



Employee Personnel  
Policies

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Chapter: 1

Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 1 – INTRODUCTION

### 1.01 Objectives of Written Policies and Regulations

The policies provided herein support the City of McKinney's core values of Respect, Integrity, Service and Excellence (see 3.04). They are designed to be a guide to human resources administration. This chapter will not answer all questions concerning the human resources function. Many times staff advice is necessary. On other occasions, judgment and discretion will be required to arrive at decisions. This chapter is designed to achieve the following objectives:

- A. Provide selection procedures, which will promote equal opportunity so that qualified individuals will be able to enter and progress in the city service.
- B. Improve communications between city employees and management.
- C. Establish an evaluation procedure to appraise employee performance.
- D. Provide a systematic plan for payment to employees for services rendered.
- E. Define basic standards of conduct expected by the employer in the working relationship.
- F. Provide for acceptable discipline and grievance procedures designed to ensure that work-related problems or disagreements would be considered fairly and without undue delay.
- G. Provide other procedures affecting the conditions of municipal employment.
- H. Establish employee development and training objectives and procedures.

### 1.02 Policy Dissemination

All city employees shall be informed of policy provisions listed herein. As a condition of employment, employees are expected to abide by our core values and all policies and procedures outlined in this manual. Each division shall keep at least one copy of the manual available for reference by its employees. The manual will be kept in a conspicuous place so that it will be available as an employee reference at any time. In addition to copies available in each division, copies are also available for reference in the Human Resources Department and on the intranet.

### 1.03 Policy Administration

The general and final authority for human resource management rests with the City Manager, who may delegate it as necessary and proper, except for matters reserved to the City Council.

The administration of personnel matters is charged to department directors appointed by the City Manager. The Director of Human Resources shall advise management in all areas of employee-management relations and shall include such items as training and career development, employee health, safety and morale. Certain city policies are based upon state or federal laws and regulations, and in the event that those laws and regulations are amended or otherwise modified, the city may amend or modify its policies to be in compliance with such laws and regulations.

Chapter: 2

Effective date: **January 1, 2017**

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## CHAPTER 2 – PERSONNEL RECORDS

### 2.01 Official Personnel File

The Human Resources Department shall maintain the official personnel file for all employees. It is the responsibility of supervisors to ensure that all necessary documentation is forwarded to the Human Resources Department for inclusion in the employee's file. The Director of Human Resources is responsible for ensuring documents of an evaluative or negative nature clearly indicate the employee is aware of the document prior to placement in the employee's personnel file. The Director of Human Resources shall determine the appropriateness of placement of documents in an employee's personnel file.

### 2.02 Employee Privacy

The Director of Human Resources shall establish procedures necessary to preserve the privacy of employee information as required by applicable state and federal legislation. Access to privileged or confidential employee records shall be based on the need to know as determined by the Director of Human Resources.

The Texas Public Information Act permits an employee to determine whether the public shall have access to his/her information such as home address and social security number by submitting the Public Access Authorization form.

The following information is a matter of public record under the Texas Public Information Act and, upon official request, will be released for public inspection from an employee's official personnel file:

- A. Name
- B. Date of original employment or appointment to the city service, or if applicable, last day worked
- C. Current position title
- D. Current salary
- E. Department to which the employee is currently assigned

### 2.03 Personnel File Review

Employees may have access to their own personnel file for the purpose of inspection, review, and duplication during normal business hours. Supervisors may review their employees' or prospective employees' personnel files during normal business hours.

Upon proper request, the Human Resources Department will, during normal office hours, allow third party access to information contained in personnel files. All files will be reviewed in the presence of a Human Resources Department representative. No document may be removed, entered, or copied without prior permission of the Director of Human Resources or designee.

Requests for other information by third parties must be requested in writing with a signed release by the employee. Official open records requests do not require written release from the employee.

The Human Resources Department will release documents in accordance with the requirements of the open records requests law, (Texas Public Information Act), other laws governing the release of personal information and in consultation with the City Attorney's Office.

#### **2.04 Currency of Records**

Employees shall notify the Human Resources Department, on the appropriate forms, of any change in the following:

- A. Home address
- B. Personal phone number
- C. Beneficiary status
- D. Name
- E. Social security card
- F. Driver's license number or type of license
- G. Tax withholding (IRS Form W4)
- H. Direct Deposit changes/New account information
- I. Overtime/Compensatory time election form

#### **2.05 Confidentiality of Records**

Except in cases where information contained in personnel files is required to be disclosed under the Texas Public Information Act, or unless otherwise provided by law or this manual, personnel records and employee's files will be considered confidential. All documents and information submitted during the employment process and during employment are the property of the City of McKinney.

Medical records and drug test results will be maintained in separate confidential files from an employee's regular personnel file. Access to these records is limited to those persons who have a need to know the information relative to the employee's job. HIPAA Privacy Rules will apply as applicable.

Chapter: 3

Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 3 – EMPLOYMENT

### 3.01 Employment at Will

Employment with the City of McKinney is on an “at-will” basis. While employed with the city, all staff are expected to live by and exemplify our core values of Respect, Integrity, Service and Excellence. The employee may resign, and the city may terminate an individual’s employment at any time, for any non-discriminatory reason or for no reason. The provisions of the city’s Policies and Procedures Manual are not intended to create a contract of employment, and no agreement or promise regarding an employee’s terms or conditions of employment is binding on the city. Further, the city has the right to change these policies at any time without prior notice. No contrary verbal representation or statement of an employee’s terms and conditions of employment is binding upon the city.

### 3.02 Employment Agreements

Agreements reached with Police Officers and Firefighters through the “Meet and Confer” process outlined in Chapter 142 of the Texas Local Government Code may preempt certain policies contained herein.

### 3.03 Equal Employment Opportunities

The City of McKinney is committed to equal employment opportunities (EEO) for all employees and applicants for employment, consistent with our core values. Discrimination against any person in recruitment, examination, appointment, training, promotion, discipline, pay, layoff or termination, or any other aspect of employment is prohibited. This includes discrimination on the basis of race/color, gender, national origin, disability, genetic information, age, religion, veteran status or any other characteristic protected by law. Retaliation, intimidation, coercion or harassment against any applicant for employment or employee who may file a complaint or grievance relative to this policy is strictly prohibited. Any employee who violates the provisions of this policy may be subject to disciplinary action, up to and including termination of employment.

The City of McKinney administers our EEO policy fairly and consistently by:

- A. Posting all required notices regarding employee rights under EEO laws in areas highly visible to employees.
- B. Advertising for job openings with the statement “An Equal Opportunity Employer.”
- C. Posting all required job openings with the appropriate state agencies.
- D. Forbidding retaliation against any individual who files a charge of discrimination, opposes a practice believed to be unlawful discrimination, reports harassment, or assists, testifies or participates in an EEO agency proceeding.
- E. Requiring employees to report to a member of management or Human Resources any apparent discrimination or harassment.
- F. Ensuring that all employee benefits and activities will be administered without regard to the above.

- G. Ensuring that all facilities of the city are available to all employees and that other city sponsored activities are open to participation without regard to the above.

### **3.04 Our Core Values of Respect, Integrity, Service and Excellence (RISE)**

The City of McKinney's core values and our detailed Employee Values Statement are as follows:

**RESPECT.** We support a healthy work environment.

We value and respect each other.

We are loyal, dependable and empathetic teammates.

We embrace inclusion, diversity, fairness and open communication.

We are trusted by our leaders to use judgment, take risks and make decisions.

We foster a family-oriented culture that includes understanding, support, balance and fun.

**INTEGRITY.** We model ethical behavior.

We are honest.

We do the right thing, always.

We are open and transparent in our words and actions.

We hold ourselves and co-workers accountable to high ethical standards.

We appropriately question actions that may be inconsistent with our core values.

We are committed to building and maintaining trust in one another and our community.

**SERVICE.** We are selfless public servants.

We serve and help others.

We are caring and compassionate.

We treat everyone the way we wish to be treated.

We deliver exceptional service to internal and external customers.

We are led by servant leaders, at all levels, who care about and support us.

We never forget we exist to make McKinney a better place to live, work and raise a family.

**EXCELLENCE.** We are competent and dedicated.

We pursue excellence.

We search for opportunities to learn and grow.

We are accountable for our work and always do our very best.

We are given challenging work by leaders who empower and support us.

We are responsible stewards who embrace innovation, efficiency and improvement.

We are a unified team and support the goals and vision established by our elected officials.

The city expects all employees to follow our core values as a guide when approaching their daily duties. The city's senior leadership team will use this statement to help create a positive, healthy and values-based organizational culture and work environment for all employees.

### **3.05 Immigration Law**

Federal law requires that all employers verify the identity and employment eligibility of all new employees (including U.S. citizens) within three days of hire. All new or rehired employees are required to complete an Employment Eligibility Verification Form I-9. The Department of Homeland Security (DHS) and the Social Security Administration (SSA) established an electronic

system called E-Verify to assist employers further in verifying the employment eligibility of all newly-hired employees. The City of McKinney participates in E-Verify.

### **3.06 Employment Categories**

The city will maintain standard definitions of employment and will categorize employees in accordance with the following definitions.

- A. **Regular Full-Time Employees (RFT):** Employees who have successfully completed probation and are scheduled to work at least 40 hours per week or work period on a regular basis in a full-time budgeted position. RFT employees are eligible for all city group benefits.
- B. **Regular Part-Time Employees (RPT):** Employees who have successfully completed probation and are scheduled to work less than 40 hours per week or work period on a regular basis in a part-time budgeted position. RPT positions that are normally required to work at least 1000 hours or more in a calendar year (20 hours/week but less than 40 hours/week) must participate in the TMRS retirement plan. RPT employees who work an average of at least 30 hours per week may qualify to participate in the city's health and dental plans.
- C. **Probationary Employees:** Probationary periods apply to employees who are newly hired or employees who have changed positions as a result of a promotion, demotion or transfer. Newly hired employees will serve a probationary period of one year and employees who have changed positions as a result of a promotion, demotion or transfer will serve a probationary period of six months). Seasonal and temporary employees do not serve a probationary period.
- D. **Seasonal Employees:** Employees who work a specific number of hours per week during a specified work season normally no longer than six months. The need for such positions usually recurs on an annual basis. Seasonal employees are not eligible for any city group benefits.
- E. **Temporary Employees:** Employees who are hired for a specific number of hours per week for no longer than 90 days. Temporary employees are not eligible for any city group benefits.
- F. **Intern Employees:** Employees who work a specific number of hours per week during a specified work period normally no longer than six months. Intern employees are not eligible for any city group benefits.

### **3.07 Promotions, Acting Positions, Transfers, and Demotions**

- A. **Promotion:** A promotion is the advancement of an employee from a position in a lower pay grade to a position in a higher pay grade. Promotional decisions will be made on the basis of the employee's qualifications (knowledge, skills, abilities, training and experience) for the position. Departments may request to post a vacancy "internally only" to restrict consideration to current city employees when deemed appropriate. An employee's previous performance evaluations should be considered when evaluating an employee's qualifications for the position. An employee selected for a promotion must provide the releasing department with at least two weeks' notice before assuming the new position. If both departments are in agreement, the notice period may be increased or reduced. Promoted employees will be placed at the minimum of the new pay grade or receive a 5%

increase, whichever is greater. Additional pay requested must be approved by the City Manager's Office. However, the employee's pay may not exceed the pay range for the position. Department directors must consult the Director of Human Resources or designee to discuss requests to place an employee above the minimum of the new pay grade to ensure consideration of internal equity issues. An employee promotion is conditional upon a successful drug screen and criminal background check.

- B. **Acting Position:** The City Manager may authorize an acting promotion to ensure the proper performance of city functions if a position is vacant, or its regular incumbent is absent for more than two consecutive pay periods, or whenever deemed necessary. Requests for acting positions should be in memo form routed to the Director of Human Resources for review and recommendation to the City Manager. All requests must state the estimated period of time, employee's name, and qualifications. Employees in acting positions will be placed at the minimum of the new position pay grade or receive a 5 percent increase, whichever is greater, with the approval of the City Manager. Upon filling a position for which an employee was functioning in on an acting basis, the employee shall return to his/her position and the pay for acting promotion shall cease. Acting positions will not be used to circumvent normal promotional procedures. The employee involved will not acquire any status or rights to the position to which temporarily placed, except as provided herein.
- C. **Lateral Transfer:** A lateral transfer occurs when an employee moves from one position to another at the same pay grade, not involving a demotion or promotion. Voluntary or involuntary transfers may be made for administrative purposes or in conjunction with the announced selection process, provided the employee is qualified to perform the duties of the position to which the employee is being transferred.
- D. **Demotion:** A demotion is defined as the voluntary or involuntary movement of an employee from a higher pay grade to a lower pay grade. All demotions will result in a decrease in pay unless an exception has been approved by the City Manager's Office.

### **3.08 Vacant Positions and Hiring Process**

When a department director or manager becomes aware of a position vacancy as a result of a newly budgeted position or as a result of someone leaving the position, he/she should submit a position requisition for approval. The department director will be given the opportunity to provide justification for immediate hiring of the position or may communicate that the department could delay the hiring based on other arrangements to fulfill the responsibilities of that position. During hiring freezes and/or during times of budget constraints, the Director of Human Resources will discuss the information provided by the department director with the City Manager or designee. The City Manager or designee will make a decision to either proceed with filling the position or to delay hiring for a period of time. In some cases, the position may not be approved as a continued budgeted position for hire. If the position is budgeted and approved for hire, the Human Resources Department will partner with the Hiring Manager in completing the hiring process. The Police and Fire Departments may choose to develop and implement their own hiring procedures with the approval of the Director of Human Resources. For a detailed list of hiring procedures, please reference the Hiring & Interviewing Guide posted on the intranet. All job offers are conditional upon a successful drug screen and criminal background check.

#### **Minimum Age Requirements**

The minimum age for a full-time appointment is age 18, unless a different age is mandated by state or federal law. All other appointments will be in compliance with applicable state and federal child labor regulations.

### **Applicant Motor Vehicle/Equipment Operator Standards**

Applicants for positions requiring the operation of city vehicles or motorized equipment must meet the minimum conditions to be considered for employment:

- A. Have reached the age of 18 years.
- B. Be physically qualified to hold a driver's license and have the proven ability to drive and operate the equipment safely.
- C. Have a valid driver's license of the appropriate class, issued in the employee's current state of residence.

Applicants will not be eligible for consideration of employment in positions requiring the operation of city vehicles or motorized equipment in the following circumstances:

- A. License suspended, revoked or denied.
- B. Driving while intoxicated (DWI) or driving under the influence (DUI) or narcotics conviction within the past three years.
- C. Any serious violation such as reckless driving, endangering lives of others, racing, failing to stop and render aid, or vehicular manslaughter within the past three years.
- D. More than three standard moving violations such as speeding, reckless driving, disregarding a traffic control signal, failure to signal, failure to keep right, following too close, etc. within the past three years.

### **Applicant Disqualifications**

Applicants may be disqualified from consideration of employment for any of the following reasons:

- A. The applicant does not meet the minimum qualifications of the position.
- B. If the applicant previously worked for the city and was involuntarily terminated due to unsatisfactory performance or conduct and/or violation of a city policy or if previously determined ineligible for rehire.
- C. The application is incomplete.
- D. If the applicant's employment would result in a violation of the city's nepotism policy.
- E. Failure of any of the city's background (e.g., poor references) and employment requirements including, but not limited to, drug testing.
- F. Failure to meet minimum motor vehicle standards/equipment operator standards, if applicable.
- G. The applicant makes any false statement or omission of fact on the employment application.
- H. The applicant commits or attempts to commit a fraudulent act at any stage of the hiring process.
- I. The applicant is unable to perform the essential functions of the job applied for with or without a reasonable accommodation.
- J. The applicant is not legally permitted to work in the United States.
- K. Any other reason deemed to be in the best interests of the city.

### 3.09 Reemployment

Rehired employees are subject to the conditions of employment and benefits of a newly-hired employee, except where specifically stated otherwise. Individuals involuntarily terminated for disciplinary reasons are generally not eligible for rehire. Individuals terminated for non-disciplinary reasons, such as incapacity (as defined herein) and other reasons outside of their control, may be eligible for re-employment. City of McKinney retirees may be rehired into their former city position, or another vacant position for which they qualify, in a part-time or seasonal/contract labor capacity. Retirees hired as part-time or seasonal employees cannot work more than 999 hours per calendar year in a part-time or seasonal capacity without it affecting the TMRS benefits they are receiving.

### 3.10 Separation from Employment

#### Types of Separations

- A. **Resignation:** Employees may leave city service by submitting a written resignation to their supervisor at least 10 working days in advance of their last day of employment. The written resignation should include the requested effective date of the resignation, the reason for resigning, and signature of the employee. The member of management or Human Resources receiving the notice of resignation should include a note that he/she has accepted the resignation and sign and date. Employees who resign with reasonable notice and whose documented performance and employment records are at an acceptable standard will be deemed eligible for reemployment. Generally, the City of McKinney does not deem it in the best interest of the organization to accept an employee's withdrawal of a resignation. Once a resignation is tendered by the employee and accepted by the city, it may not be withdrawn unless the department director agrees.

If an employee fails to give two weeks' notice of resignation, he/she may not be eligible for rehire. Eligibility for rehire can be disclosed during reference checks.

- B. **Job Abandonment:** An employee is considered to have voluntarily resigned city employment if the employee fails to return from an approved leave of absence on the date agreed upon by the city and employee or in situations where the employee fails to report to work without notice to the city for two consecutive work days or shifts without sufficient cause. Employees who abandon their jobs will not be eligible for rehire.
- C. **Retirement:** Full-time employees are afforded retirement under the Texas Municipal Retirement System. Eligible employees may retire from city service in accordance with applicable programs. Service retirement through TMRS requires a 30 day notice. Retirement with the City of McKinney is a voluntary separation and employment is terminated on the effective date of the TMRS retirement.
- D. **Involuntary (Disciplinary) Termination:** Employees may be separated from the city for violation of city and/or departmental policies. Employees separated through involuntary termination are generally not eligible for rehire.
- E. **Failure of Probationary Period:** Employees who fail their probationary period may be separated from the city and are generally not eligible for rehire.

- F. **Failure to Maintain Minimum Job Requirements:** Employees may be separated for failure to maintain or secure licenses or certifications required as a condition for performing the job.
- G. **Resignation in Lieu of Pending Disciplinary Action:** A resignation because of pending or possible disciplinary action may be considered as separation for misconduct. Employees who resign in lieu of pending disciplinary action will not be eligible for rehire.
- H. **Incapacity:** Incapacity can result from on-the-job injuries or from injuries or illnesses not related to the job or workplace. Incapacity occurs when an employee, for medical, psychological or other reasons, is unable to perform his/her essential job functions. It is the supervisor's responsibility to know an employee's ability to perform essential job functions. Should an employee's ability to perform his/her duties be questioned, the department director should consult with the Director of Human Resources or designee. If reasonable accommodations cannot be made and an employee is unable to perform the essential duties of his/her position with or without reasonable accommodations, the employee may be given a non-disciplinary termination due to business necessity with no appeal.

If an employee is unable to return to regular duty after an on-the-job injury, he/she may be given a non-disciplinary termination with no appeal, subject to consideration of an ADA accommodation of continued leave, and provisions of the workers' compensation policy.

An employee who is unable to return to regular duty as a result of a non-work-related injury or illness that has exhausted all accumulated paid and non-paid leave may be given a non-disciplinary termination with no appeal, subject to consideration of an ADA accommodation of continued leave.

Prior to termination of employment for incapacity as a result of an on-the-job injury or an illness or injury not related to the work place, the employee's doctor must provide a written statement relative to the employee's ability to perform the essential functions of the job. The city can require a second opinion from a health care provider of its choice. If there is a conflict between the two doctors' reports, the city can require a third medical opinion from a health care provider mutually agreed upon by the employee and the city. The third opinion is final. All costs associated with obtaining the second and third opinions will be borne by the city.

- I. **Death:** When a city employee passes away, his/her estate receives all pay due and any earned and payable benefits as of the date of death.
- J. **Reduction in Force:** A reduction in force is a non-disciplinary decrease in the number of authorized positions. Whenever possible, the employee reduction from one department or division may be absorbed by transfers to suitable positions elsewhere. Such positions will not necessarily be at the same pay rate or grade. If extenuating circumstances lead to a reduction in force, the City Manager or designee and the Director of Human Resources and/or designee will develop a reduction-in-force plan. The Director of Human Resources will work with the impacted department to coordinate and implement any layoffs.

Layoffs may occur as a result of business necessity. Business necessity includes, but is not limited to: a discontinuation of or reduction in demand for service; a change in the level or source(s) of funding; technological developments that reduce staffing

requirements; the need to accomplish economic or staffing efficiency; privatization or outsourcing of services; requirements of State and/or Federal laws. This plan will consider the following criteria, in the following order of priority:

1. Departmental/Division goals
2. Employee productivity
3. Employee skills, knowledge, and abilities
4. Employee tenure

When possible, the city will notify all employees impacted by a reduction-in-force not later than 60 days prior to the effective date. Any contracted services obtained as a result of the layoff must be shown to be more cost effective than maintaining the position. The city will work with employees directly impacted by a reduction-in-force to help simplify the transition. The city will provide impacted employees the following outplacement assistance:

1. Allow a reasonable amount of time during the work day for completion of applications to be submitted for internal/external job opportunities.
2. Allow employees to receive/place phone calls for the purpose of scheduling job interviews. Allow employees up to 5 hours per week to attend job interviews or otherwise attend to issues related to their job search. Department directors will define "reasonable amounts of time" for purposes of this policy.
3. Continued salary and benefits will be dependent upon the city's availability of funds.

### **Exit Procedures**

- A. Upon receiving notice of an employee's resignation, the supervisor should contact Human Resources immediately and provide the written resignation letter. The supervisor is responsible for completing the applicable sections of a Personnel Action Form and for completing the Department Exit Checklist form and forwarding to Human Resources on or before the employee's last day. The supervisor should deliver all city property to Human Resources, including keys, badge, policy manual, etc.
- B. Human Resources, upon notification of the resignation, will contact the exiting employee to schedule an informational meeting to provide benefits continuation options. Should an employee choose not to participate in an exit meeting, all benefits information and an Exit Interview survey, will be mailed to his/her email address and/or home mailing address.

### **Separation Pay**

Upon separation of employment, employees will receive their final paycheck no later than the next regularly scheduled pay date. The final paycheck will include all hours worked during that pay period and payment of any accrued benefits. The value of city property that is not returned, or is damaged or missing, may be deducted from the separating employee's final paycheck. The final paycheck will be direct deposited.

### **Employee Benefits**

Any medical, dental or vision coverage currently provided by the city to the employee as a group benefit will continue through the last day of the month in which the employee separates employment. Employees who are vested with TMRS may leave their money in TMRS until eligible for retirement. Employees who are not vested may leave their money in TMRS for up to five years. Employee options for continuing benefits coverage will be provided at the time of separation.

### **Appeal of Separation**

Regular full-time and part-time employees, with the exception of new hire probationary employees, department directors, and any deputy or assistant city manager, have a right to appeal involuntary (disciplinary) separations from employment. An employee must follow the appeal procedures outlined in the city's Disciplinary and Appeal Procedures policy if he/she chooses to appeal.

### **3.11 Nepotism**

Nepotism is defined as the practice of favoring relatives over others, and in this policy, is speaking of nepotism as it relates to employment of relatives. Employment may be restricted when an applicant or current employee is related by blood (consanguinity), marriage (affinity), or civil law to another city employee or official. Relatives currently employed as of the effective date of this rule are exempt from the provisions outlined within.

For purposes of this policy, relatives are defined ("civil law" method) as any of the following:

- A. Persons related through blood relation including father, mother, daughter, son, brother, sister, grandparent, grandson, granddaughter, aunt, uncle, niece, nephew, great grandparent, great grandson or great granddaughter.
- B. Persons related through marriage including husband, wife, son-in-law, daughter-in-law, mother-in-law, father-in-law, stepmother, stepfather, stepson, stepdaughter, brother-in-law, sister-in-law, or spouse's grandparent, grandchild, step-grandparent, stepsister or stepbrother.
- C. Persons who live together in any capacity (e.g., roommate, intimate relationship, etc.).

A person related to the City Manager, Mayor or any member of the City Council may not be appointed to any paid office or position in the city pursuant to the Texas Government Code. Further, the City of McKinney prohibits relatives of a Deputy or Assistant City Manager from being employed in any regular full-time position with the city. A department director may not employ any relative in a regular full-time position in his/her respective department. Generally, relatives may work in the same department; however, under no circumstance may relatives by blood, marriage, or civil law permanently supervise one another. Further, employees may not hire, review the work of, or have any official voice in recommending or controlling the compensation, work assignment, working conditions, or hours of work of any individual related to them. The City Manager may apply or waive the nepotism prohibition rule for other organizational and/or personal relationships as deemed in the best interest of the city and in accordance with applicable state law.

In situations where a violation of this policy may exist, the employee or applicant (at the time of application) is required to notify the Director of Human Resources or designee. Failure to do so

will result in disciplinary action, up to and including termination of employment for a current employee and non-consideration of an applicant based on falsification of the employment application.

Should a current employee become a relative of another employee and fall subject to a prohibited employment relationship, the City Manager will determine if a conflict of interest exists and will address as deemed appropriate.

### **3.12 Personal Relationships**

Personal relationships of a romantic or intimate nature between employees are discouraged. Supervisors are prohibited from engaging in personal relationships with subordinate employees. The City Manager will determine the appropriate course of action in cases where a perceived or actual work-related conflict arises as a result of a personal relationship.

### **3.13 Residency**

Residency requirements or reasonable response time requirements may be established for certain positions, dependent upon the position duties, and in accordance with applicable state law.

### **3.14 Dual Employment**

Employees may occupy only one position within the city at any given time unless otherwise approved by the respective department director and Director of Human Resources.

### **3.15 Media Relations and Communications**

It is the role of the Communications and Marketing Department and designated public information officers to communicate with and assist in media relations and emergency response information distribution. The Communications and Marketing Department has established a uniform strategy governing written and verbal communication with the news media that provides consistent, accurate and timely information regarding city events, initiatives, projects, programs and facilities. It is the role of the Communications and Marketing Department to maximize media coverage and effectively communicate city goals, enhance customer service and ensure the public is accurately informed. In the event an employee is notified by the media, any response should be coordinated with the Communications and Marketing Department or applicable public information officer.

Chapter: 4

Effective date: **January 1, 2017**Revised date: **July 1, 2021**

## CHAPTER 4 – CLASSIFICATION & COMPENSATION

### 4.01 Objective of Position Classification Plan

The purpose of a position classification plan is to organize all city positions into groups or classes on the basis of similar duties, responsibilities and qualification requirements as outlined in the job descriptions. Equitable pay is assigned on a class basis in order to provide comparable pay for substantially equal work performed.

### 4.02 Preparation and Maintenance of a Classification Plan

The Human Resources Department shall prepare and administer a classification plan for the city. Departmental responsibilities will include collection of all necessary information required to prepare and maintain a viable classification plan and continuous maintenance and administration of the plan. Maintenance will include responding to requests for classification reviews, evaluation and classification of new positions as well as periodic review of the classification plan to ensure that all positions are correctly classified.

The Human Resources Department shall be aided by departments in the classification preparation and maintenance process by submitting job descriptions any time there is reason to believe that there has been a change in the duties and responsibilities of one or more positions, each time a new position is established for incorporation into the plan or each time a department or division is reorganized.

The Director of Human Resources shall be responsible for the review and recommendation to the City Manager of the adoption of duties, responsibilities and qualifications as written in the job description. The Director of Human Resources shall recommend allocation of positions to specified classes in the classification plan. Generally, pay range adjustments will be considered on an annual basis in conjunction with budget preparation. Pay range adjustments will be effective for all employees with the same title within the pay plan.

If an employee believes that his/her position is improperly classified, that employee may provide specific concerns to the department director regarding the classification. Position classification can neither be grieved nor appealed.

### 4.03 Objective of Compensation Plan

The objective of the city's compensation plan is to provide a systematic procedure for classification and compensation of employees. The city desires to utilize a fair and equitable pay system that will assist the city in attracting, hiring, developing and retaining a highly competent workforce. The pay system is built to meet all criteria associated with the concepts of internal equity, i.e., equal pay for equal work, equal pay for similar work and equal pay for comparable work. Employee salaries are performance-based with salaries adjusted based on individual job performance.

#### 4.04 Performance Appraisal

The intent of the City of McKinney's performance evaluation process is to provide sufficient opportunities for employees to receive fair, accurate and helpful performance feedback. The feedback received should assist employees in maintaining and/or improving good job performance and ultimately contribute to providing the best service possible to our citizens and customers, consistent with our core values. The performance evaluation process serves as a management tool for making decisions regarding career development, succession planning, training, and retention.

The performance evaluation process is the ongoing action of setting performance expectations, coaching employees to reach those expectations, providing feedback to employees and then reviewing and recognizing those performance results.

Feedback discussions should occur throughout the year, in addition to the following formal evaluations for regular full-time and part-time employees:

##### Types of Performance Appraisals

- A. **New Hire:** New employees to the City of McKinney are considered probationary employees for one year of continuous service. New employees will receive a formal performance evaluation on their one-year anniversary date. Sworn Public Safety employees should consult with their respective departments regarding probationary period of employment and performance appraisal. The probationary period serves as a formal opportunity to determine if a mutual fit exists between the employee and the organization. A decision to continue or end employment may be made at any time, by either the employee or the city, during or after completion of this period.
- B. **Promotion:** Promoted employees will be on six months' probation. This six month period serves as a formal opportunity to determine if the employee is a good fit with the new position assumed. A decision to continue or end employment may be made at any time, by either the employee or the city, during or after completion of this period. Promoted employees who fail probation may be offered their previous position if the position is available. If not, termination of employment may occur. Employees who have been promoted will receive a check-in quarterly, after three months following promotion and a formal performance evaluation on their one year anniversary date.
- C. **Demotion:** Employees who have been demoted voluntarily or involuntarily will be on six months' probation. This six-month period serves as a formal opportunity to determine if the employee is a good fit in the new position. A decision to continue or end employment may be made at any time, by either the employee or the city, during or after completion of this period. Employees will receive a check-in quarterly, after three months following their demotion and a formal performance evaluation after one year of service in their position on their one-year anniversary date.
- D. **Transfer:** Employees who have transferred will be on six month probation. This six months' period serves as a formal opportunity to determine if the employee is a good fit with the new position assumed. A decision to continue or end employment may be made at any time, by either the employee or the city, during or after completion of this period. Transferred employees who fail probation may be offered their previous position if the position is available. If not, termination of employment may occur. Employees who have transferred will receive a check-in quarterly, after three months

- following their transfer and a formal performance evaluation after one year of service on their one-year anniversary date. An employee transferring from a position that he/she has worked in for at one year will receive a performance evaluation prior to transferring to the new position.
- E. **Annual:** Police and fire personnel governed by their respective meet and confer agreements will receive a performance evaluation annually on their anniversary date. All other employees will receive a performance evaluation on an annual basis, generally due in September.
  - F. **Mid-Year:** Employees that have successfully completed probation will receive a mid-year check-in at the discretion of the City Manager's Office. The mid-year check-in is to obtain employee and supervisor feedback as well as to confirm or adjust goals and/or direction.
  - G. **90 Day Re-Evaluation:** Employees receiving an overall performance rating of "Improvement Needed" on their annual performance evaluation will generally be placed on a Performance Improvement Plan (PIP) for three months. At the end of the three-month period, the employee will receive a formal re-evaluation of his/her performance. Failure to demonstrate skill at the conclusion of the 90-day period will result in termination of employment.

A performance evaluation is not subject to appeal or grievance. However, if an employee disagrees with any portion of the evaluation, he/she may provide a written statement to be attached to the evaluation.

An employee on a Leave of Absence at the time formal performance evaluations are done will receive a performance evaluation within two weeks upon his/her return to work.

#### **4.05 Merit Increases and Step Increases**

Merit increases for civilian employees will be based on the employee's overall performance rating and dependent upon the availability of funds. An employee must receive a rating of at least a "Meets Expectations" to be eligible for a merit increase. Merit increases will be based off the employee's current rate of pay multiplied by the percentage of increase as determined by the employee's overall performance rating. If the employee's pay is already at or above the maximum of the pay range and the employee receives at least a "Meets Expectations" overall performance rating, the employee will receive a lump sum payment. Annual merit increases will be effective the first pay period of the new fiscal year or a date determined by the City Manager. Amounts will be determined annually by the City Manager's Office, with the total percentage amount approved by City Council.

New hire employees that are in their probationary period may be eligible for a merit increase on their one year anniversary date. Employees who have successfully completed their six month probationary period as a result of a promotion, transfer or demotion may be eligible for a merit increase on their one year anniversary date. Following that anniversary, the employee will be eligible for a merit increase at the next regular performance evaluation cycle. Evaluations due the first week of a pay period will be effective at the beginning of that pay period and evaluations due the second week of the pay period will be reflected at the beginning of the next pay period.

#### **Step Increases**

Step pay increases for police and fire employees on the sworn police and fire pay plans will be eligible for a one-step pay increase (if not topped out) on their hire or promotion anniversary date for each fiscal year of the Agreement.

#### **4.06 Reclassification**

Reclassifications of positions generally occur when the job duties and/or responsibilities of the position are materially changed to such a degree that they are no longer comparable to like jobs within the same range throughout the city. A reclassification does not create a vacancy in the number of budgeted positions. It is the department director's responsibility to ensure that such changes in job duties and/or responsibilities are necessary and in the best interests of the city.

Generally, reclassifications will be considered only on an annual basis in conjunction with the preparation of the budget, except when requested by the department director and approved by the City Manager's Office.

Any reclassifications will be effective only on the first day of a pay period. Reclassified employees will typically be placed at the minimum of the new pay grade or receive a 5% increase, whichever is greater; experience, market conditions, and internal equity will also be taken into consideration.

#### **4.07 Payroll**

Wages shall be paid biweekly. Payroll deductions will be provided for city-sponsored programs as approved by the City Manager.

##### **Direct Deposit**

It is the policy of the City of McKinney that all employees participate in Payroll direct deposit. It is the employee's responsibility to provide accurate banking information to payroll (routing number, account number). Employees must submit a voided check or letter from his/her banking institution along with the proper direct deposit change form when enrolling or changing direct deposit information.

Once the direct deposit form is received in Payroll, it may take up to two payroll cycles for the actual direct deposit to take effect. During that time, the employee will receive a payroll check.

Employees are advised to contact Payroll when contemplating closing their bank account(s), to assure that direct deposit payments are not in transit and to minimize the possibility of delayed payments.

Payments credited to bank accounts incorrectly via Direct Deposit will be reversed by the City of McKinney as soon as the error is noted. A corrected entry will be processed as quickly as possible and credited via direct deposit. If correction by direct deposit is not feasible, a check for the correct amount will be issued by the City of McKinney. In the event that an employee has withdrawn funds which were erroneously credited to his/her account and City of McKinney is unable to execute a reversal of the erroneous entry, Payroll will arrange repayment with the employee.

#### **4.08 Longevity Pay**

Regular full-time employees will be allowed longevity pay at the rate of \$5 per month of service to a maximum of \$1,200 annually. Payments are distributed annually as designated by city management and will be applicable to employees actively employed on the date of payment. The longevity pay will be pro-rated for employees leaving employment and will be added to their final check.

#### **4.09 Bilingual Pay**

Employees who are bilingual and who use their skills within their position or to assist other departments will be eligible for bilingual pay in the amount of \$50 per month. Employees will be subject to testing prior to receiving bilingual pay. Bilingual pay shall be paid on the last payroll of the month.

#### **4.10 Certification and Education Pay**

Sworn Police and Fire employees are eligible for certification and education pay. Civilian police communications employees are eligible for certification pay at a monthly rate determined by the Police Chief and approved by the City Manager's Office. Certification and education pay shall be paid on the first two payrolls of the month.

#### **4.11 Emergency Disaster**

In the event of a disaster and after the declaration of an emergency, employees may be required to report for assignment to their respective departments or any other department within the city organization as set forth in the City of McKinney Emergency Management Plan.

#### **4.12 Fair Labor Standards Act Overview**

This policy is designed to facilitate compliance with the Fair Labor Standards Act. Except as expressly provided for in this policy, no one has authority to make exceptions under the law. No employee or manager has the authority to enter into any arrangement or agreement which denies any city employee the rights allowed under the Fair Labor Standards Act. All non-exempt city employees shall be guaranteed the right to be compensated in accordance with established guidelines under the Fair Labor Standards Act.

#### **4.13 FLSA Responsibilities**

The City of McKinney is responsible for ensuring compliance with the Fair Labor Standards Act in the classification of positions, policy development, training, payroll, and child labor standards. The Human Resources Department is responsible for the overall administration and interpretation of that Act.

Department directors are responsible for ensuring compliance with the policies and procedures outlined in this policy. Department directors will be responsible for requesting exemption status changes and reporting any changes, which may affect that status.

Each manager is responsible for exercising adequate supervision to ensure that employees comply with established work schedules and that unscheduled work is performed only in bona-fide emergencies. The mere establishment or communication of work schedules does not relieve managers or supervisors of their responsibility for controlling work time. Managers are responsible for controlling starting and stopping times whether within or outside the usual work schedule. Managers and supervisors are responsible for the recording of hours worked as they actually occur.

It shall be the duty of employees to comply with departmental work schedules and avoid performing work that is unscheduled or non-directed outside of assigned work schedules or assignments for bona-fide emergency situations.

#### **4.14 Workweeks**

Workweeks are those periods of time, which include seven consecutive twenty-four hour periods. For payroll processing, workweeks will begin on Monday, 12 a.m. and end at 11:59:59 p.m. on Sunday for regular non-shift personnel. Some employees may be assigned other schedules as necessary to ensure departmental coverage. Workweeks will consist of forty hours for all personnel except those positions specified in the fire department.

Work periods may be established for certain personnel under the Fair Labor Standards Act, such as police and fire. Work periods for 24 hour shift fire fighters will consist of 21 days. Certified police officer shifts will have a work period of 14 days.

#### **4.15 Hours Worked**

Hours worked are any hours that the city requires or permits employees to be actively on duty. Vacations, personal days, holidays and all types of illness leave are not to be considered hours worked. Compensatory time taken is not to be considered hours worked. Breaks may be given to employees, but are not mandatory. If an employee is given break time, it will not be used to reduce the time an employee is actively on duty.

#### **Recording Time**

All employees are responsible for accurately recording and approving their own time. Time corrections must be authorized/approved by the employee, as their approval is verification to their working those hours. If an employee is out, the designated manager or supervisor shall ensure time is entered appropriately. The employee will be required to electronically approve his/her timesheet in the automated time and attendance system upon return to work. For employees without access to the time and attendance system, a printed version must be made for the employee to approve when they return.

#### **4.16 Call Out**

Call out is an assigned duty to accomplish required work assignments after normal working hours in any department that does not have scheduled work hours on a twenty-four hour basis. Pay for call out will be based on actual hours worked with a minimum of two hours credited work time for those who travel to and from an assigned worksite. Employees may be "called out" more than once in a two-hour period.

Employees called out to work during emergencies will be compensated at time and one-half. An emergency is defined as an unscheduled work time in which life is threatened or the welfare of the public is at risk and requires the immediate assistance of additional personnel. An example of a life-threatening situation would be a major fire or police emergency. An example of public at risk would include ruptured water or wastewater main or a requirement to respond to storm damage jeopardizing public safety.

#### **4.17 On-Call / Standby Pay**

The City of McKinney compensates employees who are designated and/or placed in a rotating on-call status for each 24 hour period for which they are designated as on-call. This policy applies to all employees in positions required to participate in a rotating on-call status.

The supervisor or designee will be responsible for identifying and coordinating the on-call schedule and positions within the respective department.

##### **Eligibility for On-Call Pay**

- A. The employee must be specifically assigned for on-call status for the 24 hour period.
- B. The employee designated as the primary on-call person must be able to respond to the call within (30 minutes of being contacted.

##### **On-Call Payment Amounts**

Civilian employees who rotate on required on-call status will receive payment in the amount of \$15 per day for each 24 period for which they are designated as on-call. Applicable taxes will be deducted during the normal payroll process.

Certified Police and Fire employees who rotate on required on-call status will receive on-call pay in the amount specified within the respective "Meet and Confer" agreement.

#### **4.18 Meal and Break Periods**

An allowance of thirty minutes to one hour for a meal period is customarily granted to employees. Unless emergency circumstances exist, meal periods should not be less than thirty minutes.

A meal period is not included as hours worked unless authorized by city management.

Any meal period consisting of less than thirty minutes is to be considered hours worked. The period normally set aside for meals should be recorded as such unless employees perform work during such periods. Example: If an employee sits at his/her desk and eats during lunch break, but answers the telephone and waits on customers, the lunch break is to be considered time worked. Supervisors must ensure that employees adhere to work schedules to avoid unnecessary overtime.

Depending on workload, supervisors may authorize two daily break periods for employees. This will consist of up to 15 minutes each in the morning and afternoon. Break periods will be considered as hours worked; however, they are not guaranteed.

#### **4.19 Travel Time**

The determination of travel time as hours worked will be in compliance with the Fair Labor Standards Act as administered by the Department of Labor Wage and Hour regulations.

- A. Travel from home to work before reporting time on an assigned workday and travel from work to home at the end of the workday is not time worked. Use of a city owned vehicle for purely commuting purposes does not normally constitute hours worked. Travel from home to work and work to home to a different work site that is within reasonable commuting distance is not hours worked.
- B. Time spent by employees in travel, as part of their normal activities, such as travel from job site to job site during regular hours, is time worked and must be recorded as such.
- C. Travel performed outside the employee's normal work schedule may constitute hours worked. Specifically, this includes all travel performed outside of regular working hours when responding to call outs and emergencies.
- D. Attendance at training, schooling or other meetings, offered or made available to employees as part of employee development opportunity, whether during, before or after the employee's regular work schedules, is to be considered hours worked.
- E. Voluntary attendance at lectures, meetings, training programs and similar activities, does not constitute hours worked.

#### **Overnight Travel**

- A. When travel involves an overnight stay, the travel time is considered hours worked when it occurs during the employee's regular working hours.
- B. If the overnight travel occurs during normal work hours on non-working days, (i.e., Saturday or Sunday for an employee who works Monday through Friday), the time is considered hours worked.
- C. Time spent driving by an employee involving overnight travel is considered hours worked regardless of if the travel occurs during regular working hours.
- D. Travel that occurs outside of regular working hours as a passenger on an airplane, train, bus, car or other public transportation where the employee is free to relax is not counted as hours worked.

#### **4.20 Overtime & Compensatory Time**

## **Overtime**

All employees classified as non-exempt will be paid at one and one half times their regular rate, as defined under Fair Labor Standards Act, for hours worked in excess of their regular workweeks (i.e., 40 hours) or regular work periods (i.e., Police work period of 80 hours in 14 days, fire work cycle of 159 hours in 21 days). Employees may accrue compensatory time, in lieu of overtime pay.

Employees will be given the option of taking overtime in pay or accruing compensatory time should their workweeks or work periods exceed the established hours worked. Supervisors and managers are authorized to establish flexible work schedules and modify work schedules for the purpose of accomplishing work objectives while minimizing the requirements of overtime.

Authorized overtime shall require the approval of the supervisor or, in some cases, the City Manager. Employees who work unauthorized hours may be subject to disciplinary action, up to and including termination.

For all personnel, time records will reflect actual time worked by employees. Each workday must be recorded separately with respect to hours worked. Hours worked in excess of the regular workweek or work period must be designated as either compensatory time or overtime on the time records in order to be officially recognized as such. Employees working less than eight hours in any one day will record the hours actually worked. The Fair Labor Standards Act expressly prohibits averaging work time to record as eight hours per day on time records.

## **Disaster Relief Overtime**

Employees who are deployed for disaster relief by a government agency will continue to be paid for the hours they would have worked during their regular shift. Any hours outside of their regular shift will be paid at time and a half for the dates of deployment.

## **Compensatory Time**

Compensatory time off ("comp time") is paid time off the job that is earned and accrued by a non-exempt employee instead of immediate cash payment for working overtime hours. Part-time, seasonal, and temporary employees are not eligible to accrue compensatory time.

### **Non-Exempt Employees**

All regular full-time employees classified as non-exempt will be paid at one and one-half times their regular rate, as defined under Fair Labor Standards Act (FLSA), for hours worked in excess of their regular workweeks or regular work periods, employees may accrue compensatory time, in lieu of overtime pay, should they elect to do so. Elections to opt for either paid cash overtime or to bank compensatory time may only be done on a per pay period basis. Employees may not elect to receive both compensatory time and cash overtime in the same pay period. Elections must be submitted in advance using the Overtime/Compensatory Time Election Form.

Employees who do not work a standard 40 hour workweek (i.e., Police and Fire employees who are covered under 207(k) of the FLSA and applicable provisions of state law) will accrue compensatory time based on FLSA standards for their work cycle.

The maximum accrual for compensatory time is as follows:

- A. Employees assigned to a standard 40 hour workweek may accrue up to 80 hours;
- B. Employees assigned to a 56 hour workweek may accrue up to 120 hours.

A non-exempt employee who has accrued the maximum compensatory time will be paid for any overtime worked in accordance with the Fair Labor Standards Act.

### Exempt Employees

Exempt employees are expected to perform job duties that are not strictly defined by an established number of hours. Exempt employees are expected to work whatever hours are necessary to accomplish required responsibilities. Compensatory time will accrue for exempt employees at a straight time rate for every hour worked in excess of the standard 40 hour work week. The maximum accrual for compensatory time for exempt employees is 40 hours.

### Usage

Compensatory time accrued and used by employees will be recorded on individual time sheets to be forwarded to payroll and maintained as official records.

Employees may take compensatory time off within a reasonable period following their request. Compensatory time off must not unduly disrupt departmental operations and must have prior supervisory approval. In order to reduce the financial impact of compensatory time accruals, supervisors may require the use of compensatory time prior to use of vacation time.

When practical, in the judgment of the supervisor, employee work schedules should be adjusted to reduce the necessity of overtime. Non-exempt employees must receive prior approval from their supervisor prior to working overtime. Working unauthorized overtime by non-exempt employees shall be considered grounds for disciplinary action.

City policy requires all applicable leave to be used prior to authorizing an unpaid leave of absence. In accordance with this directive, compensatory time and other leaves will be automatically substituted when there is an insufficient balance of a requested leave.

### Pay Outs

Compensatory leave balances for exempt employees shall not be paid upon separation of employment.

If an exempt employee is promoted or transferred to a new position, any accrued, unused compensatory time shall not be paid out.

Non-exempt employees will be paid for accumulated, unused compensatory time upon separation of employment, regardless of the reason for separation.

If a non-exempt employee is promoted, any accrued, unused compensatory time shall be paid out at his/her rate of pay for the position held before the promotion.

Any time a non-exempt employee with accrued compensatory time accruals transfers to another department, his/her accrual shall be cashed out at his/her current hourly rate. If an employee transfers to another division within the same department, his/her accrual shall not be cashed out.

Non-exempt, full-time employees transferring from a regular full-time position to a regular part-time, seasonal or temporary position will be paid for any accrued, unused compensatory time at the time of transfer.

#### **4.21 Volunteers**

Employees cannot volunteer to do the same work at the City of McKinney for which they are currently compensated for by the City of McKinney. Fire fighters and police officers may volunteer to work at another entity with which the city currently has a mutual aid agreement.

#### **4.22 Membership Dues Payroll Deduction Policy**

##### **Policy Statement**

It is the policy of the City of McKinney to make payroll deduction available to employees who are members of a city-approved association or organization that requires membership dues. This policy applies to all employees of the City of McKinney. This policy and its administrative procedures should not be interpreted as the city's endorsement of any employee associations and organizations.

##### **Administrative Procedure**

The Director of Human Resources or designee will coordinate the written requests and verification of all payroll deduction membership dues requests. All requests will be forwarded to payroll for final processing.

- A. **Employee Request for Membership Dues Payroll Deduction:** The employee must submit the written request for payroll deduction for membership dues of designated associations or organizations to the Human Resources Department. The appropriate forms will be available in Human Resources during regular business hours or on the intranet. Police and Fire association dues are subject to the rules of any current Meet and Confer agreements.
- B. **Administrative Fee:** The City of McKinney reserves the right to impose a reasonable administrative fee at any time after submitting written notification to the requesting employee and prior to initiation of the deduction. The fee imposed shall not exceed the amount currently used by the city for processing similar deductions. However, vendor-required processing fees will be the responsibility of the employee and will be included in the total amount deducted from the employee's paycheck each pay period.
- C. **Frequency of Payroll Deductions:** Deductions will be taken from 24 paychecks, after-taxes, on a bi-weekly basis (pay period). Requests for more or less frequent deductions will not be considered. Deductions will continue until the Human Resources Department receives written cancellation from the employee.
- D. **Methods of Designating Payments:** Accumulated deductions will be sent to the vendor periodically or as agreed upon. The method and frequency of payments sent will vary depending upon the guidelines of the vendor. The employee will be responsible for paying any set-up or processing fees required by the vendor. The fee will be included in the total amount deducted from the paycheck.

- E. **Cancellation of Payroll Deduction:** Payroll deduction for membership dues will cease after receiving a written notice requesting cancellation from the employee. The City of McKinney has the authority to stop payroll deductions if it is determined that the employee association or organization has disbanded or is no longer sanctioned.

Chapter: 5

Effective date: **January 1, 2017**Revised date: **July 1, 2021**

## CHAPTER 5 - LEAVES

### 5.01 Attendance

Regular attendance and punctuality are crucial for providing essential services to the citizens of our community. Absenteeism and lateness disrupt operations, impact responsiveness, affect customer service and create morale problems when others must cover for absent co-workers. Employees are expected to be at work, on time, at all times.

To support authorized time off, the city offers a comprehensive leave benefit to all employees. It accommodates almost any situation that might arise, from normal vacation to sick leave to bereavement. Provisions for each category are outlined in this chapter. Regardless of reason, all scheduled absences must be coordinated and approved in advance.

### 5.02 Tardiness

If an employee is unable to report to work on time, he/she must contact his/her supervisor at least 30 minutes prior to the start of their scheduled shift. Failure to make the required notification may lead to disciplinary action, as outlined in the Employee Relations section of this policy. Departments may specify their own specific reporting requirements.

Tardiness is defined as reporting five or more minutes late for work. Repeated instances can negatively impact operations. Consequently, supervisors must take disciplinary action in all instances of habitual, unexcused tardiness.

### 5.03 Job Abandonment

An employee failing to report for duty or remain at work as scheduled without proper notification, authorization, or excuse shall be considered absent without leave, which constitutes abandonment of duties, and shall not be in pay status for the time involved. Absence for two consecutive working days (or 24 hours for Fire shift employees) without proper notification or without satisfactory reason shall be considered job abandonment and designated as an employee termination.

### 5.04 Sick Leave

The purpose of this policy is to establish uniform guidelines for the administration of sick leave for regular full-time and eligible regular part-time employees.

Sick leave is paid time away from work to provide income protection for an employee who:

- A. Is unable to perform his/her job due to an illness or injury;
- B. Must miss work to care for an immediate family member who is ill or injured;

- C. Needs time away from work for visits to a professional healthcare provider, for him/herself or for an immediate family member, which cannot be reasonably scheduled outside of normal work hours;
- D. Death of an immediate family member.

For purposes of this policy, immediate family member is defined as an employee's spouse, children, parents (includes in-laws and step children), a dependent residing in the employee's household, and a legal guardian/ward. Any exceptions to this definition must be approved by the department director in consultation with the Director of Human Resources on a case by case basis.

### **Sick Leave Accrual**

All regular full-time and eligible part-time employees will accrue sick leave on a monthly basis from their first day of employment. A regular full-time or part-time employee who is hired with the city on or prior to the 15th day of any month, or separates from service on or after the 16th day of any month, shall earn sick leave for that month.

Sick leave accruals are as follows:

- A. Regular full-time employees and Firefighters on a 40 hour work week shall accrue sick leave at a rate that equates to 11.37 hours/month.
- B. Firefighters assigned to a 56 hour work week shall accrue sick leave at a rate that equates to 15.4 hours/month.
- C. Regular part-time employees hired prior to Dec. 31, 2016, who work an average of 15 hours per week shall accrue sick leave at a rate that equates to 5.68 hours per month. If he/she worked less than an average of 15 hours per week prior to Dec.31, 2016, and subsequently worked more than an average of 15 hours per week after Dec. 31 2016, he/she is not eligible for sick leave accrual.

Sick leave is available for use once it has been accrued.

### **Maximum Accrual**

- A. Sick leave accrual shall not be limited or capped for eligible full-time employees and will carry over to the next year.
- B. Unused sick as of Dec. 31 of the calendar year will not carry over to the next calendar year for eligible part-time employees.

### **Suspension of Accrual**

Employees on unpaid status will have their sick leave accrual suspended the first of the month following the beginning of the said status, with the exception of unpaid status due to Workers' Compensation.

### **Usage**

To be authorized for leave under this policy, an employee must notify the appropriate supervisor according to the procedures established by his/her department. Each department will establish and communicate procedures for scheduling/reporting the use of sick leave for both foreseeable (i.e., such as a doctor's appointment) and unplanned absences (i.e., unexpected illness/injury). Employees who become ill or injured during the period of their vacation may request that their vacation leave be converted to sick leave. Employees will be required to provide documentation and receive supervisor approval prior to any changes being made.

Sick leave usage will run concurrently with Family & Medical Leave, if applicable. In the event that an employee will be or has been absent for more than three consecutive working days (or 36 hours for fire shift employees) for reasons covered under this policy, he/she should contact the Human Resources Department as soon as possible to determine whether the absence should be designated as leave under the Family and Medical Leave Act (FMLA). The employee's supervisor should also contact Human Resources upon notification of or absence of the employee for more than three days. For absences authorized under FMLA, the Human Resources Department will request documentation to support the need for absence and/or the return to work. Please refer to the city's Family and Medical Leave Policy for more information.

### **Documentation**

A supervisor should consult with Human Resources if he/she suspects employee misuse of sick leave not authorized under the Family and Medical Leave Act (FMLA) or workers' compensation leave.

An employee returning from a sick leave absence for his/her own illness/injury in excess of three consecutive work days may be required to submit a return-to-work release from his/her doctor. The employee may also be required to take a fitness-for-duty test if such a test is normally required for placement in the job. Department heads should contact the Human Resources Department to coordinate a return-to-work release and/or fitness-for-duty test, if needed. If required, both the release and a passing score on the fitness-for-duty test must be submitted to the Human Resources department before the employee may resume regular work duties.

Sick leave will not be approved for employees who have given a two week notice of resignation from employment with the city. Only personal day, vacation leave or compensatory leave will be authorized during the final two weeks of employment, unless he/she has been approved for Family Medical Leave.

### **Pay Outs**

Regular full time employees who are considered to have left in good standing with the city and have worked for the City of McKinney for a minimum of five years consecutively shall receive a partial payout of sick leave per the following:

- A. Regular full-time employees assigned to a standard 40 hour work week shall receive compensation for up to 160 hours of accrued sick leave paid upon separation.
- B. Sworn police and fire personnel who were internally promoted to the ranks of Battalion Chief, Deputy Chief, Assistant Chief and/or Chief are eligible for payout as outlined in the current meet and confer agreements. External applicants who were hired for the positions of Battalion Chief, Deputy Chief, Assistant Chief or Chief are ineligible for the payout as outlined in the meet and confer agreements.

- C. Eligible part-time employees will not be compensated for accrued unused sick leave upon separation from employment.

Full time employees transferring from a regular full-time position to a regular part-time, seasonal or temporary position will be paid for any accrued, unused sick time at the time of transfer (up to the maximum allowed), if he/she has been employed for five consecutive years.

Accruals will be carried over if an employee transfers from a regular part-time to a regular full-time position.

Sick leave hours will be forfeited if an employee does not meet the sick leave payout eligibility requirements, or his/her sick bank balance is more than the maximum hours allowed to be paid out.

### **Abuse of Sick Leave**

Regular attendance is an essential function of every job. The misuse and abuse of the sick leave benefit is grounds for disciplinary action up to and including termination of employment. Misuse and abuse of sick leave may include, but is not limited to the following:

- A. Evidence of inappropriate patterns of sick leave usage.
- B. Taking excessive leave.
- C. Frequently using sick leave as soon as accrued.
- D. Failure to comply with departmental procedure for the notification and scheduling of sick leave.
- E. Participating in actions or activities that are not consistent with the requested scheduling and use of sick leave.

### **5.05 Vacation**

The purpose of this policy is to establish uniform guidelines for the accrual, use and payout of vacation for regular full-time and eligible part-time employees.

- A. All regular full-time employees are eligible for vacation leave accrual.
- B. Regular part-time employees who work 20 or more hours per week are eligible for vacation leave accrual after one year of continuous service.
- C. Regular part-time employees hired prior to Dec. 31, 2016, who work and average of 15 hours per week are eligible for vacation leave accrual. If he/she worked less than an average of 15 hours per week prior to Dec. 31, 2016, and subsequently worked more than an average of 15 hours per week after Dec. 31 2016, he/she is not eligible for vacation leave accrual.
- D. Seasonal and temporary employees are not eligible for vacation leave accrual.

Vacation leave is available for use once it has been accrued.

### **Accruals**

Vacation is accrued on a monthly basis. The rate of vacation accrual shall be stair-stepped in order to reward longevity, per the annual vacation accrual schedules below:

<u>Years of Service</u>	<u>Regular Full-Time</u>	<u>Eligible Part-Time</u>	<u>Sworn Police* &amp; Fire Non-Shift</u>	<u>Fire Shift</u>
0 – 2 years	80 hrs.	40 hrs.	120 hrs.	180 hrs.
2+ years	120 hrs.	40 hrs.	120 hrs.	180 hrs.
10+ years	160 hrs.	40 hrs.	160 hrs.	240 hrs.
20+ years	200 hrs.	40 hrs.	200 hrs.	300 hrs.

*\*For the purpose of vacation accrual, Public Safety Communications employees are included under Sworn Police.*

### **Maximum Accrual**

Regular, Sworn Police, and Fire Non-Shift employees may carry forward up to 300 hours of vacation and Fire Shift up to 450 hours of vacation from one calendar year to another. Exceptions to the maximum hours carried over to the next year must be approved by the City Manager's Office.

Eligible part-time employees' unused vacation accrual, as of Dec. 31, will not carry over to the next calendar year.

### **Suspension of Accrual**

Employees on unpaid status will have their vacation leave accrual suspended the first of the month following the beginning of said status, with the exception of unpaid status due to Workers' Compensation.

### **Usage**

A regular full-time or part-time employee who is hired with the city on or prior to the 15th day of any month, or separates from service on or after the 16th day of any month, shall earn vacation leave for that month.

Employees shall not be allowed to take in excess of 10 consecutive vacation days or, in the case of firefighter shift personnel, five consecutive vacation shifts, without the prior written approval of the department director.

To be authorized for leave under this policy, an employee must make his/her request to the appropriate supervisor according to the procedures established by his/her department. Each department will establish and communicate procedures for requesting the use of vacation. An employee who fails to comply with departmental procedures for the notification and scheduling of vacation leave may be denied paid leave and be subject to disciplinary action, up to and including termination of employment.

City of McKinney policy requires all applicable leave be used prior to authorizing an unpaid leave of absence. In accordance with this directive, vacation time and other leaves (except sick time) will be automatically substituted when there is an insufficient balance of a requested leave.

### **Pay Outs**

Full time employees transferring from a regular full-time position to a regular part-time, seasonal or temporary position will be paid for any accrued, unused vacation at the time of transfer.

Accruals will be carried over if an employee transfers from a regular part-time to a regular full-time position.

Regular full time employees will be paid for accumulated, unused vacation time upon separation of employment, regardless of the reason for separation.

Eligible part-time employees will not be compensated for unused vacation accrual upon separation of employment.

### **5.06 Holidays**

The purpose of this policy is to identify the guidelines and procedures regarding employee compensation for official holidays of the city.

Holiday accruals are as follows:

- A. All regular full-time and eligible part-time employees are immediately eligible for paid time off for an official city holiday.
- B. Regular part-time employees hired prior to Dec. 31, 2016, who work an average of 15 hours per week are eligible for holiday leave accrual. If he/she worked less than an average of 15 hours per week prior to Dec. 31, 2016, and subsequently worked more than an average of 15 hours per week after Dec. 31 2016, he/she is not eligible for holiday leave accrual.

### **Holiday Pay**

Regular full-time employees' time off for official holidays will be paid based on the equivalent to the number of hours normally scheduled to work, not to exceed 12 hours, and will not be considered time worked for purposes of calculating overtime pay or compensatory time accrual. Employees will not be paid for a holiday if their absence is considered unexcused the day before or the day after the holiday.

Full-time non-exempt employees who must work on an official holiday will be paid for the hours actually worked in addition to one of the following: a) receiving compensation at his/her regular pay rate for holiday hours equivalent to the number of hours normally scheduled to work, not to exceed 12 hours; or b) may "bank" the holiday hours for use on an alternate day as approved by his/her supervisor.

After Dec. 31 of each year, a maximum of three holidays will rollover from the holiday bank and must be used by the end of the next calendar year.

An employee on an approved leave status will be paid holiday pay in lieu of any leave status pay he/she would ordinarily receive at the time of the holiday. Receipt of holiday pay while on a paid leave of absence qualified under the Family and Medical Leave Act (FMLA) does not extend an employee's FMLA leave entitlement.

Eligible part-time employees will be paid four hours of holiday time per holiday. Unused holiday accruals for eligible part-time employees will not be paid out upon separation of employment.

### **Official Holidays**

1. New Year's Day
2. Martin Luther King, Jr., Day
3. Memorial Day
4. Independence Day
5. Labor Day
6. Thanksgiving Day
7. Day After Thanksgiving Day
8. Christmas Eve
9. Christmas Day

According to the Texas Local Government Code, firefighters shall have one of the above holidays designated as the September 11th holiday. The Fire Department has designated the September 11th holiday in replacement of the Labor Day holiday.

Generally, holidays occurring on a Saturday will be observed on the prior Friday, and holidays occurring on a Sunday will be observed on the following Monday. Exceptions to the dates that holidays are observed are at the discretion of the City Manager.

Employees may request to take other religious and national holidays, but any such request is subject to the approval of the supervisor. If approved, the employee must use appropriate leave balances (i.e., holiday accruals, vacation, personal day, etc.). Sick leave is not authorized for use for religious or other national holidays.

### **5.07 Personal Day**

All full-time employees will receive one Personal Day per year. This new leave is added to the employee's accrual bank as Personal Day on the first pay period that includes the first day of the fiscal year, and may be used to cover full or partial-day absences. It must be taken by the last pay period of that fiscal year. Under no circumstances will the personal day, if not taken, be carried over, cashed out, or paid upon termination of employment.

Time off for the personal day will be paid based on the equivalent to the number of hours normally scheduled to work, not to exceed 12 hours, and will not be considered time worked for purposes of calculating overtime pay or compensatory time accrual.

Each department will establish and communicate procedures for scheduling/reporting use of the personal day for both foreseeable and unplanned absences.

Full-time employees covered through a meet and confer agreement are eligible for the personal day as outlined in the current meet and confer agreement. If it is not covered in the meet and confer agreement, then the full-time employees will be covered as outlined herein.

### **5.08 Bereavement Leave**

The purpose of this policy is to establish guidelines for the use of bereavement leave. Bereavement leave is intended for the purpose of allowing an employee time off to attend to the immediate needs resulting from a death in his/her family or the spouse's family as follows:

- A. Persons related through blood relation including father, mother, daughter, son, brother, sister, grandparent, grandson, granddaughter, aunt, uncle, niece, nephew, great grandparent, great grandson or great granddaughter.
- B. Persons related through marriage including husband, wife, son-in-law, daughter-in-law, mother-in-law, father-in-law, stepmother, stepfather, stepson, stepdaughter, brother-in-law, sister-in-law, or spouse's grandparent, grandchild, step-grandparent, stepsister or stepbrother.
- C. Persons who live together in any capacity (i.e., roommate, intimate relationship, etc.).

Any exceptions to this definition must be approved by the department director on a case by case basis.

#### **Eligibility**

Regular full-time and part-time employees are eligible for paid bereavement leave from their first day of employment. Regular full-time and part-time employees will be eligible for up to 24 hours of leave per occurrence. Firefighters assigned to a 24 hour shift will be eligible for a maximum of 36 hours per occurrence.

Employees may, with their supervisor's approval, use any available sick leave for additional time off as necessary.

#### **Procedures**

Employees who wish to take time off in accordance with this policy should notify their supervisor immediately. A supervisor may require the employee to provide documentation for a bereavement leave request.

## **Leave Substitution**

If additional days of leave are requested to take care of family needs in conjunction with a death in the family, then appropriate leave pursuant to other leave policies is to be used prior to the authorization of unpaid leave.

### **5.09 Catastrophic Leave**

The purpose of this policy is to establish procedures for the donation of vacation to a Catastrophic Leave Fund for use by employees with a catastrophic illness or non-job related injury. Employees are encouraged to donate vacation leave with the understanding that it may assist him/her or a fellow employee during their recovery process.

“Catastrophic Illness or Injury” refers to a life-threatening or debilitating personal illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital or similar facility, or continuing treatment by a health care provider. Examples include cancer, complications arising from major surgery, serious accidents, heart attacks, long-term hospitalization and other situations that pose a threat to life or render the employee incapable of performing the duties of their job. Short term conditions requiring brief treatment and recovery (for example, flu, measles, normal childbirth, broken bones, elective surgeries, on-the-job injuries, etc.) are not considered to be a catastrophic illness or injury for purposes of this program. Catastrophic leave is limited to 360 hours per calendar year.

### **Eligibility**

All regular full-time employees must meet the following requirements before being eligible to receive catastrophic leave:

- A. Donation of four hours of vacation annually during open enrollment.
- B. Satisfactory attendance and performance record.
- C. Sufficient information from a healthcare provider to confirm a catastrophic illness/injury exists.
- D. All paid leave exhausted.
- E. Must elect to participate following the completion of benefits waiting period, if a new employee, and must elect to donate four (4) hours of vacation when completing new employee benefits enrollment.

### **Procedures**

To participate in the catastrophic leave fund, an employee elects to donate four (4) hours of vacation during open enrollment. Once enrolled to participate in the catastrophic leave fund, the election will remain active until declined during open enrollment, or there are not sufficient vacation leave hours to donate during open enrollment.

Fire Department employees must donate additional sick time hours to the Fire Catastrophic Leave fund annually during the designated enrollment period pursuant to the current meet and confer agreement.

Employees may not transfer vacation hours in excess of the total number of hours accrued as of the date of transfer.

To use catastrophic leave, an employee completes a Catastrophic Leave Withdrawal Request and forwards to the Human Resources Department. When possible, an employee should request leave from the program prior to exhausting all paid leave. The employee requesting leave will submit supporting documentation from his/her healthcare provider to Human Resources Department.

Human Resources will determine an employee's eligibility to use catastrophic leave upon receiving sufficient information from his/her healthcare provider. If approved, an employee may receive leave from the catastrophic leave fund for up to 360 hours for a specific leave request. Upon exhaustion of 360 hours of catastrophic leave, an employee may not receive additional catastrophic leave for the same illness/injury. The number of leave hours will be determined based on the information provided by the employee's healthcare provider. The final determination of eligibility is made by the Human Resources Department.

### **Catastrophic Leave Exhausted**

If an employee is still unable to return to work after exhausting catastrophic leave, he/she may be subject to a non-disciplinary termination of employment. In this situation, an employee will leave in good standing. He/she will be encouraged to apply for Long-Term Disability benefits and/or retirement through TMRS as early as possible to expedite the application and review process.

### **Exceptions**

Any exceptions to this policy must be approved by the City Manager.

## **5.10 Inclement Weather**

The city is responsible for providing Police, Fire, and EMS, water, sewer, street, traffic, sanitation and other supporting services to citizens in McKinney with or without inclement weather conditions. Given these responsibilities, it is the city's policy to be open for business under all types of weather conditions, such as heavy snow or ice storms, and all employees are expected to report to work.

Employees unable to report to work due to poor road conditions or other weather-related difficulties or who believe they would be endangering their lives or property by driving to work have four options in the following order:

1. Use accrued compensatory time.
2. Use accrued personal day.
3. Use accrued vacation leave.
4. Use accrued holiday time.

Employees who do not have accrued leave will not be reimbursed for lost time.

## **5.11 Administrative Leave**

An employee who is alleged to have violated a city policy, state, federal, or local law may be placed on administrative leave with or without pay for up to seven consecutive working days (a 24 hour fire shift is equivalent to two working days) at the discretion of the department director in consultation with the Director of Human Resources, pending the outcome of any related investigation and/or the imposition of disciplinary action, and/or other unexpected or extraordinary reasons. Leave exceeding seven days requires City Manager approval.

### 5.12 Jury/Court Leave

An employee shall be granted paid jury leave when he/she is summoned for jury duty. The employee must notify his/her supervisor upon receiving a summons for which jury leave is requested. A copy of the summons must be submitted to the employee's supervisor. All fees and expenses reimbursed by the court may be retained by the employee. Employees released from jury duty should make a reasonable effort to return to work.

Employees will not be paid for time off to conduct personal legal business. Vacation or compensatory time may be used upon approval from the supervisor.

Employees subpoenaed in litigation directly related to their positions as city employees shall be excused from duty and time shall be considered hours worked.

### 5.13 Family and Medical Leave

To provide eligible employees with family and medical leave benefits pursuant to the Family and Medical Leave Act of 1993, as amended ("FMLA").

#### General Family and Medical Leave Definitions

- A. **Parent:** For the purpose of this policy, "parent" is the biological, adoptive, step or foster father or mother, or any other individual who stood *in loco parentis* to the employee when the employee was a child. This does not include parents "in law."
- B. **Son or Daughter:** For the purpose of FMLA leave taken for birth or adoption, or to care for a family member with a serious health condition, son or daughter is defined as a biological, adopted or foster child, a stepchild, a legal ward, or child of an employee who is standing *in loco parentis*, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that the FMLA leave is to commence.
- C. **Spouse:** A husband or wife as defined or recognized under State law for purposes of marriage in the state where the employee resides, including common law marriage.
- D. **Serious Health Condition:** An illness, injury, impairment, or a physical or mental condition that involves one of the following: Inpatient care (overnight stay); Incapacity requiring absence from work for more than three calendar days and that involves continuing treatment by a health care provider; Continuing treatment by a healthcare provider for a chronic or long-term health condition that is incurable or which, if left untreated, would likely result in a period of incapacity for more than three calendar days; or Prenatal care by a health care provider.

- E. **Health Care Provider:** A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices, or other persons determined by the United States Secretary of Labor to be capable of providing health care services. Others capable of providing health care include podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse-midwife, clinical social worker, physician assistant, or Christian Scientist Practitioners.
- F. **Continuing Treatment:** Two or more visits to a health care provider within 30 days of the commencement of the incapacity; or Two or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider within 30 days of the commencement of the incapacity; or A single visit to a health care provider within seven days of the commencement of the incapacity that results in a regimen of continuing treatment.

### **General Family and Medical Leave Provisions**

In accordance with the general provisions of the FMLA, the city will provide eligible employees 12 work weeks of unpaid leave for the following reasons:

- A. Birth of an employee's child, and to care for the newborn child (leave must be taken within a twelve month period after birth);
- B. Adoption of a child by the employee, or official placement of a child with the employee for foster care (leave must be taken within a twelve month period after placement).
- C. Care of the employee's son, daughter, spouse or parent with a serious health condition; or
- D. A serious health condition that makes the employee unable to perform the functions of the employee's job.

In determining the amount of leave available to an employee for the reasons above, the city will consider any FMLA leave taken in the twelve months prior to the date the requested leave is to begin. This method is a "rolling 12-month period."

Spouses who are employed by the city are limited to a combined total of twelve weeks in the amount of family leave they may take for birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.

Leave for birth and care of newborn or placement for adoption or foster care, must conclude within twelve months of the birth or placement and cannot be taken intermittently unless medically necessary or agreed upon by the employee's department director.

### **Military Family Leave Definitions**

- A. **Health Care Provider:** For purposes of leave taken to care for a covered service member, any one of the following: a United States Department of Defense ("DOD") health care provider, a United States Department of Veterans Affairs ("VA") health care provider, a DOD TRICARE network authorized private health care provider, or a DOD non-network TRICARE authorized private health care provider.
- B. **Military Caregiver Leave:** Leave provided to an eligible employee to care for a covered service member with a serious injury or illness. For purposes of this type of FMLA leave, the eligible employee is defined as a spouse; son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or

- injury sustained in the line of duty on active duty and is actively receiving medical treatment. Military caregiver leave extends to those seriously injured or ill members of the Regular Armed Forces, National Guard or Reserves.
- C. **Serious Injury or Illness:** An injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating.
  - D. **Covered Service member:** 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.
  - E. **Parent of a covered service member:** A covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood *in loco parentis* to the covered service member. This term does not include parents-in-law.
  - F. **Son or Daughter of a Covered Service member:** The service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the service member stood *in loco parentis*, and who is of any age.
  - G. **Next of Kin of a Covered Service member:** For purposes of the military caregiver leave, "next of kin" is the nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of military caregiver leave under the FMLA, in which case the designated individual shall be deemed to be the covered service member's next of kin.
  - H. **Qualifying Exigency Leave:** Leave provided to an eligible employee while the employee's spouse, son, daughter or parent, is on active duty or call to active duty status. This leave is provided to address issues related to short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities. The "covered military member" must be on active duty or call to active duty status in the National Guard or Reserves. Families of service members in the Regular Armed Forces are not eligible for qualifying exigency leave.
  - I. **Son or Daughter on Active Duty or Call to Active Duty Status:** The employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood *in loco parentis*, who is on active duty or call to active duty status, and who is of any age.
  - J. **Active Duty or Call To Active Duty Status:** A member of the National Guard or Reserves who is under a call or order to active duty or has been notified of an impending call or order to active duty in support of a contingency operation.

### **Military Family Leave Provisions**

In accordance with the military family provision of the FMLA, the city will provide an eligible employee leave for the following purposes:

- A. **Qualifying Exigency Leave:** Leave for any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a "covered military member" on active duty or has been notified of an impending call or order to active duty in

support of a contingency. An employee is eligible for 12 workweeks of leave. In determining the amount of leave available to an employee for a qualifying exigency, the city will consider any FMLA leave taken in the 12 months prior to the date the requested leave is to begin. This method is a “rolling twelve-month period”.

- B. **Covered Service member Leave (“Military Caregiver Leave”)**: Leave 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. An employee is eligible for 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” begins on the first day the eligible employee takes “military caregiver leave” and ends 12 months after that date. The maximum leave permitted during a 12 month period is 26 workweeks for eligible employees under “military caregiver leave,” or a combined 26 workweeks for “military caregiver leave” and all other FMLA qualifying reasons. Spouses who are employed by the city are limited to a combined total of 26 weeks for “military care giver” leave.

### **Job Protection**

If the employee returns to work within 12 weeks following a family/medical leave (or 26 weeks if combined with Service member Family Leave), he/she will be reinstated to his/her former position or an equivalent position in terms of pay, benefits, status, and authority. If the position would have been eliminated or the employee would have otherwise been terminated, the employee does not have the right to reinstatement upon return from leave. If the employee fails to return to work by the previously agreed upon date, in absence of further communication, he/she will be considered to have abandoned the job.

### **Confidentiality**

Completed certifications are considered confidential medical records and will be disclosed only on a strict need-to-know basis.

### **Use of Paid Leave**

All accrued paid time, including sick, personal day and vacation, will run concurrently with all FMLA leave. Accrued paid time must be exhausted prior to taking unpaid leave.

### **Responsibilities**

- A. **Employee Responsibilities include:** Provide at least 30 days of notice to immediate supervisor and to Human Resources when FMLA is foreseeable; Notify immediate supervisor and Human Resources at least one hour prior to the start of a scheduled shift if going to be absent from work for a reason related to approved intermittent FMLA; Make a reasonable effort to schedule leave so as not to unduly disrupt operations; Remain in contact with Human Resources as requested; Undergo a fitness-for-duty test if such a test is authorized and/or needed; Continue to pay his/her portion of health insurance benefits if on unpaid status; and Provide requested documentation to Human Resources.
- B. **Supervisor Responsibilities include:** Notify Human Resources if an employee is scheduled to be absent for surgery, when an employee has requested leave, or when an employee has been absent from work for medical reasons for two consecutive days/shifts; and Code employee leave time accurately.

- C. **Human Resources Responsibilities include:** Inform the employee of eligibility rights and responsibilities under FMLA and notice of designation of leave; Keep the employee's supervisor informed of his/her return-to-work status; and, help the employee and employee's supervisor to fulfill their responsibilities by answering questions and providing FMLA education as needed.

#### **5.14 Break Time for Nursing Mothers**

Lactating mothers may use time during the standard workday for milk expression. This may include various combinations of standard paid break periods, lunch periods, and other time as necessary. Lactating mothers must be afforded flexibility in their work schedules, such that the use of accrued leave or leave without pay is not required to cover time used for milk expression. While in general, this may require two to three lactation breaks a day, scheduling will be arranged on a case-by-case basis and be based on the specific needs of the employee. Departments will provide a private location, shielded from view and free from any intrusion from others, to express breast milk. A bathroom, even if private, does not qualify as a location. While a private space does not have to be established strictly for the use of the breastfeeding employee, it does, however, have to be available any time the employee needs to express milk. Affected employees are required to inform their supervisors when they need an accommodation for milk expression.

#### **5.15 Military Leave**

To provide eligible employees with military leave benefits pursuant to state and federal law.

#### **Definitions**

- A. **Military Leave:** Leave to be used solely for the purpose of fulfilling short term annual military training obligations.
- B. **Extended Military Leave:** Leave which goes into an extended active duty status of any branch of the United States armed forces.

#### **Procedures**

Employees must notify their immediate supervisor and Human Resources immediately upon receiving notification, or not less than 30 days before their pending duty, whichever occurs first.

Written performed duty verification must be submitted prior to the leave or within a reasonable period of time in order to confirm payment of military pay and to confirm the veteran's re-employment rights. Verification may include, but is not limited to, orders, drill letters, training schedule and signed duty verification from the officer in charge.

#### **Military Leave**

Employees will receive military pay at their normal base rate for up to 15 work days in a calendar year. Military Leave beyond 15 days may be paid, at the employee's discretion, using accrued compensatory, personal day or vacation time (accrued sick leave may not be substituted). The employee may also choose to take the remaining leave as unpaid.

#### **Extended Military Leave**

Employees on Extended Military Leave may be paid, at the employee's discretion, using any remaining 15 days of military pay, accrued compensatory, personal day or vacation time (accrued sick leave may not be substituted). The employee may also choose to take the remaining leave as unpaid. Employees may request to receive payment for any accrued, unused personal day, vacation, holiday, or compensatory time at the start of unpaid extended military leave. The city will pay the employee's and city's portion of medical and dental benefits during this time, unless the employee elects military medical and dental coverage.

### **Supplemental Pay**

Any regular full-time employee who has been called to active duty (Extended Military Leave) will receive supplemental pay if his/her military salary is less than his/her city salary. The amount of supplemental pay is the differential between the city salary and the military salary. Supplemental pay is available until an employee is no longer called to actively serve in the military, his/her monthly military salary exceeds his/her regular city salary, or for up to five years, whichever occurs first. The employee is responsible for notifying Human Resources if his/her military salary changes while on active duty.

### **Benefits**

The city shall provide at no cost to the employee all medical and dental benefits for the regular full-time employee and his/her dependents during such period of active duty (Extended Military Leave) unless the employee elects military medical and dental benefits. Longevity pay, life insurance and other benefits will not be provided during such leave.

Upon an employee's return to employment following Extended Military Leave, the employee will be given the opportunity to enroll or make any changes to desired benefits (i.e., medical, dental, vision, etc.).

While on paid Military Leave, excluding the supplemental pay benefit, employees continue to accrue vacation, sick leave and other benefits provided to other employees on paid leave. While on unpaid Extended Military Leave, benefit accruals will be suspended and will resume upon the employee's return to active employment.

### **Returning from Leave**

- A. An employee who leaves city employment to enter active military service shall be restored to employment in the same position held upon entrance to active military service, or in a position of comparable status and pay, if the employee:
  1. Is physically and mentally qualified to perform the essential duties of the position;
  2. Was discharged, separated, or released from active military service under honorable or general conditions;
  3. Has not been in active military service for more than five (5) years; and
  4. Makes written application for reappointment and presents evidence of the discharge, release, or separation from military service within the time constraints prescribed by USERRA.

- B. The deadline for an employee to return to work and/or notify the city that he/she intends to return to work following Extended Military Leave depends upon how long the employee's military service lasted:
  - 1. For service of less than 31 days, employees have 8 hours following their release from service to report to their next scheduled work period.
  - 2. For service between 31 and 180 days, employees have 14 days following their release from service to apply for reemployment.
  - 3. For service of more than 180 days, employees have 90 days following their release from service to apply for reemployment.
- C. These deadlines may be extended for 2 years or more when an employee suffers service-related injuries that prevent the employee from applying for reemployment or when circumstances beyond the employee's control make reporting within the time limits unreasonable, according to the provisions of USERRA.

Chapter: 6

Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 6 – EMPLOYEE RELATIONS

### 6.01 Employee Code of Ethics

It is the policy of the City of McKinney to require, promote and uphold the highest ethical standards from our employees, consistent with our core values which are very clear on the city's expectations. They stress honesty, openness, transparency, accountability and modeling high ethical behavior. All employees at all levels of the organization are expected to conduct business in accordance with our core values and carry out their public duties in a manner that earns and maintains public trust.

The City of McKinney is committed to the deterrence, detection and correction of misconduct and dishonesty. The discovery, reporting and documentation of such acts provide a sound foundation for the protection of innocent parties, the taking of disciplinary action against offenders up to and including dismissal where appropriate, the referral to law enforcement agencies when warranted by the facts, and the recovery of assets.

Employees are required to immediately report any potential violations of personnel policy to the Director of Human Resources, department director, or City Manager's Office, and report any alleged violations of local, state or federal law or any other violations to the appropriate law enforcement agency.

The Code of Ethics applies to any person employed by the city, including those individuals on a full-time, part-time, seasonal, temporary, active volunteer, or student intern basis.

The City of McKinney recognizes that it is not always clear what the "right," or ethical, choice is when making a decision. The following are guidelines that may assist employees in determining appropriate behavior and conduct. This list is not exhaustive.

- A. Is the action lawful?
- B. Is the action in line with the city's core values of Respect, Integrity, Service, and Excellence?
- C. Would I be embarrassed if my family or friends learned of my actions?
- D. Would I be embarrassed to have the public hear about my actions through news reports? How would the situation look for me and the city?
- E. If asked why I acted in a certain way, would I have to pause to think of a justification for my action? How would I feel about myself?

Employees should avoid any action, whether or not specifically prohibited, which might result in or create the appearance of a conflict of interest. Conflicts of interest may be difficult to determine and employees should discuss the potential conflict with their manager prior to undertaking the activity in question.

It is the ethical responsibility of each employee to understand, recognize, and prevent fraud by their reporting of suspected misconduct and dishonesty. Definitions of fraud, misconduct and dishonesty include, but are not limited to the following: Theft or other misappropriation of assets, including assets of the city, our customers, suppliers or others with whom we have a business

relationship; misstatements and other irregularities in city records, including the intentional misstatement of the results of the operations; forgery or other alteration of documents; fraud and other unlawful acts. The city specifically prohibits these and any other illegal actions by its employees and others responsible for carrying out the organization's activities. Violations of this policy will result in disciplinary action up to and including termination of employment.

The City of McKinney will promptly investigate all allegations of unethical and noncompliance conduct, fraud, waste and abuse, and will take timely and appropriate action to remedy any harm caused, and prevent similar conduct in the future, by revising policies, if necessary, to achieve and sustain compliance. The City follows best practices including confidentiality during investigations.

Full cooperation with city investigations related to allegations of violations pertaining to one's self or another employee is required. This includes answering all questions honestly, providing complete and thorough information that may be relevant and maintaining confidentiality as directed during the course of the investigation. Complaints that are found to be fabricated, frivolous or made in bad faith will not be tolerated and subsequent disciplinary action up to and including termination of employment may result.

All employees are required to take ethics training. As such, the City of McKinney provides ethics training during New Hire Orientation and requires ethics training annually thereafter for current employees; our core values are emphasized in all training programs with an emphasis on integrity.

An employee who makes a good faith report of one or more violations of law by the city or another employee to an appropriate law enforcement authority and then believes that adverse personnel action has been taken against him/her because of such report(s) may file a retaliation complaint with the Director of Human Resources. This policy is intended to address the requirements for such complaints established by the Texas Whistleblower Act, contained in Chapter 554 of the Texas Government Code.

## **6.02 Reporting and Resolving Policy Violation Concern**

The city encourages employees to informally and directly discuss concerns with their immediate supervisor and attempt to resolve concerns at the lowest level. This policy is in place to provide a formal procedure for employees to follow, when informal communication has been unsuccessful, in seeking fair and timely follow up to an employee allegation regarding the violation, misinterpretation, or improper application of a specific city policy, rule, practice, procedure, charter, or ordinance or concerns related to conduct that may reflect unfavorably on the department or city. This procedure is available to any person employed by the city, including those individuals on a full-time, part-time, seasonal, temporary, or active volunteer or student intern basis. Employees in the Fire Department are subject to the specific procedures outlined in the Fire Department's Manual of Directives in replacement of the procedures outlined within this policy.

Policies specific to reporting unlawful harassment or appealing a disciplinary action should be followed in addressing such issues. Retaliation or interference against an employee utilizing this procedure in good faith will not be tolerated.

### **Procedure**

A problem not advanced to the higher step within the time limits provided will be deemed permanently withdrawn and considered as concluded on the basis of the decision most recently given. If any level of the employee's chain of command fails to respond within the time limits provided, the employee may proceed to the next level. Any time limits specified in the procedures may be extended by mutual agreement.

**Step 1:** An employee completes the "Reporting Policy Violation Form" and provides the form to his/her immediate supervisor within 15 working days of the date the employee knew or should have known of the event or series of events giving rise to his/her problem. The immediate supervisor will respond in writing and may meet directly with the employee within five working days from the date the form was received. The supervisor will also send a copy of the form completed by the employee and his/her written response to Human Resources for the purpose of record keeping.

The employee is required to complete the "Employee Concern and Complaint Form," which includes:

- A. A detailed description of the problem, including all relevant facts (i.e., dates, people involved, etc.)
- B. The remedy, follow up or correction requested

**Step 2:** If the problem is not resolved to the employee's satisfaction through the employee's immediate supervisor, the employee should forward the "Reporting Policy Violation Form" to the department director. The Director will meet with the employee's management team to obtain input and relevant factual information in determining the appropriate response to the employee. The Director will respond in writing and meet directly with the employee within five working days after receipt of the form.

Public Safety personnel must submit the "Reporting Policy Violation Form" through their chain of command and allow each level of management to respond prior to moving to the next level.

**Step 3:** If the problem is not resolved to the employee's satisfaction through the employee's Director, the employee should forward the "Reporting Policy Violation Form" to the Director of Human Resources. The Director of Human Resources or designee will meet with the employee within five working days after receipt of the form. The Director of Human Resources or designee will obtain the facts and forward a recommendation to the City Manager or designee within five working days after the meeting. The City Manager or designee will have ten working days to consult with any parties involved and will follow up with the employee in writing. The decision of the City Manager or designee will be final and binding.

### **6.03 Discipline and Appeal**

The city encourages the application of progressive discipline. Progressive discipline is the practice of disciplining at the lowest level for the first violation and then moving through the increasing levels of discipline as violations continue. For discipline to be progressive, each related event or incident must trigger a response that is more severe. Each step in the process more strongly encourages the employee to modify his/her behavior. Utilizing progressive discipline, however,

does not prevent the city from skipping levels of discipline and imposing more severe discipline, including termination of employment, whenever such action is deemed appropriate.

The Director of Human Resources or his/her designee generally should be consulted prior to an employee suspension, disciplinary demotion or termination of employment. Human Resources will work closely with the department to discuss the options and consequences and to gain approval from the respective Deputy or Assistant City Manager to take a requested disciplinary action. A Human Resources designee will be present for suspensions and terminations.

Disciplinary procedures within the Police Department will follow departmental policies as approved by the City Council.

The primary objective of the formal levels of discipline is to correct discipline problems with fairness and consistency. The following criteria should be considered, as appropriate, in determining what level of disciplinary action to impose:

- A. Severity and kind of offense(s)
- B. Impact of the offense(s) on other employees and/or operations in the city
- C. Employee's length of service and work record
- D. Period of time since previous coaching and/or disciplinary action
- E. Past disciplinary actions taken by the city for similar offense(s)

Supervisors will administer discipline as appropriate without regard to race, color, religion, sex, national origin, age, disability or any other characteristic protected by law.

Disciplinary actions which may be taken include, but are not limited to the following:

- A. **Oral Warning or Documented Verbal Counseling:** The intent of this level of discipline is for a supervisor to communicate constructive feedback or concerns of unsatisfactory job performance or conduct to an employee. Supervisors may jot down notes, including the date and content of the oral warning, in their departmental employee file or provide the verbal counseling in the form of a written memorandum to the employee. All supporting documentation should be forwarded to Human Resources to be included in the employee's personnel file. This level of discipline may not be appealed.
- B. **Written Reprimand:** The written reprimand is a formal warning of an infraction that may result in suspension, demotion or termination of employment should the violation recur. The employee will be presented and given a copy of the written reprimand. The written reprimand and all supporting documentation should be forwarded to Human Resources to be included in the employee's personnel file. This level of discipline may be appealed to the department director only.
- C. **Suspension without Pay:** Suspension without pay is used when an employee has already been given a written reprimand or in situations that are serious enough to warrant this level of discipline without prior discipline. A suspension may not exceed twenty working days for any single disciplinary incident and will be a minimum amount of one full shift, unless approved by the City Manager. Employees on suspension without pay may not use any accrued leave to recuperate the lost time. A suspension is to bring about a change in behavior and results in time off without pay. The employee should be encouraged to reflect on his/her behavior during the suspension and whether he/she wishes to correct the behavior or terminate employment with the

city. The employee will be presented and given a copy of the suspension document. The suspension without pay and all supporting documentation should be forwarded to Human Resources to be included in the employee's personnel file. This level of discipline may be appealed in accordance with the appeal policy.

- D. **Disciplinary Demotion:** The disciplinary demotion is the reduction of an employee's pay grade as a result of unsatisfactory performance in the current position and in cases where it is deemed in the city's best interest to retain the employee in a lower level position. The disciplinary demotion and all supporting documentation should be forwarded to Human Resources to be included in the employee's personnel file. This level of discipline may be appealed in accordance with the appeal policy.
- E. **Termination of Employment:** Termination of employment may occur as deemed appropriate and with the approval of the respective department director and Deputy or Assistant City Manager. The employee will be presented and given a copy of the termination document. The termination of employment document and all supporting documentation should be forwarded to Human Resources to be included in the employee's personnel file. This level of discipline may be appealed in accordance with the appeal policy.

If the employee refuses to sign a disciplinary document, the supervisor should make a written note on the document stating "employee refused to sign" and then sign and date as the supervisor. The refusal to sign the document does not change the action.

#### **6.04 Performance Improvement Plan**

The intent of a Performance Improvement Plan (PIP) is for a supervisor to communicate concerns of unsatisfactory job performance to an employee and to work closely with the employee to develop a plan to improve areas of deficiency through various means (e.g., training, coaching, education, etc.). The duration of a PIP is generally 90 days. A PIP may be considered disciplinary or may be used as a coaching tool, dependent upon the circumstances. A PIP may accompany a performance evaluation when an employee's overall performance or specific areas of performance are unsatisfactory. A PIP may not be appealed. If the employee's performance is not satisfactory at the conclusion of the PIP, termination of employment generally occurs.

#### **6.05 Grounds for Disciplinary Action**

Whenever informal discussions fail to bring about the appropriate changes in an employee's behavior or circumstances otherwise warrant, disciplinary action may be taken. The following actions are intended to be descriptive and serve only as a guide to the types of deficiencies for which disciplinary action may be appropriate.

The following are examples relating to unsatisfactory performance of duties for which disciplinary action, up to and including termination, may be taken. This list is not intended to be all-inclusive. It does describe examples of unsatisfactory performance and unacceptable conduct that could jeopardize an employee's continued employment.

Examples include:

##### **A. Dishonesty/Integrity**

1. Stealing or taking city property or property of other employees without prior authorization
2. Misuse of funds
3. Misrepresentation or knowingly providing false information
4. Providing false or misleading information or omitting material information during the course of an official investigation
5. Forging or otherwise falsifying official reports, records, or documents
6. Falsifying time and attendance records
7. Misusing paid leave
8. Unauthorized use of official documents or information
9. Releasing or making known, in any manner, confidential information without authorization
10. Failure to properly account for city documents or property
11. Other acts reflecting dishonesty, falsification and lack of integrity in performing duties

**B. Job Performance or Workplace Conduct**

1. Inability to perform the duties of the job
2. Violation of departmental work rules
3. Unsatisfactory quality or quantity of work
4. Unwillingness to perform duties of job
5. Failure to make requested changes in job performance
6. Incurring an expense or liability for the city without proper authorization
7. Fighting or using profane, abusive, or threatening language
8. Neglect of duty
9. Loafing
10. Carelessness
11. Lack of cooperation
12. Sleeping or otherwise being inactive during working hours
13. Performing or conducting personal business during working hours
14. Abuse of meal and/or break periods
15. Interfering with the work of others
16. Lack of respect and discourteous treatment of the public or other employees
17. Offensive or lewd conduct
18. Spreading false reports or otherwise disrupting the harmonious relations of the workplace
19. Possession of unauthorized firearms or lethal weapons on the job
20. Engaging in disruptive personal behavior, including bullying
21. Threatening another in a manner reasonably likely to cause the person to believe bodily injury will be inflicted on the person or family member or friends or damage will be done to the person or person's family or friend's property
22. Intentionally destroying or threatening destruction of city or another's property
23. Making harassing or threatening phone calls to another
24. Sending harassing or threatening e-mails to another
25. Stalking or conducting unauthorized surveillance on another
26. Other acts reflecting unsatisfactory performance and/or conduct
27. Failure to report a violation of these policies to the proper authority
28. No employee may make known any information regarding the progress of an investigation, a known or reported law violation, a condition against which action is to be taken at a future time or any proposed law enforcement action to any person not authorized to receive it. An employee must treat the official

business of the city as confidential and may disseminate information regarding official business only to those for whom it is intended in accordance with established city procedures and consistent with the Public Information Act.

29. An employee may remove or copy official records or reports from the city office only in accordance with established procedures and with the approval of the applicable supervisor.

**C. Failing to follow Instructions/Insubordination**

1. Failure or refusal to perform assigned work or fully comply with instructions or orders as requested by appropriate authorities.
2. Failure or refusal to fully cooperate with official internal investigations, regardless whether the employee is the primary focus or for which he/she is a witness or affected party.
3. Acts of defiance towards a superior including, but not limited to, arguing about assignments, talking back, walking away from or ignoring superior while being addressed, or deliberate attempts to undermine or put the supervisor in a false light.
4. Other acts that reflect the failure to follow instructions/insubordination.
5. Misuse of authority, employee identification, or business card
6. Duplication, removal, or destruction of documents or property without authorization

**D. Attendance (is an essential function of every job and a condition of continued employment)**

1. Abuse of approved leave
2. Unscheduled absences
3. Tardiness
4. Failure to report to work without timely notification
5. Failure to follow procedures for requesting or using leaves
6. Failure to remain at work station
7. Job abandonment (absence for two consecutive working days without providing notice or refusing to report to work after a legitimate order to do so)
8. Any other attendance related issues

**E. Violation of City Policies, including, but not limited to:**

1. Drug and Alcohol Free Workplace policy
2. Sexual and Other Unlawful Harassment policy
3. Safety policies and rules
4. Political Activity policy
5. Secondary Employment policy
6. Solicitation policy
7. Computer, Internet and Electronic Mail Use policy
8. Failure to follow the city's Employee Concern and Complaint Procedure and Appeal Procedures outlined in this policy manual
9. Dress Code and Uniform policy
10. Procurement Card policy or other purchasing policies

**F. Unlawful Conduct/Disregard of Public Trust**

1. Conviction or disposition other than acquittal, including probation or deferred adjudication, of any criminal offense, except Class C misdemeanor traffic offenses.
2. Engaging in any unlawful activity or actions showing lack of good moral character.
3. Indecent, provocative, or offensive behavior or any unlawful activities.

4. Other acts of unlawful conduct or acts that would jeopardize the public's trust.
5. Any criminal offense or immoral conduct, during or off working hours, which, on becoming public knowledge, could have an adverse effect on the city or the confidence of the public in city government. "Criminal offense" means any act constituting a violation of law and/or resulting in charges being filed, arrest, or confinement.

**G. Other**

1. Disruption in the workplace resulting from failure to pay just debts and obligations.
2. Engaging in unauthorized electronic surveillance, eavesdropping, or unauthorized secret tape recording, by use of an electronic recording device, of any communications between or among employees or elected representatives of the City of McKinney.
3. Failure to report or document violations of policy or procedure.

### **6.06 Administrative Inquiry**

An employee may be placed on administrative leave with or without pay to permit the city to conduct an administrative inquiry regarding allegations of unacceptable or unlawful conduct as set forth in this policy. Administrative leave is not considered a disciplinary action and is not appealable. In cases where use of administrative leave appears appropriate, the department director should contact the Director of Human Resources or designee.

### **6.07 Appeal Procedure**

Regular full-time and part-time employees, with the exception of probationary employees, department directors and any deputy or assistant city manager, have a right to appeal a disciplinary demotion, suspension without pay, or termination of employment. Employees who are dismissed for non-disciplinary reasons or are impacted by a reduction in force may not appeal. An employee who chooses to appeal a disciplinary demotion, suspension without pay, or termination of employment must submit a completed Disciplinary Appeal form to the Director of Human Resources or his/her designee within five business days from the date that the disciplinary action was communicated.

Upon receipt of the employee's request to appeal the disciplinary action, the following steps will occur: Human Resources will acknowledge receipt of the request for an appeal to the employee within five business days of receipt of the request and will begin coordinating the response to the employee's request for an appeal by:

- A. Notifying respective management of the request for an appeal.
- B. Securing a date/time/location for the hearing.
- C. Selecting an impartial hearing panel consisting of a Deputy or Assistant City Manager and two Director level employees.
- D. Providing written communication to all involved parties, including details of the logistics, and the names and roles of those participating in the hearing.

The disciplinary appeal hearing process is an informal administrative procedure allowed by city policy and is not a trial guided by courtroom procedures. The Director of Human Resources may

establish specific procedures for any appeal and utilize those procedures in the conduct of any appeal. The appeal hearing is an opportunity for an employee to state why he/she should not have been disciplined or why the punishment was inappropriate.

Only information directly related to the action taken will be presented during the hearing, and may include the past disciplinary history of the employee. Presentation of unrelated issues or issues involving other employees will not be allowed. The city and employee (or the employee's attorney) will have an opportunity to provide information relevant to the action taken and to answer any questions asked by the hearing panel. An employees' authorized personal representative may assist or clarify for the employee during the hearing. An "authorized personal representative" is allowed only if a city-approved meet and confer agreement provides that an employee is entitled to such representation. A court reporter or stenographer may be present throughout the hearing and, if so, a written record of the proceedings will be made. A copy of the written record will be maintained in the employee's permanent personnel file. The hearing panel will deliberate and make a decision within five business days from the date of the hearing upholding the disciplinary action taken, rescinding the action, modifying or amending the action or reducing the severity of the discipline, provided the disciplinary action must be sustained if a reasonable person could have taken the same disciplinary action against the employee. The final decision will be communicated in writing to all parties involved within five business days of the appeal hearing.

## **6.08 Unlawful Harassment**

The city is an equal opportunity employer. Employment discrimination on the basis of race, color, religion, sex, national origin, age, disability, genetic information, veteran status, citizenship, or any other characteristic protected by law, is prohibited. Such behavior also violates the City's core organizational values. 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.

### **Sexual Harassment**

Sexual harassment is unlawful and will not be tolerated, and is contrary to our core values of Respect and Integrity. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- A. Submission to such conduct is made either explicitly or implicitly a 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 decisions 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.

Sexual harassment may include a range of subtle and not so subtle behavior and may involve individuals of the same or different gender. Conduct prohibited by this policy includes, but is not limited to sexual advances; requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, sexual preference, or sexual deficiencies; leering, whistling, or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal, or visual conduct of a sexual nature.

### **Other Prohibited Harassment**

In addition to the city's prohibition against sexual harassment or harassment on the basis of any other legally protected characteristic is also strictly prohibited and in direct violation of our core values. Verbal or physical conduct that singles out, denigrates, or shows hostility or aversion toward someone because of race, color, religion, sex, national origin, age, disability, genetic information, veteran status, citizenship, or any other characteristic protected by law, is prohibited. Prohibited conduct includes, but is not limited to bullying; slurs and negative stereotyping; threatening, intimidating, or hostile conduct; denigrating jokes and comments; and writings or pictures, which single out, denigrate, or show hostility or aversion toward someone on the basis of a protected characteristic. 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, comics, stories, etc., including but not limited to via facsimile, e-mail, text message, social media, 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.

### **Responsibilities**

- A. Allegations of unlawful harassment are taken seriously and, if substantiated, will be addressed appropriately.
- B. Any employee who believes that he/she has been harassed based on race, color, religion, sex, national origin, age, disability, genetic information, veteran status, citizenship, or any other characteristic protected by law will file a formal complaint if he/she was unable or did not feel comfortable attempting to resolve the issue directly with the offending party.
- C. Any employee who observes such harassment against another employee will immediately notify his/her supervisor.
- D. All employees have a responsibility to cooperate in the investigation of a harassment complaint.
- E. All supervisors, managers, department directors, executive directors, and administrators are expected to prevent and correct harassment in the workplace. Any employee with management responsibility who becomes aware of harassment in their work area must take corrective steps whether or not a formal complaint has been filed and must consult with Human Resources. Managers who fail to properly address harassment in the workplace may be disciplined up to and including termination of employment. It is the ongoing responsibility of the department director and his/her representatives to monitor work areas and take necessary action.
- F. The Human Resources Department is responsible for processing harassment complaints in a prompt, fair, and thorough manner. Allegations that may be considered criminal in nature will be referred to, and investigated by, the McKinney Police Department or other appropriate law enforcement agency.

### **Complaint Review Procedures**

- A. Any employee who believes that he/she is the victim of sexual harassment or has been harassed based on race, color, religion, sex, national origin, age, disability, genetic information, veteran status, citizenship, or any other characteristic protected by law will file a formal complaint with Human Resources by completing the Harassment Complaint Form. The employee will file his/her complaint promptly so that any incident of alleged harassment may be investigated in a timely manner.

- B. The Director of Human Resources and/or designee will promptly investigate all allegations of unlawful harassment. The Director of Human Resources and/or designee will first contact the employee to obtain the facts of the alleged harassment. Any individuals that may have knowledge of the alleged incidents may be interviewed. The alleged wrong-doer will have the opportunity to respond to all allegations during the course of the investigation.
- C. Upon conclusion of the investigation, the Director of Human Resources and/or designee will brief the respective Directors and City Manager's Office on the outcome of the investigation and will make a recommendation on how to address its findings.
- D. The Director of Human Resources and/or designee will follow up with the complainant as soon as possible after the investigation is complete to report the outcome (i.e., allegation substantiated, not substantiated, etc.).
- E. The department director and/or Director of Human Resources or designee will follow up with the alleged offender as soon as possible after the investigation is complete to report the outcome (i.e., allegation substantiated, not substantiated, etc.) and to deliver any disciplinary action as deemed appropriate.

### **Confidentiality**

All information concerning unlawful harassment will be treated as confidential, to the extent permitted by law and to the extent possible to respond to an allegation. However, in no instance can the investigator or city guarantee complete confidentiality. No employee will disclose the content of a complaint, whether verbal or written, except to parties investigating the complaint or his/her legal counsel.

### **Withdrawn Complaint**

A complainant may withdraw a complaint at any time. However, once made aware of the allegations, the city in all likelihood will still pursue the investigation to conclusion if enough information and/or facts were provided to raise concern of potential unlawful harassment. Generalized or anonymous complaints may not necessarily be investigated unless detailed facts and/or incidents are provided to substantiate such a complaint.

### **Responding to Substantiated Unlawful Harassment**

Substantiated unlawful harassment will be dealt with appropriately by the city. Examples of responsive action may include training, referral to counseling, and/or disciplinary actions up to and including termination of employment, as the city believes appropriate under the circumstances relative to each case. False or malicious allegations will be considered serious offenses and will be subject to disciplinary action, up to and including termination of employment.

### **Retaliation**

Retaliation against an individual for reporting unlawful harassment or for participating in an investigation of a claim of discrimination in good faith is prohibited. Acts of retaliation will be reported immediately to Human Resources for review of the facts and to consider appropriate action.

## **6.09 Drug and Alcohol Free Workplace**

The City of McKinney is committed to maintaining a safe, secure, healthy and productive work environment for all employees and to ensuring the safe and efficient delivery of services to the citizens. Therefore, the use, sale, distribution, possession of or being under the influence of alcohol or controlled substances while on duty, on call or standby, while wearing a city uniform (or portion of a city uniform), in a city vehicle or on city premises is prohibited. Additionally, this policy enables the city to make a good faith effort toward maintaining a drug and alcohol free workplace by complying with the requirements of the Federal Drug Free Workplace Act of 1988.

This policy applies to all applicants and employees, including full-time, part-time, temporary, volunteers, student interns and seasonal employees while on duty, on call or standby, while wearing a city uniform (or portion of a city uniform), in a city vehicle, or on city premises.

Further, the City of McKinney complies with the U.S. Department of Transportation's (DOT) Drug and Alcohol testing rules applicable to employees in positions requiring a Commercial Driver's License (CDL).

### **Policy Definitions**

- A. **Alcohol** is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.
- B. **Controlled Substances (Drugs)** are defined as marijuana (THC), cocaine, opiates, amphetamines (including methamphetamines), and phencyclidine (PCP). For purposes of reasonable suspicion, random and post-accident/injury testing, controlled substances testing may include testing for all of the above drugs in addition to barbiturates, benzodiazepines, methadone, tri-cyclic, and steroids.
- C. **City (Non-CDL) Safety-Sensitive Functions** are defined as any of the following: operating machinery (i.e. heavy equipment, hazardous tools, etc.); maintenance of vehicles and equipment; transporting people; carrying a weapon in performance of essential job functions; insuring the direct safety and protection of others and property, such as functions performed by lifeguards, police officers, fire fighters, etc.
- D. **CDL (Commercial Driver's License) Holder Safety-Sensitive Functions** are defined as any of the following: All time spent inspecting, servicing, or conditioning any Commercial Motor Vehicle (CMV); All time spent at the driving controls of a CMV; All time, other than drivers time, spent in a CMV; All time spent loading or unloading a CMV, supervising or assisting in the loading or unloading of a CMV, attending a CMV being loaded or unloaded, remaining in readiness to operate CMV, or in giving receipts for shipment loaded or unloaded; and All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- E. **Refusal to Submit to an Alcohol or Controlled Substance Test** is defined as refusal to submit to a requested or required alcohol/drug test, failure to appear in a timely manner to the collection site or switching, altering or attempting to tamper with a sample submitted for testing.

### **Responsibilities**

- A. **Employees' Responsibilities include:** notifying their supervisor if they are under the influence of alcohol or a legally prescribed drug that may impair their ability to safely perform their job; and per the Drug-Free Workplace Act of 1988, abide by the terms of the city's policy and notify the employee's supervisor within five calendar days if convicted of a criminal drug or alcohol violation.

- B. **Supervisor Responsibilities include:** notifying Human Resources of promotions and transfers to and from safety-sensitive positions; and notifying the department director immediately following an employee report of conviction for a criminal drug or alcohol offense; and transporting employees to the testing location if a reasonable suspicion exists and/or in situations where an employee has been involved in an accident.
- C. **Department Director Responsibilities include:** notifying the Director of Human Resources or designee of requests for reasonable suspicion testing and notification immediately following an employee report of conviction for a criminal drug or alcohol offense.
- D. **Human Resources Responsibilities include:** coordinating testing, as appropriate, with supervisors and employees and reporting positive drug test results and results of alcohol tests that are greater than .04 to the Texas Department of Public Safety, as required under Texas state law. Answering questions and providing educational information and training to supervisors and employees.

### **Consequences for Engaging in Prohibited Conduct**

- A. Refusal to submit to a drug and/or alcohol test will be considered insubordination and will result in termination of employment.
- B. A positive drug or alcohol test result will be subject to disciplinary action, up to and including termination of employment.
- C. Testing positive for a prescription drug not specifically prescribed to the employee may result in disciplinary action, up to and including termination of employment. Employees in safety-sensitive positions will not be permitted to perform safety-sensitive functions for a minimum of 24 hours.
- D. May be subject to civil and/or criminal penalties.

In cases where conduct does not result in immediate termination of employment, the employee's position, tenure, prior work performance, rehabilitation efforts, evaluation by a Substance Abuse Professional (SAP) and continued compliance of a "last chance" agreement will be considered in determining the appropriate level of discipline.

### **Types of Testing**

Drug and/or alcohol testing for employees subject to this policy may occur in five instances, as described below.

- A. **Pre-Employment and Promotional Testing:** Applicants who are made a conditional job offer must submit to testing for controlled substances before a final job offer is made. Further, a drug test will be required of an employee prior to the employee being promoted. A Breath Alcohol Test (BAT) is not required.
- B. **Post-Accident / Injury Testing:** An employee is required to submit to drug and alcohol testing if he/she is involved in an accident while driving a city vehicle at any time, driving a personal vehicle on city business, or while operating city-owned motor driven equipment AND the accident results in death, injuries that require the immediate services of a medical professional or significant property damage. "Significant property damage" means that the damaged property must be replaced or incur major repairs in order to be restored to its prior condition. This does not include superficial or cosmetic damage, damage caused by birds or animals or accidents occurring when

the employee driver is legally parked. An employee is required to submit to drug and alcohol testing if he/she is injured from an employment related accident requiring the immediate services of a medical professional. This does not include exposure to occupational risk, disease, animal or insect bites, exposure to poison oak or ivy or other similar toxins, injuries caused by an animal or another person, or an injury caused by the normal physical activity of walking, lifting, pushing, pulling, climbing or reaching. Post-accident/injury alcohol testing should be performed within five hours; otherwise, attempts to test should cease and a written record stating the reasons the test was not performed should be prepared by the supervisor and sent to Human Resources within 24 hours of the accident/injury. Post-accident/injury drug testing should be performed within 24 hours or not at all. If a test cannot be performed within that time period, a written record stating the reasons the test was not performed should be prepared by the supervisor and sent to Human Resources within 36 hours of the accident/injury.

- C. **Random Testing:** Employees in positions that require the performance of city safety-sensitive functions and employees in positions that require a commercial driver's license are subject to random testing. The selection of employees for random controlled substance and alcohol testing will be made by a scientifically valid method. Under the selection process, each employee will have an equal chance of being tested each time selections are made. Each employee who is selected for testing will proceed to the collection site immediately. If an employee is off work at the time he/she is selected for testing, the city can either select another employee for testing or keep the original selection confidential until the employee returns.
- D. **Reasonable Suspicion Testing:** A supervisor must require and transport an employee to submit to an alcohol and/or controlled substance test when he/she has reasonable suspicion to believe the employee is under the influence of controlled substances and/or alcohol. Reasonable suspicion testing will be done based on specific, contemporaneous observations concerning the employee's speech, appearance, behavior or odor. A written record of the observations will be made and signed within 24 hours of the observation or before test results are released (whichever is earlier) by the supervisor who made the observation. The employee must not be permitted to perform city defined safety-sensitive functions until 24 hours have elapsed. The employee may be placed on paid administrative leave pending the results of the test. The Director of Human Resources or designee should be notified as soon as possible in cases of reasonable suspicion.
- E. **Return-to-Duty and Follow-Up Testing:** The city is not obligated to reinstate or rehire any employees who violate this policy. Should the city decide to reinstate an employee, he/she will be required to be evaluated by a Substance Abuse Professional (SAP), participate in any assistance program prescribed, submit to follow up testing, and comply with a "last chance" agreement.

All drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City of McKinney. There are some limited, legitimate medical uses which may explain a positive result. For this reason, any positive test results are discussed by the MRO and the employee. If use is legitimate, the result will be reported to the city as negative.

### **City Employee Functions**

No city funds will be used for the purchase of alcoholic beverages, and no city employee function will serve alcoholic beverages. Any alcoholic beverages purchased at off-site functions must be purchased with personal funds and may not be hosted or supplied by the city.

### **Voluntary Reporting**

An employee who has reported an alcohol or drug problem voluntarily, prior to notification of requiring testing or prior to pending disciplinary action for conduct related to alcohol or drugs, may be allowed to take accrued leave to seek treatment under the Family Medical Leave Act. Resources are available through the city's Employee Assistance Program (EAP). An employee may not provide a "voluntary disclosure" upon being notified that he/she must submit to a drug or alcohol test. Employees returning to duty in safety sensitive positions following voluntary drug or alcohol treatment may be subject to periodic drug or alcohol testing for a period of at least twelve months or as determined by the Director of Human Resources, subject to applicable law. A positive future test result will result in immediate termination.

### **Confidentiality**

Test results may be released only to the employee, employer, EAP, laboratory officials and Medical Review Officer. They cannot be released to others without the written consent of the employee. All test results will be kept in a secure location with limited access.

### **Rehire**

Any person whose employment has been terminated as a result of violation of this policy will not be considered for rehire.

## **6.10 Workplace Violence and Weapons**

The City of McKinney is committed to providing a safe workplace for the benefit of its employees and the general public. Employees have the right to work in an environment free of violence. All employees of the city are expected to treat each other, their customers, clients and all others with courtesy, dignity and respect, consistent with our core values. Violence includes physically harming another, shoving, pushing, harassing, bullying, intimidating, coercing, and threatening or talking of engaging in those activities at any time, including off-duty periods. It is the intent of this policy to ensure that everyone associated with the city, including employees, customers, and citizens, never feel threatened by an employee's actions or conduct. If an employee engages in any violence in the workplace, or threatens violence, employment may be terminated immediately. No talk of violence or joking about violence will be tolerated.

While horseplay for fun is not in and of itself an act of workplace violence, it could result in injury and provides for an unprofessional image to the public. Horseplay is prohibited.

Employees must promptly report threats to their supervisor and the Director of Human Resources or designee. Employees reporting imminent threats and/or acts of violence in progress should notify the local police by dialing "911." Should the incident occur outside of normal business hours, the Police Department will notify the Director of Human Resources by the next business day.

The city will promptly and thoroughly investigate all reports of the threat of (or actual) violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, the city may place employees on administrative leave with or without pay, pending the outcome of the investigation.

The City of McKinney strictly prohibits an employee, other than those specifically authorized by the city or a particular work assignment, to possess or carry on city premises or at a city work site, any instrument or weapon that is specifically designed, made or adapted for the purpose of inflicting serious bodily injury or death. This does not include bona fide tools used by an employee in the normal course of his/her duties, when using the tool in the manner that it was designed to be used on property.

Texas Government Code Chapter 411 allows the city as an employer to prohibit employees from carrying handguns in city-owned facilities or property. As such, employees, regardless of whether they have a license to carry a handgun or not, are prohibited from carrying a handgun or other firearm on city premises, but may leave it in a private locked car in a city-owned parking lot. Licensed law enforcement officers are exempt from this policy restricting handguns on city premises.

Employees who violate this policy are subject to disciplinary action, up to and including termination of employment.

#### **6.11 Secondary Employment**

Any outside employment or business activities must not interfere with the employee's regular duties or constitute a conflict of interest. Outside employment must not prevent the employee from being able to work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job responsibility. No city resources, personnel or equipment may be used in conjunction with outside employment. The City of McKinney Workers' Compensation and General Liability Insurance does not cover employees while working for outside employers, contractors, while self-employed or when working as a volunteer in another organization. Note: This exclusion shall not apply to charges incurred for an injury or illness sustained by a certified off-duty public safety officer (police officer or firefighter) while working at a special event which requires the services of off-duty public safety officers to protect community's best interest, if such injury or illness is determined to be compensable under the city's Workers' Compensation coverage.

Prior to a full-time employee obtaining outside employment, he/she must submit a "Request for Secondary Employment" form and receive appropriate approvals. Approvals will be based upon what is in the best interest of the city. Approval of secondary employment may be withdrawn at any time when such employment presents a conflict of interest with the city or in the event the secondary employment interferes with the individual's employment with the city.

If the employee accepts the secondary employment without approval, the employee may be subject to disciplinary action, up to and including termination of employment.

If a request for secondary employment is approved, the request should be forwarded to the Human Resources department for inclusion in the employee's personnel file.

Individual departments may have their own provisions regarding secondary employment. In those cases, departments should comply with all applicable directives.

### **6.12 Political Activity**

The purpose of this policy is to provide guidance in determining what types of political activities are permitted and what types are prohibited.

Employees are encouraged to vote and to participate fully in public affairs to the extent that such endeavors do not impair the neutral and efficient performance of official duties, or create real or perceived conflicts of interest. The City of McKinney encourages employees to participate in matters of responsible citizenship, and at the same time, is committed to providing a non-partisan work environment in which staff can responsibly carry out their duties without political coercion.

Except as otherwise allowed by law, employees shall not use their positions for or against any candidate for public office. Employees shall not directly or indirectly coerce, attempt to coerce, command, or advise other employees to pay, lend, or contribute anything of value to a party, committee, organization, or person for political purposes.

An employee who has a question about this policy or how it may apply to a particular situation should contact his/her department director. An employee considering seeking or holding any appointive or elective city office or political office in any jurisdiction should advise the department director. The department director should consult with the Director of Human Resources to determine if an employee's proposed political activity creates a conflict of interest or otherwise violates this policy.

### **6.13 Solicitation**

Solicitation of funds or anything of value for any purpose whatsoever will not be permitted of, or by, city employees on the job unless authorized by the department director. An employee is not required to make any contribution, nor may an individual be penalized in any way in connection with his/her employment according to his/her response to a solicitation. Any non-employee engaging in soliciting will be asked to leave the city premises.

### **6.14 Tobacco and E-Cigarette Products**

For purposes of this policy the term "tobacco products" includes e-cigarettes. In keeping with the city's intent to provide a safe and healthy work environment, smoking, the use of smokeless tobacco products (e.g., chewing tobacco, snuff, etc.), and e-cigarettes or similar devices are prohibited in any city-owned or municipal buildings or in city-owned, rented, or leased vehicles or equipment. No employee may use tobacco products while making public contact. Employees may use tobacco products outdoors in designated areas only during their normal break or lunch periods. According to Section 70-180, et seq. of the McKinney Code of Ordinances, as amended, a person commits an offense if he uses or expectorates any smokeless tobacco product in any of

the following indoor or enclosed areas: all buildings owned, operated or managed by the city in which public business is conducted or public activities occur whether or not the business or activity requires direct participation, observation, or no participation by the general public. Section 70-181 of the Code of Ordinances outlines places where smoking is prohibited, including in or within 25 feet of any enclosed facility within all places of employment and/or within any enclosed areas available to and customarily used by the general public. Employees are encouraged to take advantage of smoking cessation resources offered through the city.

### **6.15 Workplace Monitoring**

Workplace monitoring may be conducted to ensure quality control, employee safety, security, and customer satisfaction. There can be no expectation of privacy in the use of the city's resources, including but not limited to, telephones, computers, desks, vehicles, or equipment. Monitoring will occur without prior notification and conducted at times and locations deemed appropriate by the city. Workplace monitoring will be done in an ethical and respectful manner.

- A. **Telephone:** Employees who regularly communicate with citizens and customers may have their telephone calls and conversations monitored and/or recorded. Telephone monitoring is used to identify and correct performance problems through targeted training, if needed. Improved job performance enhances our citizens' and customers' image of the city as well as their satisfaction with our service. City offices and facilities are for city business. Limited personal use of city telephones is authorized; however, such use must be kept to a minimum and abuse will result in discipline.
- B. **Video Surveillance:** The city may conduct video surveillance of non-private workplace areas. Video monitoring is used to identify safety concerns, maintain quality control, detect theft and misconduct, and discourage or prevent acts of harassment and workplace violence.
- C. **Computer Resources:** The city owns the contents of all files stored on its systems, all information within application files, and all messages transmitted over its systems. The city reserves the right to monitor any and all aspects of its computer system by human and/or automated means without prior notification to employees.
- D. **Inspections:** Lockers, vehicles, offices, desks, file cabinets, and other city property used by employees are subject to inspection by a department director or designee at any time. Employees shall have no expectation of privacy in such equipment.

### **6.16 Employee Assistance Program (EAP)**

The City of McKinney is committed to helping employees and their dependents cope with personal difficulties that could adversely affect employees' work performance, productivity and/or conduct on and off the job by providing an Employee Assistance Program (EAP). This policy supports the city's commitment to support a healthy, family-oriented work environment and a values-based culture where we help and support one another.

The purpose of the EAP is to assist employees in identifying on- or off-the job personal or behavioral problems that are adversely impacting their work performance and productivity. The EAP provides free counseling and referral assistance for City of McKinney employees and dependents by offering counseling services for alcohol and drug abuse, marital and relational

problems, psychiatric and emotional illness, financial and legal difficulties and a wide range of other issues.

All persons employed by the city, including those individuals on a full-time, part-time, seasonal, or temporary basis, are eligible to access the EAP. Employees and dependents may access the EAP via a toll-free number, supplied by the city's EAP vendor, 24 hours a day, 7 days a week.

Utilization of EAP program services will not result in any special privilege or exemptions for established city policies related to job performance or affect the at-will status of employment.

### **Types of Referrals**

- A. **Voluntary Self-Referral:** Employees may obtain information about the city's EAP from their Department or they may contact Human Resources. An employee may voluntarily contact the city's EAP at any time for assistance. This self-referral can be completely of his/her own initiative. The self-referral can also be a response to informal suggestions by supervisors. In most cases, appointments are available after normal working hours or on weekends. If appointments are necessary during normal work hours, the time may be charged to accrued sick leave. If sick leave is not available, employees may use other paid leave time available or use time off without pay. Information regarding the reasons employees are seeking assistance through the EAP is strictly confidential. Supervisors should not ask what the reasons are, and if an employee volunteers any information, it must be treated confidentially.
- B. **Job Performance Referral:** A job performance referral by the supervisor generally occurs in conjunction with some form of disciplinary action. If a supervisor feels that he/she should refer an employee to the city's EAP, he/she should first review the facts with the Director of Human Resources or designee. Upon agreement that a job performance referral to the city's EAP is the appropriate action, the Director of Human Resources or designee will contact the EAP with the initial information that the employee has been encouraged to contact the EAP within 24 hours. The supervisor should then tell the employee that he/she is encouraged to contact the EAP within the 24-hour time period to schedule an appointment. Scheduled appointments during work hours for the assessment visits and follow up treatments should be recorded as time worked. An employee should not have his/her time docked for job performance referred assessment appointments. Although case specific information will be treated confidentially, the EAP will keep Human Resources apprised of employees' general progress, such as whether they have attended scheduled meetings and are cooperating, and whether they are attempting to resolve the issues adversely influencing their work performance. If job performance does not improve, the supervisor may continue the disciplinary process, whether or not the employee contacted the EAP.
- C. **Fitness for Duty Referral:** On occasion, fitness for duty assessments may be required. Supervisors should work with their department director and Human Resources to determine the specific course of action in each case.

### **Critical Incident Crisis Response**

The City of McKinney may experience a critical incident or trauma in the workplace that can affect the emotional health, morale and productivity of employees and management. These events can range from an accidental death or suicide of a co-worker to a natural disaster, such as a hurricane;

or a drastic reduction in force. All of these events can cause a great deal of psychological, mental, physical and emotional stress. To deal with such events, the EAP responds to these critical incidents with a continuum of critical incident stress management (CISM) interventions.

### **Records of EAP Referrals/Use**

All records pertaining to the EAP will be treated with a high degree of confidentiality. Any information released will be clearly defined as confidential and will be released only under the following circumstances.

- A. When the EAP counselor determines that there is a clear and imminent risk to the employee or to the community. Clear and imminent risk includes, but is not limited to an individual who is actively suicidal, an individual who is like to physically harm another person, and/or an individual whose ability to function on the job is so substantially impaired that the individual presents a serious risk to the community;
- B. When and to whom required by judicial order or when required by legal proceedings;
- C. As required by law to appropriate authorities in cases involving child abuse;
- D. To Human Resources staff and the employee's supervisors on a need to know basis when a referral was mandatory; and
- E. To others with written consent of the employee.

### **Job Performance/Disciplinary Action**

Participation in an EAP program will not substitute for improved job performance, job productivity, or meeting established job standards defined by the department. Should an employee's performance remain at an unacceptable level or not improve within the time frames established by the supervisor, an employee may be subject to disciplinary action up to and including termination of employment.

## **6.17 Dress Code and Uniforms**

Grooming, appearance, and personal cleanliness standards contribute to the morale of all employees and affect the professional image the city presents to citizens and visitors. A professional, businesslike atmosphere must be reflected in both conduct and dress. During business hours or when representing the city (including times when wearing attire with the city logo), employees are expected to present a clean, neat, and professional image.

Department directors are responsible for communicating their expectations as it relates to portraying an appropriate image and for addressing any related concerns.

### **Appropriate Business Attire**

All clothing must be neat, clean, in good condition, and appropriate for the position. Formal business attire is required for situations calling for more formal dress, such as during meetings with outside entities, council presentations and other occasions as determined by the department director.

### **Inappropriate Attire**

Tank tops, spaghetti straps, beach flip flops and clothing with holes or frays are not permitted. This list is not all inclusive and only provides examples of prohibited items.

### **Casual Friday Attire**

The City of McKinney has designated every Friday as “Casual Day”. If city offices are closed on Friday, employees will be allowed to observe Casual Day on the day before the holiday. Employees must conduct and present themselves in a professional and appropriate manner in order to maintain this privilege.

### **Uniforms**

Department directors will determine which positions / employees are required to wear city uniforms and are responsible for ensuring uniformity within the department. This determination will be based upon security and safety considerations and the need for employee identification to the public and customers who visit city facilities. Uniformed employees will require city logo identification and the department name and must be leased or purchased from a vendor approved by Purchasing. Police and Fire department uniformed employee will be governed by the written uniform policy established by their respective departments.

Employees wearing city uniforms are required to comply with the following rules:

- A. Uniforms must be kept neat and presentable at all times. An employee may only wear accessories with the city uniform if authorized and approved by the department director.
- B. Employees will not wear city-issued uniforms while engaging in other employment or during off-duty hours. However, uniforms may be worn to and from work, including any incidental stops that may occur while on the way to and from work and during work-related meetings.
- C. Employees who are provided with uniforms will wear them every day while performing work for the city. This includes only the time spent from leaving the shop or office to arrival at the job site, back to the workplace, and to and from their homes.
- D. Employees are not permitted to drink or purchase alcoholic beverages while dressed in city-issued uniforms at any time.
- E. Employees are responsible for the cleaning of their own uniforms.

Replacement items will be issued only for damaged or worn-out uniforms. It will be the immediate supervisor’s responsibility to determine the condition of such items and authorize replacement.

When an employee leaves city employment, he/she must return any city-purchased or leased uniforms to the department prior to receiving his/her final paycheck.

With City Manager approval a department director can authorize a uniform allowance to be given to a specific position. Amounts will be reviewed by the Director of Human Resources for reasonableness and equity. This is a taxable benefit processed annually through payroll.

### **Personal Appearance**

Jewelry that pierces or is clipped to the eyebrow, tongue, nose or other exposed parts of the body, except the ear, may not be worn during work hours. Hairstyles are expected to be in good taste. Extreme hairstyles or hair colors are not permitted. Visible tattoos may not be of an offensive nature (sexual, profane or otherwise).

## **Personal Hygiene**

Employees are expected to maintain proper hygiene and grooming.

## **Dress Code Exceptions**

Unusual circumstances as approved by the supervisor, such as weather conditions, special work assignments, medical reasons, worksite conditions and/or unusual working hours or situations, may be sufficient reasons to grant an exception to the departmental dress code.

## **Non-Compliance**

Employees who do not meet dress code or professional appearance standards may be sent home by their supervisor with no compensation and are expected to report back to work immediately in proper attire. Violation of this policy may result in disciplinary action, up to and including termination of employment.

### **6.18 Acceptance of Gifts**

The purpose of the policy governing gifts to public employees is to regulate attempts to influence employees to use their authority or discretion to the advantage of the person making the gift, and prevent criminal conduct per city Charter Section 178 on Accepting Gifts.

City Charter Section 178, "Accepting Gifts," reads as follows: No officer or employee of the City of McKinney shall ever accept, directly nor indirectly any gifts, favors, privilege or employment from any public utility corporation enjoying a grant or any franchise, privilege or easement from said city, during the term of office of such officer, or during such employment of such employee, except as may be authorized by law or ordinance. Any officer or employee of the city who shall violate the provisions of this Section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and shall forthwith be removed from office.

While this section speaks directly to acceptance of gifts from public utility companies and/or franchise holders, your best judgment should be used when accepting a gift of any kind from anyone.

The city recognizes that food items may be received from citizens and vendors as a thank you for services during holiday times and on other occasions. Such offerings are permissible and should be made available for the enjoyment of everyone in that particular department, division or worksite.

Items that are not consumable on the premises shall be returned, donated to a city program or community organization, or used as a door prize at a city event.

This policy is not intended to prohibit the employees or departments from accepting discounted values when carrying out department (non-personal) business or accepting courtesies generally

extended to business or governmental organizations. Examples of this could include group or government rates at hotels and air travel or free continental breakfasts.

Questions regarding acceptance of gifts should be channeled through the department director.

Chapter: 7

Effective date: **January 1, 2017**Revised date: **July 1, 2021**

## CHAPTER 7 – EMPLOYEE DEVELOPMENT & TRAINING

The primary purpose of this policy is to promote both on the job and in-service training programs for the employees.

### 7.01 Conferences, seminars and short courses

Department supervisors may authorize and/or require employees to attend conferences, schools or professional conferences in connection with the fulfillment of city business which will materially benefit the employee attending and pertain to the work being carried on by the department.

Attendance to any school, conference, seminar or short course will be approved as provided for in the city travel policy or the budget.

### 7.02 Tuition Assistance Program

Tuition reimbursement is intended to assist regular full-time employees in obtaining additional education to develop their careers within the city as well as improve performance in their current positions.

#### Employee Eligibility

- A. Regular full-time employees are eligible to apply for tuition assistance for eligible coursework upon hire.
- B. Employees who have been placed on a Performance Improvement Plan (PIP) are not eligible to apply for tuition assistance until successful completion of the PIP.
- C. Participation in the program is subject to approval and is not guaranteed for any employee.
- D. Employees who cease employment with the city prior to completion of the eligible coursework are ineligible for the tuition assistance benefit.

#### Course Eligibility

Tuition Assistance will be considered for courses taken at or through a nationally or regionally accredited institution, including colleges, universities, technical or business schools that apply toward Associate's, Bachelor's, Masters', or Doctorate degree plans. Certified Fire and Sworn Police employees may only be eligible to apply for reimbursement of courses that are recognized by the appropriate state agencies at the Chief's discretion.

The Tuition Assistance Program does not apply to courses, seminars or conferences that are required, offered or paid by the city.

Employees are encouraged to pursue funding of courses available through other sources. Utilization of outside funding sources benefits both the employee and their peers as it allows for more courses to be taken while no increase in cost to the program. If a course is subsidized by

another source (e.g., scholarships, grants, Veterans' benefits, tuition exemptions available to eligible Peace Officers and Firefighters, or other subsidies), tuition assistance is limited to those costs not covered by the other source. It is the employee's responsibility to inform the Human Resources Department if he/she is receiving financial assistance by another source. In the event of partial scholarships or grants, reimbursement will be calculated based on the actual expense to the employee. Failure to inform the Human Resources Department of financial assistance received will result in disqualification from participation in the Tuition Assistance Program and may subject the employee to disciplinary action.

All courses must be taken on the employee's own time (including course preparation). At the discretion of the department director, employees may use a flextime schedule to attend a class.

### **Reimbursement Rate**

An eligible employee must pay the initial tuition and mandatory fees in advance and will be considered for reimbursement only after the grade has been received and if funds are available in the budget. Books, parking, materials and other fees are not eligible for assistance and are the employee's responsibility.

Employees may apply for reimbursement up to the amount published on each fiscal year's Tuition Assistance Schedule. Reimbursement may not exceed the actual amount paid by the employee. Reimbursements will be processed through payroll and will follow current IRS rules regarding taxability.

At the time of application, reimbursement will be based on the availability of funds in the city's operating budget of the fiscal year of course completion.

To be eligible for tuition assistance, an employee must receive a grade of "C" or higher in an undergraduate course or a grade of "B" or higher in a graduate level course. Pass or fail courses will be reimbursed only for the courses they passed.

### **Procedure**

#### **Two (2) Weeks Prior to Start of Course:**

Employee must submit the Tuition Assistance Program Application to Human Resources with a copy of the current degree plan if it is not on file. Once approved, Human Resources will return the application to the employee.

#### **Within 30 Days of Course Completion:**

Employee must complete part two of the Tuition Assistance Program Application and submit it, along with a copy of the official grade report and proof of payment to Human Resources for review and approval for payment. Human Resources will forward the approved request to payroll for processing.

*\*If the employee is enrolled in a deferred tuition payment program, official documentation of this enrollment with an invoice showing the partial payment amount and the amount deferred must be submitted to Human Resources.*

Failure to submit all information prior to the deadline will result in denial of tuition reimbursement.

**Service Requirement and Repayment Schedule**

If an employee does not maintain employment with the city for 24 months after receiving assistance for an approved course (s), the employee will be required to repay, at the time of termination of employment, tuition reimbursements based on the following schedule:

- 100% must be repaid if an employee leaves employment prior to twelve (12) months after receiving assistance.
- 50% must be repaid if an employee leaves employment after twelve (12) months but before twenty-four (24) months after receiving assistance.

As a recipient of tuition assistance, the employee authorizes the city to deduct the balance owed for tuition assistance from his/her pay or will make arrangements to reimburse the city by personal check or any other method of payment acceptable to the city.

The city reserves the right to modify, amend, suspend or terminate this policy, its standard practices, and its administrative procedures at any time, at its sole discretion. Payment of reimbursement does not constitute an agreement of continuation of employment with the city.

Chapter: 8

Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 8 – ON-THE-JOB INJURY & WORKERS' COMPENSATION

### 8.01 Policy

In accordance with Title 5 of the Texas Labor Code (known as the Texas Workers' Compensation Act), the City of McKinney provides benefits to those employees who are injured or contract a disease during the course and scope of employment (On-the-job injury).

### 8.02 Provisions of the Workers' Compensation Act

Benefits include:

- A. Lifetime medical benefits for necessary treatment of compensable injuries and illnesses;
- B. Disability income benefits for a specified period of time and up to dollar limits established by law.

By law, benefits are not payable if the injury:

- A. Is intentional or self-inflicted;
- B. Results from the employee's horseplay or voluntary intoxication (either alcohol or drug-induced);
- C. Arises from voluntary participation in off-duty recreational, social, or sports events;
- D. Results from "acts of God," unless a person's job exposes him or her to a greater than ordinary risk of injury from such acts; or
- E. Is inflicted by someone else for personal reasons unrelated to employment.

Refer to the Texas Workers' Compensation Act for complete details regarding benefits, rules, procedures and dispute resolution. The website is: [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html).

### 8.03 Responsibilities

#### **Risk Management**

Risk Management is responsible for administering the Workers' Compensation program, and will have financial and operational oversight of the program. The city purchases insurance and the respective claims adjusters will determine compensability and adjust claims in accordance with the Texas Workers' Compensation Act.

#### **Employees**

Employees shall report all on-the-job injuries to their supervisor immediately after an injury. They are also responsible for making sure medical documentation is promptly submitted to Risk Management following initial medical treatment, as well as after each subsequent medical treatment. Acceptable documentation for the initial treatment is Form DWC 73 from a physician, or patient discharge instructions from an emergency medical facility.

## Supervisors

Supervisors will ensure the injured employee receives prompt medical attention if required. They will investigate all accidents to identify causes, pinpoint unsafe conditions and prevent similar accidents from recurring. Supervisors will report all on-the-job injuries to Risk Management within one business day after notification by the employee. The On-the-Job Injury form is available on the Intranet on the Risk and Workers' Compensation page. The instructions regarding how to complete and e-mail it are printed on the form.

### 8.04 On-the-Job Injury Procedures

- A. If it is a medical emergency, employees should be taken to the nearest emergency facility.
- B. In a non-emergency situation, Risk Management will coordinate the scheduling of any initial medical treatment for injuries occurring within the normal work hours of 8 a.m. to 5 p.m. Supervisors or their designees should accompany employees to the place of treatment.
- C. Employees who are injured after normal work hours and require medical treatment should be taken to nearest emergency facility.
- D. Employees who require medical attention immediately following the on-the-job injury must submit to alcohol and drug testing. Supervisors or their designees will ensure this is performed by the treating facility as soon as possible following the injury. Alcohol testing should be performed within 5 hours of the injury; drug testing within 24 hours. If a test cannot be performed within that time period, a written record stating the reasons the test was not performed shall be prepared by the supervisor and sent to Human Resources within 36 hours of the injury. Testing is not required for:
  1. Exposure to occupational disease;
  2. Animal or insect bites;
  3. Exposure to poison oak or ivy, or other similar toxins; or
  4. Injuries caused by an animal or another person.
- E. Except for initial treatment provided by an emergency facility, injured employees must use a medical provider who is an approved network provider. If employees receive treatment from a provider outside of the approved network they could be responsible for the payment.
- F. Employees who are not released for work after the initial treatment will notify their supervisors and Risk Management by 8 a.m. the first business day following the injury. Time off from work caused by a Workers' Compensation injury will be considered an absence under the Family and Medical Leave Act (FMLA), if the employee is eligible. (Refer to the Family and Medical Leave Policy for eligibility requirements.)
- G. Employees may not return to work from an injury involving lost time without first obtaining a release from the treating physician (Form DWC 73 or similar). The physician's release must be forwarded to Risk Management no later than the first day the employee returns to work.
- H. If employees are not able to return to regular duty, they may temporarily be assigned other duties that comply with restrictions established by the treating physician. (Refer to the Return to Work Program for procedures.)

Chapter: 9

Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 9 – COMPENSATION CONTINUATION BENEFITS

### 9.01 Policy

The city provides compensation continuation benefits to regular full time employees who receive or are eligible to receive Workers' Compensation temporary income benefits (TIBS). This provides employees with approximately their regular take home pay while unable to work due to a compensable on-the-job injury or illness.

### 9.02 Provisions of the Plan

- A. During the time an employee is unable to work and is authorized to be off duty due to an on-the-job injury, the employee may be paid Compensation Continuation Benefits (regular salary excluding overtime).
- B. The total amount paid to an injured employee while losing time from work, including any combination of Workers' Compensation Benefits and Compensation Continuation Benefits, will not exceed the full pay which the employee would have received for such period of his/her regular hours and current rate of pay.
- C. Compensation Continuation Benefits may be granted for partial or full workday periods of time. Partial periods of time must be in full hour increments.
- D. Compensation Continuation Benefits will automatically terminate at the expiration of 180 calendar days from the date of the on-the-job injury. Compensation Continuation Benefits may be continued for up to an additional 185 calendar days in unique or unusual cases approved by Risk Management. An employee must submit a request for an extension and the reasons for the request in writing accompanied with complete medical certification from the treating physician. The request and all supporting information should be sent to the Risk Manager 14 calendar days before the expiration of the 180 days of the Compensation Continuation Benefits. An employee will be limited to a total of 365 calendar days of Compensation Continuation Benefits within 12 months from the date of injury.
- E. In no event will Compensation Continuation Benefits be continued:
  1. After a Workers' Compensation settlement agreement or an agreed judgment has been reached;
  2. After TIBS payments have ceased;
  3. After 365 calendar days of Compensation Continuation Benefits have been received;
  4. After maximum medical improvement has been reached; or
  5. After impairment rating has been assigned.
- F. Compensation Continuation Benefits will not be charged against accrued leave benefits. Accrual of leave benefits will be suspended on the first day of the month following the beginning of injury leave and the payment of Compensation Continuation Benefits.
- G. An employee who does not qualify for Compensation Continuation Benefits or whose Compensation Continuation Benefits have ended before being released to regular duty may use accrued leave benefits to supplement Workers' Compensation TIBS

payments.

### **9.03 Procedures**

In order to receive Compensation Continuation Benefits, an eligible employee must follow these procedures:

- A. The employee will return a completed statement from the treating physician (DWC-73 or similar) immediately following each scheduled physician's appointment.
- B. An employee who fails to report to his/her supervisor as agreed upon may lose Compensation Continuation Benefits and/or be subject to disciplinary action up to and including termination.

### **9.04 Forfeiture of Benefits**

An employee will forfeit all rights to initial and/or further Compensation Continuation Benefits if the employee:

- A. Fails or refuse to comply with the instructions or advice of the treating physician or another physician performing an independent medical examination for the city regarding treatment of the injured condition. This would also include failure to keep medical appointments.
- B. Refuses to perform alternate duty, modified, or part time duty when offered by the city and authorized by the treating physician or another physician performing an independent medical examination for the city; or refuses to return to duty on the designated workday after having been released by the treating physician;
- C. Refuses to accept or perform a different job with the city that, in the opinion of a treating physician or another physician performing an independent medical examination for the city, is within the employee's physical capacity and for which the employee is qualified or will be trained.
- D. Refuses to submit to any independent medical examination or treatment required by the city in accordance with workers' compensation laws.
- E. Refuses to return to regular duty after being released for regular duty by a treating physician or another physician performing an independent medical examination for the city.
- F. Falsifies or misrepresents a physical condition or capacity;
- G. Fails to report as agreed upon with the Supervisor;
- H. Is injured as a result of any of the following:
  - 1. The employee's failure to observe safety policies, procedures, or instructions as determined by employee's department director or City Manager or designee;
  - 2. The employee's violation of any Federal, State or local law, ordinance or statute;
  - 3. Gross negligence of the employee.
- I. Is found to be working, in any capacity which would be inconsistent with the injury sustained or not deemed consistent with the recovery or rehabilitation, as a volunteer or otherwise, for or on behalf of himself/herself or any other person, firm, corporation, or any other employer.

- J. Terminates employment or is involuntarily terminated from employment while receiving Compensation Continuation Benefits.
- K. Has Workers' Compensation TIBS terminated for any reason other than a return to work or part time duty, including the denial of the Workers' Compensation claim.
- L. Fails to act in a manner consistent with being off work convalescing.

Chapter: **10**Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 10 – RETURN TO WORK (RTW) PROGRAM

### 10.01 Policy

The city will make every reasonable effort to provide suitable return-to-work opportunities for employees who are temporarily unable to perform their regular duties following a compensable Workers' Compensation injury. This may include modifying their regular job or, if available, providing temporary alternate work for which employees are qualified.

### 10.02 Eligibility

Employees must have sustained an on-the-job injury or illness determined to be compensable under the Texas Workers' Compensation Act.

They must provide a written statement (DWC-73) from the treating physician stating the employee is:

- A. Temporarily unable to perform his/her essential duties;
- B. Capable of carrying out work of a lighter or modified nature from his/her regular duties; and expected to return to his/her regular duties.

### 10.03 Procedures

After the compensable injury or illness has occurred, employees must be seen by an approved treating physician to receive appropriate, effective medical treatment that facilitates recovery and expedites return to productive work.

When the physician determines employees are able to return to work (with or without restrictions), he/she must complete the DWC-73, indicating specific restrictions, if any, and the duration of those restrictions.

In accordance with Texas Workers' Compensation Rule 129.6, as amended, employees may be offered a return-to-work (RTW) position with restricted duties that are within the employee's work abilities as determined by the treating physician.

Work assignments and work schedules for those in the RTW Program will be determined by the assigned supervisor in accordance with the determined need for service. Whenever possible these assignments will be made in the employee's department. If an assignment is not available in the employee's regular department, the Risk Manager will arrange placement in another city department if a suitable assignment is available.

The temporary job offer will be made to the employee in writing and in the form and manner prescribed by the Texas Workers' Compensation Act. A copy of the DWC-73 on which the offer is being based will be included with the offer. The offer will include the following:

- A. The location at which the employee will be working;
- B. The schedule the employee will be working;
- C. The wages that the employee will be paid;
- D. A description of the physical and time requirements that the position will entail; and,
- E. A statement that the city will only assign tasks consistent with the employee's physical abilities, knowledge and skills and will provide training, if necessary.

If the employee refuses the RTW assignment and is receiving Compensation Continuation Benefits, these benefits and the temporary income benefits (TIB) will be discontinued.

Employees participating in the RTW program will be compensated at his/her regular rate of pay. (A 56 hour per week rate of pay will be converted to a 40 hour per week rate of pay). Employees may not work overtime hours or at any outside employment without approval from the Risk Manager.

Alternate duty assignments are intended to be temporary and should not extend beyond 90 calendar days from the date the treating physician first releases the employee to return to work with temporary restrictions. The duration of approved time will be based upon the information provided by the employee's treating physician.

If an employee is unable to return to regular duty without restrictions after the 90 calendar day period, he/she may request a continuation of alternate duty not to exceed a total of 180 calendar days. Approval beyond the initial 90 calendar days will be based upon the assessment of the employee's ability to return to full duty within the immediate future. An employee requesting this extension must submit documentation to the Risk Manager from his/her treating physician. This should include what limitations continue to exist and the probable duration of those limitations.

Under unusual circumstances, the City Manager may grant an extension, not to exceed a total of 365 calendar days, of alternate duty.

If an employee is unable to return to regular duty after 365 calendar days from the initial date of injury, a reasonable accommodation may be made by the city to provide for the employee to perform such duties. If a reasonable accommodation cannot be made and an employee is unable to perform the essential duties of his/her position with or without restrictions, the employee may be terminated and the position filled due to business necessity. The decision to terminate the employee's employment after 365 calendar days from the first date of injury will be final without the option for appeal.

This policy will not be construed or interpreted to mean any employee has a right to be offered a RTW assignment or that the city is compelled to make such an offer.

Chapter: 11

Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 11 – REASONABLE ACCOMMODATION

### 11.01 Policy

It is the policy of the City of McKinney to provide reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment. The City of McKinney will adhere to all applicable federal, state and local laws, regulations and guidelines with respect to providing reasonable accommodations as required to afford equal opportunity to qualified individuals with disabilities.

This includes, but is not limited to, compliance with the Americans with Disabilities Act of 1990 (ADA), as amended.

### 11.02 Definitions

- A. **Qualified Individual with a Disability:** A qualified individual with a disability is an individual who satisfies the job-related requirements of the position and who can perform the essential functions of the position with or without reasonable accommodation(s). A disability could be a physical or mental impairment that substantially limits one or more major life activities, such as self-care, performing manual tasks, hearing, speaking, breathing and working. A major life activity could also include the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- B. **Reasonable Accommodation:** In general, a reasonable accommodation is a modification or an adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. An equal employment opportunity means an opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to a similarly situated employee without a disability. Examples of reasonable accommodations include (but are not limited to) making existing facilities accessible; job restructuring; part-time or modified work schedules; acquiring or modifying equipment; changing tests, training materials, or policies; providing qualified readers or interpreters; and reassignment to a vacant position. Accommodation may also include making modifications to existing leave policies and providing leave when needed for a disability, even when the leave might not be available to other employees.

### 11.03 Requests for Reasonable Accommodations

- A. **Employees:** An employee seeking an accommodation for a disability should notify his/her supervisor that he/she needs an adjustment or change at work for a reason

related to a medical condition. It is not necessary for the employee to specifically mention the ADA or use the words “reasonable accommodation.” These requests should be referred to the department head and the Human Resources Department for review.

- B. **Job Applicants:** Job applicants seeking an accommodation should be referred to the Human Resources Department.

#### **11.04 Procedures**

The city will work with the employee/applicant and his/her health care provider(s) through an interactive process to identify a reasonable and effective accommodation for a disability. The request for a reasonable accommodation shall be reviewed by the city, and a written determination will be provided to the employee or applicant by the Director of Human Resources.

An appeal of a determination may be made following the procedures outlined in the city’s ADA Grievance Policy.

Chapter: 12

Effective date: **January 1, 2017**Revised date: **September 8, 2017**

## CHAPTER 12 – RISK MANAGEMENT

### 12.01 Introduction

#### **Policy**

The goal of Risk Management is to limit injury or damage to persons, employees, and property within the City of McKinney. The department's mission is to reduce the liability to the city in the form of safeguarding the public and employees from claims against the city that can be prevented by effective Risk Management Policies.

#### **Responsibility**

All Department/Division Heads are responsible for implementing Risk Management policies. All employees are required to follow Risk Management policies and attend safety meetings as required.

### 12.02 Prevention

#### **Policy**

Safety will be exercised by all employees, at all times.

#### **Purpose**

- A. To provide for the preventive measures necessary to encourage the observance of safety.
- B. To provide management endorsement for the support of safety practices.
- C. To create a structure for the discussion and awareness of safety.

#### **Responsibilities**

Supervisors shall follow all safety rules and advise those whom they supervise of all such rules. Supervisors shall observe employees' actions for safety and advise them accordingly.

### 12.03 Safety Clothing and Equipment

#### **Purpose**

The city desires to promote a safe working environment for employees by providing a uniform policy setting forth guidelines for the wearing of certain safety clothing and equipment for all employees engaged in dangerous work. The cooperation of employees and management in the observance of this policy will provide safer working conditions and reduce accidents.

Individual departments shall develop additional clothing requirements within their functional areas that are appropriate to their specific job functions.

- A. **Footwear:** Employees shall wear footwear suitable to the type of work being performed. Wearing of sandals, thongs, tennis shoes, loafers or similar footwear shall

not be acceptable during working hours for employees serving in labor, maintenance, construction, or inspection positions.

Protective footwear shall be worn when required by the department. Protective footwear is footwear that meets the requirements of the American National Standard Institute's ANSI Z41-PT99 standard, or the equivalent ASTM standard. Each shoe must have a label or marking indicating compliance with the Standard. All protective footwear must be identified as having a slip resistant sole/tread.

Departments may have specific requirements regarding style or color of footwear.

An allowance is provided to employees who are required to obtain protective footwear as a condition of employment. Prior approval and allowance is required by the department director.

Footwear is to be maintained in a serviceable condition. As with all personal protective equipment (PPE), protective footwear should be inspected prior to each use. This includes looking for cracks or holes, separation of materials, broken buckles or laces. The soles should be checked for pieces of metal or other embedded items that could present electrical or tripping hazards. Manufacturer's recommendations for cleaning and maintenance should be followed. It is the employee's responsibility to properly maintain the footwear, wear it when required and to request replacement footwear when needed.

- B. **Hard Hats:** Hard hats that are dielectric and of a high density polyethylene material are to be worn by city employees when they are working in any area deemed to be a hazard by supervisory personnel. Examples of conditions where hard hats shall be required are:
1. Working at an excavation or manhole;
  2. Working on a ladder, tower, or aerial device;
  3. Working in an area where there is a danger of falling objects; and,
  4. Working in the street or in a construction area.

Soft caps may be worn when an employee is not engaged in any of the activities for which a hard hat is required. Soft caps shall not be used as substitutes for hard hats.

Hard hats and soft caps will be furnished by the city. Supervisors are responsible for enforcement of this policy.

- C. **Gloves:** Gloves will be worn when an employee is engaged in duties that require handling of objects that can stick, cut, or bite the employee. Supervisory personnel, with the assistance of the department heads, will determine the appropriate type of glove to be worn. Gloves will be furnished by the city. Supervisors are responsible for enforcement of this policy.
- D. **Eye and Ear Protection:** Jackhammering, power sawing, or employees who use power tools for edging or trimming will wear suitable goggles and/or face shields while performing any of these operations. Appropriate goggles and/or shields shall be provided by the city. Any operation of loud power equipment such as jackhammers or the like shall be required to wear headsets to reduce the amount of damage inflicted upon the employee's hearing. Supervisors are responsible for enforcement of this policy.
- E. **Safety Vest:** City employees who are required to work in the street or roadway shall be required to wear a fluorescent safety vest. Employees who operate farm-type

- equipment on the streets shall wear safety vests of solid or net material. Safety vests will be furnished by the city. Supervisors are responsible for enforcement of this policy. Police officers and firefighters will be guided by their own Department regulations.
- F. **Classifications Required to Wear Work Shoes and Hard Hats:** Each respective department shall determine which classifications are required to wear work shoes and hard hats and will notify their employees of these requirements.
  - G. **Dust Masks:** A disposable dust mask shall be worn by all employees who operate mowing equipment and/or weed eating equipment to prevent inhalation of dust and grass.
  - H. **Seat Belts:** Seat belts shall be worn at all times when operating city vehicles as per State statute. Violation of this policy will not be tolerated.

### **Disciplinary Action**

Violation of any of the above policies may result in disciplinary action in accordance with established City of McKinney policy.

## **12.04 City Vehicle Operator Standards**

All employees authorized to operate city vehicles and motorized equipment (owned, borrowed, rented or leased by the city), or who operate personal vehicles on city related business, shall meet and maintain minimum qualifications. This also applies to employees receiving a monthly car allowance, reserve police officers and applicants for positions requiring the operation of city vehicles and equipment.

### **Responsibilities**

Employees who drive city vehicles or operate motorized equipment in the course of their employment shall be required to meet the following minimum conditions of eligibility for driving/operating privileges:

- A. Have reached the age of 18 years.
- B. Be physically qualified to hold a driver's license and have the proven ability to drive and/or operate the equipment safely.
- C. Have a valid driver's license of the appropriate class, issued in the employee's current state of residency.
- D. Wear seat belts and other relevant safety equipment when operating city vehicles or motorized equipment when appropriate.
- E. Observe all city vehicle and traffic related policies.
- F. Observe all laws and ordinances relating to the operation of city vehicles or motorized equipment.
- G. Be responsible for the proper care and use of vehicles or motorized equipment as defined and described in the City of McKinney Fleet Maintenance Management Policy.
- H. Employees using their personal vehicle for city related business shall comply with all current legal regulations such as insurance, inspection, and registration.
- I. City employees may not use hand-held devices while operating a City Vehicle, whether the vehicle is in motion or stopped. This includes, but is not limited to, answering or making phone calls, engaging in phone conversations, and reading or responding to emails, instant messages, and text messages. All motor vehicles must be legally and safely parked to operate hand-held devices. Such restrictions for Police and Fire department personnel will be governed by Police and Fire Department policy.

- J. City employees may use accessories or vehicle-based equipment which allows for a hand-held device to be operated hands-free for voice calls only, so the driver may be able to maintain the use of both hands to control the vehicle. Vehicle operators are still required to use good judgment when using hands-free equipment so as not to be distracted from maintaining control of the vehicle.
- K. Individual Departments shall be authorized to restrict the use of hands-free equipment based on the operational needs of the Department or vehicle size.

### **Operator Standards**

Employees currently in a position requiring the operation of city vehicles or motorized equipment, or applicants for such positions, shall not be eligible for driving/operating privileges under any of the following situations:

- A. Driver's license is currently suspended or revoked.
- B. Driving while intoxicated (DWI) or driving under the influence (DUI) of narcotics conviction within the past three years.
- C. Any serious violation such as reckless driving, endangering lives of others, racing, failing to stop and render aid, or negligent vehicular manslaughter within the past three (3) years.
- D. More than three standard moving violations such as speeding, reckless driving, disregarding a traffic control signal, failure to signal, failure to keep right, following too close, etc. within the past three years.

### **Procedures**

The following procedures shall be observed under this policy:

- A. Employees operating city vehicles or motorized equipment must report to their supervisor, or designee, any accident involving these vehicles immediately following the accident.
- B. Employees shall submit to a drug and/or alcohol test if the accident involves third party bodily injury or property damage, or if it causes more than cosmetic damage to city property. Supervisors, or their designee, must drive employees to and from the testing facility. Refer to the Personnel Rules for more information regarding the city's drug/alcohol testing policy.
- C. Employees who are in jobs that require the driving/operating of city vehicles or motorized equipment shall report any driver's license suspensions to their immediate supervisor within 24 hours of the suspension.
- D. Failure to report license suspensions, failure to maintain the required driver's license, or failure to meet minimum driving record criteria will be sufficient grounds for removal from driving privileges and may subject the employee to disciplinary action.
- E. All city employees will have their driving records reviewed by the Risk Manager on an annual basis. The Human Resources Department will create a list that includes the employee's name, date of birth, and current driver's license number. The motor vehicle record reflects the past three years of a driving record. The appropriate department head will be notified of any employee whose driving record fails the criteria set forth in this policy.
- F. Employees who have been ruled ineligible to drive city vehicles or equipment due to their driving record shall be:
  - 1. Assigned non-driving responsibilities within their current department, if available; or

2. Transferred to another department and assigned non-driving responsibilities, if available; or
3. Dismissed, if neither of the above alternatives can be achieved within 20 working days.

All non-driving responsibilities must have prior approval of the City Manager.

- G. Employees who receive a car allowance and become ineligible for driving privileges shall have their car allowance revoked and shall not be permitted to drive on city-related business. Mileage reimbursement recipients who become ineligible for driving privileges shall be forbidden to drive their personal vehicles on city-related business.

### **12.05 Vehicle Take-Home Policy**

Individual Departments may develop and implement employee take-home vehicle policies to meet the needs of their department. The purpose of these policies is to provide assurances that city vehicles are used for public purposes, that employees refrain from use of city vehicles for personal business or pleasure and to provide rules and procedures governing the assignment, use and reporting requirements of take-home vehicles. Such departmental vehicle use policies must be approved by the City Manager.

Employees who are assigned a non-exempt take-home vehicle will have an assessment added to their taxable income for each day of use, as set forth by the federal government each year. The assessment will apply only for the days used, not to include vacation, personal day, sick leave or holidays. Departments will provide Finance a list of employees assigned the use of a non-exempt take-home vehicle by Dec. 31. The employee assigned the use of a non-exempt take-home vehicle will be responsible for the tax on the assessed amount.

In October, January, April, and July of each year, department directors shall submit to the City Manager a complete list, by department/division, of all authorized take-home vehicles.

### **12.06 Post-Accident / Injury Drug and Alcohol Testing**

#### **Policy**

In conjunction with the City of McKinney's commitment to maintain a drug-free environment, alcohol and drug tests are required after city employees have been involved in specific job-related accidents.

#### **Procedures**

Below is an outline of the procedure to be followed:

- A. Employees under the age of 18 may not be drug tested unless a waiver signed by the parent or guardian authorizing the drug test is on file, otherwise a parent or guardian must be present. Keep in mind, employees under the age of 18 cannot drive city vehicles or drive their personal vehicles on city business.
- B. There are two situations after which drug and alcohol testing is required:
  1. Following an accident involving the operation of a city vehicle or motor driven equipment.

2. After an employee has been injured from an on the job injury.
- C. Accidents involving the operation of a city vehicle or motor driven equipment: Employees will be taken by their supervisor(s) or a designee for drug and alcohol testing if they are involved in an accident:
1. While driving a city vehicle at any time; or
  2. Driving a personal vehicle on city business; or
  3. While operating city-owned motor driven equipment,

**AND**

The accident results in death, injuries that require the immediate services of a medical professional (to anyone involved in the accident) or significant property damage. Significant property damage means that the damaged property must be replaced or incur major repairs in order to be restored to its prior condition.

This does not include:

1. Superficial or cosmetic damage
2. Damage caused by birds or animals
3. Accidents occurring when the driver is legally parked

**On the job injuries**

Employees who are injured from an employment related accident will be taken by their supervisor(s) or a designee for drug and alcohol testing if their injuries require the immediate services of a medical professional.

This does not include:

- A. Exposure to occupational disease
- B. Animal or insect bites
- C. Exposure to poison oak or ivy, or other similar toxins
- D. Injuries caused by an animal or another person

**Where the tests are administered**

If it is determined that post-accident drug / alcohol test is necessary based on the above criteria, the employee must be taken to the designated testing facility for a post-accident alcohol and drug testing.

**When the tests are to be administered**

Post-accident/injury alcohol testing should be performed within five hours, attempts to test shall cease and a written record stating the reasons the test was not performed shall be prepared by the supervisor and sent to Human Resources within 24 hours of the accident/injury.

Post-accident/injury drug testing should be performed within 24 hours or not at all. If a test cannot be performed within that time period, a written record stating the reasons the test was not performed shall be prepared by the supervisor and sent to Human Resources within 36 hours of the accident/injury.

**Work status of employee pending test results**

If test results are not immediately available, the employee may not drive vehicles or motor driven equipment until the results are received. If the results are negative, the employee may resume his/her normal duties. In situations where the results are positive or inconclusive,

Human Resources will provide guidance.

**12.07 Loss - Property Damage**

Employees shall report all property damage to their supervisor immediately. Supervisors shall report all property damage to the Risk Manager.

**Procedures**

All property damage must be reported on the appropriate "Property Damage Report" form to the Risk Manager within 24 hours, or the next working day.

Chapter: 13

Effective date: January 1, 2017

Revised date: September 8, 2017

## CHAPTER 13 – SOCIAL MEDIA

This policy outlines the protocol and procedures for the use of social media to publicize official city services and events. In addition, this policy provides guidance to the employees of the City of McKinney concerning their use of social media as well as their responsibilities with regard to social media and the use of city resources.

### 13.01 Definitions

**Social Media:** For the purposes of this policy, social media shall mean official city websites as well as all forms of online community activities such as online social networks (e.g., Facebook), professional networking sites (e.g., LinkedIn), message boards (e.g., Twitter), video sharing (e.g., YouTube), blogs, wikis, chat rooms and online forums.

### 13.02 Policies and Procedures

#### **Official City of McKinney Social Media Sites**

Official social media sites/pages representing the city will be the property of the City of McKinney. Accounts must be registered through the Communications and Marketing Department. If approved by the Communications and Marketing Department, the Communications and Marketing Department will secure approval from the City Manager or designee before establishing the account.

- A. The Communications and Marketing Department will be responsible for the oversight of the city's social media formats to include:
  1. Authorizing social media accounts;
  2. Maintaining a list of social media domains as well as usernames and passwords;
  3. Monitoring social media activity to verify that content is compliant with the city's goals, objectives and ethical conduct policy;
  4. Access to all administrative rights and privileges of all social media domains and accounts.
- B. In order to be acceptable, the content of the social media must contain:
  1. Information about city events, activities or issues tied to something funded, operated, managed, etc. by the city;
  2. Positive aspects of the City of McKinney; or
  3. Reflect the goals and purpose of the account (e.g., Historic Downtown McKinney posting about shops on the square offering special deals).
- C. Postings to city social media sites must be respectful and shall NOT contain any of the following:
  1. Comments that are not typically related to the particular posting being commented upon;
  2. Comments in support of, or opposition to, political campaigns, candidates or ballot measures;
  3. Profane language or content;

4. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, national origin, physical or mental disability, as well as any other category protected by federal, state, or local laws;
  5. Sexual content or links to sexual content;
  6. Solicitations of commerce;
  7. Conduct or encouragement of illegal activity;
  8. Information that may tend to compromise the safety or security of the public or public systems;
  9. Content that violates a legal ownership interest of any other party including the disclosure of private or confidential information;
  10. Information about actual or potential claims and litigation involving the city;
  11. The intellectual property of others, without written permission; or
  12. Photographs of employees or members of the public, without written permission or publicly posted notice given.
- D. The city website will remain the official location for content regarding city business, services and events. When possible, links from social media sites will be used to direct users back to the city's website for more information.
- E. Any request for a social media site from a department or employee must be approved by the Communications and Marketing Department. If approved by the Communications and Marketing Department, the Communications and Marketing Department will secure approval from the City Manager or designee before establishing the account. Requests should include:
1. Purpose of the site, goals desired to be accomplished, and benchmarks to track progress
  2. How often the site will need to be updated; and
  3. Individuals that have authority to update the site.
- F. Only designated employees will have authority to change content of the social media site.
- G. Individual departments that the posted information is related to are responsible for providing a site administrator with an official response to any inquiries related to the posted information.
- H. Communications through social media is public record. Posts by city departments, employees and any outside feedback will be part of the public records for the city. The Communications and Marketing Department will be responsible for establishing guidelines for maintaining and storing copies of the content posted in order to comply with the Texas Public Information Act.
- I. Content posted by outside contributors and not officially posted by the city do not constitute an endorsement or representation on the part of the city. Any comments or content posted that are deemed inappropriate will be deleted. The city also reserves the right to block any users that violate these guidelines from accessing the city's social media sites.
- J. If a question arises regarding the use or posting of confidential information on a social media site, the matter shall be referred to the City Attorney for review. The information shall not be posted, or if already posted will be removed immediately until an opinion is rendered by the City Attorney. The City Manager or designee reserves the right to restrict or remove any information on the social media site that he/she does not believe serves in the best interest of the city.
- K. Each official city social media page will include a disclaimer that contains wording similar to :

*“The City of McKinney maintains this social media site/page to provide information and promote City of McKinney programs, services, policies and objectives. It is the city’s goal to keep the most current and accurate information available to the public on this site, however, varying events can occur that could affect the timeliness of the information and the accuracy of the content. Comments posted on this site by “friends,” “fans,” or “followers” will be monitored and any postings or comments that are disrespectful, offensive, dishonest, or do not accurately reflect the views, values or objectives of the City of McKinney will be deleted without notice. This site/page may contain links to other Internet sites and resources as a convenience to the viewer. Linked sites/pages are not under the control of, nor maintained by, the City of McKinney and the city is not responsible for the content of these sites. In addition, the inclusion of a linked site/page does not constitute an endorsement or promotion by the City of McKinney.”*

### **13.03 Use of Social Media at Work**

- A. Work-related social media access by employees while on duty utilizing city property will be subject to the rules and guidelines set forth by the City of McKinney Communications and Marketing Department.
- B. Personal use of social media by employees while on duty utilizing city property will be subject to the rules and guidelines set forth by the Human Resources Department.
- C. Media inquiries generated on social media sites should follow the protocols generally accepted by the city regarding media inquiries.
- D. The city reserves the right to monitor employee use of social media sites accessed during work hours on city equipment. Users should have no expectation of privacy or confidentiality when using these resources.
- E. Employees may not ignore copyright laws, cite or reference sources inaccurately. Plagiarism is prohibited.
- F. All information published on social media sites must comply with city’s privacy and/or data policies. This includes comments, pictures, video, audio or any other multimedia posted on social networking sites, blogs, and forums.
- G. Employees are discouraged from discussing information about city employees, citizens, vendors, issues, business, or legal matters without expressed consent to do so.
- H. All city-related communication through social media outlets should remain professional in nature. Incomplete, inaccurate, inappropriate, threatening, demeaning, harassing or poorly worded postings may be harmful to other employees, damage employee relationships, create hostile working environments, violate city policies or harm the city’s reputation. Such wording will be removed by the Communications and Marketing Department staff at their discretion. Employees bear full responsibility for the material they post on social media sites. Inappropriate usage of social media can be grounds for disciplinary action, up to and including termination of employment.

The city reserves the right to remove content that is deemed in violation of this policy or any applicable law. Violations of this policy may result in immediate revocation of any or all electronic communications access and user privileges and may be grounds for disciplinary action up to and including termination. Certain violations could result in civil or criminal liabilities for the user.

#### **13.04 Use of Social Media at Home**

While the city encourages its employees to enjoy and make good use of their off-duty time, certain activities on the part of employees may become a concern if they have the effect of impairing the work of any employee; harassing, demeaning, or creating a hostile work environment for any employee; disrupting the smooth and orderly flow of work within the office; or harming the goodwill and reputation of the city among its citizens or in the community at large. In the area of social media, employees may use such media outside work as long as such use does not produce the adverse consequences noted above. For this reason, the city reminds its employees that the following guidelines apply in their use of social media, both on and off duty:

- A. Information that is published on personal online sites should never be attributed to the city and should not appear to be endorsed by or originated from the city.
- B. Employees engaging on personal social media platforms should not use their city e-mail account or the city's name, logos, pictures of the employee in a city uniform, incorporate the city in their identity (e.g., username, "handle", screen name or profile picture), nor should they speak as a representative of the city.
- C. Any person identified as an employee of the city on a publicly accessible site is expected to maintain a positive online image that is consistent with the city's goals and objectives.
- D. Employees that choose to list their employment affiliation on public websites should regard all communication on that site as professional.
- E. Employees that contribute to a public site or blog and identify themselves as a city employee are asked to provide a clear disclaimer that their views are not endorsed by the city and are their beliefs alone.
- F. Relationships with other city employees established outside of work on social media sites may have an adverse effect on work relationships. Employees should be mindful of this possibility.
- G. Posts should not disclose private or confidential information including posting photographs of fellow employees or citizens without their permission.

Chapter: 14

Effective date: **January 1, 2017**

Revised date:

## CHAPTER 14 – CELL PHONE USE

### 14.01 Policy

The purpose of this policy is to ensure that privacy, security, and legal issues concerning use of the cell phones are addressed and that a policy is formally established to define appropriate procurement procedure and use of these services and equipment. This policy covers cell phones that are issued by the City of McKinney for city business purposes, and personally-owned cell phones which may be used by employees for city business purposes. City-issued cell phones and all information created and stored therein, are the property of the city. For the protection of the organization and its employees, city employees with access to these technologies from city provided resources are required to review and abide by this policy.

This policy applies to all employees within the city. This policy applies to all city departments and all employees, including full-time, part-time, contract, temporary or seasonal hires. Departments have the ability to implement more restrictive (but not less restrictive) conditions on the use of cell phones than those defined within this policy.

### 14.02 Definitions

*City-owned cell phone* means cell phones that are purchased by the city and the city is responsible for paying the billed cost of that cellular usage.

*City employee* means any employee (including permanent, full-time, part-time, and seasonal employees) of any city department.

*IT* means Information Technology and/or Information Technology Department.

*Personal Use* means usage for purposes other than city business purposes.

*Smart Phone*, which pertains to cell phone devices that integrate the functionality of a mobile phone, email, web access, data plan and other functions.

### 14.03 Appropriate Use of City-Owned Cell Phones

Employees are expected and have the obligation to use good judgment at all times when using city-owned cell phones. Access to these technologies is made available to city employees for the purpose of providing an effective method to communicate and increase productivity.

Employees are permitted limited use for personal needs if the use does not interfere with official business or result in the loss of employee productivity. Personal use of city technology must be kept to the minimum amount of time needed to address a situation. Excessive use will be determined on a case-by-case basis.

#### **14.04 Prohibited Uses of City-Owned Cell Phones**

This policy prohibits employees from using city-owned cell phones for the following activities:

- A. Transmitting or downloading any material or messages in violation of Federal, state, local law, ordinance, regulation or city policy, including but not limited to, sexually, racially, or ethnically offensive comments, threats, jokes or slurs.
- B. Distributing sensitive or confidential information.
- C. Using city-provided resources to accomplish personal gain or to manage a private business.
- D. Downloading or distributing copyrighted materials not owned by the city, including software, photographs, or any other media.
- E. Developing or distributing programs that are designed to infiltrate computer systems internally or externally, and development of any PC virus.
- F. Accessing or downloading any resource for which there is a fee without prior supervisory approval.
- G. Representing yourself as another user or employee.

#### **14.05 Privacy**

Employees should have no expectation of privacy while using city-owned cell phones. They are not a secure means of communication and personal or privileged information sent or received via these technologies could potentially be read or overheard by individuals other than the desired recipients. Call records of city-owned cell phones are public record.

#### **14.06 Violations**

Violations of this policy may result in termination of access to and use of city cell phones and may also result in disciplinary or legal action up to and including termination of employment, criminal or civil penalties or other legal action against the employee.

#### **14.07 Vendor Selection for City-Owned Cell Phones**

IT will meet periodically with area vendors to obtain price plans, equipment and service information. A limited number of vendors will be chosen based on service offerings, price, equipment offerings, and the ability to provide electronic billing. In such instances where it is determined best for the city to purchase its own cell phones, city-owned cell phone devices and services will be obtained through a single vendor. IT will facilitate any required contract negotiations for city-owned cell phone service contracts when available from providers.

#### **14.08 City-Owned Cell Phone Equipment Purchase**

City-owned cell phone equipment should be reserved for times when an allowance is not conducive (such as when used on a shared vehicle or when shared as an on-call device). Requests for a city-owned cell phone must be approved by the department's Deputy or Assistant City Manager.

City-owned equipment requires approval via the budget process or will need to be approved by the Departmental Director.

#### **14.09 Billing and Reporting for City-Owned Cell Phones**

- A. Cellular vendors will send monthly billing detail in either hard copy or digital format to the individual departments.
- B. The Finance Department will receive a consolidated invoice and is responsible for paying for the cellular services used by the departments who have approved city-owned cell phones.
- C. Any disputed charges are reported to the cellular provider by the department that purchased the city-owned phone. IT will not facilitate corrections with vendors pertaining to disputes over individual cell phone use.
- D. Vendors will be required to provide departments with quarterly cellular use audits to validate the appropriateness of the agreed-upon service contract.

#### **14.10 Personal use of City-Owned Cell Phones**

Employees whose duties require the use of a cell phone, including on-call personnel, may be provided with one by the city upon approval of their department head in written form. All written approvals are maintained at the department level.

There will be no reimbursement by the city for business use of a personally owned cell phone other than through the allowance process outlined herein.

#### **14.11 Personally-Owned Cell Phone Allowance**

It is the expectation of this Policy that most city cell phone business will be conducted through personally owned cell phones of city employees. At the discretion of a department director, and through the budget approval process, employees may receive an allowance through payroll to cover business use of personally-owned cell phones. The allowance will be paid as taxable wages on the last payroll of each month.

Employees will obtain their own service agreements for cell phones and receive an allowance from the city for the use of those services. Allowances are intended to cover cell phone hardware purchases, replacement and any maintenance of devices as required. The allowance rates will be reviewed and established annually, in line with the city's budget process.

It is not intended that all city employees using personal cell phones for business purposes will receive an allowance. Allowances will be authorized only for regular and necessary city business. Incidental and occasional use of personal cell phone is expected for city business and is not to be compensated with an allowance. Those employees identified by their department heads to enroll in this program will receive the monthly allowance as per current city policy.

- A. Cellular contracts for personally-owned cell phones are between the employee and the cellular provider, and are not obligations of the city. Invoices for personally-owned cell phone equipment or usage are not to be addressed to the city, and are the employee's sole responsibility to pay.

- B. Employees who receive the allowance for personally-owned cell phones are required to maintain current service in good standing with the cellular provider so long as the allowance is in effect.
- C. Employees who receive the allowance for personally-owned cell phones are required to make their phone numbers available for appropriate business use and to be available to answer calls on their cell phones during business hours when regular business phones are not available or at other hours as may be appropriate or required for the position.
- D. Reimbursement for business calls on a privately-owned cell phone is not provided by the city, and should be covered by the allowance. Reimbursement beyond the allowance is not provided for any reason.

For questions regarding this policy or policy interpretation, please contact Human Resources.