level on the basis of significant changes in kind, difficulty, or responsibility of the work performed in the position.

**REDUCTION IN PAY**

A salary decrease within the limits of the pay range established for a class.

**REEMPLOYMENT**

The act of employing a former City employee who left City employment in good standing and who does not qualify for reinstatement.

**REINSTATEMENT**

The reemployment of a former regular full-time employee who left City employment in good standing and is reemployed within one year after leaving City employment.

**REPRIMAND**

An oral or written notice of improper conduct.

**ROLLING CALENDAR YEAR**

A 12-month period measured backward from the date an eligible employee used any Family and Medical Leave (FMLA.)

**SALARY RANGE**

The pay range from a minimum salary to a maximum salary for a given class.

**SCREENING TEST**

An analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his/her system. In controlled substances testing it means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

**SEASONAL APPOINTMENT**

An appointment to a temporary position which is of a recurrent nature requiring the services of an incumbent during certain parts of each calendar year or other period and which is so identified by the appointing authority.

**SEPARATION**

The termination of an employee’s employment with the City due to retirement, resignation, death, lay-off, or dismissal.

**SICK LEAVE**

A paid absence from duty occasioned by the employee’s: illness, injury, exposure to a contagious disease requiring quarantine (as directed by local medical authorities), medical, dental, or mental health appointments.

**SUPERVISOR**

An employee with the assigned responsibility for the administrative and technical supervision of assigned employees.

**SUSPENSION**

The involuntary leave of absence for a specified period, either in a paid or unpaid status, assigned to an employee.

**TRAINING AND EVALUATION PERIOD**

The first six months (12 months for all non-clerical Fire and Police Department Personnel) of continuous employment as a full-time regular employee with the City during which it is determined whether or not the employee can successfully perform the duties of the position for which he/she was hired.

**TRANSFER**

The movement of an employee from one department to another department.

**UNDER THE INFLUENCE**

A condition in which a person is adversely affected by a drug or alcohol in any detectable manner. The symptoms or influence are not confined to those consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of being under the influence can be established by a professional opinion, a scientifically valid test such as urinalysis, breath analysis, or blood analysis and in some cases by the opinion of a lay person.

**VACANCY**

An authorized position which is budgeted for and is unoccupied.

**VACATION LEAVE**

That paid time earned by a regular full-time employee which is used for vacation or personal reasons off-duty.

**VOLUNTEER**

A person serving the City in a voluntary unpaid capacity.

**WORKDAY OR WORDAYS**

An administrative “workday” consists of 8 hours during which the employee would normally be scheduled to work. The term “workdays” would involve two or more administrative “workdays”, 8 hours each, during which the employee would normally be scheduled to work. This term should not be confused with the total number of hours an employee may actually work on any given calendar day. Either term is used to measure periods of time for payroll, disciplinary, or similar purposes.

**WORKPLACE**

Anywhere on City property, or any location (on or off City property) on duty, or any location (on or off City property) while in a City authorized vehicle or while conducting City business.

## CHAPTER 3

### EMPLOYMENT

#### EMPLOYMENT PROCEDURES

- 3.00 Request To Fill Vacant Positions. Each Department Head must submit a Personnel Requisition form to the Human Resources Department to request a list of eligible applicants from which to select one to fill a vacant position. The Personnel Requisition form will indicate whether the Department Head wishes to restrict candidates to current City employees or not, and whether or not the position is funded by a grant.
- 3.01 Methods of Filling Vacancies. The City may fill vacancies by promotion, transfer, demotion, reemployment, reinstatement, or from eligible outside candidates.
- 3.02 Announcement. The Human Resources Department, upon receipt of a Personnel Requisition form, will announce all job vacancies except as noted elsewhere in this chapter, where the Department Head desires to fill a position from an existing active certification list. The announcement will include the title, starting salary or salary range, department, opening and closing dates, job duty summary, qualification requirements, any special physical requirements, and any skill or performance tests that apply. For high turnover positions, the announcement may be kept open for continuous receipt of applications. Announcements will be posted in a conspicuous place in each City department and may be posted with other organizations outside of City government as may be appropriate to increase applicant flow.
- 3.03 Advertising. The Department Head may request an announcement for a vacant position be advertised in area newspapers or professional journals. The advertisements in area newspapers or professional journals for a specific position will be paid for by the requesting department.
- 3.04 Additional Sourcing of Applicants. The Human Resources Director will, with assistance from the Department Head as needed, determine the sources from which to recruit applicants for positions, which require experience and/or education not readily available in the local area.
- 3.05 Applications. Applications will only be accepted by the Human Resources Department for positions for which the City is currently recruiting. Resumes will be accepted in lieu of an Application for Employment only if specified in the announcement or advertisement. An Application for Employment must be completed by all applicants who are selected for employment. Each applicant for

- a vacant position must submit a completed original application with original signature (or resume if allowed) and any other required documents prior to the closing date for each position for which they wish to be considered in order to receive full consideration.
- 3.06 Only those applications that are properly and completely filled out and received within the time specified in the vacancy announcement will be accepted. The Human Resources Director may extend or reopen the time for filing applications if requested by the Department Head.
  - 3.07 Applications. All applications for employment will be retained for a period of two (2) years after which they will be destroyed unless litigation or appeal action is pending; provided, however, applications of applicants hired by the City will be retained indefinitely in the employee's Official Personnel Folder.
  - 3.08 Performance Tests. Applicants for positions requiring skill to operate certain office equipment may be required to provide evidence of proficiency on the specific office equipment with their application. Certain positions may also require other types of testing which may be used as a condition of employment.
  - 3.09 Licenses. Applicants for positions requiring the operation of motor vehicles or equipment must provide a photocopy of a valid Texas State Operations Permit for the appropriate vehicle Class with their application in order to receive full consideration. Applicants for positions requiring a Texas State license to be able to perform specific job duties such as is found in law enforcement, medical profession, or food handling positions must provide a photocopy of the applicable license with their application (if photocopying is prohibited by law, the applicant must provide the following information on the application: type of license, expiration date, and issuing agency) in order to receive full consideration.
  - 3.10 Screening and Certification. The application(s) for each position will be screened by the Human Resources Department and referred to the applicable Department Head with a certification list, if the applicant(s) meets the minimum qualification requirements for the position. Certification lists will be active for 90 days. Subsequent position vacancies, that have the same title, starting salary, and department as the initial request, during this time may be filled from the current lists in effect if requested by the Department Head. The Department Head may also request a new announcement even though a current referral list is still valid. The new referral list and the initial list(s) will be merged and sent to the Department Head.
  - 3.11 Interviewing and Selection. The Department Head will be responsible for deciding whom to interview from the list of applicants that are provided by the Human Resources Department. Final selection for each position will be made from this list of applicants. If the Department Head does not select an applicant from the list, a written request to reopen the announcement will be provided to the Human Resources Department after which a new list of applicants will be

- provided to the Department Head. The Department Head may select more than one applicant if there is more than one position vacancy in the department with the same title and starting salary as that for which the list was issued. Upon selection of an applicant for a position vacancy, the Department Head will submit a Personnel Action Request to the Human Resources Department which identified the applicant selected, the starting salary (NOTE: Any salary above the first quartile for the grade level must be approved in writing by the City Manager prior to the new employee beginning work. Salary above the second quartile must be approved by the City Council as shown in the City Council Meeting Minutes), and proposed effective date. All copies of applications submitted with the list of applicants must be returned to the Human Resources Department.
- 3.12 An employment offer shall be contingent upon successful completion of a physical examination (as required by the position being filled), drug screen and/or other examination/test as determined necessary for the particular job for which the applicant has applied. A selected applicant who cannot meet the physical examination requirements of the position being filled, but can perform the required duties of that position with reasonable accommodation will be considered to have met those requirements. All examinations and tests will be paid for by the City.
- 3.12 a When drafting an employment or separation agreement, the City Manager has the authority to deviate from standard City HR policy, but only with Council approval of the draft document.
- 3.13 The Department Head will select the best-qualified applicant for employment.
- 3.14 Relocation expenses will normally be the responsibility of the applicant. When the recruiting process requires a regional or national recruiting effort, applicants may be reimbursed, with the approval of the City Manager, in whole or in part for certain direct out-of-pocket interviewing or relocation expenses, particularly those relating to travel or relocation from out of state.
- 3.15 Processing of New Hires. New hires and other re-employed or reinstated former employees will be processed by the Human Resources Department by appointment preferably prior to the date they are to start work. Exceptions may be granted by the Human Resources Director. The Human Resources Department is responsible for contacting the new hire to inform them of the date and time to report for processing. To enable the Human Resources Department to meet this obligation all departments should submit new hire paperwork in a timely manner. Immediately following processing, the Human Resources Department will conduct an orientation training session covering subject matter such as employment rules, benefits, workers' compensation, absences, attendance, and other pertinent information necessary for the new employee to function properly in their job.

### RETENTION OF RECORDS

- 3.16 Certification Lists. All certification lists will be retained for a period of two (2) years after which they will be destroyed unless litigation or appeal action is pending. If litigation or appeal action is pending, the list(s) involved in such action will be retained until the case is closed.

### AGE

- 3.17 No person shall be eligible for employment who is less than eighteen (18) years of age at the time of application, except as provided by Federal or State law for specific employment situations or programs.
- 3.18 When employing persons under the age of 18, the City will comply with the minimum age requirements of applicable laws. All applicants under the age of 18 must provide a completed parental authorization form with the necessary signatures from the parent or guardian, and must show proof of age.

### EDUCATIONAL ATTAINMENT

- 3.19 All applicants that are selected for positions which require educational attainment above the high school level will be required to provide an official transcript as proof of their educational attainment. Failure to provide such transcript may result in disciplinary action up to and including discharge.

### DISQUALIFICATION OF EMPLOYEES AND OUTSIDE APPLICANTS

- 3.20 Any outside applicant may be disqualified for consideration for employment when information is found in that applicant's background that makes it inadvisable to consider him for employment. Any material misrepresentation of facts or failure to report pertinent data on the application form will likely result in the applicant's disqualification for or dismissal from employment if employed.
- 3.21 Any employee may be disqualified for consideration for reassignment, transfer, or promotion when the employee makes a material misrepresentation or facts or fails to report or provide pertinent data on the application or any other documents. The employee will also be subject to disciplinary action up to and including discharge.
- 3.22 Any outside applicant may be disqualified for consideration for employment because of the following reasons. An employee may also be disqualified for any of the reasons listed. Employees found in violation of any of these reasons may also be subject to disciplinary action.
- (a) Lacks any of the established minimum qualifications for the position for which an applicant applies, or
  - (b) Is unable to perform, with or without accommodation, the essential functions of the position to which the applicant seeks appointment, or

- (c) Is currently engaging in the illegal use of drugs or whose use of alcohol impairs job performance, or
- (d) Has been dismissed for good cause from public or private sector service, or
- (e) Has used or attempted to use any undue or political influences to further eligibility or appointment, or
- (f) Has intentionally made a false statement regarding a material fact in connection with their employment application, or
- (g) Has practiced or attempted to practice any deception or fraud in his application or examination, or in securing his eligibility or appointment, or
- (h) Has been disqualified within the past twelve months from the same or any other City employment examination or announcement, or removed from a position under circumstances which in the opinion of the City Manager render him equally unfit for the position for which he applied, or
- (i) Has received deferred adjudication, *nolo contendere*, or conviction of a felony committed in the furtherance of, or while participating in a civil disorder, or
- (j) Has been unable to be contacted after a reasonable amount of effort, or has failed to appear for an interview or has declined an interview or job offer, or
- (k) Has indicated through clear actions or words and inability to attend work on a regular basis, or
- (l) Judicious use of information garnered through reference checks discloses a valid basis for rejection.

#### APPLICATIONS NOT TO BE RETURNED

- 3.23 Applications and any attachments received in response to an announcement, whether qualified or not qualified, shall not be returned to the applicant and are the property of the City of Midlothian.

#### PRE-EMPLOYMENT PHYSICALS AND REEXAMINATIONS

- 3.24 Upon order of the Department Head for matters that are job related and consistent with business necessity, an employee or candidate for employment shall submit to any medical, chemical, psychological, drug, alcohol, ballistics, or other test, photograph, fingerprinting, or counseling program and shall sign any related authorization forms.
- 3.25 The City Manager shall approve one or more licensed physicians or health care providers to perform medical examinations, and one or more qualified mental health professionals to perform psychological evaluations.
- 3.26 All medical reports prepared on behalf of the City by an approved, licensed physician, mental health professional, or health care provider become the property of the City and shall be kept confidential. The Human Resources Director shall receive and retain these reports in a locked file, and will provide these reports to the City Manager and/or the Department Head and/or others only on a need to know basis.

- 3.27 If the Human Resources Director, Department Head, and other 3<sup>rd</sup> party (as appropriate) determine, after talking with the employee or job applicant, that a reasonable accommodation cannot be made for the candidate's condition, the Human Resources Director shall, with the approval of the City Manager, remove the candidate from the list of eligible applicants.
- 3.28 The Human Resources Director will make a final determination as to the candidate's eligibility and, if the candidate is disqualified, shall notify the candidate of the reasons for disqualification.
- 3.29 When an employee is having difficulty performing his job effectively, when an employee becomes disabled, or an employee requests an accommodation, the Department Head may request the Human Resources Department to schedule a physical examination and/or psychological examination by a licensed physician approved by the City Manager. The physician shall determine whether the employee is currently able to perform the essential duties of his position, with or without an accommodation. The City will pay the cost of the required examination(s). If the employee refuses to submit to the examination, the employee may be discharged.
- 3.30 Based upon the medical report, any evidence provided by the employee, and any other relevant information the Department Head, in conjunction with the Human Resources Director, will evaluate the employee's situation and recommend the City Manager:
- (a) accommodate the employee's condition,
  - (b) retain the employee in his present position,
  - (c) reassign and/or transfer the employee to another position, or
  - (d) discharge the employee.
- 3.31 **Initial Employment.** When an applicant receives a conditional offer of employment prior to final selection for **specific** positions, a physical examination, a drug screen, and (for police positions only) a psychological examination will be required to ensure that the applicant meets the requirements of the position, as stated in the position description. Applicants who fail to successfully complete the required evaluations, as stated above, will not receive further consideration for employment. Applicants who are required to take a drug screen only, and do not successfully complete that screen will not receive further consideration for employment.
- 3.32 **Re-employment.** All former employees who are being re-employed after any break in service may be required to take a physical examination and/or drug screen, as appropriate.
- 3.33 **Promotion, Reassignment, Demotion.** Any employee that is to be promoted, reassigned, or demoted to a position must meet the physical requirements of the new position, with or without reasonable accommodation, prior to entering the

new position. If such an employee has taken a physical examination for their current position and the examination results meet the physical requirement of the new position (with or without reasonable accommodation), no additional examination is required. If the employee does not meet the physical requirements of the new position, with or without reasonable accommodation, that employee will become ineligible for assignment to that position.

#### EVIDENCE OF EMPLOYABILITY

- 3.34 The City is committed to employing only those individuals who are authorized to work in the United States of America and who comply with the requirements of the Immigration Reform and Control Act of 1986 (IRCA). Under IRCA, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form (I-9 Form) and present legally acceptable documentation establishing identity and employment eligibility. This must be done within 3 days from the effective date of employment.
- 3.35 **Failure to provide the necessary documentation within 3 days will result in termination of employment.**
- 3.36 Former employees who are rehired must also complete an I-9 Form if they have not completed an I-9 Form with the City within the past 3 years, or if their previous I-9 Form is no longer retained or valid.
- 3.37 Employees with questions regarding this policy should contact the Human Resources Department.

#### EQUAL EMPLOYMENT OPPORTUNITY

- 3.38 The City is an equal opportunity employer. In order to provide equal employment and advancement opportunities to all individuals, the City's employment decisions are based on merit, qualifications, and abilities. The City does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability, veteran status, or any other characteristic protected by law. The City will make reasonable accommodations on behalf of qualified individuals with disabilities unless doing so would cause an undue hardship on the City, or, if the individual poses a direct threat to the safety of himself or others.
- 3.39 Employees with questions or concerns about any type of discrimination in the workplace are strongly encouraged to bring these issues to the attention of their Department Head or to the Human Resources Director. Any employee who observes unlawful discrimination in the workplace or who feels that he has been subjected to unlawful discrimination **must report it immediately** to their Department Head, the Human Resources Director, or the City Manager. Any supervisor or manager who becomes aware of possible unlawful discrimination **must** immediately advise their Department Head, the Human Resources Director,

or the City Manager. Preserving a workplace free of unlawful discrimination is the responsibility of all employees.

- 3.40 Employees may raise concerns and make reports without fear of reprisal, unless it is found that a false report was made.
- 3.41 Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including discharge.

#### TEMPORARY APPOINTMENTS

- 3.42 With the concurrence of the City Manger, a Department Head may hire a temporary employee for a limited-term on a classified or unclassified position which is fully funded, under the following conditions:
  - (a) when services are required for a special job or project, a temporary appointment may be made not to exceed 90 working days, or
  - (b) when a regular employee is given an authorized leave of absence, that employee's position may be filled on a temporary basis not to extend beyond the end of the leave of absence. Under such circumstances, if funds are available, the temporary employee may be hired before the regular employee begins the authorized leave of absence to accommodate necessary training of the temporary employee.
  - (c) Extension of a temporary appointment may be made by the Department Head if approved by the City Manager. Such extension must be fully funded and may be extended for a total appointment period of one year.

#### TRAINING AND EVALUATION PERIOD

- 3.43 The Department Head shall consider the training and evaluation period as part of the hiring process and shall closely observe the employee's work to assure the most effective adjustment of the employee to the new position.
- 3.44 Every regular full-time employee (whether new hire or re-employed) will serve a six (6) month (12 months for all non-clerical Fire Department and Police Department personnel) training and evaluation period. The training and evaluation period does not include time served as a temporary employee, a regular part-time employee, periods of absence in excess of five (5) consecutive workdays during the training and evaluation period, or seasonal employment. During the training and evaluation period, the employee serves at the pleasure of the Department Head and may be discharged from employment at any time. No access to the complaint or appeal procedures is allowed.
- 3.45 However, the reason for dismissal must be fully documented for record purposes. Employees discharged during the training and evaluation period are removed from any eligibility lists, and cannot be referred to other departments for vacancies. Exception to this rule may be made by the Human Resources Director

based upon the reason(s) for discharge. The Human Resources Department should be consulted before taking any discharge action to help preclude potential litigation should the discharge be contested via the litigation process.

### NEPOTISM

- 3.46 State Law. A City employee shall not be hired in a manner that would violate local rules that have been passed prohibiting nepotism. Department Heads or their appointees are prohibited from evading nepotism rules by trading favors in appointing relatives for each other. Such trading will likely result in disciplinary action up to and including discharge.
- 3.47 Appointment of Employees. Department Heads or other City Officials may not appoint or supervise any person related to them by marriage or by blood.
- 3.48 Employees. No person related to a City employee by marriage or by blood shall be hired, transferred, assigned, reassigned, re-employed, or reinstated to a position in the same Chain of Supervisory Command in which the employee is employed.
- 3.49 Marriage. Employees who are married, either ceremonially or by common law, may continue employment with the City so long as such marriage does not result in violation of the above nepotism rules. If conditions exist where marriage would cause the employees to be in violation of these rules, the employees affected will be given 60 days to seek other employment within the City. At the conclusion of 60 days, if a suitable position has not been found within the City which would allow compliance with the nepotism rules, the employees will be given the option to determine which of them will resign, thus eliminating the nepotism violation. If the employees cannot reach a decision within 60 days, the City will determine which employee's employment with the City will be terminated.
- 3.50 Divorce or Death. Termination of a marriage by divorce or death of a spouse terminates relationships created by that marriage, unless a child of that marriage is living, in which case the marriage is treated as continuing to exist as long as a child of that marriage lives.

### TRANSFER

- 3.51 **Voluntary.** Transfers may be made at the employee's request and must have the written approval of the gaining and losing Department Heads. Voluntary requests for transfer must be in writing. Employees requesting transfer must meet all qualification requirements for the new position unless waived by the gaining Department Head and approved by both the Human Resources Director and City Manager. The voluntary request will be submitted to the Human Resources Department with the Personnel Action Request and the written approval of the gaining and losing Department Heads.

- 3.52 **Involuntary.** Employees may be transferred to other positions for which they meet full qualifications at management's request. Waiver of qualifications may be made by the gaining Department Head and approved by both the Human Resources Director and City Manager. Prior to effecting an involuntary transfer, approval must be in writing from both the gaining and losing Department Heads. Such written approval will be submitted to the Human Resources Department with the Personnel Action Request form and a copy of the written notice to the employee which informs him of the action, explains the reason for the action, and any appeal rights for which the employee is eligible. Transfers by the City Manager may be directed for purposes of economy, efficiency, or otherwise if determined to be in the City's best interest.
- 3.53 All transfer actions will normally be effective at the beginning of the first pay period after the action is approved by the Human Resources Director.

#### REASSIGNMENT

- 3.54 A Department Head may reassign employees to positions in the same grade and salary within the department to maintain efficiency and productivity. Although reassignments are not subject to the same rules as transfers, the employee should be given advance notice (preferably in writing) of the reassignment along with the reason(s) for it. Reassignments will be processed by use of the Personnel Action form and sent to the Human Resources Department.
- 3.55 All reassignment actions will normally be effective at the beginning of the first pay period after the action is approved by the Human Resources Director.

#### DEMOTION

- 3.56 Demotions are effected because of the employee's request, job evaluation, reduction-in-force action, or a disciplinary action. Salary will be set for all demotion actions according to the procedures set forth in the *Classification and Compensation* chapter. Employees must meet full qualification requirements of the position to which they are being demoted unless waived by the gaining Department Head and approved by both the Human Resources Director and City Manager.
- 3.57 A voluntary request for demotion may be made in writing by an employee which is signed by the employee and which shows the approval of the gaining Department Head. The written request is submitted with the Personnel Action Request form to the Human Resources Department.
- 3.58 A reorganization, lack of funds, program emphasis change(s), or lack of work may cause a reduction-in-force. Employees that are so affected may be considered for a demotion in lieu of discharge. Employees so demoted will be issued a notice that explains the action, and the reason for the action. To effect

this action, the Department Head will submit a Personnel Action Request form with a copy of the notice of demotion to the Human Resources Department.

- 3.59 When a demotion is the result of a disciplinary action, the Department Head must provide a notice in writing to the employee, which gives the specific reason(s) for the demotion, and gives the employee an opportunity to respond. Non-training and evaluation employees demoted under this provision shall be entitled to appeal procedures as outlined in a later chapter of this manual. The Personnel Action Request, accompanied by the notice of demotion, is submitted to the Human Resources Department.
- 3.60 All demotion actions will be effective at the beginning of the first pay period after the action is approved by the Human Resources Director.

### PROMOTION

- 3.61 It is the City's policy to give qualified employees advancement opportunities whenever possible. Therefore, job vacancies below department head level will normally be announced for a period of not less than three consecutive workdays. At the discretion of the Department Head and with coordination with the Human Resources Director, announcements may be restricted to "City Employees Only" when it is known that qualified candidates would be available from within the workforce. Interviews of employees would be at the discretion of the interviewing Department Head. Referral and selection procedures will be the same as specified in the Employment Procedures section, above.
- 3.62 Salary. The salary for a City employee will, upon promotion, normally be set at the minimum pay level of the higher grade or at a rate that would give the employee at least a 10% increase above the salary in the former position, whichever will give the employee the greatest benefit.
- 3.63 Effective Date of Promotion. All promotion actions will be effective at the beginning of the first pay period after the promotion action is signed by the Human Resources Director.
- 3.64 Employees who are promoted to a position in another department must give the losing Department Head a two-week notice before transferring between departments unless a mutual agreement of lesser or greater notice is made between the affected Department Heads.
- 3.65 Promotions will be effected by the gaining Department Head by submitting a Personnel Action Request form to the Human Resources Department.

## CAREER PROMOTIONS

- 3.66 At the Department Head's discretion and with the approval of the Human Resources Director, a "full performance" level position (also known as a journeyman level position) may be downgraded to the entry-level position. The applicant who is selected through competitive procedures for the entry level position will be eligible to be promoted without further competition providing he meets all other qualification requirements for the higher graded position.
- 3.67 RESERVED

## GRANT EMPLOYEES

- 3.68 Grant employees are persons hired for a specific position that is funded by a Federal, State, or other type of grant. Grant employees will normally be eligible for the same benefits, including salary, as regular employees with the following exceptions:
- (a) When lack of grant funds or lack of work causes the grant position to be abolished, the incumbent may be discharged or moved to another position if permitted by law or grant conditions.
  - (b) The grant employee who is identified for discharge will not have access to placement by reduction-in-force (layoff) procedures. The discharged grant employee will have no grievance or appeal rights.

## PRESCRIBED AND "OVER-THE-COUNTER" DRUGS

- 3.69 The City reserves the right at all times to judge the effect that a legal drug (prescription or "over-the-counter") may have upon an employee's work performance and to restrict the employee's work activity or presence at the workplace accordingly. It also reserves the right to have a physician of its own choice determine if the medication at the prescribed dosage produces hazardous effects and may restrict the employee's work activity. The correct use of prescribed and "over-the-counter" drugs is not *per se* a violation of the policy. However, failure of an employee to notify his supervisor, before beginning work, when taking medication or drugs which may adversely interfere with the safe and effective performance of duties or operation of City vehicles or equipment, or could endanger other individuals in the workplace, can result in discipline up to and including discharge. Employees may be asked to provide a doctor's statement when required to use a prescription or "over-the-counter" drug that may adversely affect job performance or effectiveness.

## RESIGNATION

- 3.70 Resignation in Good Standing. An employee who desires to leave City employment in good standing must give the Department Head a written resignation of at least two weeks notice of his intention to leave, unless for good reasons the Department Head consents in writing to an earlier date. The written resignation (and any written approval from the Department Head for an earlier resignation date) must be submitted to the Human Resources Department with the Personnel Action Request. An employee with a pending or on-going disciplinary action, pending discharge due to unsatisfactory performance, will not be eligible to resign in good standing unless the Department Head makes a request to the City Manager for the employee to be granted “good standing”. Such request must be fully documented showing the reason(s) for making the request.
- 3.71 Failure to Provide Proper Notice. Employees who do not submit a written resignation or fail to give the appropriate notice (without approval of the Department Head) will have that fact entered on their resignation form and may be denied future consideration for City employment for 12 months unless good cause is shown. The employee will also forfeit any termination pay benefits that would normally be paid.
- 3.72 When an employee abandons his position by an unauthorized absence from work for a period of two consecutive working days, it will be considered by the City as a resignation. Unless the City Manager determines otherwise, the resignation is not in good standing and the employee will not be eligible for reemployment.

## RETIREMENT

- 3.73 Eligibility. Any employee subject to the Texas Municipal Retirement System (TMRS) may retire from the classified service when they reach:
- (a) age 60 and have 5 years creditable service, or
  - (b) any age and have 20 years creditable service.
- 3.74 An employee who is eligible to retire by virtue of length of service or a combination of age and length of service must give written notice of intent to retire no more than 90 days nor less than 30 days prior to the effective date to their immediate supervisor. The retiring employee must indicate in the retirement intent notice the last day/shift/hour to be worked.
- 3.75 An application for long-term disability retirement will satisfy the resignation notice requirement.

## EXIT INTERVIEW

- 3.76 All employees separating from City employment will normally complete an exit interview with the Human Resources Department. Information provided during the exit interview may be used for various purposes. The name of the employee, and any other personal identifying information, will normally not be released unless required by law or City business reasons.
- 3.77 The exit interview will cover:
- (a) eligibility for rehire
  - (b) reasons for separation
  - (c) adequacy of pay and benefits
  - (d) adequacy of training received
  - (e) effectiveness of internal communications
  - (f) effectiveness of supervision
  - (g) departmental and unit workload
  - (h) general suggestions for improvement
  - (i) continuation of insurance (COBRA), if eligible

## STUDENT EMPLOYMENT

- 3.78 Minors age 16 to 18 may be employed during the school year or during periods when school is not in session on established classified or non-classified positions which are fully funded.

### **Work Restrictions.**

- (a) In accordance with the Fair Labor Standards Act, Child Labor Laws, a minor 16 years to 18 years of age may not be assigned work that:
- (1) is hazardous in nature,
  - (2) involves any roofing operations, or
  - (3) involves excavation operations (except for manually excavating or backfilling trenches or working in trenches that do not exceed four feet in depth at any point).

The minor also may not:

- (1) serve as an outside helper on any public road or highway,
- (2) operate power-driven woodworking machines,
- (3) operate or assist in operating a crane, derrick, hoist, or high-lift truck, or
- (4) drive a vehicle, EXCEPT that a minor 17 years of age may operate a vehicle on the public roadways provided:
  - (a) driving is restricted to daylight hours,
  - (b) the minor has a valid driver's license with no record of moving violations at the time of hire, and has completed a State-approved driving course,
  - (c) the vehicle has a seat belt and the minor is required by the employer to use it,
  - (d) the vehicle weighs 6,000 pounds or less,
  - (e) the driving does not involve towing trailers or other vehicles or making urgent deliveries,
  - (f) the driving is restricted to a 30 mile radius from the place of employment, and
  - (g) driving is no more than one-third of the employee's workday or 20% of this work time in any week.

### **Processing-In**

- (b) When processing-in, minors age 16 to 18 must present:
- (1) a photocopy of their birth certificate to verify age,
  - (2) a *Consent to the Employment of a Minor* form completed by the minor's parent(s) or guardian(s), and
  - (3) a *Parental Consent to Drug and Alcohol Testing* form completed by the minor's parent(s) or guardian(s).
- (c) Minors age 16 to 18 must successfully complete and pass a pre-employment physical examination and drug screen before being placed in a duty status.

### **Type of Appointment and Extension of Appointment**

- (d) Minors 16 to 18 years of age will be hired on a *Temporary Not To Exceed 90-days* initial appointment. Prior to the expiration of the 90-days, if the minor's employment is to be extended, a Personnel Action Request Form must be prepared which will extend the appointment up to a total combined time of 1 year.
- (e) When a minor is going from a *Part-Time* status to a *Full-Time* status (or vice versa) such as from a school year going into summer vacation, the Personnel Action Request Form action will be *Conversion – Part-Time to Full-Time* (or vice versa) and the Comments should show the reason: end of school year, beginning of school year, etc.).

## EMPLOYEE IDENTIFICATION BADGES

- 3.79 City of Midlothian employees are required to have a City of Midlothian picture-identification (ID) badge on their person at all times when on city property (including city vehicles), or on city business or training conducted off city property.
- 3.80 The City Manager will designate the department responsible for issuing and controlling all picture-ID badges.
- 3.81 New-hire employee badges and replacement badges will be issued once per month. Employees needing badges will be given the date and time to report for processing by the issuing office. Employees will be required to sign an acknowledgment/statement of receipt for the badge which authorizes deduction of the required fee for a replacement badge after the first replacement.
- 3.82 The picture-ID badge may be worn on a necklace, with an alligator clip, or may be kept in a pocket, billfold, or purse that is readily accessible at all times.
- 3.83 If an employee loses his/her picture-ID badge, the employee will report the loss to the issuing office as soon as the loss is known. The first replacement badge will be at no cost to the employee. Any subsequent replacement badge issued to the employee will cost \$20.00 each which will be deducted from the employee's pay.
- 3.84 When an employee's employment is terminated, the employee will surrender his/her picture-ID badge to the issuing office. Failure to surrender the badge will result in the employee being charged \$20.00 which will be deducted from the employee's last pay check.

## CHAPTER 4

### CLASSIFICATION AND COMPENSATION

#### COVERAGE

4.00 This chapter constitutes the classification and compensation plan for each fiscal year. It establishes the rates and method of computation of compensations for the employees of the City of Midlothian and that are not exempted by law.

#### RECORD KEEPING

- 4.01 Time Sheet. Attendance records will be maintained on all employees, recording attendance, vacations, sick leave, other leaves of absence, hours worked, and overtime worked on the Time Sheet.
- 4.02 Responsibility. Each Department Head will designate a member of his staff to monitor the recordings made on each employee's Time Sheet to assure attendance/absences are properly and correctly recorded and related computations are correct.
- 4.03 Reporting. The Time Sheets, upon verification that all information contained on them is correct, will be forwarded to the Finance Department (Payroll).
- 4.04 Convenience Overtime. Employees may not work overtime for their own convenience for the purpose of accruing overtime compensation. All overtime worked will be strictly accounted for on the Time Sheet form and earned under the conditions prescribed in this Manual.

#### PAYROLL OFFICE

- 4.05 The Payroll Office will ensure that a permanent record of hours worked and all overtime is kept on all employees based on information provided by Department Heads and that the proper financial transactions are completed at the end of each pay period. If the Time Sheet is not completed (required signatures not present, all time not recorded, etc.) the Payroll Office will return the Time Sheet to the Department Head for completion. Under no circumstances will the Payroll Office make additions or deletions from Time Sheets.
- 4.06 Upon an employee's separation from employment with the City, the Payroll Office will ensure that eligible employees are paid for all unpaid accrued overtime and leave within the limitations established by this Manual.

## SALARY ADMINISTRATION GUIDELINES

- 4.07 Schedule of Compensation. The schedule of compensation will be published by the Human Resources Department showing the standard salary range for all classes of positions.
- 4.08 Computation of Salary Earned. The amount of salary earned during a pay period is computed by dividing the annual rate of pay into 26 bi-weekly equal amounts. The basic rate of pay for employees paid on an hourly rate basis is determined by the number of hours actually worked during an administrative workweek times the hourly rate plus any overtime (1 and ½ times the hourly rate for hours worked in excess of 40 hours per week). In addition to the base salary or hourly rate, other amounts for which the employee's specific assignment provides entitlement, e.g., shift differential, acting status pay, longevity pay, etc. will be added.
- 4.09 Employees are paid on a bi-weekly basis, with paydays occurring on the Friday following the end of the pay period. When a payday falls on a non-work day or holiday, employees are paid on the preceding workday.
- 4.10 Initial and continued employment with the City is conditional on the employee's agreement to deductions from pay (some deductions are mandatory by law) as follows:
- (a) when a deduction is available to all regular City employees with individual employee consent and City Manager approval,
  - (b) as payment for a fringe benefit or special program authorized by the City Council and offered with City participation,
  - (c) as payment toward meeting job-required deposits,
  - (d) as re-payment for erroneous payment made by the City to an employee,
  - (e) as reimbursement for pecuniary liability imposed for loss or damage to City property or equipment issued to the employee,
  - (f) as recovery of tuition reimbursement pursuant to established policy, or
  - (g) as repayment of sick leave and/or vacation leave paid to an employee when the employee also receives Workers' Compensation benefits for the same period.
- 4.11 Each employee will receive a statement of deductions and earnings with each paycheck that itemizes the various deductions made, as well as appropriate cumulative totals. A record of sick leave and vacation leave will also appear on that statement.
- 4.12 It is the responsibility of the employee to notify the Human Resources Department of any changes to their payroll deductions. The Human Resources Department will assure such change is made by the employee on the appropriate form which will be forwarded to the Payroll Office for processing.

- 4.13 The Department Head or designee is responsible for submission of all documentation for overtime and absences to the Payroll Office at the end of the Pay period. No compensatory time may be carried "off the books".
- 4.14 The two-week pay period begins at 12:01 a.m. on a Saturday and ends at 12:00 p.m. (midnight) on Friday of the second week.

#### SETTING RATES OF PAY

- 4.15 New Appointments. An employee is appointed at the minimum rate for the class to which assigned, except when the Department Head believes it is necessary to make an appointment above the minimum rate. Pay within the first quartile may be granted by the Department Head. Authorization for appointment above the first quartile may be granted by the City Manager upon written request from the Department Head, and pay in the third and fourth quartiles may be granted by the City Council with the recommendation of the City Manager. In reviewing such requests, consideration will be given to the candidate's qualification, salary history, availability of other qualified candidates, and the resulting salary relationships with other similar positions.
- 4.16 Reemployment and Reinstatement.
- (a) Reduction-in-Force (lay-off). An employee appointed from a reinstatement list after having been laid-off according to reduction-in-force rules will be paid at the rate which was held immediately prior to lay-off if reinstatement is to the same class as last held, or as close to the former rate as possible if reinstatement is to a lower class than last held.
  - (b) Voluntary Resignation. An employee appointed from a reinstatement list after voluntarily leaving employment with the City, may be paid at the rate which was held immediately prior to resignation if reinstatement is to the same class as last held, or as close to the former rate as possible if reinstatement is to a lower class than last held.
  - (c) Re-employment. Former employees that do not meet the criteria for reinstatement may be re-employed at a pay rate that is the minimum for the class in which hired.
- 4.17 Promotion.
- (a) An employee who is promoted to a position in a class with a higher salary range shall be placed at a rate that provides the employee compensation that will be the lesser of a 10% increase or the maximum of the new range.
  - (b) Processing Promotion and Performance Increases Simultaneously. When a performance increase is to be processed at the same time as a

promotion, the performance increase is processed first, followed by the promotion increase. Only one *Personnel Action* form is needed to accomplish this joint personnel action if the employee will receive both actions within the same department.

- 4.18 Reassignment. An employee that is reassigned from one position and class to another position and same class (whether within the department or across department lines) will have his salary remain the same.
- 4.19 Demotion.
- (a) **Voluntary Demotion.** An employee voluntarily demoting to a lower class will have his salary set at his last salary rate at the higher class. If his salary falls above the maximum for the lower class, his salary will be set at the maximum for the lower class.
  - (b) **Involuntary Demotion - No Fault.** An employee who is involuntarily demoted through no fault of his own, will have his salary set at the salary he last held in the higher class. If his salary falls above the maximum for the lower class, his salary will be set at the maximum for the lower class.
  - (c) **Involuntary Demotion - Personal Cause.** An employee, who is involuntarily demoted due to personal cause, will have his salary in the higher class reduced by 10% and then placed in the lower class. If the reduced salary falls above the maximum salary for the lower class, the employee's salary will be set at the maximum rate for the lower class.
- 4.20 Equity Adjustment. The Department Head may submit a request to the City Manager (with a copy to the Human Resources Department) for a salary equity adjustment to correct a past salary practice that resulted in the payment to an employee at an inequitably low rate as compared to other employees in the same class. The City Manager may raise the salary of such an employee to the level he determines most equitable, provided however, he does not do so contrary to the general intent and spirit of the City's Salary Administration Guidelines.
- 4.20.1 Maximum Pay. When an employee's current salary does not exceed the maximum of their grade, but in a new grade would exceed the maximum salary (due to promotion, demotion, or other similar pay action), the employee will receive no more than the maximum rate for his/her grade level in the new position.
- 4.20.2 On the date that the Maximum Pay policy is approved, if an employee's Salary exceeds the maximum of his/her grade level, the employee will retain that salary until the maximum salary for that grade level equals or exceeds the employee's salary. During the period when the employee's salary is "frozen" the employee will not receive merit pay increases or Cost of Labor increase.

4.20.3 If an employee with a salary that exceeds his/her grade level is promoted, demoted, or leaves his/her position via an approved personnel action, they will have their pay in the new position set according to the pay setting procedures. If, by using the pay setting procedures the employee's salary would exceed the maximum of the new position's grade level, the employee will receive no more than the maximum for the new grade level. In no instance will the employee receive less than their current level.

#### REGULARLY SCHEDULED HOURS OF WORK

4.21 Workweek. The normal regularly scheduled workweek will generally not exceed 40 hours. Hours worked in excess of 40 hours per workweek will be compensated in accordance with established policies consistent with Federal and State law. The normal workweek for the City of Midlothian will begin at 12:01 a.m. Saturday and end at 12:00 p.m. (midnight) on the following Friday.

- (a) Nonexempt full-time employees will normally work a 40 hour workweek except for Fire Department personnel subject to the Fair Labor Standards Act (FLSA) Section 207(k).
- (b) Fire Department personnel subject to the FLSA Section 207(k) provisions will have a work period of 28 calendar days or as determined by the Department Head.
- (c) Except as otherwise provided, the normal working hours for all full-time employees are from 8:00 a.m. to 5:00 p.m. with a 1-hour unpaid lunch period.
- (d) Daily attendance records will be maintained by each department.

- 4.22 Lunch Periods. The lunch period may be 30 minutes to 1 hour, as set by the Department Head, and is an uncompensated time off work. If a nonexempt employee is required by his supervisor to work during the lunch period, the employee must either be given an alternate time during the same day for a lunch period or receive appropriate compensation for that work performed (care must be exercised not to cause an overtime situation). The lunch period will normally be taken in the middle of the employee's work shift.
- 4.23 Rest Periods. Rest periods may be established at the discretion of the Department Head. Such time is compensable time. The purpose of a rest period is to allow the employee performing hazardous, physically taxing, or repetitive work a time to rest from such work. Rest periods may be used as the employee chooses, but when and where it is taken is determined by management. Rest periods provided to full-time employees are generally two 15 minute periods, one usually taken mid-way in the first half of the shift, and the second usually taken mid-way in the second half of the shift. The duration of rest periods will be determined by the Department Head.

#### OVERTIME COMPENSATION

- 4.24 Overtime is credited to the nearest quarter hour and will be rounded up and paid at 1-1/2, times the employee's regular rate of pay.
- 4.25 Holiday time shall be considered hours worked for the purpose of determining overtime eligibility.
- 4.26 All employees are required to work in excess of their normal work hours when required by the Department Head. Such additional work assignments may be rotated and allocated among employees qualified to do the work.
- 4.27 Department Heads have the authority to approve overtime requests if overtime costs will be within their approved budget. Overtime costs that will exceed the department's approved budget must be approved by the City Manager before the overtime is worked. Overtime caused by response to emergency situations will be addressed by the Department Head.
- 4.28 The exempt or nonexempt status of positions, for overtime purposes, will be determined by the Human Resources Director according to provisions of the FLSA.

OVERTIME FOR NON-EXEMPT EMPLOYEES [The following DOES NOT apply to Fire Department employees paid under provisions of FLSA Section 207(k)]

- 4.29 Basis of Payment. All non-exempt employees are paid on the basis of hours worked. All hours worked up to 40 hours in a workweek will be compensated at the employee's regular hourly rate of pay. Hours worked in excess of 40 hours in a workweek shall be compensated at 1 ½ times the employee's regular hourly rate. For purposes of computing overtime, an employee's regular hourly rate includes certification pay and longevity pay pro-rated to an hourly basis.
- 4.30 Payment of Overtime Worked. All non-exempt employees will be paid overtime in cash or as compensatory time (see 4.31 below).
- 4.31 Compensatory Time. Non-exempt employees may accrue a maximum of 48 hours compensatory time at any one time for hours worked in excess of 40 hours per week. All overtime worked in excess of 48 hours compensatory time will be paid in cash at the overtime rate.

OVERTIME (EXEMPT EMPLOYEES)

- 4.32 The Fair Labor Standards Act (FLSA) does not require payment of overtime to exempt employees. Exempt employees are compensated with a set salary and not on the number of hours they work.

Exempt employees may however accrue flextime for hours worked in excess of 45 hours per week as approved by the employee's supervisor. Exempt employees who wish to claim flextime shall record the actual hours worked on the City's official time sheet form. The HR Department shall maintain records for all flextime balances accrued. Flextime may be used for paid time off in one hour increments up to two consecutive work days, subject to supervisor approval, and recorded on the City's official time sheet. No more than eighty (80) hours of flextime may be accrued by an exempt employee. Flextime shall have no monetary value, and upon separation from the City, exempt employees shall not be paid for any accrued flextime time leave balances.

OVERTIME (FIRE DEPARTMENT NON-EXEMPT EMPLOYEES subject to FLSA section 207(k) 212/28)

- 4.33 Fire Department employees who are subject to the FLSA Section 207 (k) schedule (212 hours worked in a 28 day period or as determined by the Department Head) will receive overtime for every hour worked in excess of 212 hours. All "212/28" employees will be paid overtime at a rate of 1 and ½ hours pay for every hour worked over 212 hours in a 28 day cycle.

- 4.34 Compensatory Time. Non-exempt employees may accrue a maximum of 48 hours compensatory time at any one time. All overtime worked in excess of 48 hours compensatory time will be paid in cash at the overtime rate.

GENERAL PRACTICES

- 4.35 Overtime will be kept to a minimum. It is the direct responsibility of each Department Head to control overtime payroll costs within their department, and to control the early or late departures of employees.
- 4.36 Overtime will be approved by the Department Head or their designee before it is worked. If the Department Head has issued “standing orders” permitting overtime, such overtime will be considered as approved prior to it being worked.

## INCENTIVES

- 4.37 Longevity pay will be paid to employees who have completed at least one year of continuous service to the City of Midlothian at a rate of four dollars per month for every month of service not to exceed twenty-five (25) years. Longevity pay will be paid in a lump sum distribution on the first payroll in December. Longevity pay shall be paid only in full year increments, *i.e.*, there will be no pro-rating of service when calculating the annual longevity payment. Police and Fire personnel shall be paid longevity pay in accordance with State statute.
- 4.38 Assignment pay will be given to employees in specific positions identified on the City Salary Schedule and Classification Plan approved annually by the City Council, irrespective of other assigned duties or pay entitlement.
- 4.38a EMPLOYEE AWARDS / BONUSES

No department may grant an employee an award or bonus that has an inherent monetary value unless said award or bonus is adopted in an approved budget.

## OTHER FORMS OF COMPENSATION

- 4.39 Acting Status Pay.
- (a) An employee who is temporarily assigned (with prior approval of the Department head) to the duties of a higher level position for a period of more than 10 consecutive working days will be paid at the lowest rate within the range for the higher level class which provides at least a 5% increase but which does not exceed the range for the higher class. An employee who meets the 10 day requirement shall be paid at the higher rate from the first day of the temporary assignment. (Police and Fire shall be according to §141.033 of the Texas Local Government Code.)
  - (b) This does not apply to temporary assignments which are made pursuant to prior mutual agreement between the employee and his immediate supervisor for the purpose of providing a training opportunity to the employee for a mutually agreed upon period.
  - (c) The employee's anniversary date will remain unchanged throughout the temporary assignment.
  - (d) An employee will not continue acting in a higher classification for more than 90 days, except when authorized by the City Manager on a case-by-case basis.
- 4.40 Separation Pay.
- (a) Upon separation from employment, a regular full-time employee will receive compensation for accrued unused leave, if otherwise eligible. Resigning and retiring employees must comply with the written notice requirements in order to receive such payment.
  - (b) Regular full-time employees, who resign, retire, or are dismissed will be paid for all accrued unused vacation leave and compensatory time.
  - (c) Regular full-time employees who are dismissed or who do not provide the required two weeks notification (unless waived by the Department Head), will not receive compensation for any accrued unused sick leave, if otherwise eligible.

(d) Upon separation in good standing, regular full-time employees will receive pay for their accrued unused sick leave based upon their continuous number of years service during their most recent employment with the City and in the percentage as follows, below. Those employees will receive this pay at the salary rate in effect on their last day of employment.

3-4 years service, payment is 25%, 240 hours maximum  
5-9 years service, payment is 50%, 480 hours maximum  
10+ years service, payment is 75%, 720 hours maximum

(e) The beneficiary of a deceased regular full-time employee will receive payment of all unpaid salary, cash-out of leave, and other payments for which the employee would have been eligible to receive. Beneficiaries of deceased part-time, temporary, or seasonal employee will receive all unpaid salary only.

#### 4.41 On-Call Pay.

- (a) To provide for after-hour service needs, some Department Heads within the City may designate certain employees to be on-call.
- (b) Two forms of on-call status are recognized, as follows:
  - 1. **Restricted on-call** is the time spent on or away from City premises under conditions that prevent the employee from using the time for personal activities. All such time in readiness is considered time worked and is compensable.
  - 2. **Unrestricted on-call** is all time after regularly scheduled working hours when an employee is designated to be available for call-back. The employee is free to pursue personal activities but must respond to summons (paging, telephone, or radio) within designated guidelines set by the Department Head. This is not considered time worked and is not compensable. If called back, however, call-back compensation will be paid for hours worked.
  - 3. Specific rules may be developed by the respective departments for police and fire department employees to supplement these rules.
  - 4. An employee designated as on-call will be considered to be officially scheduled only when approved by his supervisor.

#### 4.42 Call-Back

- (a) Call-back is an unscheduled or emergency return to work outside of officially scheduled work hours.

- (b) Non-exempt employees who are called back to the workplace will be paid for actual hours worked and are guaranteed a minimum of two hours of such compensation for each call-back within the same 24 hours after regular closing time or on a regular day off. A day off will be considered to begin and end at the same time as a regular work day.
- (c) Fire Department personnel subject to the FLSA Section 207(k) will comply with the call-back provisions of the Fire Department's General Orders.

#### POSITION CLASSIFICATION AND PAY PLAN

4.43 The City of Midlothian has adopted a Classification and Pay Plan. This plan will remain in effect until changed or replaced by the City Council.

(a) Position Classification

1. The purposes of the classification plan are to provide a complete and continuous inventory of all classification, to provide accurate descriptions of each class and work, and to ensure that each position is allocated to the appropriate classification.
2. All positions in the City are grouped into classes. Each class includes those positions sufficiently similar in duties and responsibilities to require similar education, experience, knowledge, skills, and abilities.
3. The Human Resources Director is responsible for causing the preparation and maintenance of job descriptions for all positions. The job descriptions will include, but are not limited to, a list of the essential duties and a statement of qualifications required for appointment.
4. All job descriptions normally describe the essential duties that employees, occupying positions in the class, may properly be required to perform. Job descriptions are explanatory but not restrictive. The listing of particular duties does not preclude the assignment of other related duties requiring equal or lesser skills. The job description does not constitute an employment agreement between the City and the employee, and is subject to change as the needs of the City and the requirements of the job change.
5. Before the classification plan or any part thereof becomes effective, it shall be submitted to the City Council for approval. Notice of consideration of the proposed classification plan amendments or revisions will be provided to appropriate employees. Upon approval by the City Council, the provisions of the classification plan will be observed in the handling of all personnel actions and activities. The classification plan may be amended or revised by the Human Resources Director and must be approved by the City Manager and City Council.

6. Following the adoption of the classification plan, the Human Resources Director will assign each position to one of the classes established by the plan.
7. When a new position is created, no temporary or regular appointment may be made to fill such a position until the classification plan has been amended and an appropriate employment list established for the position.
8. The Classification and Pay Plan will be followed for all other situations not specifically covered by this manual.

(b) Compensation Plan

1. The purpose of the compensation plan is to provide equitable and adequate compensation for all employees.
2. The City Council may periodically modify the City's compensation plan. The compensation plan includes, for each class, a minimum and maximum salary rate and such intermediate rates as are considered necessary. Flat rates may be used instead of salary ranges where appropriate. The rate or pay range assigned to each class should reflect the differences in the duties and responsibilities among classes. It will take into account rates paid by other public employers for comparable work, the City's compensation policies and financial condition, unusual problems of recruitment and turnover, and other relevant factors.
3. Each employee is paid a rate of pay within the salary range for the class in which employed except in cases of reclassification to a lower salary range. The hourly wage of any employee will be determined by dividing the annual salary by 2,080 hours.
4. An employee assigned work, which would qualify the employee for exemption from the over-time provisions of the Fair Labor Standards Act, will normally be compensated on a salary basis.
5. An employee assigned work, which does not qualify the employee for exemption from the overtime provisions of the Fair Labor Standards Act, will be compensated on an hourly basis.

(c) Reclassification

Reclassification of positions may occur at the request of management and will be conducted by the Human Resources Department. Reclassification may result in increase or reduction in pay in accordance with the City's guidelines for promotions and demotions. Reclassifications are not an appealable personnel action. Employees whose positions are reclassified will be given advanced written notice of the reclassification by the Human Resources Department prior to being effected.

#### 4.44 Automobile Allowance

All automobile allowances will be recommended by the City Manager and approved by the City Council.

(a) The City of Midlothian agrees to pay employee on a monthly basis and will be reviewed by City Manager and Council annually. (The City of Midlothian agrees to pay for oil, fuel, and insurance for police motorcycles only). Insurance will be paid to the employee annually. Cost of insurance is determined by the standard rate paid by the City of Midlothian to its current carrier on a vehicle.

(b) Employee agrees to provide all required maintenance for the vehicle.

(c) Employee agrees to maintain vehicle in clean working condition as to represent the City of Midlothian in a positive manner.

(d) Fuel consumption **must** be maintained and monitored by the Department Director on a monthly basis. City purchased (fuel) is strictly limited to City-business related purposes. In no case may more than one tank of gas be filled in any seven day period, and no more than four tanks per month, without the written approval of the Department Head, who must certify that the excess use of gas was for job-related purposes and provide supporting documentation to that effect. At no time will an employee use another employee's fuel identification number or knowingly allow another employee to use their fuel identification number.

# CODE OF CONDUCT

## CHAPTER 5

### INTENT

- 5.00 It is the policy of the City of Midlothian that the Code of Conduct chapter be upheld to ensure the proper operation of City government by broadly defining the appropriate conduct of covered employees while they discharge their duties in the public interest. This Code of Conduct chapter imposes high standards for those who work as a paid employee for the public trust. Its overall intent is to define City service as primary when such persons' time and efforts are devoted to City tasks, and to attempt to minimize other endeavors that would detract from their energies while involved in any such primary tasks
- 5.01 Definition of "Employee." For the purpose of this chapter the word "employee" will mean any person employed by the City of Midlothian. The word will not be extended to apply to any independent contractor, or to members of commissions or committees that function only in an advisory or study capacity unless otherwise specified in this chapter. The word does encompass spouse and any dependent children as it pertains to placing the employee in a conflict of interest position pursuant to this policy with their actions. Conduct of volunteers (including volunteer firefighters and reserve police officers) will be governed by this chapter.

### NON-DISCRIMINATION

- 5.02 The policy on non-discrimination for the City of Midlothian is contained in paragraphs 3.38 through 3.41 of this Manual.

### GIFTS OR BENEFITS

- 5.03 The City strives to treat employees, citizens and individuals conducting business with the City in a fair and equitable manner. Employees (and their relatives and significant others) may not receive any income or other material gain from anyone outside the City for services provided by the employee in the performance of his job with the City. All City employees are prohibited from soliciting, accepting or agreeing to accept any gift, gratuity, favor, benefit or anything else of value from any person, organization, or other entity who has done business, is doing business, or seeks to do business, with the City. However, if an employee accepts the following, it will not be considered a violation of this policy:
- (a) an award publicly presented in recognition of public service
  - (b) an occasional meal where public business is discussed
  - (c) tee-shirts, caps and other similar promotional material
  - (d) any gift which would have been offered or given to the employee even if the employee were not a City employee
  - (e) Acts of employee recognition that have insignificant monetary value to the recognized employee, such as plaques or group meals held on City premises are not considered awards or bonuses for the purpose of this policy.
  - (f) Retirement gifts and related expenditures will be administered by the City Secretary's Office and are expressly permitted by this policy

- 5.04 Routine food coupons, travel awards, discounts and other promotional items awarded to employees while carrying out City business may be accepted by employees and will not be considered a violation of this policy due to the administrative difficulty and cost involved in recapturing the discount or award for the City. This can include items of \$10 of value per instance per month but that would not exceed \$50 per year. The employee should always check with his supervisor to see if the item should be returned, or in the alternative, turned over to the City.
- 5.04(a) In-town or local meals: Shall not be charged to the City unless said meal is strictly a business meeting. Generally, such a reimbursed or City-paid meal must involve officials from outside the City of Midlothian, and in general should not occur more than 6-8 times per year. This policy does not apply to City-paid meals served within City facilities for working meetings that are outside of normal office hours or that conflict with normal lunch hours. Department heads shall be responsible for enforcing this policy.
- 5.05 Employees may not give their supervisor or anyone else in City management any gift or other item of value with the expectation of personal benefit or profit. If offered, the recipient may not accept such gifts or other items. Giving or accepting flowers, cards and/or food items (such as cakes and cookies) for birthdays, Bosses' Day, holiday celebrations, or bereavement, or gifts (regardless of cost) for retirement, farewell or similar events is not a violation of this policy.
- 5.06 The City takes this policy very seriously and violations will likely result in disciplinary action up to and including discharge. If an employee has any questions regarding the prohibitions imposed by this policy generally, or in connection with a specific situation, he should contact the Human Resources Department or his Department Head.

## PERSONAL APPEARANCE

- 5.07 Dress, grooming, and personal cleanliness are vital to the City's business image as well as the morale of its employees. All employees are expected to present a clean and neat appearance and to dress in an inoffensive and appropriate manner while on the City's premises and while off the premises on City business. Anyone who is not appropriately groomed or who dresses in violation of the policy will be sent home. Under such circumstances, nonexempt employees will not be paid for work time missed and exempt employees will be required to make-up time missed. Employees whose grooming and/or personal appearance violates this policy may be disciplined up to and including discharge.
- 5.08 Appropriate appearance includes:
- (a) **Apparel.** You must wear appropriate, clean, pressed business attire. A complete list of inappropriate attire would be impossible to list; however, the following are some examples of inappropriate dress:
- (1) Faded and/or tattered jeans
  - (2) Clothing displaying advertising (other than a brand name of the manufacturer)
  - (3) Clothing displaying a political message
  - (4) Clothing displaying offensive language or pictures
  - (5) Any clothing with spaghetti straps

- (b) **Hair.** Hair should be clean, combed and neatly trimmed or arranged. This also pertains to sideburns, mustaches and beards. Shaggy, unkempt hair is not permissible.
- (c) **Personal Hygiene.** Good personal hygiene habits must be maintained.
- (d) **Piercing.** All males shall not wear earrings or any visible body piercing while at work. Females may wear earrings, but shall refrain from wearing extreme ear piercing. Females may wear small conservative body piercing such as in the nose, which would reveal a small stud. Visible body piercing such as eyebrow, mouth and tongue are deemed to be extreme and will not be permitted. The administration recognizes the difficulty in covering all body piercing however, if you are in doubt as to what is acceptable you should check with the Human Resources Department for clarification.
- (e) **Tattoos.** Sworn Police Officers and Fire Fighters must cover all visible tattoos with either skin colored band aids, or wear long sleeve shirts at all times while on duty. All other employees shall be reviewed on a case-by-case basis.

If you have any questions about what is appropriate to wear, ask your supervisor to ask the Human Resources Director.

5.09 Uniforms and City Logo Shirts. Employees in certain positions may be required to wear uniforms to make a clear association with the Department in which they work.

- (a) Certain positions (as identified by the City Council, City Manager, or Department Director) require employees occupying such positions to wear a uniform or logo shirt. The uniform or log shirt will serve as a means to identify the wearer as a City employee and/or a member of a special unit within the City.
- (b) Employees occupying such positions must wear the uniform as prescribed by their Department Head.
- (c) Failure to wear the uniform or logo shirt or to wear it as prescribed may result in disciplinary action up to and including discharge. Employees shall only wear their uniform or logo shirt while on duty, or going to and from work. Any other times, employees are not allowed to wear uniforms or logo shirt with the exception of a ball cap displaying the City's logo.
- (d) All uniforms and logo shirts will be provided by the City. The City reserves the right to require employees to make partial or full payment for such uniforms, as deemed appropriate under special conditions.
- (e) Specifically: For the Police Department;
  - (1) The clothing allowance for CID officers shall be limited to \$575 per year. All such expenditures must be approved by the Police Chief.
  - (2) Limit Police Dispatchers to four (4) logo shirts per year, for a maximum of \$125 per year.
  - (3) All other uniformed employees: maintain current policies.
  - (4) The Department Director is responsible for enforcing policies.

#### USE OF CITY-OWNED PROPERTY

5.10 Any time that City property is used in conjunction with employment, extra care should be exercised to minimize damage to the equipment or waste of supplies. Office machines, maintenance equipment, tools, etc., should be properly stored and cared for at the close of each business day. No employee of the City shall intentionally or negligently damage City equipment or property. Such actions may result in disciplinary action up to and including discharge. No employee shall participate in bidding on City equipment or property sales or purchases except as provided for Police Department sales or public auctions that are open to any citizen.

- (a) City vehicles shall not be taken home overnight except as follows:
  - 1. Employees may take a City owned vehicle home when attendance to an out-of-city meeting takes place after normal working hours or prior to normal working hours, or it would be financially and/or logistically beneficial to the City. Use must be approved by the employee's Department Head.
  - 2. Those employees designated by the Department Head to be on "24-hour call" for department or City emergencies. Designation must be in writing and signed by the Department Head.
- (b) City vehicles must be available for City business at all times.
- (c) City vehicles may be used for travel to and from lunch.
- (d) Any employee who is involved in an accident while using a City vehicle or equipment will follow the procedures outlined as follows:
  - 1. The employee will immediately contact the appropriate law enforcement officials to report the accident and allow an incident report to be made. Do not move the vehicle until directed by the proper law enforcement official.
  - 2. As soon as is possible, the employee will notify their immediate supervisor to explain the details of the accident, and to advise him of any injuries incurred to the employee, other City employees, or others.
  - 3. If the accident involves another vehicle, the City employee will obtain the name, address, driver's license state and number, and insurance company and policy number of the operator of the other vehicle, and the name and address of the vehicle's owner if it is different from the operator. The employee should gather any other pertinent information at the scene, and the names and addresses of any witnesses which may be helpful to proper reconstruction of the accident or resolution of any problems.
  - 4. The operator of the City vehicle or equipment will complete and submit a State Accident Report for each accident. The City employee or their supervisor will retain one copy of the completed report.
  - 5. Employees who operate City vehicles and/or equipment which requires the employee to possess a valid Texas Driver's License (Class A, B, or C as applicable), must immediately report all traffic violations for which they are cited by a law enforcement agency. This requirement applies to both on- and off-duty driving, whether in a City or private vehicle. The report will be made to their Department Head. Failure to make a timely report may result in appropriate disciplinary action being taken.
- (e) Department Heads may establish supplemental department vehicle policies.
- (f) The City Manager may modify or change any condition relating to the driving of City-owned vehicles.

- 5.11 No facilities, services, equipment or supplies belonging to the City of Midlothian shall be used by an employee or other person for purposes of or resulting in achieving private profit without the express prior permission of the City Council as reflected upon the minutes of said Council, which shall provide for fair compensation to the City and which shall reflect the public purpose for such usage with provisions for renewal of the permission based upon competitive access to all interested parties at the end of a reasonable time period as related to the nature of the particular contract or agreement.
- 5.12 Liability for Loss or Damage to City Property or Issued Equipment. An employee who causes or permits loss or damage to City property or issued equipment to occur through an act of commission or omission may have a pay reduction, of not more than 10% of pay per pay period for such loss or damage, until full restitution has been made for such loss or damage if it is found by the Department Head to have been the result of unauthorized use, willful misconduct, or negligence. This action may be taken in addition to any appropriate disciplinary action. The City Manager has the authority to reduce the net amount owed for damage or loss.

### CONFIDENTIALITY

- 5.13 Much of City business is conducted pursuant to public disclosure and freedom of information legislation. To that extent the product of City business is public business and will be open unless it pertains to those matters made private by law, personnel grievance matters, except as required to be disclosed by law, or the development and discussion stages of the administrative decision-making process, policy development, and feasibility studies or decisions about alternative action plans prior to their official adoption or their becoming a final policy product. Also some direct privacy legislation dictates that such information must often be held in strict confidence, and must not be discussed with others on or off the job except for purposes of necessity on City business. Use of any such confidential information gained by reason of the position to advance any personal interest, financial or otherwise, or to harm the interests of the City is a violation of this policy. Any employee who improperly uses or discloses confidential information will be subject to disciplinary action up to and including discharge.

### OFFICE DONATIONS, POLITICAL CONTRIBUTIONS, AND POLITICAL SERVICE

- 5.14 Employees will not be forced or coerced to contribute to or make donations to any fund or collections process. All such funds or collections made during office hours must be approved by the Department Head prior to contact with employees. No employee will be required to participate in political service or related activity as a condition to obtain or retain their job, nor will they be disciplined, terminated or deprived of any rights for such refusal to participate in political service, contribution, etc.

- 5.15 Employees of the City of Midlothian will not be allowed to perform or be involved in political service, campaigning or related activities during normal working hours unless the employee is on approved paid or unpaid absence. Employees must not use City equipment, vehicles, uniforms or other property in any way for political service or involvement in political service, nor will employees use their official authority or influence for the purpose of interfering with or affecting the results of an election or nomination to a public office. No official or employee of the City of Midlothian will ever attempt to dictate the political beliefs, affiliations, or the free exercise of the right to vote by employees. This section will not prohibit any employee from making political endorsements during non-duty hours. Such endorsements shall not identify the individual as a city employee or simply any official endorsement or affiliation with the City of Midlothian.
- 5.16 With the approval of the City Manager, an exception shall be allowed when the subject of an election has received the endorsement and support of the City Council (*e.g.*, a bond issue).
- 5.17 No City employee shall be eligible for appointment or election to any public office when the holding of such office would be incompatible or would substantially interfere with the discharge of their official City duties.

#### OUTSIDE EMPLOYMENT

- 5.18 City employees will devote all their time and efforts during their assigned work hours to their specified work for the City of Midlothian. Employees will not engage in outside work or employment that might discredit the City, result in a conflict of interest (or potential conflict of interest) or result in anything less than a satisfactory performance of the employees regular normal duties on behalf of the City. City employees should view their employment for the City as primary and not let other endeavors detract from their energies in such primary employment or take any action which adversely affects the department in which they are employed. All employees who have outside means of support or dual sources of income in the form of other employment, or are considering other outside employment, should work closely with their Department Head on the details of such outside endeavors to assure that no conflict with the City principles as set forth wherein will take place. Employees are not permitted to engage in any exchange, purchase or sale of goods or services with the City as an additional income source beyond their paid employer/employee relationship.

#### SEXUAL AND OTHER UNLAWFUL HARASSMENT

- 5.19 The City is an equal opportunity employer. Employment discrimination on the basis or race, religion, color, sex, national origin, age, disability, or any other characteristic protected by law, is prohibited. One form of unlawful discrimination is sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:
- (a) submission to such conduct is made either explicitly or implicitly at term or condition of an individual's employment, or

- (b) submission to or rejection of such conduct by an individual is used as a basis for employment decision affecting such individual, or
  - (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- 5.20 Examples of prohibited conduct include unwelcome discussion of sexual activities, touching, display of sexually explicit pictures, use of sexually suggestive gestures, and sexual remarks about physical attributes.
- 5.21 Harassment of employees on the basis of race, religion, color, national origin, age or disability is also prohibited. Slurs, epithets, and jokes based on these characteristics have no place in the workplace. Conduct, comments, or innuendoes that may be perceived by others as offensive are wholly inappropriate and are strictly prohibited. This policy also prohibits sending, showing, sharing, or distributing in any form inappropriate jokes, pictures, comic, stories, etc., via facsimile, e-mails, and/or the Internet. Harassment of any nature, when based on race, religion, color, sex, national origin, age or disability, will not be tolerated. This policy applies to City employees, citizens, vendors, and other visitors to the workplace.
- 5.22 All City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, citizens, and vendors. City employees are also prohibited from harassing citizens, vendors, and all other third parties.
- 5.23 Any employee who observes unlawful harassment in the workplace or who feels that he has been subject to unlawful harassment **must** report it **immediately** to his/her Department Head, the Human Resources Director, or the City Manager. Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment **must** immediately advise their Department Head, the Human Resources Director, or the City Manager. Preserving a workplace free of unlawful harassment is the responsibility of all employees.
- 5.24 All reports of unlawful harassment will be investigated promptly by management in as confidential a manner as possible. All employees are required to cooperate with the investigation. No retaliation will be permitted against employees who make a good faith charge or report of illegal harassment or who assist in a complaint investigation. Where the City's investigation substantiates an allegation of harassment, appropriate measures will be taken. Discipline, up to and including discharge, will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action will be imposed in situations where claims of illegal harassment were fabricated or exaggerated.

## REPRESENTATION OF AND BEFORE THE CITY

- 5.25 Employees of the City may appear before an official City Board or Commission; or before any department, agency, commission, or board of the City **only** in their official capacity as an employee. Appearance before such organizations as a representative for any private person, group, or interest (other than as a witness or as provided by law) is prohibited. No employee may represent others in any action or proceeding against the City's interests, or in any litigation in which the City is a party. Employees may not claim to represent the City in an official capacity before any entity where the employee has the potential to privately gain from that action, or where a City obligation or liability may be incurred, or where that representation detracts from the City, unless the employee is in fact officially and legally representing the City in his official capacity. This policy does not prevent any employee from instituting a claim or suit against the City or its officials for redress of grievances, nor does it prohibit an employee from personally addressing a governmental body relating to a matter of public concern.

## DISCLOSURE/CONFLICT OF INTEREST

- 5.26 Any employee who has a substantial interest (direct or indirect) in any individual or entity involved in any decision pending before that employee, or the body of which the employee is a member, shall disclose that substantial interest to his/her employer and shall not vote or otherwise participate in any consideration of action on the matter. A "substantial interest" is defined as existing if the "substantial interest" is: a) ownership of 10 percent (or greater) of the voting stock or shares (unless the entity is a partnership or sole proprietorship and there is no voting stock or shares), or b) ownership of \$5,000 or more of the fair market value of the business. Such interest also includes funds received by the employee from the individual or business that exceed 10 percent of the employee's gross income for the previous year. A "substantial interest" also includes real property if that interest is an equitable or real ownership with a fair market value of \$2,500 or more. A "substantial interest" also includes the interest of a person related by marriage or blood to the employee.

## CONFLICT OF INTEREST IN AWARDING CONTRACTS/ PURCHASING

- 5.27 No City employee may authorize a contract or commercial agreement with, or purchase from, a company that employs a family member of that City employee, unless said employee discloses that relationship on a form that is then approved by the Department Director and/ or City Manager. This policy also applies to any City employee substantially participating in the selection or purchasing process. For the purpose of this policy, "family member" includes blood relatives and immediate family in-laws. Also applicable to this policy are all relationships with business partners (co- investors or co-officers of a Texas DBA or other company or corporation). In cases where a personal friendship exists such disclosure form shall be completed and filed with the City Purchasing Agent; affected employee shall also retain a copy.

## PENALTY FOR VIOLATION

- 5.28 Failure of any employee of the City to comply with or cooperate fully with such disclosures or violating the conduct standards of this section which apply to them will likely result in disciplinary action up to and including discharge.

## 5.29 SMOKING AND TABACCO USAGE POLICY

### I. POLICY

City employees are prohibited from smoking or using tobacco products while on duty. Smoking or the use of tobacco products is prohibited in City buildings or any portion thereof owned or leased by the City. Smoking or the use of tobacco products is also prohibited in City vehicles.

For the purpose of this policy, employees are not considered on duty during all breaks including their lunch break. Smoking or the use of tobacco products is prohibited in any City vehicle. This includes heavy equipment and motorcycles.

### II. DEFINITIONS

- A. Tobacco products – means snuff, smoking tobacco, chewing tobacco and any article or product made of tobacco.
- B. Smoke or smoking includes- Possessing a lighted pipe, cigar, cigarette of any kind or any other lighted smoking equipment or device; or the combustion of any cigar, cigarette, tobacco product or any other combustible substance in any form; or emitting or exhaling the smoke of a pipe, cigar, cigarette, tobacco product or any other combustible substance of any kind.
- C. Lunch break – means a designated time assigned by a supervisor for the employee to eat lunch.

### III. PROCEDURES

- A. Smoking or the use of tobacco products will be strictly prohibited within buildings owned, operated or leased by the City including, but not limited to: recreational buildings offices, hallways, waiting rooms, rest rooms, break-rooms, elevators, meeting rooms, convention facilities and airport terminals.
- B. Smoking or the use of tobacco products is also prohibited in City vehicles.
- C. Unauthorized smoking breaks are not allowed.
- D. This policy applies to all City employees, clients, contractors and visitors.
- E. The success of this policy depends upon the cooperation, consideration and thoughtfulness of smokers and non-smokers. All employees are responsible for adhering to and enforcing this policy.
- F. All complaints of City employees violating this policy shall be made with the employee's immediate supervisor, division head or Department Director.
- G. Employees who violate this policy will be subject to discipline up to and including termination.
- H. In order to inform the public of this policy, signs in all buildings owned, operated or leased by the City shall reflect that smoking or the use of tobacco products is prohibited.

#### IV. OTHER

- A. This policy shall supersede all other previous City policies and will control as to any conflicts regarding other policies setting forth guidelines for the regulation of designated smoking policies or lack thereof.
- B. This policy is not intended to supersede or amend any federal or state law relating to smoking; to the extent that there is a conflict between this policy and any federal or state law said law shall control.
- C. This policy is not intended to supersede or conflict with established hiring practices or personnel procedures.

## CHAPTER 6

### LEAVE AND OTHER BENEFITS

- 6.00 GENERAL PROVISIONS
- 6.01 Entitlement. Employee are entitled to leaves of absence only as specified in this Chapter.
- 6.02 Request for Leave. All requests for leave must be made on City form *Request for Leave of Absence* which identifies the type of leave, beginning and ending dates, and hours (if applicable) which is signed and dated by the employee and is approved/disapproved by his supervisor.
- 6.03 Approval of Absence. The time when any leave of absence is taken which is designated and/or approved by the employee's Department Head or his designee. Leave(s) of absence running consecutively may not exceed a combined total of 12 Months.
- 6.04 Paid leave may accrue as provided in the following section, but cannot be granted or taken during the first six months of employment, except as specifically provided otherwise in this chapter, will be unpaid.
- 6.05 Approval of any paid leave except sick leave is subject to operational requirements of the department. Any request for paid leave may be denied or Rescheduled due to staffing need and/or work scheduling of the department.
- (a) Except for emergencies, all requests for leave must be submitted in writing.
  - (b) All requests for leave must be submitted within the time designated by the employee's department, or in absence of any such deadline, as specified in this chapter.
- 6.06 Termination. An employee on approved extended leave of absence (including absence on workers' compensation) may have their employment terminated if they do not return to duty at the end of 12 months unless they have received specific approval for an extension of that absence from their Department Head.

## VACATION LEAVE

6.07 Eligibility. Only regular full-time employees will accrue vacation leave from the date of initial employment. Employees will become eligible to use vacation leave after completion of their initial six (6) months of employment.

6.08 Purpose. The purpose of vacation leave is to afford the employee a paid time off work to accommodate the employee's need for rest and relaxation, to take care of personal business, or vacation. Vacation time should normally be at least 1 week and not more than 2 consecutive weeks in duration. A request for vacation in excess of 2 consecutive weeks requires the Department Head's approval before use. Vacation requests should be accommodated by the Department Head as much as is possible, but at the same time keeping the business needs of the department and City in mind.

6.09 Computation of Vacation Leave. Eligible employees will accrue vacation leave at a rate stated below. Accrual begins on the first day of the employee's date of hire:

<u>Length of Service</u>	<u>Accrual Rate</u>	<u>Maximum Accrual</u>
0 to 4 years service	3.08 hours per pay period	80 hours
5 to 9 years service	4.62 hours per pay period	120 hours
10+ years service	6.15 hours per pay period	160 hours

6.10 Change in Rate of Accrual. A change in the rate of accrual will be made only at the beginning of the pay period following the employee's date of eligibility for the higher rate.

6.11 Request for Vacation Leave. An employee must request vacation leave as far in advance as possible (preferably two weeks in advance) to allow their supervisor sufficient time to plan workload and adjust personnel to cover the employee's absence. If the leave is over one day, such a request should be a written request which identifies the beginning and ending dates (and hours if applicable.) The employee is responsible for assuring he/she has sufficient vacation leave accrued to cover the absence. If there is insufficient vacation leave accrued, the employee may request leave without pay (LWOP) to cover those periods vacation leave does not cover. All requests for vacation must be made to employee's Department Head or his designee since only those management officials have the authority to approve or disapprove such leave.

- 6.12 Denial of Vacation Leave. If the Department Head has valid business reasons for doing so, he may deny an employee's request for vacation leave. Any denial will require the Department Head to negotiate a different vacation time with the requesting employee that is mutually agreeable. The Department Head may not deny use of vacation leave without making an alternate time available. If the Department Head has offered reasonable alternate vacations times and the employee refuses those alternates with no reason given, the Department head has fulfilled his obligation under this rule.
- 6.13 Vacation Leave Usage. Vacation leave may be used after the employee has completed the initial training and evaluation period. An employee may use vacation leave in 1-hour increments. The employee must obtain his supervisor's approval before using any vacation leave.
- 6.14 Advanced Vacation Leave. Vacation leave must be accrued before use. Under no circumstance may vacation leave be advanced and used before being earned.
- 6.15 Approval of Vacation Leave. While vacation leave is a qualified right of the employee, and has the right to use such leave, the Department Head has the right to determine when such leave may be used based upon business reasons of the department. All vacation leave used must be approved by the Department Head.
- 6.16 Vacation Leave Carry Over. An employee is allowed to carry over from one calendar year to the next calendar year any accrued vacation time the does not exceed the maximum accrual allowed by this section.
- 6.17 Holiday. If a City approved holiday occurs during an employee's vacation leave, the holiday will substitute for the day of vacation. The holiday will not be paid if the employee was not in a paid status immediately before or after the holiday.
- 6.18 Forfeiture of Vacation Leave. Any vacation leave that is in excess of the employee's maximum accrual will be forfeited at the end of the calendar year.
- 6.19 Separation Payment. When the employee is separated from City employment, whether it is voluntary or involuntary, the employee will be paid for all unused accrued vacation leave if the employee was employed for over 6 months and successfully completed his initial training and evaluation period immediately before separation, and the employee complied with (or a waiver was granted to) the 2 week notice requirement, and is leaving in good standing.

## SICK LEAVE

- 6.20 Eligibility. Only regular full-time employees will earn sick leave. Employees will accrue sick leave from the date of initial employment and will become eligible to use sick leave after completion of their initial six (6) months of employment.
- 6.21 Purpose. The purpose of sick leave is to provide the employee a paid absence to accommodate a period of illness, injury, and appointments for medical, dental, or mental health.
- 6.22 Computation of Sick Leave. Eligible employees will accrue sick leave at a rate of 2.15 hours per pay period. Unlimited sick leave may be carried forward from year to year.
- 6.23 Request for Sick Leave. An employee must request sick leave as far in advance as possible when the sick leave is for a controllable event by the employee (such as for appointments, examinations, tests, etc.). When the event is not controllable by the employee (such as illness, injury, emergency tests, etc.) the employee, or someone on his behalf when the employee is physically incapable of doing so, must notify their supervisor as soon as possible, but no later than 1 hour after the beginning for the employee's shift of duty. If the employee does not have sufficient sick leave to cover the absence, they may request leave without pay (LWOP) to cover those periods not covered by sick leave. To use sick leave for a foreseeable health condition that will require an absence of 30 calendar days or more, an employee must contact the immediate supervisor at least 10 working days prior to the date leave will commence. Failure to provide such notice will result in the employee's leave being postponed until 10 working days from the date the employee provides notice.
- 6.24 Denial of Sick Leave. When the event is controllable by the employee (such as a routine dental examination or annual physical examination) sick leave may be denied if the employee's presence at work is necessary to meet a genuine business need. Such denial should not be routine, nor should it be used as a disciplinary action. Pregnancy is a condition warranting the granting of sick leave and should not be denied.
- 6.25 Approval of Sick Leave. Sick leave, in most cases, must be approved. The Human Resources Department should be contacted for guidance, if needed.
- 6.26 Sick Leave Usage. An employee may use sick leave in 1 hour increments. The employee must obtain his/her Department Head's or his designee's approval before using any sick leave. Sick leave may be used for doctor appointments, personal illness, or other physical incapacity of an employee, for illness of immediate family members, or Family Medical Leave (FML).
- 6.27 Advanced Sick Leave. Sick leave must be accrued before use. Under no circumstance may sick leave be advanced and used before being earned.

- 6.28 **Sickness on Vacation.** If an employee becomes incapacitated due to his/her illness or injury for more than three consecutive calendar days while on paid vacation leave, they may substitute their sick leave credits for vacation leave provided the request for sick leave substitution is accompanied by a physician's statement or other evidence (satisfactory to the Department Head) verifying the incapacity. Any vacation leave that is substituted by sick leave will be re-credited to the employee's vacation leave account.
- 6.29 **Holiday.** If a City approved holiday occurs during an employee's sick leave, the holiday will substitute for the day of sick leave. The holiday will not be paid if the employee was not in a paid status immediately before or after the holiday.
- 6.30 **Separation Payment.** When an employee is separated in good standing, the employee will be paid for unused accrued sick leave in a prescribed amount (see Chapter 4) based upon the employee's length of City employment provided the employee was employed by the City for over 6 months and successfully completed his initial training and evaluation period.
- 6.31 **Physician's Statement Required – Return to Duty.**
- (a) If the employee was on sick leave for over 3 work days, but less than 1 week, the employee may be required to provide a certification from the attending physician.
  - (b) A physician's certification is mandatory prior to the return from an absence of 1 week or more, or from any absence that involves an injury that incapacitates the employee from performing their assigned duties.
  - (c) A physician's certification is required when the supervisor, in good faith, believes the employee may be abusing sick leave privileges. The supervisor will contact the Human Resources Department for guidance.

#### LEAVE WITHOUT PAY

- 6.32 **General Provision.**
- (a) An employee may be granted leave without pay (LWOP):
    - 1. For a period not to exceed 1 year for such purposes as recovery time from a bona fide temporary disability, education, assisting another public jurisdiction or any other reason considered sufficient by his/her Department Head and approved by the City Manager, when such leave is in the best interests of the City service. Leave without pay may be approved by the Department Head for up to five working days.
    - 2. For military service, including periods in excess of 1 year.
  - (b) No leave without pay will be granted without the consent of the employee's Department Head. In addition, coordination with the Human Resources Director will be required before leave without pay is granted for more than 5 consecutive days.

- (c) Paid leave benefits do not accrue while an employee is on LWOP nor is credit given for retirement. Optional group insurance benefits may remain in force, provided the employee pays the entire premium (including the City's portion, except as required under Family and Medical Leave Act). Leave Without Pay (LWOP) does not count toward computation of Longevity Pay. The employee must pay to the Finance Director, by the 1<sup>st</sup> of each month, all premiums due. If payment is more than 30 days overdue, coverage will be dropped.
- (d) When leave without pay is granted for a bona fide temporary disability, the employee must submit a written doctor's statement acceptable to the City which specifies the reason for such leave and the expected duration of same. A doctor's statement is also required prior to the employee's return to work. A doctor's certification of continuous disability is required every 30 days during the duration of LWOP.
- (e) Upon completion of an approved leave of absence, an employee must return to work immediately. The Department Head will attempt to return the employee to the same position with equivalent benefits, pay, and other terms and conditions of employment for which the employee is qualified. The City cannot, however, guarantee reinstatement in all cases.
- (f) If an employee fails to return to work at the time agreed upon or refuses the comparable position, the employee will be considered to have resigned.

#### ADMINISTRATIVE LEAVE

- 6.33 In the event of adverse weather conditions, the City Manager may authorize management staff to relieve their employees from work during scheduled working hours, close City Hall, or delay opening of City Hall. During an authorized leave of absence due to adverse weather conditions, employees who were scheduled to work during such leave of absence will receive full pay.
- 6.34 On days of adverse weather conditions when the City Manager has not closed City Hall or delayed opening of City Hall, Department Heads may excuse an employee reporting to work up to 2 hours late. If the employee reports to work during such weather conditions more than 2 hours late, nonexempt employees will be charged for all hours late as vacation leave or LWOP.
- 6.35 Administrative leave may also be used for other employee absences recommended by the Department Head and Human Resources Director, and subsequently approved by the City Manager, for situations not meeting existing leave or absence criteria.

#### FUNERAL LEAVE

- 6.36 All regular full-time employees will be allowed time off with pay not to exceed 3 working days, upon the death of the employee's current spouse, parent, child, sister, brother, step-parent, stepchild, or the parent of the employee's spouse, immediate grandparent, or grandchild of the employee or their spouse, or any family member in the employee's immediate household for which the employee was a primary caregiver (due medical, age, or psychological needs) either for the purpose of attending the funeral and the last affairs of the deceased. Additional time, if needed, will require the employee to use vacation leave or LWOP. Exempt employees who do not have any available vacation time will not be docked for any partial days absence under this policy. All leave taken under this paragraph will require the employee's Department Head's approval. The employee may be required to provide information to properly document the absence. Paid time off for funeral leave is not counted as hours for purposes of determining overtime.

## COURT LEAVE

6.37 General Provisions. Subject to submission of proof of the period of his required attendance, a regular full-time employee or a regular part-time employee regularly scheduled to work 30 or more hours per week is entitled to Court Leave when he is required by court order to attend a local court as a prospective juror, or as a witness in a court action to which he/she is not a party.

6.38 Court Leave Limitations.

(a) Court Leave will be limited to:

1. required attendance before Federal, State, County and Municipal Courts,
2. time in attendance at Court together with reasonable travel time between Court and work if attendance is for less than a full day and the employee can reasonably be expected to return to work.

(b) Court Leave will not include attendance:

1. when the employee is paid an expert witness fee;
2. which is part of the employee's official duties in connection with his/her City employment.
3. any court action to which the employee is a party.

6.39 Court Leave Compensation. Court Leave compensation will be paid at the employee's basic rate at the time of juror or court duty and does not include overtime or any special forms of compensation such as incentives, commission, bonuses, or shift differential. Paid time off for court or jury duty is not counted as hours worked for purposes of determining overtime. Any fees received as a witness or jurist will be retained by the employee.

## MILITARY LEAVE

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

### 6.40 Military Training Leave

(a) Eligibility. A regular employee, who is a member of the National Guard or reserves of the United States armed forces shall, upon notification to the department head and submission of appropriate documentation, be granted leave for a period required to perform active duty for training. Temporary employees who have brief or non-recurrent positions with the City and who have no reasonable expectation that their employment with the City will continue indefinitely or for a significant period of time are generally ineligible for extended paid military leave in excess of 15 days, reemployment rights, or any other military leave benefits under this policy.

(b) Definition. Active duty for training means to be engaged in short periods of authorized military training such as cruises, training schools, weekly or weekend drills, and other similar activities.

(c) Length of Leave. In accordance with § 431.005, Texas Government Code, a regular employee engaged in authorized military training or duties will receive pay and accrue benefits as if the employee were on the job, for up to 15 work days (three calendar weeks) in any one year. Shift employees will be transitioned to a 40 hour work week during military absences. This leave may be used when an employee is engaged in National Guard or U.S. armed forces reserve training or duty ordered or approved by proper military authority. The paid leave days may be consecutive or scattered throughout the year.

(d) Leave in excess of 15 days. An employee eligible for military leave who is ordered or authorized to participate in training or other duty for more than 15 work days in one calendar year, will be placed on leave without pay for any time in excess of 15 work days.

(e) Notice to Department Head and to the Human Resources Director. An employee shall give as much advance notice as possible to the Department Head and the Human Resources Director regarding dates for military training leave. Annual or quarterly training schedules should be given to the Department Head as the schedules become available to the employee.

(f) Rescheduled Work Days. An employee who participates in weekend military training that occurs on a scheduled workday may reschedule a workday rather than have the absence charged to military leave, if the employee reschedules the workday within the same workweek.

### 6.41 Military Active Duty Leave

#### I. ACTIVE DUTY

A. Eligibility. A regular employee, who leaves a position with the City for the purpose of entering any branch of the United States armed forces for extended active duty or the National Guard, shall be placed in military active duty status and granted a leave of

absence. The employee should give the Department Head and the Human Resources Director advance notice of the employee's intent and, for reemployment purposes, submit a copy of the orders for inclusion in the employee's personnel record. Absent unusual circumstances, such notice must be given to the City no later than 24 hours after the employee receives the military orders. Temporary employees who have brief or non-recurrent positions with the City and who have no reasonable expectation that their employment with the City will continue indefinitely or for a significant period of time are generally ineligible for extended paid military leave in excess of 15 days, reemployment rights, or any other military leave benefits under this policy.

B. Length of Active Duty. In accordance with § 4312, Title 38, United States Code, an employee may serve a total of five (5) years on active duty in the armed forces or the National Guard, (six (6) years for Navy Nuclear Program) and still be eligible for reemployment. An employee's right to reemployment is not protected for periods of military active duty longer than five (5) years (six (6) years for Navy Nuclear Program).

C. Reemployment.

A full-time employee who returns from active military duty is entitled to reemployment in the same position held upon entrance to active duty, or in a position of comparable status and pay, if the employee:

1. is physically and mentally qualified to perform the duties of the position;
2. was discharged, separated, or released from military active duty under honorable or general conditions;
3. has not been on military active duty leave for more than five (5) years (six (6) years for Navy Nuclear Program); and
4. makes a written application for reappointment after discharge, separation, or release from military active duty and presents evidence of the discharge, separation, or release from military active duty, according to the following time lines defined by the Uniformed Services Employment and Re-employment Rights Act (USERRA) 38U.S.C. §4301 through 4333:
  - (a) Less than 31 days Active Duty: The employee must report to work at the next regular scheduled work period after a reasonable time to return home safely and an 8-hour rest period.
  - (b) Between 30 to 181 days Active Duty: The employee must submit a written application within 14 days of release of service.
  - (c) More than 181 days Active Duty: The employee must submit a written application within 90 days of release of service.

## II. MILITARY PARTIAL PAY AND BENEFITS.

A regular employee called to active duty in a reserve component of the armed forces will be granted leave and employee benefits in the following manner.

- A. **Military Partial Pay defined.** An employee will receive military partial pay for up to six (6) months beginning the first day on active military duty, but only if the total monthly military salary is less than the total monthly city salary. If the total monthly military salary is greater than the employee's total monthly city salary, the employee may elect to use paid leave as described in section II.B of this policy; but, he or she is not eligible to receive Military Partial Pay. Otherwise, military partial pay will be calculated as the difference, between the employee's total monthly salary from the City at the time the employee was called to active duty and the employee's total monthly military salary during the first six (6) months of active military duty; The employee must inform his/her supervisor of any changes in the employee's military pay while receiving Military Partial Pay from the City.
- B. **Use of other Paid Leave.** At the end of the six (6) month Partial Pay period, the employee will be entitled to use 15 work days of military leave, vacation and compensatory time leave balances. If the employee elects to use these leave balances, the leave must be taken in amounts consistent with the employee's regular work schedule with the City. For example, if the employee was regularly scheduled to work forty (40) hours per week for the City, the leave must be used at a rate of forty (40) hours per week. However, an employee is not compelled or required to utilize any of those accrued leave balances, and those leave balances will remain until the employee is released from military duty and is reinstated to City employment.
- C. **Insurance Benefits.** The City will continue to pay its portion of the employee's insurance benefits prior to the employee beginning active military duty; with the employee continuing to be financially responsible for the employee's portion of the premium for the employee's selected dependant coverage only. Upon active military duty, employees may elect COBRA for medical and dental coverage and must pay 102% of the applicable premium to cover the cost of elective continuation coverage under the City's group health plan for him/herself and eligible dependants.

Upon an employee's return to employment following military service, the City will provide all of the employee's health insurance coverage immediately. In addition, a returning employee will not be subjected to exclusions from coverage unless the exclusions apply to injuries or conditions that were incurred as a result of military service.

- D. **Other Benefits.** While on paid military leave, employees continue to accrue vacation, sick leave and other benefits provided to other employees on paid leave. While on unpaid military leave, employees are generally ineligible for most City-provided benefits. Benefits, such as vacation and sick leave, do not accrue while an employee is on unpaid leave, including unpaid military leave. While on unpaid military leave, benefit accruals will be suspended and will resume upon the employee's return to active employment. Once an employee returns to work following an unpaid leave, he/she will be treated as though he/she was continuously

following an unpaid leave, he/she will be treated as though he/she was continuously employed for purposes of determining benefits based on length of service, such as vacation accrual and longevity pay.

- E. TMRS. Typically, an employee's period of uniformed service is deemed to constitute service for purposes of vesting and benefit accrual. Thus, employees earn service credit for time spent on active duty military leave. Service time is credited when an employee returns to work. To qualify for service credit, an employee must: return to work for the City within 90 days after discharge; receive an honorable discharge; and timely complete the necessary application. In order to receive monetary credit, an employee has the lesser of 5 years or 3 times the length of the military service to make up any TMRS contributions that were missed while on military leave.

## WORKERS' COMPENSATION

- 6.42 If an employee becomes injured or ill due to a work related event, the employee must report the injury or illness immediately to their immediate supervisor. The day of the injury/illness will be counted as a day worked. Thereafter, and through the seventh day of injury/illness, the employee may elect to use sick leave, vacation leave, and/or compensatory time for each workday he is absent. On the eighth day, the workers' compensation carrier will assume responsibility to pay the employee for all days he is on workers' compensation (if the case is approved). The employee's supervisor will complete the TWCC-1, *Employers First Report of Injury*, within 24 hours. A completed accident investigation report will be submitted as soon as practical. Refer to the Safety chapter of this manual for additional information. Neither the City nor its workers' compensation insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social or athletic activity. Such injuries may, however, be covered under the employee's personal health insurance plan.
- 6.43 An employee may select any physician of his choice to administer treatment in connection with the on-the-job injury or illness. The City will pay (or reimburse the employee for payment of) the cost of such treatment so long as the employee meets the eligibility requirement of workers' compensation and the charges are reasonable and necessary.
- 6.44 Any employee receiving temporary disability payments under the workers' compensation law will receive supplemental payments from the City to equal his regular salary. The City will pay such supplemental salary payments up to a maximum of 6 months. Supplemental payments will not be authorized in the following circumstances:
- (a) the employee otherwise violated applicable City and/or departmental policies or procedures.
  - (b) the employee was intoxicated, under the influence of illegal or unprescribed prescription drugs, or tested positive for illegal drugs
  - (c) the employee refused a light duty assignment if released by the attending physician to light duty
  - (d) the employee otherwise violated applicable City and/or departmental policies or procedures.

- 6.45 To avoid undue hardship on the employee from the time lag in temporary disability payment, the City Manager may allow the injured employee to use accrued unused sick leave, vacation leave, and/or compensatory time (if any). If the employee is on workers' compensation over 28 calendar days, the employee will be paid retroactively for all workdays during the first seven days after the injury. The employee will reimburse the City for those days if he/she used paid leave during that period. All reimbursed paid leave will be re-credited to the employee's leave account.
- 6.46 Employees on workers' compensation will also be carried concurrently on Family and Medical Leave, if they are eligible for FML.
- 6.47 An employee on workers' compensation will continue to accrue all benefits while on such leave including salary adjustments, sick leave, vacation leave, and seniority.
- 6.48 An employee who is absent from work due to being on workers' compensation must contact his Department Head at least on a weekly basis to advise him/her of their present condition and expected date of return to work.
- 6.49 An employee must return to his regular duty on the working day after the employee is given a release to return to work with no restrictions by his attending physician.

#### RETURN TO WORK POLICY

- 6.50 **Release to Light Duty.** Light duty assignments are made in the sole discretion of the City. While a genuine effort will be made to locate light duty assignments for employees injured on the job, the City reserves the right to require an employee to be medically released with no restrictions before returning to active duty. Light duty assignments are coordinated jointly by the Department Head and the Human Resources Department. Light duty assignments may be in the employee's own department, or in another department, depending upon the employee's circumstances and needs of the City. Employees on FML leave may have the option, but will not be required, to perform a light duty assignment. If the employee refuses a light duty assignment, it will not effect the employee's entitlement to FML, but will render the employee ineligible for supplemental salary payments. Assignment to light duty may not exceed 12 consecutive weeks. At the end of the 12 weeks, the employee's fitness for duty and employment status will be reevaluated. The total amount paid an employee while on temporary light duty will not exceed the full pay that would have been received for such period at the employee's regular rate of pay.

- 6.51 **Release to Limited Duty.** When an employee is released by his attending physician to return to work on a limited duty basis, and the Human Resources Director has confirmed with the employee's Department Head that there are available duties within the department that the employee is capable of performing, the employee will be placed on temporary limited duty to perform such duties. If no temporary limited duty is available in the employee's department, an attempt will be made to find a temporary limited duty assignment in another department. Such temporary limited duty will be of no longer duration than 12 consecutive weeks at any one time. At the end of the 12 weeks, the employee's fitness for duty and employment status will be re-evaluated. The total amount paid an employee while on temporary limited duty will not exceed the full pay that would have been received for such period at the employee's regular rate of pay.
- 6.52 **Time Limit to Return to Duty.** After an employee receives a release from this attending physician or practitioner to return to duty (whether on light duty, limited duty, or full duty) the employee must return to duty on the first workday after receiving such a release. Employees who fail to return to duty in accordance with this policy, and are not granted extension of absence, may be considered to have voluntarily resigned.
- a. Employees who are on approved vacation leave, sick leave, compensatory time, or leave without pay, and are not on such leave due to a situation covered by Family and Medical Leave or workers' compensation, must return to duty on the first workday after the expiration of their approved leave, unless extension of their absence is approved by their Department Head (and coordinated with the Human Resources Department). Employees who fail to return to duty in accordance with this policy, and who are not granted extension of absence, may be considered to have voluntarily resigned.
  - b. Employees on workers' compensation and/or Family and Medical Leave will be subject to return to duty under the rules covering those types of absences.
- 6.53 If, after the employee returns to work, the employee's supervisor or Department Head observes the employee having difficulty in performing the essential job duties and/or function, the supervisor or Department Head should immediately schedule the employee for an appointment with the City's physician for a follow-up examination. The physician will be requested to submit the findings of the follow-up examination with his recommendation(s) to the Human Resources Director.
- 6.54 **Neutral Termination due to Non-Work Status –** When an employee has been in non-work status for six (6) consecutive months, he shall be automatically terminated. The termination is deemed to be neutral and applies to all employees in a Non-Work Status regardless of the reasons for their Non-Work Status (whether It be on-the-job injury; off-the-job injury; or any other reason.)

## LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

### 6.63 PURPOSE OF THIS POLICY

To provide guidelines for family and medical leave (referred to as FMLA leave) in compliance with the Family and Medical Leave Act of 1993, its regulations (Title 29, Part 825 of the Code of Federal Regulations) and any amendments made thereto.

### 6.64 GENERAL OVERVIEW

All employees who have worked for the City of Midlothian for at least 12 months and for at least 1,250 hours during the year preceding the start of the FMLA leave are eligible for up to 12 weeks (26 weeks for the care for a covered service member) of FMLA leave during a 12-month period as defined by this policy. **FMLA leave is unpaid except in cases where paid leave balances are available as outlined in this policy.**

### 6.65 DEFINITIONS

- A. Spouse - a husband or wife as defined or recognized under Texas law for purposes of marriage, including common-law marriage.
- B. Parent - a biological parent or an individual who stands or stood "in loco parentis" to an employee when the employee was a child. This term does not include parents-in-law. Persons who are "in loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.<sup>1</sup>
- C. Child, Son or Daughter - a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing "in loco parentis," who is under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.
- D. Son or Daughter of a Covered Service Member or on Active Duty or Call to Active Duty Status - a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing "in loco parentis," who is of any age.
- E. Serious Health Condition<sup>2</sup> - an illness, injury (including work related injuries), impairment, or physical or mental condition that involves in-patient care or continuing treatment by a health care provider. Inpatient care<sup>3</sup> means an overnight stay in a hospital, hospice, or residential medical care facility including any period of incapacity, or any subsequent treatment in connection with such inpatient care. Continuing treatment by a health care provider<sup>4</sup> includes one or more of the following:
  - 1. Any period of **incapacity** of more than three consecutive calendar days, and any

<sup>1</sup> 29 C.F.R. §825.122

<sup>2</sup> §825.113

<sup>3</sup> §825.114

<sup>4</sup> §825.115

subsequent treatment **or** period of incapacity relating to the same condition, which involves:

- a. two or more instances of treatment by a health care provider which must be in-person visits within 30 days of the first day of incapacity, the first of which must be made within seven days of the first day of incapacity; or
  - b. at least one treatment by a health care provider which must be an in-person visit made within seven days of the first day of incapacity that results in a regimen of continuing treatment under the supervision of the health care provider.
2. Any period of **incapacity** related to pregnancy or prenatal care.<sup>5</sup>
  3. Any period of incapacity or treatment for such incapacity due to a **chronic** serious health condition that:<sup>6</sup>
    - a. requires periodic visits (at least twice a year) for treatment by a health care provider;
    - b. continues over an extended period of time; and,
    - c. might cause episodic rather than a continuing period of **incapacity** such as asthma, diabetes, migraine headaches, epilepsy, etc.

Unless complications arise, the common cold, flu, earaches, upset stomach, headaches (other than migraines), cosmetic procedures, routine dental or orthodontia problems, and periodontal disease **are not serious health conditions.**<sup>7</sup>

4. Any period of permanent or long-term **incapacity** caused by a condition for which treatment might not be effective.<sup>8</sup>
  5. A period of absence required to receive multiple treatments by a health care provider for:<sup>9</sup>
    - a. Restorative surgery after an accident or other injury, or
    - b. A condition that would likely result in a period of **incapacity of more than three consecutive calendar days** in the absence of medical intervention or treatment (i.e. chemotherapy, physical therapy; dialysis)”.<sup>9</sup>
- F. **Health Care Provider**<sup>10</sup> - a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices as well as podiatrists, dentists, psychologists, optometrists, chiropractors, nurse practitioners, nurse mid-wives, and clinical social workers.

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<sup>5</sup> §825.115(b)

<sup>6</sup> §825.115(c)

<sup>7</sup> §825.113(d)

<sup>8</sup> §825.115(d)

<sup>9</sup> §825.115(e)(1) & (2)

<sup>10</sup> §825.125

- G. Incapacity<sup>11</sup> - Inability to work, attend school, or perform other regular daily activities due to a serious health condition, treatment thereof, or recovery there from.
- H. "Needed to Care for" - medical certification provision which encompasses both physical and psychological care.
- I. "Unable to Perform the Essential Functions of the Position"<sup>12</sup> – situation where a health care provider finds that the employee is unable to work at all or is unable to perform the essential functions of the employee's position within the meaning of the American with Disabilities Act (ADA).
- J. FMLA (Family and Medical Leave Act) Leave - family and medical leave as defined in this policy which is unpaid except when other paid leave balances are available as outlined in this policy. The City of Midlothian requires the coordination of paid leave balances with the FMLA leave. Available paid leave balances will run concurrently with any FMLA leave.
- K. Intermittent Leave<sup>13</sup> - leave taken in separate blocks of time (one hour or more) due to a single qualifying reason.
- L. Reduced Leave Schedule - leave schedule that reduces an employee's usual number of working hours per work week or per workday (reduce hours from full-time to part-time).
- M. Leave Year - The City uses a calendar year for purposes of calculating leave availability.
- N. Supervisor - The term “supervisor” refers to positions at the level of foreman and above.
- O. Active Duty<sup>14</sup>—The term "active duty" means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.
- P. Contingency Operation<sup>15</sup>—The term “contingency operation” has the same meaning given such term in section 101(a)(13) of title 10, United States Code.
- Q. Covered Service member<sup>16</sup>—The term “covered service member” means 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.

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<sup>11</sup> §825.113(b)

<sup>12</sup> §825.123

<sup>13</sup> §825.202-.205

<sup>14</sup> §825.126(b)(2)

<sup>15</sup> §825.126(b)(2)

<sup>16</sup> §825.126(b)

- R. Outpatient Status<sup>17</sup>—The term “outpatient status”, with respect to a covered service member, means the status of a member of the Armed Forces assigned to
1. a military medical treatment facility as an outpatient; or
  2. a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- S. Next of Kin<sup>18</sup>—The term “next of kin”, used with respect to an individual, means the nearest blood relative of that individual unless the covered service member has specifically designated an individual as “next of kin” for military caregiver leave purposes.
- T. Serious Injury or Illness<sup>19</sup>—The term “serious injury or illness”, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.
- U. Qualifying Exigency<sup>20</sup> includes the following:
1. Short-term deployment (seven or less calendar days prior to the date of deployment);
  2. Military events and related activities in advance of and during deployment, including family support or assistance programs and informational briefings that are related to the active duty or call to active duty of a covered military member;
  3. Childcare and school activities arising from the active duty or call to active duty status of a covered service member such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate-need basis or to attending meetings at a school or daycare facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
  4. Financial and legal arrangements to address a covered service member’s absence;
  5. Counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered service member;
  6. Taking up to five days of leave to spend time with a covered service member who is on short-term temporary, rest and recuperation leave during deployment;
  7. Post-deployment activities including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered service member’s active duty status, and addressing issues arising from the death of a covered service member; and,
  8. Additional activities agreed to by the City and the employee.

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<sup>17</sup> §825.127(a)(2)

<sup>18</sup> §825.122(d)

<sup>19</sup> §825.127(a)(1)

<sup>20</sup> §825.126

- V. Invitational Travel Authorizations/Orders (ITAs)/(ITOs) are government orders that can authorize up to three family members of a soldier to travel to the medical facility providing care.

## 6.66 PROCEDURES

### A. Reasons for Leave<sup>21</sup>

Eligible employees may request and/or be placed on FMLA leave for any of the following reasons:

1. Birth of a son or daughter of the employee, and in order to care for the newborn child;
2. or placement with the employee of a son or daughter for adoption or foster care;<sup>22</sup>
3. To care for the employee's spouse, son, daughter, or parent with a serious health condition;
4. For the employee's own serious health condition which renders the employee unable to perform the essential functions of his job.
5. To address certain qualifying exigencies arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the National Guard or Reserves in support of a contingency operation; or,
6. To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

### B. Request for Leave

1. FMLA leave for the birth or placement for adoption or foster care must conclude within 12 months of the child's birth date or placement.
2. Employees requesting FMLA leave for (1) the birth or placement of a child; (2) planned medical treatment for a serious health condition of the employee or family member; or (3) planned medical treatment for a serious injury or illness of a covered service member should provide 30 days notice prior to the requested leave. The FMLA Request for Leave Form available in the Human Resources Department should be used for this purpose.<sup>23</sup>
3. If 30 days is not practical, in cases such as lack of knowledge of when leave will begin, a change in circumstances, or a medical emergency, the employee must contact his/her supervisor as far in advance as possible, and at a minimum, as soon as practicable. "As soon as practicable"<sup>24</sup> would ordinarily mean at least verbal notification to the supervisor within one or two business days of when the need for FMLA leave becomes known. If an employee fails to give 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the City may delay the taking of the FMLA leave until at least 30 days after receiving the employee's notice of the leave. The employee may also be subject to disciplinary

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<sup>21</sup> §825.112

<sup>22</sup> §825.121

<sup>23</sup> §825.300/.302

<sup>24</sup> §825.302(b)

action.

4. When planning medical treatment, the employee should consult with his/her supervisor and make a reasonable effort to schedule the FMLA leave so as not to unduly disrupt City operations.<sup>25</sup>
5. Employees requesting leave for qualifying exigencies must provide notice of the need as leave as soon as practicable. When the need for leave is unforeseeable, an employee must comply with the City's normal call-in procedures absent unusual circumstances.
6. Employees requesting FMLA leave must comply with the City's normal call-in procedures absent unusual circumstances.

#### C. Duration of Leave

1. Eligible employees' entitlement is for up to a maximum of 12 work weeks (26 weeks for the care for a covered service member) during the 12-month calendar period for FMLA qualifying event. The 12-month period is defined as January through December (calendar year). **Multiple reasons for FMLA leave within the same 12-month period are not eligible for additional 12-week entitlement.**
2. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 weeks of leave during a 12 month period to care for the service member. The employee shall only be entitled to a total of 26 weeks for all FMLA qualifying events in any one 12 month period.
3. Employees scheduled to work 40 hour work weeks or 80 hour work periods will be eligible for 480 hours (1040 hours for the care of a covered service member) of FMLA leave each calendar year. Firefighters who are scheduled an average 56 hour work week will be eligible for 720 hours (1560 hours for the care of a covered service member) of FMLA leave each calendar year. Eligible part-time employees will receive the 12-week entitlement calculated on a proportional basis. For example, if an employee normally works 24 hours per week, the employee is entitled to 24 hours per week for 12 weeks (288 hours) of FMLA leave each calendar year.
4. If both spouses are employed by the City of Midlothian, the aggregate leave for both of them to care for a newly arrived child or to care for a parent (but not parent-in-law) who has a serious health condition is limited to 12 weeks during the 12-month period. If both spouses need leave to care for a covered service member, the aggregate leave for both of them is limited to 26 weeks during the 12 month period.<sup>26</sup>
5. For eligible employees who work variable hours or whose work schedule varies from week to week, the average weekly hours worked during the 12 weeks prior to the start of the FMLA leave will be used to calculate the employee's "normal" work schedule and FMLA leave.<sup>27</sup>

#### D. Intermittent or Reduced Leave Schedule

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<sup>25</sup> §825.104

<sup>26</sup> §825.201

<sup>27</sup> §825.205

1. FMLA leave may be taken intermittently or on a reduced leave schedule only if medically necessary, to address qualifying exigencies, to care for a covered service member.
2. There must be a medical need for intermittent/reduced leave and the need must be such that it can best be accommodated through an intermittent/reduced leave schedule.<sup>28</sup>
3. The City may assign an employee to an alternate position with equivalent pay and benefits that better accommodates the employee's intermittent/reduced leave schedule.<sup>29</sup>
4. In the case of a request for intermittent or reduced leave schedule which is medically necessary, an employee shall advise his/her supervisor of the reasons for the request and of the schedule for treatment if applicable. (Please contact the HR Department for a FMLA Request for Leave Form).
5. Employees requesting intermittent leave or reduced leave schedule must make a reasonable sick leave request with their supervisor and are not permitted to work any outside employment.

E. Use of Accrued Paid Leave Hours<sup>30</sup>

1. For the birth of a child, placement of a child for adoption or foster care, employee's own serious health condition, to care for a family member with a serious health condition or to care for a covered service member, employees shall exhaust their previously accrued Sick Leave before they begin to use compensatory time (comp. time usage is optional for sworn police and fire employees only), holiday accruals and vacation hours, unless otherwise authorized by the Human Resources Directors. All accrued paid leave must be exhausted before employees may begin using unpaid leave for any part of the 12- or 26-week period.
2. Employees who are off of work due to a FMLA qualifying event for and are caring for a dependent or for their own personal medical reasons are not permitted to work any outside employment.
3. For qualifying exigencies, employees must use their previously accrued compensatory time (comp. time usage is optional for sworn police and fire employees only), holiday accruals and vacation hours before they begin using unpaid leave for any part of the 12-week period.
4. Employees whose serious health condition is caused by a job-related injury and who are eligible for temporary income benefits under the Workers' Compensation Act are entitled to 12 consecutive weeks of FMLA leave. FMLA leave shall start with the first day of lost work (also see §6.42 Workers Compensation).

F. Designating FMLA Leave

1. The City shall, at its sole option, designate an employee's absence from work as FMLA leave even when the employee does not request FMLA leave, provided the

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<sup>28</sup> §825.202(b)

<sup>29</sup> §825.204

<sup>30</sup> §825.207

reason for the absence is FMLA qualifying. FMLA will run concurrently with any accrued paid leave time available to the employee in the order listed above.

2. It is the responsibility of the supervisor to immediately inform the department director and the Human Resources Director after an employee's notice of an upcoming absence. The supervisor shall give verbal notice of a possible preliminary designation to the employee. The employee's request may be verbal. The HR Director will instruct the employee further on documentation, the employee's responsibilities, and leave designation requirements.
3. FMLA designation must be based on information provided on the FMLA Request for Leave Form or from information provided by the employee or the employee's spokesperson if the employee is incapacitated (such as his/her spouse, adult relative, or doctor).
4. The Human Resources Department will send an FMLA Request for Leave Form and a Medical Certification Form to the employee to help provide sufficient information to designate FMLA leave.
5. After notification by the Department, the Human Resources Department will immediately send written notification to the employee's home address. The Human Resources Department will normally send written notification to the employee 5 business days.
6. Emergency Situations  
Employees who have the sudden onset of a serious health condition for themselves, spouse, child, or parent and are not available to complete the necessary paperwork will have the absence automatically designated as FMLA leave. A notification letter and a Medical Certification form will be mailed to their home address (as noted in their official personnel file) within one (1) week of the FMLA leave designation. The Medical Certification form must be completed by the employee's or family member's physician and returned to the Human Resources Department within fifteen days. Supervisors are responsible for notifying the Human Resources Department of these emergency situations as soon as is reasonably possible. If an employee receives an "invitational travel order" (ITO) or "invitational travel authorization" (ITA) because of the immediate need for the employee to be at a covered service member's bedside, the submission of the ITO or ITA, in lieu of the Medical Certification form is sufficient certification for FMLA leave during the time period in the ITO or ITA. If the covered service member's need for care extends beyond the expiration date specified in the ITO or ITA, the employee must provide a Medical Certification form for the remainder of the leave period.
8. The employee's supervisor may require the employee to contact him/her on a regular basis regarding the employee's status and intention to return to work. The employee must be notified of such requirement in writing when the employee provides notice of the need for FMLA leave or when the employee is placed on FMLA by the City for a known FMLA qualifying reason.

#### G. Benefits During Leave

1. If the employee has accrued leave balances to cover his/her FMLA leave, the employee will continue to receive paid leave benefits.
2. If the employee does not have the necessary accrued leave balances, the employee will be placed in an unpaid leave status. The length of the unpaid leave status is

defined in §6.32 Leave Without Pay of the *Human Resource Policy Manual* (HRPM).

3. An employee unable to perform the essential functions of his/her job or work in a modified or light duty capacity as defined in §6.50 Return to Work of the HRPM due to disability, illness, injury or medical condition, shall cease the accrual of paid leaves at the end of 12 consecutive weeks from the date of disability, illness, injury, or medical condition.
4. The City will continue to pay its portion of any group health insurance benefits during FMLA leave on the same terms as if the employee had continued to work. Maintenance of such insurance coverage is subject to the specific provisions of each insurance policy/plan. The employee will be responsible for payment of premiums for dependent coverage and any other employee paid plans, if applicable.
5. During an unpaid leave of absence, employee payroll deductions and employer contributions to TMRS will cease. Employee contributions to TMRS made on the basis of temporary income benefits received through Workers' Compensation may be made on a voluntary basis through a special arrangement with the City of Midlothian.
6. The employee's use of FMLA leave will not result in the loss of any privilege or benefit provided by the City or department policy or established practice that occurred or accrued prior to the start of the employee's leave. However, benefit accruals such as vacation and sick leave will be suspended during any unpaid leave.

#### H. Medical Certification

1. Employees must provide medical certification for the employee's or family member's or covered service member's "serious health condition". A Medical Certification form available in the Human Resources Department shall be completed and submitted to the Human Resources Department. A Medical Certification form is not required when the serious health condition is due to a work-related injury. The certification must support the need for the leave and set forth the beginning and expected ending dates of the leave.
2. If an employee fails to provide any required certification within 15 calendar days, the City may deny leave until the certification is provided. If certification is submitted, but it is incomplete, the employee will be given seven days to correct.<sup>31</sup>
3. The Human Resources Director may contact a health care provider to authenticate a medical certification. If requested, the employee must give permission for the Human Resources Director to contact the health care provider for clarification or to authenticate the certification, or lose FMLA rights.
4. The Department Director, in consultation with the Human Resources Director, may require the employee to obtain a second opinion for medical certifications except for certifications for covered service members. If a second opinion is requested, the City must cover the costs. Pending receipt of the second opinion, the employee will be provisionally entitled to FMLA leave. In addition, the second opinion must be provided by a health care provider not employed on a

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<sup>31</sup> §825.305

regular basis by the City of Midlothian.<sup>32</sup>

5. If the initial and second opinions conflict, the Department Director, in consultation with the Human Resources Director may request a third and final opinion. This opinion is final and binding and at the City's expense. The third opinion must be provided by a health care provider approved jointly by the Department Director and the employee.
6. The Department Director in consultation with the Human Resources Director may request recertification (not more often than every 30 days in most situations, or at least at the end of the medical certification period, which ever occurs later) during an employee's approved FMLA leave.
7. If an employee elects to take FMLA leave in order to care for a family member, the employee may be required to provide reasonable documentation confirming a qualifying family relationship.

#### I. Return to Work

1. When an employee returns from FMLA leave, the employee must be returned to the same or equivalent position in pay, benefits, and other terms and conditions of employment.
2. Under certain circumstances, however, the City is not required to reinstate "key" employees. Certain highly compensated key employees may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to the City's operations. A "key" employee is a salaried eligible employee who is among the highest paid 10 percent of employees within 75 miles of the worksite. Employees will be notified of their status as a key employee, when applicable, after they request FMLA.
3. The employee must notify his supervisor as soon as he has knowledge of his anticipated return to work date.
4. All Employees will be required to submit to a "fitness for duty" evaluation before they can return to work.<sup>33</sup>

#### J. Repayment of Insurance Premiums<sup>34</sup>

If an employee does not return from FMLA leave, the City can require reimbursement of health premiums paid by the City for employee coverage when an employee is on an unpaid leave status. However, if an employee is unable to return to work due to the continuation, recurrence, or onset of a serious health condition, or a situation beyond the employee's control, reimbursement will not be required. Medical certification is required under such circumstances.

#### K. General Provisions

1. Exempt employees who work intermittent or reduced schedules under this policy, and use unpaid leave hours to cover the balance of their FMLA leave period, will not

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<sup>32</sup> §825.307

<sup>33</sup> §825.312

<sup>34</sup> §825.209

be paid for hours not worked. Under these circumstances, the exempt employee's regular salary will be reduced when partial days are taken off or for working on an intermittent schedule without affecting their exempt status. Exempt employees do not lose their exempt status under the Fair Labor Standards Act by using any unpaid FMLA leave.<sup>35</sup>

2. If any employee is found to be dishonest or fraudulent regarding his request for FMLA leave, he shall be subject to discipline up to and including termination.
3. The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law which provides greater family or medical leave rights.
4. This policy is intended to explain benefits available to eligible employees under the FMLA. It is not intended to create any rights to leave beyond those created by the FMLA. If the employee would like additional information on the FMLA, please see the Human Resources Department.
5. When an employee gives notices of FMLA leave, the employee will be given additional information as to his/her rights and responsibilities under the FMLA.
6. The City of Midlothian reserves the right to change, modify, amend, revoke, or rescind all or part of this policy at any time.

6.67 – 6.79 (Reserved)

#### OTHER BENEFITS

6.80 **Benefit Plans.** The City offers varied benefit plans (summarized in the following sections) in addition to paid and unpaid leave. If any statement made in these summary provisions is inconsistent with the official plan, the official plan takes precedence. Rights to any benefits and the amount of the benefit will depend on the actual facts and provisions of the official plan document.

6.81 **Death Benefits.**

- (a) The beneficiary (ies) of all regular full-time employees, part-time employees who are regularly scheduled to work over 1,000 hours per year, and of retired employees are eligible for death benefits through the Texas Municipal Retirement System (TMRS).
- (b) Beneficiaries of all regular full-time employees are eligible through the Groups Term Life Plan for a payment in the amount of one-time the deceased employee's base annual salary. The beneficiary (ies) of a deceased employee will be paid for the employee's unused accrued paid leave as provided in this Manual.

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<sup>35</sup> §825.206

- 6.82 Health and Dental Insurance. Regular full-time employees are eligible for coverage under the City's group insurance plans at no expense to the employee. The City shall also provide the opportunity for regular full-time employees to participate in dependent coverage for medical and dental expenses. Such dependent coverage premium cost for medical coverage will be paid 50% by the employee and 50% by the City. The full dental insurance premium for dependents will be paid by the employee.
- 6.83 Life Insurance. Regular full-time employees shall be covered by the City's group insurance plan covering life insurance at no cost to the employee. The City shall also provide the opportunity for regular full time employees to enroll their spouse and/or children in dependent coverage. Dependent coverage premiums will be paid in full by the employee.
- 6.84 Retirement. All full-time employees and those regular part-time employees who occupy positions designated as those requiring 1,000 work hours or more per calendar year must participate in the Texas Municipal Retirement System (TMRS) pursuant to V.A.T.C.S. Title 8, Subtitle G, Texas Government Code. The employee will become vested after 5 years service. The amount of the benefit at retirement under TMRS is determined by the plan.
- 6.85 Flexible Benefits Plan. The City provides regular full-time employees the opportunity to participate in the Flexible Benefits Plan which allows use of pre-tax dollars, pursuant to the IRS Code, to be used for premium payments for dependent health insurance coverage.
- 6.86 Deferred Compensation.
- (a) The City provides an option to any regular full-time employee to invest a portion of his present earnings in a deferred compensation plan. This is an arrangement where a certain dollar amount can be designated by the employee to be withheld from his pay check and invested for payment at a later date, usually at retirement, when most people are in a lower income bracket. Under this arrangement, neither the deferred amount nor earnings on the investments are subject to Federal income taxes until such time as the employee receives payment from the plan.
  - (b) The City-approved program includes various investment options. Enrollment can be arranged through the Human Resources Department, and is open to any regular full-time employee, either through direct deposit or payroll deduction.

## HOLIDAYS

- 6.87 The City regularly observes a number of holidays, which the City Council designates. The City may add, subtract, or otherwise designate the holidays and the calendar days for their observance. Only regular full-time employees will receive pay for holidays

provided they are in a paid status the last workday before or the workday immediately following the designated holiday (except as provided otherwise in this Manual). The City does not intend that holiday pay match hour-for-hour the work shift of the employee. Paid holidays will consist of 8 hours pay maximum. Employees who work a longer shift may use a portion of their personal day, vacation leave, or compensatory time to make-up the difference between the 8 hours holiday pay and the remainder of their shift. All other employees will observe the holiday but without pay. The holidays typically include: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday following Thanksgiving Day, Christmas Eve, Christmas Day, and a floating holiday (personal day).

- (a) If a holiday falls on a Saturday, it will normally be observed on the preceding Friday. If a holiday falls on a Sunday, it will normally be observed on the following Monday. When holidays fall on consecutive days, such as Christmas Eve and Christmas Day, if the two days fall on Friday and Saturday or Sunday and Monday, the City Manager will have the option to declare either the preceding workday or the following workday as the day to substitute for the day falling on a Saturday or Sunday.
- (b) When an employee is required to work on an official City holiday in order to maintain essential City services or when an employee's regular day off falls on a holiday, the employee will be allowed to reschedule the holiday within 90 days (or one year, in the case of Police; or Fire Department personnel subject to the FLSA Section 207(k) provision). The final decision regarding the granting of holiday leave or re-scheduling the holiday rests with the Department Head and will be based on operational necessity. Exceptions to the 90 day limit may be approved by the Department Head should specific department operations require.
- (c) Temporary, seasonal, and part-time employees will be paid their regular rates on a holiday only if required to work.
- (d) An employee who wishes to observe a national or religious holiday not officially observed by the City may be granted Leave Without Pay, vacation leave, compensatory time, or the Floating Holiday (personal day). Such leave must be requested at least two weeks prior to the holiday observed.
- (e) When a holiday falls within a period of paid leave, the holiday will substitute for a day of paid leave.
- (f) Employees must take the authorized number of holidays off each calendar year or lose that time.
- (g) Employees shall not receive pay for unused holiday time upon termination of employment.

6.88 Personal Day. Regular full-time employees are authorized one "floating holiday" per calendar year. The Personal Day is a paid day off work. It may be used for a holiday not officially recognized by the City, or for any other personal reason. An unused Personal Day is forfeited at the end of the calendar year if it is not used.

6.89 Donation of Leave. The City Manager may permit a regular full-time employee to receive sick and/or vacation leave donations from other regular full-time employees if the employee suffers from an illness, injury, impairment, or physical or mental condition that is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to go on leave without pay (LWOP) or terminate from City employment.

- (a) To be eligible to receive donated leave, he/she must meet one of the qualifying conditions specified in the paragraph above, and must have used or shortly will use all accrued sick and vacation leave in their leave account, and all compensatory time (if any); and has complied with all rules regarding proper sick leave usage.
- (b) The employee (or the employee's supervisor) may request in writing to the City Manager that the employee be authorized to receive donation of leave. The request must indicate the reason the employee will deplete their leave balances, and the projected time span that donations are required to cover. The request will be signed by the employee (or supervisor initiating the request in lieu of the employee), and will forward to the department director for approval/disapproval. If approved, the request will be forwarded to Human Resource Department for compliance review. The request will then be forwarded with appropriate comments from the Human Resource Director to the City Manager for decision.
- (c) Requests disapproved by the City Manager will be returned, via the Human Resource Department, to the originator with reason(s) for disapproval.
- (d) Requests that are approved will be sent to the Human Resource Department for processing. Processing will include: announcing the need for leave donors to all departments, and submission of the approved request to the Finance Department (Payroll) for administration of donated leave.
- (e) Donations are limited to 25% of the donor's accrued sick leave or vacation time on record at the time of donation during any 12 month period. The smallest donation that may be made is 8-hours.
- (f) Donated leave will be credited to the receiving employee's leave account in the order that donations are received by the Human Resources Department.
- (g) The receiving employee will not retain excess donated leave after returning to work or the medical emergency has ceased. Such excess will be returned to all donors on a pro-rata basis.

## CHAPTER 7

### TRAINING

#### GENERAL POLICY

7.00 The City will encourage and promote training related to basic job-skill development and to prepare employees for new or increased responsibilities.

#### RESPONSIBILITY

7.01 The Department Head is responsible for developing training programs. The Human Resources Director or designee shall:

- (a) Assist Department Head in developing and conducting training to meet the specific needs of their departments, and in developing and using other techniques for increasing employee efficiency.
- (b) Make available information concerning job requirements and training opportunities in order to assist employees in improving their performance in their present positions, and to prepare themselves for promotion.
- (c) Keep records of all approved training courses and programs and a record of employees who successfully complete them.
- (d) Maintain copies of Certificates of Completion for all training courses in the employee's Official Personnel Folder, or copies of letters submitted by employees giving training completion information in the same manner as a Certificate of Completion.

7.02 Compensation for Training Time

- (a) Employees who voluntarily elect to attend training off-duty will not receive compensation for their time in attendance at such training.
- (b) Employees who are directed by their Department Head to attend training off-duty will be compensated for their time in attendance at their normal rate of pay.
- (c) Employees who voluntarily attend training off-duty to achieve or retain a certification mandated as a condition of employment will not be compensated for their time in attendance at such training.
- (d) At the discretion of the Department Head, training may be scheduled during normal duty hours and will be in a normal pay status. This may require the rearrangement of the employee's work schedule.
- (e) All time in training status will not be counted as hours worked when figuring overtime if: the attendance is off-duty, attendance is voluntary, the training is not related to the employee's job, **and** the employee performs no productive work during such attendance.

- (f) The City sponsors and conducts formal employee training or development programs to meet many of the job related needs of employees. Such training is presented by appropriate City employees or outside trainers.
- (g) Other agencies or organizations sponsor and conduct other formal employee training or development programs. This training may be termed "job related" if it directly relates to improving the employee's performance of present duties, or if it is required by the City. This training may also be termed "elective" if it is taken at the choice of the employee for personal growth or to improve the employee's qualifications for career advancement, and is not required by the City.

### 7.03 Payment of Training Expenses

- (a) Normally, employees choosing to take "elective" training off-duty will not be reimbursed for such training except as specified in this Manual.
- (b) If the training is required by the City, the employee will be considered to be "on duty" and will receive their regular salary when attending job related out-service training, and will be reimbursed for necessary and reasonable tuition, books, materials, travel, meals, and lodging at established rates set by the City Manager and in accordance with applicable Federal, State, or City rules and regulations.
- (c) If the training is elective, the Department Head may, within budgetary limits and in accordance with City policies, reimburse the above listed expenses up to 100%. Employees will not be reimbursed for off-duty training without prior written approval of their Department Head.

### 7.04 College Tuition Reimbursement

- (a) The City offers regular full-time employees reimbursement in the amount charged for tuition for courses taken for credit (not continuing education courses except as these relate to recertification credits toward a professional certification) that directly relate to an employee's present position or to a position of possible future assignment. For regular full-time civilian employees, the City will only pay for core what is "core" (major courses; not elective courses) classes. Employees who have completed more than ½ of their degree requirements as of November 2007 are grandfathered with adoption of this policy revision. Civilian (non-public safety) employees must pay for elective courses.
- (b) Eligibility for and receipt of tuition reimbursement is conditional upon the employee:
  1. completing an Application for Tuition Reimbursement form and obtaining their Department Head's approval and submitting the approved form to the Human Resources Director prior to enrollment in the course. The Human Resources Director will assure the request is in compliance with governing rules and will submit the form to the City Manager for final approval.
  2. making a grade of "C" or above in undergraduate courses or a "B" or above in graduate courses
  3. submitting a copy of the grade report, fee slips and additional funding verification (if applicable) within 3 months after completion of the course(s) to their Department Head who will submit all documents to the Finance Department.

- c) Employees receiving payment for courses from another source such as a grant, scholarship, etc., must indicate the amount received on the tuition reimbursement application. Reimbursement for these courses from the City will be offset by the amount of funding received from other sources. In those instances where the amount of tuition incurred exceeds the charges at a state-supported institution, reimbursement will be granted up to, but no more than, 100% of the fees of the state supported institution. For all City employees, the tuition cost of courses for which the employee earns a grade of ‘C’ shall be reimbursed at a 50% rate. Grades lower than ‘C’ shall merit no tuition reimbursement.
- (d) Reimbursement will be made for correspondence courses taken from an accredited institution of post-secondary education as certified through a commission on higher education of a regional education agency for colleges and universities. These bodies can include one or more of the six (6) regional accrediting bodies are in the U.S. :
1. Middle States Association of College and Schools– <http://www.msache.org>
  2. New England Association of Schools and Colleges – <http://www.NEASCsc.org>
  3. North Central Association of Colleges and Schools – <http://www.ncahigherlearningcommission.org>
  4. Northwest Association of Schools, Colleges and Universities – <http://www.nwccu.org>
  5. Southern Association of Colleges and Schools – <http://www.sacscoc.org>
  6. Western Association of Schools and Colleges – <http://www.wascweb.org>

Employees must provide proof of accreditation of the college, or school they plan to attend with each tuition reimbursement request.

- (e) For all City employees, classes must be taken outside of normal working (scheduled shift) hours unless that is not possible, in which case all hours not worked must be made up and documented on a time sheet. Department Directors must approve these occurrences when employees must attend a course during regular work (scheduled shift) hours. All time sheets shall be amended to reflect a “Attended College Classes” and “Repayment of College-Related Absence” categories.
- (f) For all City employees except for the Fire Department, city-owned vehicles shall not be used for transportation to classes located outside the City.
- (g) All City-reimbursed college course enrollment must be pre-approved by the Department Director and the City Manager. For Public Safety personnel, the City Manager has the authority to withhold approval of any elective college courses based on a determination that other elective courses are available that would be more relevant to the Public Safety employee’s job, or that are more relevant to the public service mission of the City. In all other instances the Department Director is responsible for enforcing all elements of the College Tuition Reimbursement policy.
- (h) Employees must agree to remain with the City for 2 years after taking the course(s). If this agreement is not satisfied, the employee will be charged, at the time of termination of employment, with the tuition and other related training expenses reimbursed by the City.

## CHAPTER 8

### LAYOFF (REDUCTION-IN-FORCE)

#### LAY-OFF

- 8.00 Whenever it becomes necessary to reduce the number of regular employees of a department, the City Manager or the Department Head of the department concerned will notify the Human Resources Director of the number of employees to be laid off, the class, the title, and the date the employees are to be laid off. Upon receipt of such notice, the Human Resources Director (with approval of the City Manager) will give to the Department Head the names and addresses of the employees who should be first laid off in accordance with this chapter. The provisions of this chapter do not apply to temporary or grant employees. The provisions of this chapter will apply only to regular employees.
- 8.01 Under no circumstances will this chapter be interpreted as infringing upon or usurping the power and/or statutory authority of the City Council of the City of Midlothian to create, establish, increase in number or abolish, delete, or decrease in number position(s) and/or budgeted funds of such position(s).

#### REASONS FOR LAY-OFF

- 8.02 The lay-off of an employee may be for the following reasons:
- (a) the employee's position is abolished by the City Council, or
  - (b) there is a shortage of work, or
  - (c) there is a shortage of funds.

#### ORDER OF LAY-OFF

- 8.03 The order to lay-off of employees within the class and in the departments in which the lay-off is to be made will be:
- (a) temporary employees will be discharged first, followed by
  - (b) seasonal employees, followed by
  - (c) training and evaluation period employees, followed by
  - (d) regular employees.

Full-time employees will compete against full-time employees and part-time employees will compete against part-time employees. The order of lay-off of regular employees will be according to their level of performance, ability, and prior disciplinary and work history, with the employee with the lowest rating to be laid off first. Among employees with equal retention ratings, order of lay-off will be determined by a tie breaker determined by the Human Resources Department.

## RETENTION RATINGS

- 8.04 The Human Resources Director will calculate the retention rating of an employee based upon the performance evaluation score, disciplinary and work history.
- 8.05 A re-instated employee will receive credit for all time worked for the City prior to lay-off.
- 8.06 Periods of military leave, FMLA, or approved paid leaves of absence will not be counted as breaks in employment.

## TRANSFER OR DEMOTION IN LIEU OF LAY-OFF

- 8.07 With the approval of the City Manager and the gaining Department Head, the losing Department Head may transfer or demote an employee, who is affected by a lay-off, to a vacant position. The losing Department Head may only transfer or demote the employee within the same or related job series for which the Human Resources Director has determined that the employee meets the minimum qualifications.
- 8.08 Waiver of qualifications for a transfer or demotion may be made upon the written request of the gaining Department Head, and with the coordination of the Human Resources Director and the approval by the City Manager, if the employee involved in the potential move is considered to be capable of learning the necessary skills and gaining the required knowledge to satisfactorily perform the duties of the new position within a 6 month period.

## NOTICE OF LAY-OFF

- 8.09 The Human Resource Director will attempt to notify employees facing a lay-off in writing not later than 30 days in advance of the effective date of the lay-off. The notice will include:
  - (a) the reason for the lay-off
  - (b) the effective date of the lay-off
  - (c) employee rights, as provided by this Manual.

## EMPLOYEE RIGHT AND RESPONSIBILITIES

- 8.10 Job Interviews and Examinations. The Department Head of an employee who has been notified of an impending lay-off may grant the employee reasonable time-off with pay to participate in interviews or examinations (test) for other employment. The employee may also use accrued vacation leave and /or LWOP to seek and apply for other employment.

8.11 Vacation Leave. On the effective date of the lay-off, the employee (if eligible) will receive pay as provided in this Manual for all unused vacation leave.

8.12 Sick Leave. On the effective date of the lay-off, the employee (if eligible) will receive pay as provided in this Manual for all unused sick leave.

#### APPEAL RIGHTS

8.13 Regular full-time and regular part-time employees affected by these lay-off rules may appeal only the application of these rules and not the resulting action taken. An appeal may be made to the City Manager via the Human Resources Department. Temporary or seasonal employees are not eligible to appeal.

## CHAPTER 9

### PERFORMANCE EVALUATIONS

- 9.00 Purpose: The City Manager, Supervisors and Department Heads will periodically evaluate the performance of their regular full-time employees according to these rules and procedures prescribed by the City Manager to accomplish the following:
- (a) assist each employee to achieve maximum work capacity by establishing work standards and objectives, by providing the employee information regarding progress toward achieving designated results, and by planning the employee's future development;
  - (b) identify those employees whose performance needs improvement or is unsatisfactory;
  - (c) recognize employees with above standard work performance;
  - (d) assist management in making decisions regarding raises, promotions, layoffs, leaves of absence, or disciplinary actions.
- 9.01 Documentation: The supervisor conducting the performance review will document the review in the manner and on the forms prescribed by the City Manager. Each Department Head will maintain a copy of the performance evaluations in the manner prescribed by the City Manager. The original copy of the Performance Evaluation will be maintained in the employee's Official Personnel Folder.
- 9.02 Employee Review: All ratings will be reviewed with the employee by the evaluating supervisor. Such review will be made only after the required approval (if any) has been received by the Department Head. The employee may discuss this rating with the Department Head upon request. If the employee wishes, he may attach a written response to the performance review form. The response will be maintained in the employee's Official Personnel Folder with the Performance Evaluation.
- 9.03 During the annual review period, the supervisor will review the employee's official job description for accuracy. If any changes are needed, the supervisor will submit a copy of the job description, with the proposed changes to the Human Resources Department for classification review.
- 9.04 Those forms which contain above or below satisfactory performance ratings will be sent to the City Manager for review. The City Manager may request Department Heads and/or the supervisor to reconsider, change, modify, or justify ratings given.
- 9.05 A performance evaluation will be given to all regular full-time employees at the end of their training and evaluation period. The performance review must

accompany the Personnel Action Request Form that certifies the employee has completed the training and evaluation period.

### MERIT INCREASES

- 9.06 The general purpose of a merit increase is to provide a means to financially recognize above average performance of employees. Merit increases will also assist to encourage employees to achieve maximum work capacity through the establishment of work standards and objectives. This is done by providing the employee information regarding progress toward achieving designated results, and by planning the employee's future development. The merit increase will also assist management in making decisions regarding raises, promotions, leaves of absence, and disciplinary actions.

### ELIGIBILITY FOR MERIT INCREASE

- 9.07 To be considered for a merit increase, an employee must have been employed with the City as of December 1 of the prior year for non-public safety positions and April 1 of each year for public safety positions and successfully completes the initial training and evaluation period, and must receive a passing rating for the current annual performance evaluation cycle rating as specified in the Performance Evaluation Pay Plan (maintained in the Human Resources Department).

### PERFORMANCE EVALUATION SCHEDULE

- 9.08 For non-public safety positions, the annual performance evaluation period is from April 1<sup>st</sup> of one year to March 31<sup>st</sup> of the following year after which all completed and signed appraisal forms must be submitted to the Human Resources Department by May 30.

For public safety positions, the annual performance evaluation period is from July 1<sup>st</sup> of one year to June 30<sup>th</sup> of the following year after which all completed and signed appraisal forms must be submitted to the Human Resources Department by September 30<sup>th</sup>.

The City Manager will review all ratings below satisfactory which are submitted to him by the Human Resources Director.

The Payroll Department will complete all Personal Action forms (PARFs) for salary increases which will be forwarded to through the Human Resources Department, Finance Department and the City Manager for final approval.

## CHAPTER 10

### ADVERSE ACTION/DISCIPLINARY ACTION

#### GENERAL PROVISIONS

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

#### CONDUCT and PERFORMANCE PROBLEMS

10.01 Conduct Problems: Conduct problems are identified by what the person has done, *i.e.*, fighting, rudeness, insubordination, failure to follow instructions, etc.. If the problem can be identified as the result of conduct, guidance contained in this chapter for administering discipline should be followed.

Performance Problems: Performance problems are the result of the employee's failure to properly perform their work due to a **LACK of KNOWLEDGE, SKILL, or ABILITY**. If the problem can be identified as a performance problem, discipline should not be administered, but should be addressed by following the guidance contained in this chapter for unsatisfactory performance.

#### PROGRESSIVE DISCIPLINE

10.02 The purpose of progressive discipline is three fold:

- (a) To encourage employees to correct conduct deficiencies;
- (b) To encourage employees to comply with working rules; and,
- (c) To assist in providing consistent and equitable discipline.

The City is not obligated to use all of the progressive disciplinary steps available to it, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, the employee's length of service, and any mitigating circumstances. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

- (1) oral (verbal) warning
- (2) written reprimand
- (3) suspension
- (4) decision-making leave (with pay)
- (5) reduction in rate of pay
- (6) demotion
- (7) discharge

## PROHIBITED ACTIVITIES

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

- (a) Theft or inappropriate removal or use of property not your own.
- (b) Falsification of timekeeping or other records, including employment application.
- (c) Working under the influence of alcohol or illegal drugs.
- (d) Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating City-owned equipment.
- (e) Excessive absenteeism, tardiness or absence without notice.
- (f) Work breaks in excess of the allotted time allowed.
- (g) Violation of smoking policy (if any).
- (h) Violation of safety or health rules and failure to immediately report an on-the-job injury.
- (i) Sexual or other unlawful harassment.
- (j) Interfering with work schedules or another employee's ability to work.
- (k) Misuse of City telephones, computers, mail systems, etc.
- (l) Profanity or abusive language.
- (m) Unauthorized disclosure of confidential information.
- (n) Violation of City or Departmental policies, codes of conduct, rules and procedures.
- (o) Failure to be considerate of coworkers.
- (p) Coercion, intimidation, or threats against citizens, supervisors, coworkers, or City officials.
- (q) Making or publishing false, vicious, or malicious statements about the City, a coworker, or a supervisor.
- (r) Fighting, provoking or instigating a fight, or threatening violence in the workplace.
- (s) Possession of weapons on City time, City premises, or while on City business (except for licensed peace officers).
- (t) Violation of local, state, or federal law.
- (u) Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension.
- (v) Outside employment that conflicts with, or potentially conflicts with, City interests.
- (w) Disruptive activity in the workplace.

- (x) Conduct which results in waste or damage of coworkers', City or citizen-owned property.
- (y) Failure or refusal to follow lawful orders.
- (z) Sleeping on the job (except for Fire Department personnel who are governed by applicable Fire Department rules and regulations).
- (aa) Dishonesty, including misrepresentation during the hiring process.
- (bb) Abuse of the complaint procedure with frivolous and unfounded complaints.

#### TIMELINESS OF ACTION

10.04 In administering discipline, it is important that the supervisor not delay too long in taking corrective action. Normally, action should be considered as soon as an infraction is known to have occurred. When considering a disciplinary action, the supervisor may consider other disciplinary action taken against the same employee or just the current infraction when deciding upon the type of discipline to assess.

#### DISCIPLINARY TRAINING AND EVALUATION

10.05 Employees who are suspended or demoted, or whose pay rate is reduced, will automatically be placed on disciplinary training and evaluation for up to 6 months. During the training and evaluation period, employees have no right of appeal.

#### SUSPENSION OF EXEMPT EMPLOYEES

10.06 Exempt employees may only be suspended without pay in week-long increments (*e.g.*, 1 week, 3 weeks, etc.), unless the suspension is for a serious violation of City or departmental safety rules.

#### DECISION MAKING LEAVE

10.07 Decision making leave is leave with pay. It is a positive form of discipline that may be appropriate in some situations. It may be used alone, as an alternative to other types of discipline, or in combination with other forms of discipline. The purpose of decision making leave is to give employees time to decide if they wish to remain employed by the City, and if so, if they can and will correct their behavior. **As with other types of disciplinary action, decision-making leave must be documented with the employee's statement upon return to work.** Decision making leave with pay may only be used one time in a 12-month period for the same employee and cannot exceed one day or one shift, as appropriate.

#### ADMINISTRATIVE LEAVE

10.08 An employee may be placed on administrative leave with pay to preserve the safety and security of the employee or of his coworkers. When such leave is

proposed by the Department Head, approval must be received from the City Manager before effecting such leave. When safety of the workforce is at risk, and City Manager is not available to approve/disapprove such leave, the Department Head will proceed with the Administrative Leave, and will so inform the City Manager as soon as possible.

- 10.09 Administrative leave IS NOT a disciplinary action and is a paid leave. It may be used when it is determined that the employee cannot perform his assigned duties without becoming an immanent danger to himself or to others. It is also appropriate to use during an investigation into alleged offenses or violations of City policies.
- 10.10 An employee placed on administrative leave will be informed to remain off-duty until he is contacted by his supervisor with further instructions. The employee will also be informed that he will be in a paid leave situation, and that while in such leave status he may not be otherwise gainfully employed during his normal work hours, and must be available to the City.

#### FELONIES AND MISDEMEANORS

- 10.11 An employee charged or indicted for a felony or misdemeanor, or accused by information of official misconduct or other serious criminal violation, may be placed on administrative leave until the charge, indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial is completed and all related administrative matters are concluded. Such a determination will be made by the Department Head and the City Manager. An employee on administrative leave may be returned to the position held before being placed on administrative leave (if available) without loss of benefits if the indictment or information is dismissed, the employee is acquitted, or (if the employee was discharged) the conviction is reversed on appeal.

#### DISCIPLINARY CONFERENCE

- 10.12 A disciplinary conference will be held prior to the imposition of a disciplinary suspension of more than 1 day or 1 shift, reduction in rate of pay, demotion or discharge. The Department Head, the affected employee, and anyone else deemed necessary by the Department Head will attend the disciplinary conference. During the conference, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees may, in the City's sole discretion, be placed on administrative leave prior to, during, or after the disciplinary conference. The employee will be notified of the City's determination following the conference.

### REVIEW BY HUMAN RESOURCES DEPARTMENT AND CITY MANAGER

- 10.13 Any proposed suspension or discharge MUST be reviewed by the Human Resources Department and approved by the City Manager prior to the written disciplinary action being given to the employee. This applies equally to all employees.

### PRIOR APPROVAL OF PROPOSED OR DECISION ACTION

- 10.14 Any recommendation from the Department Head for suspension, demotion, or discharge of an employee must be sent to the City Manager through the Human Resources Director BEFORE officially notifying the employee concerned of the proposal or decision to take such action.

### ISSUANCE AND RECEIPT OF ADVERSE/DISCIPLINARY ACTION LETTERS

- 10.15 Letters of proposed discipline or letters of final decision to discipline should be given to the employee at work by the supervisor or Department Head issuing the letter. The supervisor or Department Head will assure that the employee acknowledges receipt of the letter by having the employee sign and date the Human Resources Department copy which is placed in the employee's Official Personnel Folder. If the employee refuses to acknowledge receipt, a witness to that refusal (not the issuing official) will sign and date the Human Resources Department copy indicating they witnessed the employee's refusal to sign. If the employee is not at work, the letter must be mailed to the employee at his home address (as maintained by the Human Resources Department) through the United States Postal Service using *Certified Mail – Return Receipt requested* service. The returned receipt is evidence of receipt by the employee or, if not delivered, of the City's attempt to notify the employee.

### DISTRIBUTION OF LETTERS

- 10.16 Letters (both proposed and decision letters) issued under this chapter will be distributed as follows:
- (a) The original letter goes to the employee.
  - (b) The first copy goes to the Human Resources Department for inclusion in the employees Official Personnel Folder. The department must also submit a Personnel Action form when pay is involved, or a position change is to be effected. A department Termination Report should be submitted with the letter when discharge is effected.
  - (c) The second copy goes to the issuing supervisor or Department Head to be kept with the employee's unofficial records that are kept by the department.

## **UNSATISFACTORY PERFORMANCE**

- 10.17 All employees of The City of Midlothian are responsible for carrying out the duties and responsibilities of their positions. When a regular full-time employee's performance does not meet acceptable standards, the supervisor must make every effort to resolve the problem as quickly as possible. If the unsatisfactory performance becomes persistent and cannot be resolved informally, procedures for action based on unsatisfactory performance will be followed. The Human Resources Department is available to provide advisory assistance in this respect.
- 10.18 Primary emphasis should be placed on communication and informal feedback. Supervisors should make every attempt to prevent performance problems from becoming serious, by discussing with the employee any instance of unsatisfactory performance as soon as possible after it occurs. Supervisors should be sure that their employees know what is expected of them. Disciplinary action should be used only as a last resort, and **ONLY** IF THE EMPLOYEE (WHO has THE knowledge, skill and ability to do the job) fails to perform acceptably. In other words, if the employee has the "tools" to work with and knows how to use them, failure to use them or to use them properly is a **conduct** problem NOT a **performance** problem. However, if it is revealed that the employee is performing unsatisfactorily due to a LACK of knowledge, skill, or ability to do the job, corrective action should be taken as explained in the following paragraphs.
- 10.19 If informal feedback and discussion with the employee fails to resolve a persistent performance problem, the following procedures should be carried out.
- (a) Document specific instances of unacceptable performance (the employee's inability to do the job and not his refusal to do the job as instructed).
  - (b) Meet with the employee to inform him officially that his performance is less than fully successful. During the meeting, discuss and issue to the employee a written Performance Improvement Plan (PIP) [See the Human Resources Department for an example and/or assistance.] The employee should acknowledge receipt on the supervisor's copy of the plan. The PIP will include:
    - (1) an explanation of how the employee's performance falls below the fully successful level,
    - (2) specific goals and expected results to be achieved and maintained,
    - (3) advice or suggestions on how the employee can bring his work performance up to the fully successful level,
    - (4) what the supervisor will be doing to assist the employee to improve, and
    - (5) an outline of possible further action if the performance does not improve to the fully successful level. The type of action could include reassignment or demotion to a position within the same department where the employee could be expected to be able to perform

satisfactorily, or discharge if there is no position to which the employee could be assigned within the same department through reassignment or demotion.

- 10.20 If the employee's performance did not reach a fully successful level, a letter should be issued to the employee advising him of the action to be taken. The letter should include:
- (a) the action to be taken (reassignment, demotion, or discharge),
  - (b) the reason for the action,
  - (c) the effective date of the action,
  - (d) the employee's right to appeal the interpretation of the performance appraisal process of which the PIP is a part,
  - (e) and a statement that the action is not a disciplinary action but is the result of the employee's inability to perform all regularly assigned duties in a fully satisfactory manner.

#### DISTRIBUTION OF PIP'S AND LETTERS

- 10.21 Copies of each letter and PIP issued will be distributed as follows:
- (a) the original goes to the employee
  - (b) the first copy goes to the Human Resources Department for inclusion in the employee's Official Personnel Folder. The department must also submit a Personnel Action form when pay is involved, or a position change is to be effected. A department Termination Report should be submitted with the letter when discharge is effected.
  - (c) The second copy goes to the issuing supervisor or Department Head to be kept with the employee's unofficial personnel records that are kept by the department.

## CHAPTER 11

# COMPLAINTS AND APPEALS

### ELIGIBILITY TO COMPLAIN OR APPEAL

11.00 Any regular full-time employee who has satisfactorily completed the training and evaluation period may file a complaint or appeal. Any regular part-time employee may file an appeal as specified in the Lay-Off Chapter.

### DEFINITION

11.01 **Complaint:** A complaint is a request by an employee for review of dissatisfaction relating to their employment which is subject to the control of the City, including any matter on which the employee alleges that disparate treatment, coercion, reprisal, or retaliation has been practiced against them.

11.02 **Appeal:** An appeal is a request by an employee or agent of the employee to management seeking relief from a disciplinary or adverse action taken against the employee by management.

### COMPLAINT PROCEDURE

11.03 No matter will be entertained as a complaint unless it is raised as such within 5 working days after the occurrence of the event or after the employee becomes aware of the event-giving rise to the complaint.

11.04 Complaints (other than charges of sexual or other illegal harassment or discrimination) will be processed in accordance with the following steps. Supervisors should be aware of the required decision letter contents (see end of the paragraph).

**Step 1: Informal Complaint:** The complaint will be discussed verbally by the complaining employee with the employee's immediate supervisor. The employee should state what is his/her concern(s) and what remedy they are seeking to resolve their complaint. It is the employee's responsibility to tell their immediate supervisor that this is a complaint. The immediate supervisor will have 3 working days; from the date the complaint was received, to verbally reply to the employee's complaint.

**Step 2: Formal Complaint:**

- a. If the complaint is not settled after Step 1 has been taken, the employee may elevate the complaint in writing to the second level supervisor (which may be the Department Head or, in some cases, the City Manager). **The employee will give a copy of the written complaint to the immediate supervisor.** The written complaint will

contain, as a minimum, the specific issue(s) of concern and the remedy sought to resolve the complaint, and the verbal reply of the immediate supervisor. If the employee fails to state the issue(s), the remedy sought, and the immediate supervisor's reply, the complaint will be denied and the employee so notified. The employee may also attach any evidence that supports their complaint. The second level supervisor will provide the employee a written decision within 10 working days.

- b. If the complaint is not settled after Step 2 has been taken, the employee may elevate the complaint in writing to the next level supervisor within 5 working days.
- c. If the second level supervisor is the City Manager, the complaint must be sent via the Human Resources Director who will review the complaint package for compliance with applicable rules before forwarding the complaint to, and received by, the City Manager. The written decision of the City Manager is final and no further consideration of the complaint will be made.

**Step 3:**

- a. If the complaint remains unresolved at Step 2, and has not been reviewed by the City Manager, the employee may elevate their complaint (which will contain only the documents in their Step 2 complaint package and the Step 2 decision letter) to the City Manager via the Human Resources Director within 5 working days after receipt of the Step 2 decision letter.
- b. The Human Resources Director will review the complaint package for compliance with applicable rules, and will forward the complaint to the City Manager.
- c. The City Manager may chose to review the complaint and make a decision, or assign the complaint to a Review Panel (members selected by the City Manager) who will issue a recommended decision to the City Manager. The City Manager may choose to accept or reject the Review Panel's recommendation. If the Review Panel's recommendation is rejected, the City Manager may issue a decision based upon the evidence presented in the Step 3 complaint package.
- d. The City Manager will have 10 working days, after personal receipt of the complaint, in which to make a decision.

**NOTE TO SUPERVISOR:** Decision letters must have the following items addressed:

- a. That the remedy requested is approved OR the remedy requested cannot be approved and why (address each concern).
- b. That the employee may elevate his/her complaint to the next higher level (specifically identifying whether that would be a second level supervisor, Department Head, or City Manager).
- c. That if the employee chooses to elevate their complaint they must do so within 5 working days from the date of receipt of the written decision.

- d. The elevation of complaint, specified in c. and d. above, will not apply if the decision letter is from the City Manager. The City Manager's decision letter should state that the decision is final and that the complaint will not be considered further.

#### APPEAL PROCEDURE (FOR DISCIPLINARY AND ADVERSE ACTIONS)

- 11.05 A copy of all appeals will be sent to the Human Resources Department by the City official who signs the employee's decision letter or notice.
- 11.06 **Step 1:** An eligible employee may file a written appeal, within 10 calendar days from the date he received the letter of decision, with the management official who signed his last decision letter. The appeal must identify the specific issue(s) being appealed, and the remedy requested. An appeal letter that does not specifically identify the specific issue(s) or the remedy sought will be denied (until the appellant provides that information). The appeal letter must include, or have attached, all evidence supporting that appeal so the deciding City official may make an informed decision.
- 11.07 **Step 2:** If the appeal is not settled favorably to the employee after following Step 1, the appellant may appeal to the next level of supervision . The appeal must be submitted within 5 working days after receipt of the Step 1 decision. The supervisor receiving the appeal will answer the appeal within 10 working days after receipt.
- 11.08 If, after following Step 1 and Step 2, and the employee has not received a favorable decision, the employee may continue the appeal process to the City Manager within 10 working days after receipt of the Step 2 decision.
- 11.09 The City Manager will decide the appeal in writing within 10 workdays after receipt. All decisions made by the City Manager will be final.
- 11.10 The City Manager may choose to review and decide appeals sent to him, or he may assign the appeal to a Review Panel for review and decision. All decision for suspension or removal made by the Review Panel must be approved by the City Manager. Decisions rendered by the City Manager will be final.

#### PERFORMANCE EVALUATION APPEAL

- 11.11 Employees have the right to present an appeal concerning interpretation of the Performance Evaluation Process and/or the resulting evaluation following the steps, below:

Step 1: The employee may appeal in writing to their immediate supervisor first, stating their concerns and the remedy they desire. This must be done no later than 5 workdays after the employee received his evaluation. The supervisor will answer the appeal in writing within 5 workdays after receipt of the employee's appeal.

Step 2: If the appeal has not been satisfied, the employee may, within 5 workdays from the date they received the Step 1 decision, appeal in writing to their Department Head (or City Manager if the Department Head is the employee's immediate supervisor) stating their concerns and the remedy they desire. The Department Head (or City Manager) will answer in writing within 5 workdays after receipt of the employee's appeal. The Department Head's (or City Manager's) decision is final.

#### TIME LIMITS FOR COMPLAINT OR APPEAL

11.12 All time limits set forth in this chapter may be extended for good reason by written mutual consent of the complainant or aggrieved, and the Department Head. If not so extended, the time limits will be strictly observed. If the complaining/appealing party or parties fail to pursue the complaint or appeal within the time limits set forth, the complaint or appeal will be considered resolved based upon the last answer given by a supervisory representative of the City.

#### RECORDS

11.13 A written copy of the complaint/appeal and the final decision, with all supporting lower decisions (if any) and the supporting evidence will be retained on record in the Human Resources Department.

## CHAPTER 12

### ALCOHOL AND CONTROLLED SUBSTANCE USE AND TESTING

- I. **PURPOSE AND SCOPE.** To provide a drug and alcohol free and safe workplace and establish standards for controlled substances testing. This policy applies to all employees of the City of Midlothian and job applicants with conditional offers of employment.
- II. **POLICY.** The City of Midlothian recognizes that the status of an employee's health may affect his or her job performance and safety. The City also recognizes that alcohol and drug abuse rank as two of the major health problems in the world and adversely affect an employee's performance and safety on the job. Therefore, it is the City's goal to provide an alcohol and drug-free working environment for all of its employees.

#### III. **DEFINITIONS**

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

Alcohol concentration or content. The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol use. The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

City Safety Manager responsibilities include, but are not limited to, the overall development, supervision, coordination, implementation, and training of the City's safety program in coordination with each department/division and the City's Safety Committee.

Course and Scope of Employment as defined by the Texas Workers' Compensation Act is, "an activity of any kind or character that has to do with and originates in the work, business, trade or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer." The term includes activities conducted on City premises or at other locations.

Driver or CDL driver. Any person employed by the City who operates a City owned/leased motor vehicle or a person who is required to hold a commercial drivers license (CDL) as a requirement of his or her job. This includes, but is not limited to, full time, regularly employed drivers, or occasional drivers.

Evidential Breath Measurement device (EBT). An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath

and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices (EBT).

Illegal Drugs. Means any drug that is not legally obtainable.

Illicit Drugs. Means any drug that is legally obtainable but has not been legally obtained.

Illegal or Illicit drugs include, but are not limited to:

Amphetamine/methamphetamine (speed, uppers/crystal)  
Barbiturates, i.e., amobarbital, secobarbital, pentobarbital, Phenobarbital, barbitol (sleeping pills; downers)  
Benzodiazepines, i.e., Librium, Valium (tranquilizers)  
Cannabinoids, i.e., hashish, THC, cannabis, marijuana  
Cocaine (crack, rock, ice)  
Fetanyl (China White)  
Inhalants (glues, aerosols, etc.)  
LSD (acid)  
Methaqualone, i.e., Quaaludes  
Methylenedioxymethamphetamine (Ecstasy)  
Opiates, i.e., heroin, morphine, codeine, hydromorphone, hydrocodone, mentadone, oxycodone, oxymorphone, opium  
Phencyclidine (angel dust, PCP)  
Propoxyphene, i.e., Darvon

Illegal drugs also include inhalants, paints and gases, which are not used for their intended purposes

Legal Drugs. Includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured and in the dosage recommended or prescribed.

Medical Review Officer (MRO). Means a licensed physician (M.D. or D.O.) responsible for receiving laboratory results generated by the City's controlled substances testing program, who has knowledge of substance abuse disorders and has appropriate medical testing to interpret and evaluate an employee's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

On-the-Job Illness/Injury is a disability, injury, illness, or medical condition that occurred as the result of the employee performing the assigned duties of his/her occupation within the course and scope of employment.

Refusal to submit (to an alcohol or controlled substances test). An employee who (1) fails to provide adequate breath for testing without a valid, documented medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy; (2) fails to provide adequate urine for controlled substances testing without a valid, documented medical explanation after he or she has received notice of the requirement for urine testing; or (3) engages in conduct

that clearly obstructs the testing process, including tampering with or adulterating the urine sample.

Screening test (or initial test). In alcohol testing, it means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his or her system. In controlled substances testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Substance abuse professional. A licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Substance Abuse Program (SAP) is designed to assist the employee with any type of personal problem, to include alcohol and substance abuse. This service is a covered benefit as provided by the City's group health plan.

Under the influence. Means, for the purpose of this policy, that the employee is affected by a drug or alcohol or the combination of a drug and alcohol in any detectable manner.

#### IV. PROVISIONS

##### A. ELEMENTS

##### 1. Prohibited Conduct by Employees.

- a. Alcohol Concentration. No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater.
- b. Alcohol Possession. No employee shall possess alcohol while on duty, or in any City owned or leased building, vehicle, or property. Exceptions: (1) Solid waste or ground maintenance vehicles carrying waste, but the containers must never be in the cab. (2) Law enforcement engaged in an authorized investigation requiring the transportation of alcohol or liquor.
- c. Alcohol Use. No employee shall use alcohol while at work or in an on-call status.
- d. Pre-duty Use. No employee shall perform work within four (4) hours after using alcohol.
- e. Use following an accident. No employee shall use alcohol for eight (8) hours following an accident in a City vehicle or privately owned vehicle while conducting City business, or until

he/she undergoes a post-accident alcohol test, whichever occurs first.

- f. Refusal to submit to a required alcohol or controlled substances test. No employee shall refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances test.
- g. Use of controlled substances, illegal or illicit drugs. No employee shall report for duty or remain on duty when the employee uses any controlled substance, or illegal or illicit drug. **(Exception:** When the use of a controlled substance is pursuant to a prescription and the instructions of a physician who has advised the employee that the substance should not adversely affect the employee's ability to safely perform his or her work. The employee shall report to his or her supervisor the use of any controlled substances at the beginning of each work shift.)
- h. Use of legal prescribed drugs. The use of or being under the influence of any legal prescribed drug by an employee while performing City business, while on City premises, or while driving a City vehicle is prohibited to the extent such use or influence may affect the safety of co-workers or members of the public, the employee's job performance, or the safe or efficient operation of City equipment. An employee's use of a legal prescribed drug or over-the-counter drugs can pose a significant risk to the safety of the employee or others. If there is a reasonable likelihood the medication will impair the employee's ability to perform the essential functions of his or her job (or operate a vehicle, property or other equipment effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace, the employee must report such drug use to their Division/Department Head at the beginning of his/her shift to determine job-related consequences. Failure to make such report shall subject the employee to disciplinary action, up to and including dismissal.
- i. Use of non-controlled substances. No employee shall report for duty or remain on duty when the employee: 1) takes more than the required dosage of any over-the-counter medications; or, 2) is adversely impacted by a normal dosage, either of which negatively affects the employee's ability to safely perform his or her work.
- j. Controlled substances testing. No employee shall report for duty or remain on duty if he or she tests positive for controlled substances.

## B. TESTS REQUIRED

1. **Pre-employment.** Following a conditional offer of employment and before hiring, the City requires applicants to submit to pre-employment drug/alcohol testing by a physician of the City's choice. Applicants who refuse to consent or submit to such pre-employment drug/alcohol testing or inquiries when required by the City are ineligible for hire. If the drug/alcohol test is positive, then the applicant is ineligible for any City employment for a period of six (6) months from the date of the test result. Police and Fire Department employees are subject to Departmental hiring policies, which may be more limiting than the hiring policies for other City Departments.
  
2. **Post-accident testing.** As soon as practical following an accident, an employee involved in a work-related accident or traffic accident while on duty and operating either a City owned or leased vehicle or the employee's privately owned vehicle while conducting City business shall submit to an alcohol and controlled substances test, if:
  - a. the accident resulted in bodily injury or a fatality; or
  - b. the employee received a citation for a moving violation; or
  - d. the employee is arrested for driving under the influence (DUI), driving while intoxicated (DWI), or public intoxication (PI); or
  - e. the employee is transporting a non-City employee in the vehicle; or
  - f. testing is recommended by the Safety Manager or department supervisor; or
  - g. the employee had a "near miss" while operating the vehicle or equipment.

Unless transported by ambulance or arrested, the employee shall remain at the scene until taken for testing. The employee's supervisor must arrange transportation of the employee to a collection site. Under no circumstances shall the employee be permitted to drive to a collection site. Nothing in this section shall be construed to require the delay of necessary medical attention for injured employees following an accident or the restraint of an employee at the scene of an accident.

Testing must be administered within two (2) hours following the accident. However, if in that time period a test is not administered, an alcohol test will be administered within eight (8) hours following the accident, or a controlled substances test within 32 hours following the accident and, the supervisor shall submit a report to the Human Resources Director stating the reason(s) the test was not administered within the two-hour period. If the alcohol test is not administered within eight (8) hours following an accident, the supervisor shall cease attempts to administer the test and submit a report to the Human Resources

Director stating the reason(s) the test was not administered within the time prescribed above.

Employees required to submit to post-accident alcohol/drug testing will not be permitted to operate a City owned or leased vehicle or equipment, or their own personal vehicle to conduct City business, until the results of the testing have been received and reviewed by Human Resources.

3. For post-accident testing for accidents that occur during normal business hours. The supervisor must arrange for testing of the employee according to the following procedure:
  - a. The supervisor shall contact Human Resources to advise that an employee is reporting to a medical clinic for post-accident testing.
  - b. The supervisor shall make transportation arrangements for the employee to be taken to the medical clinic.
  - c. Results of the alcohol/drug test will be reported to the City's Medical Review Officer, who will report the results to the Human Resources Director.
  - d. Human Resources shall send a copy of the results to the City Attorney's Office, if requested.
  
4. For post-accident testing for accidents that occur after normal business hours. The supervisor must contact the designated drug screening and testing facility to arrange for testing of the employee according to the following procedure:
  - a. The supervisor must make arrangements for collection. The supervisor must have available the employee's name and a number where a call can be returned. The testing facility will send a technician to the accident site, a City facility, or to their local testing office to conduct an alcohol and/or drug test.
  - b. The supervisor shall contact Human Resources on the next business day to advise that post-accident testing had occurred after hours.
  - c. Results of the alcohol/drug test will be reported to the City's Medical Review Officer, who will report the results to the Human Resources Director.
  - d. Human Resources shall send a copy of the results to the City Attorney's Office, if requested.
  
5. Random testing Employees who hold safety-sensitive positions may be randomly tested. The Human Resources Director will maintain a list of positions deemed to be "safety-sensitive." All employees who are required to possess a CDL driver's license shall be subject to random testing. The selection of employees for random alcohol and controlled substances testing shall be made by random selection. These are unannounced tests. Each employee subject to random testing shall have an equal chance of being tested each time selections are made. For CDL

drivers, the City will randomly test 50% of the employees for drugs and 10% for alcohol annually, as required by Federal Regulations.

Random tests shall be administered only during the selected employee's normal working hours except shift employees, who because of shift hours worked, may have to be tested prior to or after their shift.

6. **Reasonable suspicion testing.** The City may require urinalysis, or other drug/alcohol screenings of an employee where his/her supervisor has a reasonable suspicion that the employee is using or is under the influence of a drug or alcohol while on duty, or where circumstances or work place conditions justify it, including but not limited to the employee's involvement in any on-the-job accident involving property damage or injury to a person. The supervisor's determination may be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee or indicators of chronic withdrawal affects. The supervisor's determination may be based upon other evidence sufficient to lead the supervisor to suspect that the employee is under the influence of drugs or alcohol, including: changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, evidence of possession of substances or objects which appear to be illegal drugs or drug paraphernalia, and reliable reports of the employee engaging in activity which would violate this policy. The supervisor will review the suspicion with the Human Resources Director or designee. If the Human Resources Director concurs with the supervisor's suspicion, then the supervisor will transport the employee to a collection site for testing. Under no circumstances will the employee be allowed to drive to the collection site.
  
7. **Follow-up testing.** In the event an employee is permitted to return to work following a positive test determination by a substance abuse professional and has successfully completed the prescribed rehabilitation program, the employee shall be required to undergo unannounced follow-up testing.

The number and frequency of such follow-up testing shall be as directed and administered by the Substance Abuse Professional and shall consist of random testing for alcohol, controlled substances, and illegal or illicit drugs.

Follow-up testing at the request of the City shall be conducted only during the employee's normal workday except some shift employees who, because of their hours worked, will have to be tested prior to or after their shift. Follow-up testing shall not exceed sixty (60) months from the date the employee enters a Substance Abuse Program.

An employee's consent to submit to such tests is required as a condition of continued employment and the employee's refusal to consent and/or

cooperate as necessary with such tests may result in disciplinary action, up to and including dismissal.

C. CONSENT TO TESTING

All applicants and employees will be required to complete forms approved by the City consenting to the tests involved and authorizing release of the results to the City of Midlothian.

V. TESTING PROCEDURES

The City intends for all tests to be conducted in accordance with City guidelines to insure accuracy and proper concern for each applicant's and each employee's privacy. These guidelines shall generally provide that:

- A. No test shall be administered without the employee's or applicant's consent being obtained.
- B. The employee or applicant shall be allowed to provide samples in the privacy of a restroom stall or the equivalent.
- C. A secure chain of custody will be maintained for all samples.
- D. Before testing, the sample shall be split, and all positive test results will be confirmed by a second test on the second part of the same sample.
- E. All employees shall have the opportunity to explain any positive test results before any disciplinary action is taken against them.

VI. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT.

An employee's compliance with this policy is a condition of continued employment. Violation of this policy can result in disciplinary action, up to and including dismissal, even for a first offense. The City may require that an employee who violates this policy, but who is not terminated, to immediately arrange for appropriate medical assistance and counseling as approved by the City through a Substance Abuse Program. The employee shall be responsible for the cost of all such assistance and counseling not covered by medical insurance.

- A. Possession. Possession of alcohol or illegal or illicit drugs in violation of this policy shall subject the employee to disciplinary action up to and including dismissal
- B. Alcohol Test Results.
  - 1. Lower Alcohol Level. Any employee having an alcohol concentration of 0.02 but less than 0.04 while on duty, shall be prohibited from remaining on

duty and shall not report for duty until at least 24 hours have elapsed since the administration of the alcohol test and shall **at a minimum** receive a written reprimand. Repeated incidents may subject the employee to discipline up to and including dismissal.

2. Higher Alcohol Level or Positive for Controlled Substances, and/or illegal or illicit drugs. An employee having an alcohol concentration 0.04 or greater or a confirmed positive result on a test for controlled substances and/or illegal or illicit drugs while on duty shall at a minimum receive a three-day, unpaid suspension, and may be required to seek professional treatment through an approved substance abuse professional. Employees in violation are subject to greater disciplinary action, up to and including dismissal.
- C. Return-to duty testing. In the event an employee is permitted to return to work after engaging in conduct in sections IV.A.1, or IV.B., the employee shall pass a return-to-duty alcohol test with a result indicating an alcohol concentration of 0.00, or pass a return-to-duty test for controlled substances and/or illegal or illicit drugs with a verified negative result, as appropriate.
- D. Refusal to comply. Employees refusing to submit to follow-up alcohol and/or controlled substance tests will be treated as a positive testing and are subject to disciplinary action, up to and including dismissal.
- E. If an employee refuses treatment required by the City or discontinues treatment before the employee is released, then such action shall also be grounds for disciplinary action, up to and including dismissal.

## VII. **EMPLOYEE'S REPORTING REQUIREMENTS OF DRUG/ALCOHOL RELATED ARRESTS AND CONVICTIONS**

- B. Each employee must, as a condition of initial hiring and continued employment, abide by this policy and report to the Department/Division Head any drug possession arrest or conviction of the employee under a criminal drug statute.
- C. Each employee must, as a condition of initial hiring and continued employment, abide by this policy and report to their Department/Division Head any driving(Boating or flying) while intoxicated (DWI), driving under the influence (DUI), or public intoxication (PI) arrests or convictions.
- D. Employee's report of such an arrest or conviction must be made immediately after the arrest or conviction, but in no event should the employee wait to report the arrest or conviction more than 24 hours. .
- E. Department/Division Heads must immediately report to Human Resources such an arrest or conviction of an employee.

## VIII. SUBSTANCE ABUSE PROGRAM

- A. Employees requiring assistance for alcohol and/or substance abuse are encouraged to seek appropriate treatment.
- B. **Prior to a violation** of this policy or state law, an employee may seek substance abuse treatment by a substance abuse professional. A list of substance abuse professionals is available from the Human Resources Department. The substance abuse professional shall determine what assistance, if any, the employee needs in resolving the problems associated with alcohol misuse, controlled substances, and/or illegal or illicit drug use. At the conclusion of the program, the employee will be evaluated by the substance abuse professional to determine if the employee has properly followed the rehabilitation program that was recommended, if any.
- C. Information regarding various community educational or other programs regarding alcohol and drug treatment may be obtained from the Human Resources Department. Information regarding any applicable coverage of drug and alcohol treatment under the City's group health insurance policy may also be obtained from Human Resources.
- D. To comply with the provisions as outlined in this policy, employees requiring treatment for alcohol and/or substance abuse through the assistance of Human Resources must sign a medical release form authorizing the Substance Abuse Professional to release information to the City of Midlothian regarding treatment and tests for alcohol, and/or controlled substances, and illegal or illicit drugs. An employee's consent to release such treatment and test results is required as a condition of continued employment. The employee's refusal to consent and/or cooperate as necessary with such treatment and tests may result in disciplinary action up to and including dismissal. Employees are encouraged by the Substance Abuse Professional to attend an after-care program upon completion of the six-week treatment program.
- E. Although treatment is encouraged, an employee's seeking of treatment and/or treatment will not excuse violations of this policy. Employees seeking, undergoing treatment, or who have completed treatment are still subject to discipline, up to and including dismissal, for violations of this policy.
- F. The fact that an employee is seeking or has sought treatment or information about treatment, or has undergone or is undergoing treatment, will be kept strictly confidential.

## CHAPTER 13

### SAFETY

#### PURPOSE

13.00 The purpose of the City of Midlothian loss prevention program is to establish a system to promote the safety and health of every City employee. The City's goal, as an employer, is to provide the safest possible working conditions for the employees and, as a government service organization, to provide a safe environment for the public that uses our services.

#### POLICY

13.01 The management of the City of Midlothian holds in high regards the safety, welfare and health of its employees. Furthermore, the City staff believes that most accidents can be prevented. In recognition of this, the City Staff will constantly work toward:

- (a) The maintenance of safe and healthful working conditions for its employees;
- (b) Consistent adherence to proper operating practices and procedures designed to prevent injury, illness, property damage and liabilities; and
- (c) Conscientious observance of Federal, State and City safety regulations.

#### CONCEPT

13.02 The desire of the City of Midlothian is to provide a safe working environment and keep injuries to the absolute minimum, thus protecting its most valuable asset, its employees. The loss prevention objective is to focus attention on productivity and thereby contribute significantly to the efficiency of an operation. One of the most important contributions an employee can provide to the organization is performance of all tasks in the safest possible manner.

13.03 Safety increases productivity and thereby contributes to the overall objective of the organization. When incorporated with other management efforts, loss prevention techniques have an effect upon the reduction of personnel injuries, property damage and work interruption. By placing constant emphasis on the refinement of operational procedures, employee awareness and safe working conditions, it is possible to eventually eliminate the cause and effect of losses. There is a wide diversity of operations within our City government. Department Heads are given latitude in formulating and implementing alternative methods when necessary as long as the intent of the loss prevention program is not compromised.

## SAFETY COMMITTEE

- 13.04 The Safety Committee will have as its goal the development and maintenance of work environments and operating procedures free from hazards which have the potential for causing accidents, injuries, and other losses. The primary objective of this committee shall be to focus on solutions to safety problems. The committee will act in an advisory capacity making recommendations to Department Heads and City Management addressing hazards, problems areas, and loss prevention promotion.
- 13.05 The basic function of the Safety Committee is to help create and maintain all employees' active interest in safety. To achieve this, there must be a spirit of cooperation and a commitment to safety as a shared responsibility between top management and the employees. The proper safety attitude of the members will have a positive influence on others. The more they become involved, the more they will involve other employees and the community they serve.
- 13.06 The committee will be comprised of seven (7) employees appointed by the Department Heads at the suggestion of the Human Resources Director. The Human Resources Director shall chair the committee. The Safety Committee shall be a standing committee in that members may step down, or be removed at the request of the employee, the Department Director, or the Human Resources Director.
- 13.07 The committee shall meet monthly or as deemed necessary to focus on solutions to safety problems and support of citywide loss prevention programs.
- 13.08 The committee will:
- (a) conduct periodic safety inspections. Inspection reports and recommendations will be forwarded to the Department Head concerned and the City Manager.
  - (b) review the circumstances and causes of accidents to determine whether the accident was preventable or non-preventable.
  - (c) offer suggestions to management for improvement of the safety program.
  - (d) observe work practices and report unsafe conditions or practices to the Department Head and committee.
  - (e) promote the knowledge and understanding of safety to all employees.
  - (f) review safety suggestions by employees, review safety training needs and current training for adequacy and recommend changes or additions as needed.
  - (g) make updates to the Employee Safety Handbook as needed.

## RESPONSIBILITIES

- 13.09 City employees are responsible for complying with the provisions of this program as it pertains to operations under their jurisdiction. The responsibilities listed below are the minimum and shall in no way be construed to limit individual initiative to implement more comprehensive performance to curb our losses.
- 13.10 Management will be responsible for providing the means to implement and maintain this policy. The effectiveness of this safety policy depends on the actions and support of management.
- 13.11 The City Manager will:
- (a) review safety committee inspections and accident reports and will ensure recommendations or alternate resolutions that are acceptable are implemented.
  - (b) Receive from Department Heads and review disciplinary action or corrective action resulting from employee incidents.
  - (c) Approve or disapprove the recommended disciplinary action or corrective action recommended by the Department Head.
  - (d) Notify the Safety Committee Chair that recommended disciplinary action or corrective action has been approved/disapproved.
- 13.12 The Department Head will receive safety inspection recommendations, investigate the findings, and submit the projected date(s) when corrections will be completed to the City Manager and Safety Committee. If not able to resolve the safety deficiency, he will submit an explanation. The Department Head will also receive the ruling from the committee regarding employee accidents. His response to the committee's ruling on preventable employee accidents will be forwarded to the City Manager for review prior to being forwarded to the Safety Committee.
- 13.13 Department Heads hold final accountability for the working conditions, loss prevention and safety practices of subordinates as well as the general loss prevention record under their span of management responsibility. Therefore, each Department Head will:
- (a) Provide the leadership and positive direction essential in maintaining City loss prevention policies as a prime consideration in all operations.
  - (b) Devote a portion of meetings, as necessary, to a review of departmental losses (accidents) and to discuss plans to bring about loss reduction.
  - (c) Demonstrate a personal concern and active participation in the promotion of safety and the prevention of accidents, injuries and losses.
  - (d) Hold each supervisor in the chain of command accountable for the preventable injuries, accidents and liabilities incurred by their employees. An excessive number of accidents or injuries is an indication that some management policies and practices are not being followed, have not been communicated properly to the employees, or need to be re-evaluated.

- (e) Ensure that each supervisor includes the employee's safety record in the basic criteria used to judge **PERFORMANCE, MERIT OR PROMOTIONAL EVALUATION**. An employee that causes accidents to himself or others might have specific performance deficiencies that must be recognized, documented and corrected.
- (f) Ensure that safety training is provided to all employees who perform hazardous tasks to minimize injury and property damage potential.
- (g) Ensure that supervisors conduct safety meetings with employees to review accidents, analyze their causes and promote a free discussion of hazardous work problems and possible solutions.
- (h) Ensure that safety suggestions or written comments from employees are encouraged and those that are feasible, effective, and reasonable are adopted. The Department Head will respond to the employee's suggestions/comments. Those ideas with possible general application are forwarded to the Safety Committee for comments and/or implementation.
- (i) Ensure budget requests include anticipated costs for protective equipment and devices.
- (j) Ensure that all accidents are thoroughly investigated, recorded and promptly reported.
- (k) Ensure prompt, corrective action is taken whenever hazards are recognized or unsafe acts are observed.
- (l) Cooperate fully with the Safety Committee in the formulation and the publication of specific work rules for identified hazardous tasks to minimize injury and damage potential.

13.14 Supervisors have responsibility for the safe actions of their employees, and the safe performance of machines and equipment within their operating area. They have authority to enforce the provisions of this manual to keep losses at a minimum. Each supervisor will strive to:

- (a) Be accountable for preventable injuries, accidents and liabilities incurred by their employees.
- (b) Ensure policies and procedures outlined herein are implemented.
- (c) Take the initiative in recommending correction of deficiencies noted in facilities, work procedures, employee job knowledge or attitudes that adversely affect City loss prevention efforts.
- (d) Be prompt to give recognition to those who perform well and be firm and impartial in enforcement of work policies against those who fail to conform.
- (e) Ensure that each employee is trained for the job assigned, that they are familiar with safe operating procedures and that they comply with applicable work rules.
- (f) Shut down operations considered to be an imminent danger to employees or remove personnel from hazardous jobs when they are not wearing or using prescribed protective equipment.

- 13.15 Employees are held responsible for exercising care and good judgement in preventing accidents and for studying and observing the safe operating procedures pertinent to their job. Each employee will:
- (a) Take an active part in the safety program.
  - (b) Report all unsafe conditions to the immediate supervisor.
  - (c) Keep work areas clean and orderly at all times.
  - (d) Report all accidents immediately to the supervisor.
  - (e) Refrain from engaging in any horseplay and distracting others.
  - (f) Learn to lift and handle materials safely to avoid injury.
  - (g) Use personal protective equipment such as steel-toed shoes, safety vests, safety glasses, and hard hats, where required.
  - (h) Refrain from operating, modifying, adjusting or using equipment in an unauthorized, unsafe manner.
- 13.16 In addition, each employee working at hazardous jobs will:
- (a) Obey all safety procedures and follow instructions. If any doubt exists about the safety of the job, they shall obtain instructions from the supervisor before continuing work.
  - (b) Operate only machine equipment that they have been authorized to operate by a supervisor.
  - (c) Use the prescribed equipment for the job and handle it properly.
  - (d) Wear required protective equipment when working in hazardous operation area.

#### TREATMENT OF OCCUPATIONAL INJURIES

- 13.17 **Injuries Incurred in the Course and Scope of Employment.** All employees of the City of Midlothian are covered by the Texas Workers' Compensation Law. Treatment for injuries is outlined below and all personnel shall comply with all requirements.
- 13.18 **Emergency Medical Treatment.** Injuries/Illness requiring immediate medical treatment shall warrant emergency treatment at the nearest medical facility.
- (a) For serious emergencies, call 9-1-1.
  - (b) If qualified, administer First Aid until help arrives.
  - (c) Serious injuries that require emergency treatment at the nearest hospital shall be reported to the Department Head, Human Resources Director and the City Manager during normal work hours, immediately after the emergency is under control, or at the beginning of the normal work hours the next day. Provide the name of the victim, when, how, and where the accident occurred, and the nature of the condition causing the accident. **THIS DOES NOT ELIMINATE THE NEED FOR COMPLETION OF REPORTS.**

13.19 **First Aid Treatment for Superficial Injuries.** Superficial injuries such as minor cuts, bruises, small punctures and scratches can be treated in the field or office when an employee qualified to administer First Aid is present. Hospital emergency rooms shall not be utilized for superficial injuries if an employee qualified to administer first aid is present.

13.20 **Supervisor Responsibilities.**

- (a) Fatalities and other injuries constituting a severe accident (e.g., loss of limb, multiple injuries at one location, etc.) shall be reported to the Police Department. The Police Department will then notify the Department Head who will then notify the City Manager and Human Resources Director. Provide the same information as outlined, above, for Emergency Medical Treatment.
- (b) In the event an employee is injured to the degree that emergency transportation and admission to a medical facility is indicated, it shall be the responsibility of the immediate supervisor to ensure the proper reports are completed and submitted on a timely basis.
- (c) Upon notification that an employee has been injured on the job, the supervisor will ensure that:
  - 1. First Aid is administered if a person qualified to do so is available.
  - 2. If treatment by a physician is required, furnish the employee with a "**Referral for Emergency Treatment**" form.
  - 3. The injured employee receives initial medical treatment.
  - 4. If subsequent treatment is required, "Referral for Emergency Treatment" form will be initiated for each subsequent visit to the physician and/or medical facility. However, if the attending physician prescribes daily therapy for an employee, one "Referral for Emergency Treatment" form may cover the therapy treatment for several days provided the dates of the therapy are clearly stated on the form. Employees who fail to keep medical/therapy treatment appointments will likely be subject to disciplinary action and possible loss of salary continuance benefits. The supervisor or Department Head will monitor whether or not the follow-up visits are made by the employee, and will report same to the Human Resources Department for record purposes.

13.21 **Department Head Responsibility.** Department Heads hold final accountability for the working conditions, loss prevention and safety practices of subordinates as well as the general loss prevention record under their span of management responsibility.

## REPORTING PROCEDURES FOR OCCUPATIONAL INJURIES

- 13.22 Timely reporting of any accident is mandatory. It is the responsibility of each employee to report all accidents in accordance with this chapter.
- 13.23 **Reporting of Occupational Injuries (Workers' Compensation).** Regardless of the degree of injury, the employee must report its occurrence to a supervisor immediately or as soon thereafter during the current work shift. **FAILURE TO REPORT AN INJURY OR ACCIDENT MAY BE THE BASIS FOR DENIAL OR DELAY OF SALARY CONTINUANCE BENEFITS**
- 13.24 **Fatality Reporting.** The death of any employee as a result of an injury by accident arising out of and in the course of employment shall be immediately reported to the Police Department. The Police Department shall notify the Department Head who will notify the City Manager and the Human Resources Director.
- 13.25 **Reporting Injuries.** The Department Head or his designee will be responsible for completing the form, "Employer's First Report of Injury", and for forwarding the original to the Human Resources Department within 24 hours after the injury. All sections of the report form will be completed. Contact the Human Resources Department for assistance if there are questions about how to complete the form.
- 13.26 **Referral of Emergency Treatment Form.**
- (a) The supervisor of the injured employee shall ensure that the form is completed.
  - (b) The Department Head is responsible for getting the referral form from the attending physician after the physician has signed it, and for forwarding the original of the form to the Human Resources Department as soon as possible.
  - (c) If subsequent treatment is required, a separate "Referral For Emergency Treatment" form will be initiated for each subsequent visit to the physician and/or medical facility. However, if the attending physician prescribes daily therapy treatments for an employee one "Referral For Emergency Treatment" form may cover the therapy treatment for several days provided the dates of the therapy are clearly stated on the form. Employees who fail to keep medical/therapy treatment appointments may be subject to disciplinary action and possible loss of salary continuation benefits. It is the responsibility of the supervisor to ensure that all follow-up visits are monitored and reported to the Human Resources Department with the proper paperwork.
- 13.27 **Supervisor's Investigation Report.** The Supervisor of the injured employee (or the Department Head if the supervisor is involved in the accident) will conduct an investigation of the accident to determine when it happened, where it happened, how it happened, why it happened, the extent of any physical injuries, the probable

cause of any physical injuries, and probable violation of applicable safety rules or traffic laws due to suspected human negligence. A completed investigation report will be submitted to the Safety Committee (with a copy to the Human Resources Director) as soon as possible but not later than 3 workdays after the incident.

- 13.28 **Employee's Accident Explanation Report.** The employee will complete the Employee's Accident Explanation Report and submit it to his Supervisor as soon as possible. The employee's explanation report will include information as to when it happened, where it happened, how it happened, and why it happened.

#### SAFETY COMMITTEE PROCEDURES

- 13.29 The Safety Committee will meet at the next regularly scheduled monthly meeting, to review the Supervisor's and Employee's Reports, then provide an opinion as to whether the accident was preventable or non-preventable.

- (a) **PREVENTABLE:** An accident where the employee fails to do everything he could reasonably be expected to do to avoid the accident.
- (b) **NON-PREVENTABLE:** An accident where the employee has done everything he could reasonably be expected to do to avoid the accident.

- 13.30 The City Manager, Department Head, and Employee will be notified in writing of the decision of the Safety Committee.

- 13.31 If the Safety Committee finds that the accident was preventable, the Department Head will determine the severity of the accident and notify the employee of any possible disciplinary action to be taken in accordance with the Adverse Actions/Disciplinary Actions chapter procedures.

#### DAMAGE TO CITY PROPERTY REPORTING PROCEDURES

- 13.32 The following procedures will be followed by all City of Midlothian employees (including supervisors and Department Heads) whenever there is damage to City Property. The term "City Property" includes (but is not limited to) all City computers, automobiles, trucks, tractors, buildings, fences, and other similar property. The City of Midlothian fully intends to account for and be reimbursed for all damages done to City Property. Therefore, it is important that these procedures be closely followed and that all reports be thoroughly completed. Reporting procedures are as follows:

- (a) **The employee involved:**
  - 1. Will immediately report all incidents in which damage to City Property is incurred, witnessed, or discovered to the immediate supervisor (e.g., vehicle accident; employee witnesses someone damaging City Property; employee discovers already damaged City Property).

2. Will, if needed, report the accident to the local law enforcement agency immediately (e.g. traffic accident, intentional damage to City Property, crime committed).
  3. Will remain at the scene until excused by their supervisor or the investigating law enforcement officer.
- (b) **The immediate supervisor** (or the Department Head if the immediate supervisor is involved) will investigate the accident, prepare a Report of Damage to City Property, secure an Accident Report from the Police Department (if applicable), and submit them both to the Department Head.
  - (c) **The Department Head (responsible for the property)** will send a copy of the Accident Report, the Report of Damage to City Property and the Estimate to the Human Resources Director as soon as all of the reports are secured. No more than three working days should pass before the Human Resources Director receives all the required reports.
  - (d) **The Human Resources Director** will be responsible for submission of claims to the City's insurance carrier. He will maintain complete records of claims pending and claims settled.
  - (e) **The Finance Department** will receive all Property Damage Reimbursements, and will assure that all monies collected are credited to the correct fund. A copy of the receipt of the settled claim will be sent to the Human Resources Director and the appropriate Department Head.

## OPERATION OF VEHICLES AND/OR EQUIPMENT

13.33 RESERVED

13.34 RESERVED

13.35 Every employee who drives a private or City vehicle on City business must have:

- (a) valid Texas Driver's License for the type of vehicle to be operated,
- (b) a record of no more than two (2) moving violations and/or accidents within the preceding 24-month period, and
- (c) no record of D.W.I.(driving while under the influence) convictions in the preceding 24-month period.

13.36 Driving records may be examined on an annual basis or when the Department Head directs such examination.

13.37 Employees who operate vehicles in the course and scope of their employment must notify their supervisor when their driver's license becomes invalid or suspended for any reason.

13.38 Seat belts shall be worn by the driver and passengers when a vehicle is in operation and seat belts are available.

13.39 **Use of City equipment by private contractors** (either corporate or individual), will not be allowed on any jobs for which they are under contract with the City. This does not preclude the use of such equipment under emergency circumstances with the permission and under the direction of the appropriate Department Head. Exception to this policy may be made by the City Manager on a case by case basis.

13.40 EMPLOYEES INVOLVED IN A JOB RELATED VEHICLE OR EQUIPMENT ACCIDENT WILL:

- (a) render aid to other parties if possible and necessary;
- (b) report the accident and any injuries immediately to the local law enforcement agency (if applicable);
- (c) request that all parties and properties concerned remain at the scene of the accident until a law enforcement representative has released them;
- (d) immediately notify the supervisor, who will, in turn, notify the Human Resources Director;
- (e) record the name, address, and phone number of any witnesses or party;
- (f) record the make, model and license number of any other involved vehicle and obtain the name, addresses, and telephone numbers of the driver and occupants of the other vehicle(s), if any;
- (g) be courteous but refrain from making or signing any statement for anyone other than the police officer responding to the scene, appropriate City officials, and representatives of his own insurance company if the employee's privately owned vehicle is involved. Statements made to investigating authorities should be confined to factual observations,
- (h) remain at the accident scene until excused by the supervisor or the local law enforcement agency,
- (i) complete the form "An Employee's Report of Accident" and forward to the employee's supervisor, who will ensure all paperwork is complete prior to forwarding to his Department Head and then to the Human Resources Director, and
- (j) submit to a physical, drug screen, and/or driving test at the request of his Department Head.

THIRD PARTY INSURANCE CLAIMS AGAINST THE CITY

13.41 Only authorized City officials may discuss matters involving claims against the City.

13.42 All questions pertaining to claims shall be referred to the Human Resources Director with a copy to the City Secretary. Claims for damages presented to the City shall be referred to the Human Resources Director with a copy for the City Secretary for filing.

- 13.43 All City employees must notify their supervisor in the case of incidents that may result in potential claims as soon as possible. The supervisor must report all such incidents, in writing, to his Department Head as soon as possible. The Department Head will then notify the Human Resources Director and the City Manager. Items reported should include any property damage occurring during work for the City, no matter how small.
- 13.44 The Human Resources Director will ensure that any applicable provisions of State law are met, that all claims for damages accurately locate and describe the defect or act that caused the injury; reasonably describe the injury; state the date and time when it occurred; contain the itemization of damages claimed; and be verified by the claimant, a relative of the claimant, his attorney, or agent of the claimant.
- 13.45 The Human Resources Director will refer the claim to the insurance carrier within five (5) working days and provide an informational report to the City Manager on claim status.
- 13.46 The Human Resources Director will recommend action to the City Manager within thirty (30) days of receipt regarding claims which fall below deductible limits of existing policies or which are not covered under existing policies.

#### SAFETY RULES AND PRACTICES HANDBOOK

- 13.47 The Safety Rules and Practices Handbook is hereby adopted in its entirety by reference.

## Chapter 14

### Information Technology

#### 14.1. Mission Statement

The Information Technology Department strives to provide the highest quality technology-based services, in the most cost effective manner, to facilitate effective operations of the City of Midlothian staff and personnel.

#### 14.2. Reasons for the Policy

The Purpose of this Policy is to outline the acceptable use of computer equipment at the City of Midlothian. These rules are in place to protect both the employee and the City of Midlothian. Inappropriate use exposes the City of Midlothian to risks including virus attacks, compromise of network systems and services and legal issues.

The Information Technology Department is committed to protecting the City of Midlothian's employees, partners, and the company from illegal or damaging actions by individuals, either knowingly or unknowingly.

All employees who use City computing resources must do so responsibly, respecting the rights of other computer users, the integrity of the physical facilities and controls (*i.e.*- computer hardware/software and peripherals), the integrity of data and all pertinent license and contractual agreements.

#### 14.3. IT Procedure Manual

- A. The IT Department will compile and maintain a Procedure Manual to cover specifics of the technology program which cannot be covered or adequately represented in the Policy Manual because of the need for rapid changes and/or revisions.
- B. The IT Procedure Manual should be consulted for standards and best practices regarding a number of topics including, but not limited to: Antivirus, Backups, Password Requirements, Encryption, etc.

#### 14.4. Acceptable Use

##### A. Technology Team

1. A Technology Team consisting of members representing the majority of departments in the city will meet regularly to discuss future technology projects and establish guidelines and standards for those systems.
2. The regularity of Technology Team meetings will be decided by the IT Manager and will be based on need and the current projects being handled by the IT Department.

##### B. Purchases and Authorization

1. Purchases which affect the City's network, attach to computer systems, are installed on computer systems, or affect the security or integrity of the City's computer systems in any way shall be approved, in advance, by the IT Manager.
2. Projects including potential technology purchases should include the IT Manager at the outset to ensure appropriate and compatible equipment is purchased as well as to confirm minimum requirements for attaching to the City's network are met.

##### C. General Use and Ownership

1. Users should be aware that the data they create on the municipal systems remains the property of the City of Midlothian, and should also be aware that they have no expectation of privacy. Because of the need to protect the City's network, management cannot guarantee the confidentiality of information stored on any network device belonging to the City of Midlothian.
2. Information and documents stored on the City of Midlothian's network may be subject to search and disclosure through Public Information Act requests.
3. Employees are responsible for exercising good judgment regarding the reasonableness of personal use of the computer systems.

4. For Security and network maintenance purposes, authorized individuals with the City of Midlothian may monitor equipment, systems and network traffic at any time.
5. The City of Midlothian reserves the right to audit networks and systems on a periodic basis to ensure compliance with this Policy, and/or for other authorized administrative purposes.

D. Unacceptable Use

1. The following activities are, in general, prohibited. Employees may be exempted from these restrictions during the course of their legitimate job responsibilities (*i.e.*, - systems administration staff may have a need to disable network access of a host if that host is disrupting production services).
2. Under no circumstances is an employee of the City of Midlothian authorized to engage in any activity that is illegal under local, state, federal, or international law while utilizing City of Midlothian owned resources.
3. The lists below are by no means exhaustive, but attempt to provide a framework for activities which fall into the category of unacceptable use:
  - a. Violations of the rights of any person or company protected by copyright, trade secret, patent or other intellectual property or similar laws or regulations, including, but not limited to, the installation or distribution of 'pirated' or other software products that are not appropriately licensed for use by the City of Midlothian.
  - b. Unauthorized copying of copyrighted material, including, but not limited to, digitization and distribution of photographs from magazines, books, or other copyrighted sources, copyrighted music, and the installation of any copyrighted software for which the City of Midlothian or the end user does not have an active license is strictly prohibited.
  - c. Exporting software, technical information, encryption software or technology, in violation of international or regional export control laws, is illegal. The appropriate management should be consulted prior to export of any material that is in question.

- d. Introduction of malicious programs into the network, servers, or other systems (*e.g.* viruses, worms, Trojan horses, e-mail bombs, etc.)
- e. Revealing your account password to others or allowing use of your account by others. This includes family and other household members.
- f. Using a City of Midlothian computing asset to actively engage in procuring or transmitting material that is in violation of City policies, including policies regarding prohibitions of sexual harassment, unlawful harassment and/or hostile workplace.
- g. Making fraudulent offers for products, items, or services originating from any City of Midlothian account.
- h. Making statements about warranty, expressly or implied, unless it is a part of normal job duties.
- i. Effecting security breaches or disruptions of network communication. Security breaches include, but are not limited to, accessing data of which the employee is not an intended recipient or logging into a server or account that the employee is not expressly authorized to access, unless these duties are within the scope of regular duties. For the purpose of this section, “disruption” includes, but is not limited to network sniffing, ping floods, packet spoofing, denial of service, and forged routing information for malicious purposes.
- j. Port scanning or security scanning is expressly prohibited unless prior authorization from the IT Manager is obtained.
- k. Executing any form of network monitoring which will intercept data not intended for the employee’s host.
- l. Circumventing user authentication or security of any host, network or account.
- m. Using any program/script/command, or sending messages of any kind, with the intent to interfere with, or disable, a user’s terminal session, via any means, locally or via the Internet/Intranet/Extranet.
- n. Providing information about, or lists of, City of Midlothian employees to parties outside of the City of Midlothian.

## 14.5 Passwords

### A. Password Rights and Responsibilities

- 1. Any form of access or user account on any system that resides at any City of Midlothian facility, has access to the City of Midlothian’s network, or

stores any non-public City of Midlothian information requires user identification and a system password. This form of authentication is essential in order to identify the person using an account as the authorized user and to prevent misuse by unauthorized users

2. Only the account owner is allowed to login or use the computer as the user that the account is assigned to. You must not share your password with anyone under any circumstances and no individual (even your supervisor) can force you to reveal your password for any reason. If misuse of computers is tracked to your account, you will be assumed to have been the only person to know the password. If a coworker or supervisor asks for your password, contact your department head or the IT Manager immediately.
3. If it is discovered that your password has been shared or that you allow other users to use your account, then:
  - a. On the first offense your account will be locked and the password reset.
  - b. On the second offense your account will be locked and the password reset and your manager will have to fill out a Request for Account Unlock form.
  - c. On the third offense your account will be locked, the password reset, and your manager will have to fill out a Request for Account Unlock form and have the City Manager sign it.
  - d. On the fourth offense your account will be disabled and you will not be allowed onto the City Network.

## B. Password Security

1. Passwords that can be guessed by unauthorized personnel create the opportunity for breaches of security. To ensure maximum security, passwords must be hard to guess - not just by other people but by extremely fast computers armed with multi-lingual dictionaries. Please consult the IT Procedure Manual for details on creating strong passwords.
2. Change your passwords regularly, since it prevents misuse of your account without your knowledge if your password was somehow accidentally disclosed. If you believe your password has been compromised, you must change your password immediately and contact the IT department.

C. Group Accounts

1. Group accounts are single accounts that can have more than one authorized user. All password policies still apply with the exception that only those users whose names were submitted within the Group Account Access Request Form to the IT Department will be authorized to use the group account.

14.6 Internet Access and Use

A. Access to the Internet is provided for City of Midlothian business use. As a City asset, responsible use of Internet Access Privileges is a basic condition of employment and helps ensure a secure and non-hostile work environment.

B. Employees are expected to use Internet resources in the pursuit of legitimate City of Midlothian business interest directly related to their job responsibilities. This requires employees to exercise good judgment consistent with the City of Midlothian's Code of Ethics.

C. Employee Use Guidelines

1. Employees should not use the internet to violate copyright laws or licensing agreements.
2. Accessing, downloading uploading, viewing, e-mailing, storing, interacting, purchasing or printing material that could be considered inappropriate, offensive or violate the City of Midlothian's Code of Ethics or other Human Resources policies is not allowed. This includes but is not limited to:
  - a. Pornographic and/or sexually explicit material
  - b. Terrorism
  - c. 'Hate' groups
  - d. 'Hacker' Information
  - e. Illegal Drugs
  - f. Offensive or threatening language
  - g. Tasteless and Offensive Material
  - h. Gambling Sites

3. Accessing Proxy sites will only be allowed on a case by case basis as these sites are typically used to circumvent security measures.
4. Disclosure of any information that is proprietary, restricted, or company confidential is prohibited.
5. Instant Messaging is prohibited. In addition, use of any communication program that does not create an archive record is prohibited.
6. Protect your workstation and other employees on the City of Midlothian network environment while accessing the Internet by downloading information only from reputable sources.
7. Streaming audio/video will be permitted based upon bandwidth availability which will be strictly monitored by the IT Department and regulated accordingly.

D. Non Business Related Internet Usage

1. It is understandable that employees require a certain degree of latitude when accessing the internet for non-business related activities, including:
  - a. Accessing personal email accounts
  - b. Viewing Facebook, MySpace, Twitter, or other online social networks sites, etc.
2. Supervisors are responsible for ensuring employees do not spend inappropriate amounts of time using the internet for non work related activities.
3. Certain employees may be exempted or have varying degrees of quota time assigned based on job duties. This includes, but is not limited to, employees working nights and weekends and employees whose job duties include updating the City's Facebook and Twitter pages.

E. Access to the Internet

1. All Internet access from the city network will only be through authorized Internet gateways. The IT Manager approves all internet gateways. Firewalls at these gateways will be managed and monitored by the City of Midlothian IT Department.

2. Any access to the Internet from an official company location or on company assets, using facilities other than the approved gateways, is strictly prohibited.
3. Group accounts will be prohibited from access to the Internet except for sites authorized on a case by case basis. Since such accounts are used by multiple employees it is difficult to determine who may have committed an infraction. Thus, access should be limited from these accounts.

F. Monitoring

1. Employees should have no expectation of privacy when using the City of Midlothian Internet systems.
2. The City of Midlothian IT Department reserves the right to monitor access and usage of the Internet for any reason and without warning. The City's IT Department currently tracks and logs all Internet traffic passing through the City of Midlothian firewalls.
3. The IT Manager or other appropriate Information Technology employee may monitor Internet use. Suspected instances of excessive or inappropriate use will be reported to the appropriate Department Director, IT Manager, or other management as appropriate.

14.7 Electronic Mail (Email)

- A. Under no circumstances should any employee expect any privacy while utilizing the City of Midlothian's Electronic Mail System (Email). The City of Midlothian email accounts (i.e.- midlothian.tx.us) are the property of the City of Midlothian and are intended primarily for business purposes.
- B. Employees must not use an e-mail account assigned to another individual to either send or receive messages. Employees must not attempt to access another employee's e-mail account unless specifically authorized by the IT Manager.
- C. Email messages can be subpoenaed and introduced as evidence in court. Also, City of Midlothian email accounts used by public officials may be subject to Public Information Act requests by the public and, as such, care should be taken when sending mail from these accounts.

- D. City business should be conducted on approved email systems. Online email services (i.e.- G-mail, Hotmail, or Yahoo) should not be used for City business. If City business is transmitted using these mediums, the IT Department should be notified immediately.
  
- E. Misuse of the email systems and text messages sent via city-owned cell phones or sent during work hours is a serious offense and can be grounds for disciplinary action up to, and including, termination. Misuse of the City's email systems include, but is not limited to, sending:
  - 1. Chain letters
  - 2. Betting pools
  - 3. Unauthorized employee solicitations
  - 4. Misrepresenting the City of Midlothian
  - 5. Copyrighted material
  - 6. SPAM
  - 7. Offensive humor
  - 8. Ethnic, racial, religious, or other slurs
  - 9. Slanderous remarks about colleagues, clients, or vendors
  - 10. 'Flaming' or other types of email harassment
  - 11. Unauthorized computer virus warnings
  - 12. Pornographic Material and/or Sexually Explicit Material
  - 13. Political or Religious solicitations
  
- F. Employees and public officials accessing City email through their smart phones (Blackberry, Iphone, etc) should take care that email sent to their city email account is not responded to via another, personal, account linked to the phone. In the event that this does occur, the IT Department must be notified immediately.
  
- G. All company-wide computer virus warnings must originate from the City of Midlothian IT Department. Any employee who receives a virus warning should contact the IT Manager or the IT Department to check its validity.

#### 14.8 Cell Phone Usage

- A. City Cell Phones will only be upgraded at the end of contract, when the cancellation or change cost is zero.
  
- B. Only Directors may have City Cell Phones with data capability, unless otherwise approved by the City Manager.

- C. The City shall transition to a telephone allowance program for all staff other than users of push-to-talk and the Police and Fire Departments. All data plans shall be authorized by the City Manager.
- D. Upgrades to City-owned Cell phones on the City's Phone plan must be limited to \$150 unless approved by the City Manager based on the need for specific data or technological features.
- E. Remaining Departmental cell phone plans must be approved by the Finance Director and City Manager, and must demonstrate fiscal prudence and strong benefit-cost ratio.
- F. City cell phones, including numbers and text messages, and other data is subject to release under the Public Information Act.

#### 14.9 Violations or Misuse of City Resources

Violations of this policy are considered a misuse of City resources and are punishable by disciplinary actions set forth in Chapter 10 of the HRPM.

## CHAPTER 15

### VEHICLE USAGE AND MILEAGE REIMBURSEMENT

#### PURPOSE OF THIS POLICY

15.00 This policy covers the assigned use of City vehicles for City business and take home status to answer emergency situations and mileage reimbursement for use of personal vehicles on City related business.

Incumbents in positions designated by the City Manager shall receive a monthly car allowance or be provided with a City vehicle (see Section 4.44).

#### GENERAL OVERVIEW

15.01 All employees will be reimbursed for authorized use of personal vehicle mileage at the rate per mile recognized by the Internal Revenue Service. Mileage Reimbursement Forms are available in the Finance Department.

15.02 Use of a City vehicle by an employee is neither a right nor a privilege; rather, it is a trust conferred to facilitate necessary performance of job duties. During the use of a City vehicle, employees should always create a positive perception by our citizens.

15.03 Certain rules must be observed when operating City vehicles or personal vehicles for performance of City business.

- (a) Vehicles shall be operated in a safe and courteous manner.
- (b) Seatbelts for the driver and all passengers **MUST** be fastened at all times.
- (c) Transporting firearms or alcohol in City vehicles is prohibited except for the performance of official City business and with the express permission of the City Manager or designee.
- (d) For personal vehicles, obtaining the proper licenses, inspections, and insurance is the responsibility of the employee (see section 13.35).
- (e) For City vehicles, all proper maintenance and inspection expenses will be paid for by the City and the assigned employee must follow the vehicle's preventive maintenance schedule and secure parking and storage at all times.
- (f) Reporting accidents/traffic citations and payment of moving violations or parking citations is also the responsibility of the employee (see Section 13.40).

## RESPONSIBILITY

- 15.04 It shall be the responsibility of directors and supervisors to administer this policy as it pertains to their department/division.
- 15.05 Employees' failure to abide by established operation rules may result in discipline up to and including termination from employment.

## ADMINISTRATION OF POLICY

- 15.06 The City Manager's office is the source of authority for the administration and control of this policy.
- 15.07 It shall be the responsibility of each directors and supervisors to administer this policy as it pertains to their department/division. Monitoring mileage reimbursements is an administrative duty and obligation of the affected directors and supervisors.
- 15.08 Directors and supervisors shall be responsible for the review of assigned vehicles, car allowances and mileage reimbursements within their department/division in order to determine the policy is properly administered. Questions regarding this policy should be submitted in writing to the Human Resources Director. The Human Resources Director's decision/interpretation may be appealed to the City Manager or designee for final review.
- 15.09 This vehicle policy shall supersede all other previous policies and will control as to any conflicts regarding other policies setting forth guidelines governing the assignment of City vehicles and mileage reimbursement.

## ELIGIBILITY

- 15.10 Incumbents in positions designated by the City Manager shall receive a monthly car allowance or be provided with a City vehicle. Car allowance shall be reviewed annually in conjunction with the budget process. The monthly car allowance is expected to cover business trips.
- 15.11 Designated positions requiring response to emergencies, special situations or events exceeding normal working hours may receive a monthly car allowance or a City vehicle according to the needs of the City. Such requests must be submitted in writing by the appropriate Department Director to the Human Resources Director for final approval by the City Manager or designee.
- 15.12 Some (*ie*: rotational, or on-call) City positions requiring a response to special situations, emergencies, or events exceeding normal working hours on a regular basis may be assigned a City vehicle or be provided a monthly car allowance, either of which may be requested in writing by the appropriate Department Director to the Human Resources Director for final approval by the City Manager or designee.
- 15.13 All car allowances and City vehicle assignments will be reviewed annually as part of

the budget review process.

- 15.14 For those employees who do not receive a car allowance or City Vehicle, reimbursement for authorized use of a personal vehicle on City business will be at the rate per mile recognized by the Internal Revenue Service.

#### GENERAL RULES

- 15.15 As required by the position, when an employee operates a City vehicle or a personal vehicle for which reimbursement is received, the following rules shall be observed. Failure to abide by these rules shall result in discipline up to and including termination:
- (a) City vehicles shall be used only in the performance of City business, including meetings, schools, conferences or other business related events. As approved, assigned vehicles may be driven to and from work. City vehicles shall not be used for private or personal business, except for incidental stops during travel to and from the work place. Personnel are prohibited from transporting personal property from one place to another, personal shopping trips, etc.
  - (b) Persons assigned a City vehicle may use the vehicle for meal purposes and authorized breaks within the general locality where the employee is performing duties or reporting for assignments.
  - (c) City vehicles will not be used to transport family members or other passengers not engaged in City business, without prior written approval of the City Manager or designee.
  - (d) City vehicles shall not be used for transportation to and from work by any employee residing outside the established Midlothian City limits (and ETJs).
  - (e) City and/or personal vehicles operated for City business shall be operated in a safe and courteous manner at all times. City and/or personal vehicles operated for City business shall be required to comply with the laws and ordinances concerning operation of motor vehicles and rules of the road and shall not be operated by an individual using or under the influence of drugs and/or alcohol. "Under the influence" of alcohol, for the purposes of this Policy, means any consumption of alcohol such that there is any detectable trace of alcohol in the breath or bloodstream of the City employee.
  - (f) Seat belts for the driver and any passenger must be fastened according to proper operating instructions at all times.
  - (g) Except for the performance of official City business, no alcohol or firearms shall be carried in a City vehicle without the express written permission of the City Manager or designee.
  - (h) Maximum, economical, and efficient use shall be made of all City vehicles. Unnecessary driving will not be permitted or tolerated. Employees will take the most direct route to, from or between job assignments.
  - (i) An employee who is operating a City vehicle or private vehicle on City business is required to pay for moving violations and/or parking citations for which he/she is responsible.

- (j) Should a City employee who is assigned to a City vehicle on a twenty-four (24) hour basis, be absent from work for more than three (3) work days, the employee and the appropriate Department Director shall decide if the vehicle should be returned to the work place during the employee's absence.
- (k) Assigned and take home vehicles shall not be used on a part-time job or driven to and from a part-time job not associated with the City organization.
- (l) The lack of a City provided take-home vehicle is not a sufficient reason for an employee to refuse to respond to an after hour call back. Call-backs will continue to be governed by existing City and Departmental policies, and employees who refuse to respond may be subject to disciplinary action.
- (m) An employee who operates an assigned vehicle or a private vehicle for City business must have the appropriate valid driver's license, a current state safety inspection sticker and current license plates for the vehicle (also see Section 13.35).
- (n) An employee who is provided a car allowance shall provide proof of financial responsibility to the City by presenting proof of liability insurance as required by state law. This proof shall be filed with the Human Resources Director and shall be reviewed annually or more frequently, if deemed necessary.
- (o) An employee who is assigned a vehicle or receives a car allowance is responsible for reporting any changes altering his or her driving record to the Human Resources Director. If an employee is involved in a motor vehicle accident while operating a City vehicle or personal vehicle on City business, and the accident occurred within City of Midlothian limits, the employee shall immediately report the incident to the Midlothian Police Department and to his or her immediate supervisor. Regardless of where the accident occurred, the immediate supervisor will, as soon as practical, contact the Human Resources Director.
- (p) All costs associated with personal automobile operation, maintenance, insurance, deductibles, etc. are to be borne by the employee. City fuel may be offered as part of the automobile allowance (see section 4.44). However parts, maintenance, etc. will not be provided to recipients of car allowances.
- (q) When an employee who does not have a take home vehicle is called out, he or she will normally drive a personal vehicle to the regular reporting location and transfer to a City Vehicle.
- (r) Based on City Manager approval, employees considered to be on-call 24 hours per day, seven days a week may be allowed to drive their assigned City vehicles to and from home if and only if they reside within the City or its ETJ.

#### CARE OF ASSIGNED VEHICLES

15.16 An employee who is assigned a City owned vehicle shall ensure all of the vehicle's required preventive maintenance and repair work is performed on schedule and in a timely manner so as to obtain optimum running condition and maximum fuel economy. Under no circumstances will a vehicle with a serious safety problem be permitted to operate until properly repaired.

- 15.17 Employees assigned vehicles shall be responsible for the appearance and cleanliness (interior and exterior) of the vehicle.
- 15.18 When an assigned vehicle is not in business use, it shall be properly secured, and where possible, parked in a private drive or parking area.
- 15.19 Unassigned vehicles shall not be taken home at night except in special instances as approved by the Department Director.

#### REVOCATION OF TAKE HOME AUTHORIZATION

- 15.22 Take home authorization may be revoked:
- (a) For failure to comply with the provisions of this policy.
  - (b) For a change in job assignment, duties or responsibilities such that a take home vehicle is no longer justified.
  - (c) When it is in the best interest of the City of Midlothian.

#### MILEAGE REIMBURSEMENT

- 15.23 The mileage reimbursement rate shall be indexed to the current Internal Revenue Service rate and printed on the Mileage Reimbursement Form.
- 15.24 Mileage Reimbursement Forms are available in the Finance Department. The Mileage Reimbursement Form, which documents date, destination, purpose for the trip and miles driven, is completed by the employee and submitted to the appropriate Department Director for approval and forwarded to Finance Director or designee for final approval.

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