

CITY OF MESQUITE
GENERAL GOVERNMENT
POLICIES AND PROCEDURES
MANUAL



Revised by Ordinance #4934, Effective, February 7, 2022

**EMPLOYEE ACKNOWLEDGMENT
OF RECEIPT OF POLICY MANUAL**

I, the undersigned employee of the City of Mesquite, Texas, do hereby acknowledge that on the date set forth below I received a copy of the General Government Policies and Procedures Manual of the City of Mesquite.

I understand and acknowledge...

- That the contents of this manual do not in any way constitute the terms of a contract and this manual is not a legal document and that the policies and benefits described herein are subject to change with or without notice.
- That any changes that are made will be communicated through official notices and that revisions will supersede, modify and/or eliminate existing policies or benefits.
- That the policies in this manual cannot be changed by an oral statement or promise by any employee or officer of the City; any such statement is invalid and should not be relied upon by any prospective or existing employee.
- No manual can anticipate all circumstances that may arise. Actions taken where this manual is silent are the prerogative of the City Manager.

I further understand that it is my responsibility to read and comply with the policies contained in this manual and any changes and revisions made to it, and that I should contact and consult with the Human Resources Department if I have questions relating to information in the manual or employment questions not answered in the manual.

Dated: _____

Employee's Signature

Employee's Printed Name

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City of Mesquite General Government Policies and Procedures Manual¹

CHAPTER 1: POLICIES AND PROCEDURES

1.1
POLICY MANUAL

This manual sets forth the policies and procedures established to assist in the administration of the General Government Civil Service Rules as established in “Article IX-A, Section 6, Charter of the City of Mesquite.” The provisions of this manual are not intended to create contractual rights between the City of Mesquite and its employees.

1.2
PURPOSE OF THIS MANUAL

The purpose of this manual is to generally describe the human resources process and set forth policies and procedures to be followed by the City of Mesquite in the administration of its human resources program. No manual can anticipate all circumstances that may arise. Actions taken where this manual is silent are the prerogative of the City Manager or the City Manager’s designee.

1.3
MANUAL REVISIONS

Proposed manual revisions will be prepared by the Human Resources Director in conjunction with counsel and thereafter will be presented to the City Manager. The City Manager will present the revisions to the City Council, and the Council may, by ordinance, adopt them with or without changes. Any such revisions adopted by the City Council will be communicated to employees through official notices and said revisions shall supersede, modify and/or eliminate existing policies or benefits contained herein.

1.4
OBJECTIVES

The objectives of this manual are as follows:

1. To promote and increase productivity, efficiency, and responsiveness to the public and economy in the City.
2. To provide equal opportunity for qualified persons to enter and progress in the City service based on qualifications and fitness as determined through objective evaluation techniques.
3. To maintain recruitment, advancement and tenure practices which enhance attractiveness of a City career.
4. To establish a framework that will allow retention of employees based on performance and separation of employees whose inadequate performance cannot be corrected.
5. To foster high morale.
6. To protect employees against coercion for partisan political purposes and prohibit them from using their positions with the City for the purpose of interfering with or affecting the results of an election or nomination for office.

1.5²
HUMAN RESOURCES DIRECTOR

There shall be a Human Resources Director, appointed by the City Manager, who shall administer the human resources system in compliance with applicable policies and procedures. The Human Resources Director shall have the required training and experience as described in the City’s job description.

The Human Resources Director serves as administrator and coordinator of the Personnel Board and serves as the Civil Service Director.

¹ To the extent of any conflict between this Manual and any Federal or State law, rule or regulation, the applicable Federal or State law, rule or regulation shall control.

² Human Resources Director is a title that replaces Personnel Director. See Article IX – A, Sec. 3-Charter of the City of Mesquite Director of Human Resources.

City of Mesquite General Government Policies and Procedures Manual

CHAPTER 1: POLICIES AND PROCEDURES

1.6 HOURS SCHEDULED TO WORK

The terms full-time and part-time refer to the scheduling of hours anticipated to be worked by the employee.

1.7 UNCLASSIFIED APPOINTMENT

The unclassified service shall be comprised of the following positions, which, by City Charter, are restricted from utilizing the City's Trial Board appeal process:

- Officers, employees, and members of boards or other persons who are appointed by the City Council.
- Directors of departments or organizational equivalents.
- Assistant City managers.
- Deputy City managers.
- Seasonal employees.
- Part-time employees.

1.8 CLASSIFIED APPOINTMENT

Classified appointment is defined as any position not designated as unclassified. Members of the classified service may appeal to the City's Trial Board for a review of human resources actions as set forth in the City's disciplinary policy as set forth in Chapter 8 of this Manual.

1.9 EMPLOYMENT CATEGORIES

1. **Probationary Appointment**
 - a. At-will employees who have yet to successfully complete their original probation period and who regularly work not less than 40 hours per workweek.
 - b. Eligible to receive full benefits as specified herein.
2. **Regular Full-Time Appointment**
 - a. At-will employees who have successfully completed their original probation period and who regularly work not less than 40 hours per workweek.
 - b. Eligible to receive full benefits as specified herein.
3. **Part-Time Appointment**
 - a. An "At-Will" appointment who regularly works less than 30 hours per workweek.
 - b. May receive limited benefits based on the number of hours worked.
4. **Seasonal Appointment**
 - a. An "At-Will" appointment for a specified period of time, normally less than one year.
 - b. May receive limited benefits based on the number of hours worked.

1.10 POLITICAL ACTIVITY

Except as otherwise provided by laws, employees will refrain from using their positions for or against any candidate for public office. Employees shall not directly or indirectly coerce, attempt to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization or person for political purposes. No employee may hold office as Mayor or City Council member. If an employee assumes such office, then that person shall resign from City service or will be dismissed for failure to do so.

City of Mesquite General Government Policies and Procedures Manual

CHAPTER 1: POLICIES AND PROCEDURES

1.11
AGE REQUIREMENT

The minimum age for a full-time appointment shall be eighteen (18). The Human Resources Director may approve the minimum age of seventeen (17) for positions where compliant with applicable local, state and federal laws, policies and regulations. All other appointments shall be in compliance with applicable state and federal child labor regulations.

1.12
SCOPE

The policies contained in this manual apply to classified appointments, also known as General Government Employees. Commissioned members of the Fire and Police Departments are governed by State of Texas Fire and Police Civil Service provisions as contained in Chapter 143 of the Texas Local Government Code, as amended. Policies contained in this manual that are not in conflict with Chapter 143 shall also be controlling and applicable to all commissioned employees of the Fire and Police Departments.

1.13
PERSONNEL BOARD

There shall be a Personnel Board consisting of three members appointed to serve three-year terms by the City Council in accordance with provisions of the City Charter and these policies. The Personnel Board will also serve as the Trial Board in matters relating to the General Government employees. The Personnel Board will also serve as the Civil Service Commission in matters under its jurisdiction for commissioned members of the Police and Fire Departments.

1.14
RESERVATION OF RIGHTS

The City reserves the right to interpret, change, rescind or depart from the policies contained in this manual in whole or in part and any such action shall supersede, modify and/or eliminate the then existing policy or benefit that is the subject of the action. Nothing contained in this policy shall be construed as creating or constituting a contract with any employee, whether expressed or implied. These policies cannot be changed by an oral statement or promise by any employee or officer of the City and may be changed only by an ordinance approved by the City Council. This manual cannot anticipate and address all potential circumstances; actions taken where this Manual is silent is the prerogative of the City Manager.

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CHAPTER 2: EMPLOYEE RECORDS

2.1 EMPLOYEE RECORDS

The Human Resources Director shall develop and maintain a system of records necessary to efficiently administer the personnel program. The Human Resources Director is responsible for ensuring the accuracy and integrity of the City's personnel records.

2.2 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 Human Resources Director 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 Human Resources Director shall determine the appropriateness of placement of documents in an employee's personnel file.

2.3 EMPLOYEE PRIVACY

The Human Resources Director shall establish procedures necessary to preserve the privacy of employee information as required by applicable state and federal legislation. Access to employee records shall be administered by the Human Resources Director.

The Texas Public Information Act permits an employee or official of a governmental body to choose whether the public shall have access to the employee's home address, home telephone number, emergency contact information, social security number or whether the employee has family members by submitting a written notice to the Human Resources Director.

2.4 CONFIDENTIAL MEDICAL RECORDS

Employee's and employee's family medical records shall be kept confidential in accordance with the Health Insurance Portability and Accountability Act (HIPAA) and other state and federal laws.

2.5 PERSONNEL FILE REVIEW

Upon proper request, the Human Resources Department will, during normal office hours, allow access to information contained in personnel files which is not prohibited from disclosure by the Texas Public Information Act. All files will be reviewed in the presence of a Human Resources Department employee. No document may be removed, added or copied without prior permission of the Human Resources Director or designee.

2.6 DUPLICATION OF RECORDS

Requests for copies of employee records will be handled in accordance with the Texas Public Information Act.

2.7 CURRENCY OF RECORDS

Employees shall notify the Human Resources Department within 10 calendar days, on the appropriate forms, of any change in the following:

1. Home address.
2. Primary phone number.

CHAPTER 2: EMPLOYEE RECORDS

3. Beneficiary status.
4. Name.
5. Social security number.
6. Driver's license number or type of license.

2.8

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 Mesquite.

CHAPTER 3: GENERAL PROVISIONS

3.1

**UNAUTHORIZED ELECTRONIC
SURVEILLANCE, EAVES-DROPPING AND RECORDING**

1. **General Policy:** It shall be a violation of City policy for employees to use an electronic and/or photographic recording device to engage in unauthorized electronic surveillance, eavesdropping or secret recording of any communications between or among employees or elected representatives of the City of Mesquite.
2. **Definitions:**
 - a. Electronic Eavesdropping is defined as using an electronic recording device to make the unauthorized electronic recording of any communications made by employees of the City of Mesquite without the knowledge of the person making such communications.
 - b. Electronic surveillance is defined as using an electronic recording and/or photographic device to make an unauthorized video recording or still image of an employee of the City of Mesquite without the knowledge of the person depicted in the video recording or still image.
 - c. Communications include but are not limited to meetings, hearings, conferences, counseling or conversations between employees or elected representatives. Communications also means telephonic communication, including cellular or mobile phone communications.
 - d. Electronic Recording and/or Photographic Device includes any device capable of recording audio, video or images, including cellular telephones and smart phones with cameras.
 - e. Employee includes full and part-time, volunteer and seasonal employees.
3. **Exceptions - Fire and Police:** It shall not be a violation of this policy for employees of the Fire and Police Departments to electronically record communications with or among employees or citizen contacts as necessary in the course and scope of conducting official business.
4. **Authorization:** The City Manager is authorized to take whatever action is necessary to maintain good order within the organization.
5. **General:** This policy does not preclude the recording of such communications when all parties to the communication are aware of the fact that the communication is being recorded.

3.2

ELECTRONIC MAIL AND INTERNET

1. **Purpose:** The purpose of this policy is to provide guidance to employees concerning their use of the Internet and email. Access to the Internet and use of email are City resources, which are provided to enable City employees to work more efficiently and effectively. All City of Mesquite employees provided with or authorized to use email and Internet are responsible for ensuring that the City's email and Internet system is used properly and in accordance with this policy.
2. **Authorized Users:** Department directors are responsible for determining which positions require access to email and Internet.
3. **Use Policies**
 - a. Non-exempt employees may not access their email on personal devices absent authorization from the Human Resources Director or designee. See 10.5.4 herein.
 - b. Internet and email is intended to be used for City business; however, limited personal/ non-business use of email and the Internet is acceptable, as long as it does not violate any of the usage restrictions or policies and does not interfere with the employee's job responsibilities.
 - c. Employees shall not share their passwords with others, except for business reasons within their department as determined by the department director.
 - d. Utilization of the entire email directory or using the "everybody" function for personal use must be approved by the City Manager's office.
 - e. Prohibited uses of email and Internet include, but are not limited to;
 - i. Downloading of software products from Internet sites without prior approval of the Information Technology Department.
 - ii. Creating, transmitting or storing material that is threatening, obscene, sexually explicit, pornographic or which may constitute intimidating, hostile or offensive material on the basis of sex, sexual orientation, gender identity, race, color, religion, national origin, age or disability. The City's policy against sexual or other harassment applies fully to this policy.

CHAPTER 3: GENERAL PROVISIONS

- iii. Engaging in illegal, fraudulent or malicious conduct.
 - iv. Obtaining unauthorized access to any computer or data system.
 - v. Using another individual's account or identity without explicit authorization.
 - vi. Sending chain letters or unauthorized solicitations.
 - vii. Conducting activity associated with outside employment or business.
4. **Employee Property and Privacy**
- a. All Internet and email communications, whether personal or business, sent through, received or stored in the City-owned system are the property of the City of Mesquite.
 - b. The City reserves the right to monitor email and Internet usage to assure that its resources are being used for the purposes permitted by this policy.
 - c. Employees do not have a personal privacy or property right in any matter created, received or sent using the email or Internet, regardless if the employee utilizes personal email programs or City email programs.
 - d. The City reserves the right to access, retrieve, read and delete any communication that is created, sent or received using the City's email or the Internet to assure compliance with this and other policies.
 - e. Any employee who becomes aware of misuse of the email or Internet system shall promptly contact their supervisor.
 - f. No email message relating to City business or containing a citizen's email address should be forwarded to another individual outside the City. This information is not subject to disclosure under the Public Information Act, and permission must be obtained from the sender prior to forwarding the information. This provision does not apply to email addresses of contractors, vendors or others engaged in business activity with the City.
5. **Confidentiality**
- a. Due to the inherently unsecured nature of email and potential for unauthorized interception, City employees must use caution in the transmission and storage of confidential or restricted information. Employees, officers and officials of the City should refrain from using email to communicate confidential or sensitive information among other employees, officers, officials or legal counsel of the City when another more secure method of communication is available. Confidential information on the email system should be protected and should not be disclosed to unauthorized recipients.
 - b. Computers or terminals shall not be left unattended in a state which affords inappropriate access to records of the City, allows unauthorized users access to the email or Internet or otherwise compromises security.
6. **Retention of Records**
- a. Email created in connection with the transaction of official City business should be treated as any other record and retained according to the appropriate record retention rules.
 - b. Destruction of email that fits the criteria for public records should be performed in accordance with the policies of the Records Management Committee.

3.3
SOCIAL MEDIA POLICY

In an effort to diversify its public communications efforts, the City maintains various types of social media applications. These platforms are part of a strategic, centralized communications process to help citizens interact with their local government. Social media tools help citizens interact with their local government in the individual's preferred method and time schedule. Social networking has become a popular tool for a vibrant and transparent communication and reaches those that do not communicate using traditional media as frequently as other segments of the population. This policy outlines the protocol and procedures for use of social media to publicize official city services and events. In addition, this directive addresses the responsibilities of individual employees and city staff with regard to social media and the use of city resources (time/equipment), as well as responsibilities related to public records.

Furthermore, City employees are viewed as ambassadors of the City. As a result of this perception, the City has an interest in employees' online conduct, including participation in Social Media. The purpose of this policy is to protect the interests of the City by ensuring that employee postings reflect positively on our individual employees and the City as a whole.

1. **Definitions:**
- a. Blog – A type of website, usually maintained by an individual, that contains regular entries of commentary, description of events, or other material, such as graphics, audio and/or video.
 - b. Post or Posting – To create publish, transmit, disseminate or share a message, statement, comment, content,

CHAPTER 3: GENERAL PROVISIONS

- photo, video, audio and/or any other oral or written communication of any kind on, to, or through Social Media.
- c. Social Media - Includes personal websites and all forms of online community activities such as online social networks (e.g. Facebook, Twitter, Instagram, Snapchat, Vine, Next Door), professional networking websites (e.g. LinkedIn), message boards (e.g. Twitter), video sharing (e.g. YouTube), blogs, Wikis, chat rooms and online forums where information is created, disseminated, shared, exchanged or provided by/to third parties and individuals. The preceding list is not exhaustive and due to the rapid nature in which social networking technology changes, this policy is intended to apply not only to current forms of Social Media but also to all types of Social Media developed in the future.
2. **Official City Social Media Sites**
- a. The Communications Department will manage all aspects of any City social media sites or websites and such sites are the property of the City. Exceptions to this are the following sites: Historic Mesquite, Inc., Keep Mesquite Beautiful and the Mesquite Arts Center.
 - b. City departments are encouraged to designate employees to serve as content providers for the Communications Division to assist in maintaining these social media platforms with current and relevant information and departments may be granted administrator rights by the Communications Division to certain social media platforms based on case by case basis.
 - c. The Communications Division will monitor the City’s social media platforms to ensure posted information and comments comply with the following regulations and may be removed by the administrator at his/her sole discretion.
 - i. Comments must be civil and may not contain slanderous, libelous, malicious, offensive, threatening, profane, or insulting language.
 - ii. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation will not be permitted.
 - iii. References to the personality of individuals, personal attacks, or potentially defamatory statements will not be permitted.
 - iv. Advertising or promotional announcements will not be permitted.
 - v. Comments must be within the scope of the topic under discussion.
 - vi. Comments cannot include personally identifiable information, such as an address, phone number, social security number or other sensitive information.
 - vii. Comments of a sexual nature or links to sexual content will not be permitted.
 - viii. Comments cannot represent a person other than the one posting the comment.
 - ix. Comments containing links to other web sites or pages must be relevant to the topic.
 - x. Comments cannot serve electoral campaign purposes. Political messages will not be published except for announcements of City elections or voter encouragement campaigns.
 - xi. Comments encouraging illegal activity will not be permitted.
 - xii. Solicitations of commerce will not be permitted.
 - xiii. Participants are responsible for what they post. Comments must not breach any law, confidentiality, or copyright.
 - d. Comments by external parties on the City’s social media platforms are not official public testimony concerning any project or program. An opinion expressed on a City social media platform is posted for discussion only and is not a substitute for a formal statement in a public hearing process. The City does not necessarily agree with content posted by the public and those posts do not constitute a binding representation, agreement or an endorsement on the part of the City.
 - e. The City will remove any comment that violates this policy and users will be blocked and/or reported to the social media entity. The City’s use of social media platforms are also governed by separate privacy policy, and statement of rights and responsibilities instituted by each individual social media entity.
3. **City Employees**
- a. Employees should exercise good judgment and demonstrate personal accountability when choosing to participate in Social Media. Unless speaking as a private citizen on matters of public concern, employees shall not post any message, comment, content, photo, video, audio and/or any other oral or written communication of any kind to any website or Social Media site that could impair, adversely affect or negatively reflect upon working relationships or create dissension within the City; interfere with, negatively reflect upon or adversely affect the employee’s job performance or the job performance of a fellow employee; adversely impact or negatively reflect upon the efficiency or integrity of the City; or adversely affect or negatively reflect upon the

CHAPTER 3: GENERAL PROVISIONS

- legitimate business interests of the City.
- b. Employees are allowed to have personal social networking sites. These sites must remain personal in nature and be used to share personal opinions or non-work related information. This helps ensure a distinction between sharing personal and City views. In addition, employees should never use their City email account or password in conjunction with a personal social networking site.
 - c. Personal/private employee use of social media sites is prohibited during working hours with the exception of lunch breaks and other authorized work breaks. It is also prohibited using City owned computers, or devices such as Internet-enabled personal digital assistants (PDAs) and cellular [smart] telephones such as iPhone or BlackBerries to access personal social networking sites. Any personal use of social media sites during working hours must be approved by the employee's Department Director and should be limited to family or personal communications of a critical nature or emergency situation. This subsection does not apply to employees whose job duties require use of social media sites.
 - d. Employees may not attribute personal statements, opinions or beliefs to the City when engaging in private blogging or postings on social media sites.
 - e. Employees are prohibited against disclosure of confidential information that could breach the security of the City's computer system or any City project, facility or program in any way.
 - f. The City has the right to monitor, inspect and collect publicly viewable postings made by employees, whether such postings are made on or off duty. Employees must also be aware that, under circumstances deemed reasonably necessary and allowable by law, the City shall have the right to gain access to, inspect and/or collect employee postings held under restricted privacy settings. Examples include, but are not limited to, an official investigation involving any City policy or a lawsuit or threatened litigation involving the City.
 - g. Employees must be aware that photos, videos and/or audio recordings taken during on-duty activities with personally owned devices that relate to official business of the City are considered public records and are subject to the Texas Public Information Act.
 - h. Photos, videos and audio recordings of City facilities, events and/or training may be taken by an employee with a personally-owned image/audio capturing device during on-duty activities if the employee obtains prior permission to record the training activity or special event from his/her supervisor. In the event of such approved recording, the employee shall maintain the photo, video and/or audio recording in a format that preserves the integrity of the original record for the time period required by the appropriate retention schedule (currently 2 years for these types of recordings). If the City receives an open records request for any such photo, video and/or audio recording, the employee shall provide a copy of it to the City Secretary within two (2) business days after request by the City Secretary.
 - i. Employees should be mindful that inappropriate use of social media sites (images, posts, etc.) may be grounds for disciplinary action, up to and including termination.

3.4
SEARCHES

In addition to other provisions relating to searches contained in this manual, the City reserves the right to search the contents of City-owned vehicles, structures and furniture of any kind, including offices, desk, lockers and file cabinets at any time and for any reason.

3.5
REPORTING OF ARRESTS AND CONVICTIONS

An employee shall notify their direct supervisor of any charge, complaint, conviction, probation, adjudication or deferred adjudication of a class A or class B misdemeanor and/or felony, including but not limited to DWI/DUI matters within three (3) working days of the incident. The supervisor will contact the Human Resources Director or designee to determine the appropriate action.

The City of Mesquite will release information only on a need-to-know basis, maintaining confidentiality to the fullest extent possible.

City of Mesquite General Government Policies and Procedures Manual

CHAPTER 3: GENERAL PROVISIONS

3.6

COMMUNICATIONS POLICY

Employees shall not respond to media inquiries about City operations. All media inquiries made to employees should be reported to their supervisor immediately. Nothing in this section is meant to hinder or prohibit employees' rights to communicate with the media for purposes of engaging in protected concerted activity.

3.7

EMERGENCY OPERATIONS POLICY

The purpose of the Emergency Operations Policy is to provide the City Manager with the means to rapidly mobilize City employees and deploy them as necessary in time of an emergency situation. The City Manager may declare an "Emergency" and thereby activate the Emergency Operations Policy when the citizens of the City of Mesquite are in "imminent danger" or have actually experienced an event that has placed citizens' safety and well-being in danger.

1. Upon activation of the "Emergency Operations Policy", City of Mesquite employees are expected to be able and willing:
 - a. To be "On-Call" via page or phone and subject to reporting for duty.
 - b. To work extended hours beyond the normal shift.
 - c. To work shift hours different from the normal practice.
 - d. To perform duties different from the normal practice.
 - e. To work under the direction of different supervisors.
 - f. To work in different departments.
 - g. To operate under procedures and policies that may have to be suspended or amended by Department Directors to cope with unusual situations.

3.8

PERSONAL APPEARANCE AND DRESS POLICY

Our employees are in the public's eye on a daily basis and impressions, both positive and negative, are formed partly by appearance. Appearance plays an important role in portraying the professionalism of our City government. All employees are required to have a neat and professional appearance, including grooming and hygiene standards that reflect well upon the City of Mesquite. Clothes should be neat, clean and appropriate to the type of work, as well as location.

Each department may determine its definitions of acceptable appearance standards balanced by public impression, comfort and safety. Departments requiring uniforms shall establish their own proper dress policy to supplement overall appearance requirements of the City. City uniforms shall not be worn when the employee is off duty unless authorized by the department head or City Manager.

Employees wearing inappropriate attire will be instructed by their supervisor not to wear the attire again. A second offense will result in the employee being asked to go home and change into appropriate attire (annual leave will be charged for time away from work). Third and subsequent offenses will result in a written reprimand, suspension without pay, up to and including termination, respectively. Disciplinary action may, based on the situation, be modified at the sole discretion of the Department Director. For additional information, please refer to the City of Mesquite Administrative Directive Number 2.

3.9

TOBACCO POLICY

1. **Purpose:** The purpose of this policy is to establish and encourage a healthy lifestyle among City employees and reduce medical costs. Scientific evidence has indicated that the inhalation of secondary smoke may be a health risk that causes such diseases as lung cancer, emphysema and other respiratory illnesses. Allowing tobacco products of any type, including e-cigarettes and vapor devices, in common areas or in any on-duty location by any employee increases the amount of sick time used, lowers the general productivity of the organization, and presents an unprofessional image to the citizens.

CHAPTER 3: GENERAL PROVISIONS

2. Procedures

- a. It is the policy of the City of Mesquite that in no case shall the use of any type of tobacco products be permitted inside any City facility, including recreation centers, service center, break areas or restrooms. Use of tobacco products will not be permitted in any City-owned vehicle at any time. Most importantly, use of tobacco products is not permitted by any employee while interacting with the public in an official capacity.
- b. The use of the phrase “tobacco products” within this policy shall include electronic cigarettes, pipes, cigars, chewing tobacco, snuff, or any other device or substance designed or intended to deliver nicotine or related substances to users in the form of a vapor (aka – vaping).
- c. Violation may result in disciplinary action, up to and including termination.

CHAPTER 4: EMPLOYMENT POLICIES

4.1

**EQUAL EMPLOYMENT OPPORTUNITY AND
AMERICANS WITH DISABILITIES ACT**

1. **Equal Employment Opportunity:** The City of Mesquite is an equal employment opportunity employer. The City does not discriminate against employees or job applicants on the basis of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age, disability, genetic information, political affiliation or belief, military status, or any other status or condition protected by applicable federal, state and/or local law. This policy extends to all terms, conditions and privileges of employment including, without limitation, hiring, promotion, discharge, compensation, fringe benefits, job training, classification, and all other aspects of employment.
2. **Americans with Disabilities Act:** To the extent reasonably possible, the City will accommodate individuals with disabilities in the application, hiring and employment process. Reasonable accommodation is available to all employees and applicants, so long as the accommodation does not create an undue hardship for the City and can be provided without posing a substantial or imminent safety risk to the employee, coworkers or public. Individuals with disabilities requiring accommodations should notify the Human Resources Department in writing and provide medical documentation. Applicants or employees wishing to complain about the denial of reasonable accommodation or other disability-related discrimination should follow the procedures outlined by the City for harassment or discrimination complaints in accordance with Title II – Grievance Procedure Under the Americans with Disabilities Act located on the City Internet page and in the Human Resources Department. Such individuals will not be subject to retaliation for requesting accommodation or because of complaints about the denial of reasonable accommodation.

4.2

APPLICANT DEFINED

All individuals, both current City employees and non- City employees, who have submitted a properly completed application or job bid to the Human Resources Department and who meet the requirements of acceptance established in this manual are considered applicants.

1. The following nepotism restrictions shall apply except as otherwise provided in Chapter 143 of the Texas Local Government Code.

4.3

NEPOTISM RESTRICTIONS

2. For purposes of this policy, departments are outlined in Paragraph 8 herein. For purposes of this policy, “organizational equivalents” shall be those that are defined and identified by the applicable department director and approved by the City Manager.
3. The City will not hire, staff, transfer or promote to any regular position an applicant/employee if that applicant/employee is related within the second degree by marriage or within the third degree by blood² to any pre-existing employee and such appointment:
 - (a) would result in both employees reporting within the same department, division or organizational equivalent; or,
 - (b) would place the applicant/employee within the pre-existing employee’s immediate supervisory chain of command.
* In referring to the relationship chart, the pre-existing employee would be the “Officer” and “within the second degree by marriage or within the third degree by blood” means the applicant/employee would fit into any of the other relationship circles in either the blood or marriage charts (i.e., the applicant/employee is the son, sister or nephew of the pre-existing employee or is the son-in-law or brother-in-law of the pre-existing employee).
4. The City will not hire an applicant who is related within the second degree by marriage or within the third degree by blood to the Mayor, City Manager or any member of the City Council.
* In referring to the relationship chart, the Mayor, City Manager or member of the City Council would be the “Officer” and “within the second degree by marriage or within the third degree by blood” means

² See kinship chart at the end of this chapter (Chapter 4, Section 4.16).

CHAPTER 4: EMPLOYMENT POLICIES

- the applicant would fit into any of the other relationship circles in either the blood or marriage charts (i.e., the applicant is the son, sister or nephew of the Officer or is the son-in-law or brother-in-law of the Officer).
5. The City will not hire, staff, transfer or promote an applicant/employee where any familial relationship exists and either:
 - (a) a close working relationship is required between the positions.
 - (b) there exists a potential for a conflict of interest between the positions; or,
 - (c) the existence of the familial relationship between the positions is deemed not in the best interests of the City of Mesquite by the City Manager or his/her designee.
 6. In addition to the above, the City's Police and Fire Departments will not hire to any regular position an applicant who is the parent, step- parent or spouse of any current employee in the same department or division.
 7. Nepotism restrictions do not apply to employees classified as seasonal, except as set forth in the City Charter.
 8. The following are considered as entire departments: (a) City Manager's Office/Mesquite Arts Center, (b) Human Resources, (c) Legal Department, (d) Planning & Development Services, (e) City Secretary, (f) Budget, (g) Library, (h) Information Technology Department, (i) Finance Department, and (j) Airport.
 9. The following are considered to have divisions:
 - (a) Housing and Community Services:
 1. Animal Services.
 2. Housing.
 3. Community Services.
 - (b) Fire Department:
 1. Each individual fire station on the same shift.
 2. Fire Administration.
 3. Fire Prevention.
 4. Emergency Medical Services.
 5. Fire Training.
 6. Emergency Management.
 7. Special strike teams, task forces and/or organizational groups formed for unique special purposes or regional emergency responses that work as a single group under one supervisor.
 - (c) Police Department:
 1. Each individual patrol platoon.
 2. Special strike teams, task forces and/or organizational groups formed for unique special purposes or regional emergency responses that work as a single group under one supervisor.
 3. Each unique area of specialization are all the same within the Criminal Investigations Bureau.
 4. Each individual dispatch shift.
 5. Each individual detention shift.
 - (d) Public Works:
 1. Public Works Administration.
 2. Traffic Engineering.
 3. Engineering.
 4. Solid Waste.
 5. Streets.
 6. Equipment Services.
 7. Utilities.
 8. Infrastructure Management.
 9. GIS.
 - (e) Parks and Recreation:
 1. Parks and Recreation Administration.
 2. Park Services.
 3. Recreation Services.
 4. Golf.

CHAPTER 4: EMPLOYMENT POLICIES

4.4
FORMER EMPLOYEES

Former employees of the City shall not be given special consideration for re-employment unless special circumstances warranting such consideration exist in the opinion of the City Manager or City Manager designee.

4.5
REJECTION OR DISCONTINUATION OF PROCESSING

The following are grounds for rejection or discontinuance of processing of a job candidate. Although not intended to be an exhaustive list, examples for grounds of rejection or discontinuance of processing of a job candidate include, but are not limited to, the following. Such rejection or discontinuance may occur at any time in the employment process.

1. **Impairment:** Inability of the applicant to perform the essential duties of the job with reasonable accommodation(s) due to medical, psychological or physical impairments.
2. **Minimum Requirements:** Failure to meet the minimum requirements for the position as prescribed by the position's job description.
3. **Falsification, Deception, Fraud:** Falsification of any material fact or any attempt to practice deception or fraud by the applicant on the application and/or supplements during interviews with any representative of the City, during examinations or during any phase of the employment process.
4. **Nepotism:** Failure to disclose familial relationships is grounds for disqualification and/or discharge.
5. **Incomplete Processing or Documentation:** Failure to report for interviews or examinations and failure to provide information or documentation requested by the City and as required by law.
6. **Closing Date:** Failure to submit an application or job bid by the posted closing date.
7. **Driving Record:** Failure to meet the City's driving requirements for those positions which require the operation of equipment in the performance of their duties. See Chapter 13, Section 13.7 (4). "Grounds for Automatic Disqualification for Initial Appointment" and Chapter 13, Section 13.7 (5). "Grounds Which May be Cause for Disqualifications for Initial Appointments."
8. **Criminal History:** Conviction, deferred adjudication or placement on probation for a felony or crime other than traffic violations where such history represents a risk to the City of Mesquite or where such history is in conflict with the responsibilities and duties of the job.
9. **Neglect of Debts:** Failure to pay or neglect of just debts, where such failure or neglect is related to the job duties of the position sought.
10. **Previous Employment History:** Although not intended to be an exhaustive list, examples of disqualifying previous employment history include, but are not limited to, the following:
 - a. Involuntary termination from previous employer(s) for inadequate performance of duties.
 - b. Misconduct.
 - c. Job abandonment.
 - d. Attendance-related problems.
 - e. Insubordination.
 - f. Fighting.
 - g. Violation of safety rules.
 - h. Theft of employer property.
 - i. Using, soliciting or possessing alcohol or drugs while at work.
11. **Work Schedule:** Inability or unwillingness of the applicant to work the required work schedule.
12. **Work History:** History of instability as evidenced on the completed application and supplements.
13. **Incomplete Application:** Failure to complete the application and supplements in the manner prescribed.
14. **Examinations:** Inability to pass all required examinations.
15. **Character:** Unsatisfactory character, unlawful activity or unethical behavior.
16. **Public Safety:** Due to the high level of public trust, the high expectations of the public, the need for continued public confidence in the City's public safety agencies and the heavy responsibility for the safety of lives and property, grounds for rejection or discontinuance of processing of a public safety job applicant will be more comprehensive than those of other City personnel. Those additional grounds for rejection or discontinuance of a public safety applicant will include, but not be limited to, the following:
 - a. Prior illegal activity, whether detected or undetected, whether prosecuted or unprosecuted, whether convicted or unconvicted, whether completed, attempted or a conspiracy including, but not limited to:

City of Mesquite General Government Policies and Procedures Manual

CHAPTER 4: EMPLOYMENT POLICIES

- 1) Theft, fraud or other misappropriation of property.
 - 2) Illegal use or possession of controlled substances.
 - 3) Sexual assault or misconduct.
 - 4) Assaultive or other violent offenses, including family violence.
 - 5) Bribery or other corrupt practice.
 - 6) Perjury or other falsification.
 - 7) Other illegal activity that might reasonably cause the public to lose confidence in the public safety agency or affect the credibility of a witness in a criminal case.
- b. Prior civil action, whether litigated or settled, or pending or anticipated civil action against the applicant for an intentional tort or an alleged intentional tort relating to duties as a law enforcement officer or security officer which could reasonably be expected to influence a jury in any future tort action for a similar duty-related incident.
- c. Prior public activities which would offend community standards or cause the public to question the motives of a public safety agency or cause the public to lose confidence in a public safety agency, including, but not limited to;
- 1) Exotic dancing, posing nude or seminude for publication or public display or ownership, management or employment in a sexually-oriented business.
 - 2) Public espousal of membership in or a philosophy of an organization that espouses racial, religious or ethnic hatred.
 - 3) Public espousal of membership in or philosophy of an organization that espouses civil disobedience.
17. **Other:** Failure to meet any other essential requirements of the job.

4.6

DUAL EMPLOYMENT

Employees of the City of Mesquite may occupy only one non-exempt position with the City at any given time.

4.7

VACANCIES

1. **Requisition for Job Applicants:** Departments will notify the Human Resources Department of vacancies by submitting a completed Requisition for Job Applicants form. Submission of a Requisition shall occur as soon as the department is aware of a need to fill a position. Departments requesting a change in a position's job requirements must submit a written request for a job audit to the Human Resources Director for the job being posted.
2. All recruitment activities should be coordinated through the Human Resources Department.
3. **Job Posting:** The Human Resources Department will post Job Opportunities announcements online on the City's job-posting area. Job Opportunities postings for the general public will be posted and applications accepted for a period of time that ensures an adequate number of applicants are recruited. Internal job opportunities will be posted and job bids accepted for a period of time sufficient to allow qualified employees to apply. All job postings will be posted for a minimum of three days but the Human Resources Director may close positions without notice and cease acceptance and review of applications for positions as deemed necessary, even if the job posting notice originally indicated that job applications would be accepted for a longer period of time.

4.8

EMPLOYMENT APPLICATIONS

1. **Proof of Employment Eligibility and Identity:** In compliance with the Immigration and Reform Control Act of 1986, the City shall employ only American citizens and aliens who are authorized to work in the United States. All persons hired by the City shall be required to show proof of employment eligibility and identity as a condition of employment.
2. **Submitting Applications**
 - a. The Human Resources Department accepts applications online only for posted vacancies.
 - b. Resumes may be attached to an online application but will not be accepted in lieu of an application.
 - c. The responsibility to review, screen, track and distribute applications rests with the Human Resources Department.

CHAPTER 4: EMPLOYMENT POLICIES

- d. **Applicants Currently Employed with City:** Applicants currently employed with the City must complete the normal application process outlined in Chapter 4, Section 4.8.2, above. It is the responsibility of the employee to update their employee file in the Human Resources Department to reflect their current qualifications for the position being sought. Applicants not meeting the required qualifications shall not be referred to the department for consideration. If a current employee applies for another position within the City, it is the employee's responsibility to notify his/her current supervisor that he/she has applied for another position.
- 3. **Hard to Fill Positions:** The Human Resources Department may identify hard to fill positions where resumes will be accepted even if a vacancy does not exist. Acceptance of a resume does not confer applicant status nor constitute an agreement by the City to notify the job seeker of any potential employment opportunities.
- 4. **Acceptance of Applications**
 - a. **Incomplete Applications:** Applications and supplements must be completed in full; incomplete applications and supplements will not be considered for employment. An application is considered incomplete:
 - 1) If responses have not been provided to all entries on the employment application and supplements.
 - 2) If the job seeker has not signed and dated all designated areas.
 - 3) If necessary diplomas, licensure, certification or other requested documents have not been furnished.
 - b. **Property of City:** Once an application, supplement or any other documentation is submitted to the Human Resources Department for employment consideration, it becomes the property of the City of Mesquite.
 - c. **Information Verification:** The Human Resources Department may, at its discretion, contact an applicant or any relevant source to obtain information omitted from the application. All information provided is subject to verification and investigation.

4.9

VERIFICATION OF MINIMUM QUALIFICATIONS

All applicant information submitted in the prescribed manner will be reviewed to determine if the applicant is able, either with or without reasonable accommodations, to perform the essential functions of the job. The decision as to whether an applicant is able, either with or without reasonable accommodations, to perform the essential functions of the job and meets the required minimum qualifications for referral to the department shall be the sole responsibility of the Human Resources Department in conjunction with the applicant regarding any reasonable and necessary accommodations.

4.10

APPLICANT TESTING

The Human Resources Department will have the responsibility for evaluating and approving all employment-related tests.

4.11

APPLICANT PROCESSING

- 1. **Processing Procedures:** The Human Resources Director will establish procedures to be followed for processing of applications. The Human Resources Department will be responsible for communicating to the departments the applicant processing procedures.
- 2. **Human Resources Department Referral:** An applicant may not be considered for employment by the hiring department unless the individual has complied with all procedures specified for submission of an application and has been referred to the hiring department by the Human Resources Department.

4.12

EMPLOYMENT INTERVIEWS

The hiring department shall adhere to the following guidelines:

- 1. **Granting Interviews:** No interview may be granted for an individual unless the individual has been referred to the hiring department by the Human Resources Department.
- 2. **Interview Documentation:** The hiring department must complete a written assessment on each individual interviewed in the manner and form approved by the Human Resources Director.
- 3. **Retention of Applications:** Departments are not authorized to retain applications and resumes regardless of the manner and source of receipt. Upon selection of the applicant to fill the vacancy, all applications, resumes, written assessments and examination results shall be returned to the Human Resources Department.

CHAPTER 4: EMPLOYMENT POLICIES

4.13 POSITION APPOINTMENTS

1. **Job Offers:** All applications received by the departments should be considered for employment prior to an individual being given a conditional offer of employment. Only an individual who has completed the pre-employment process, as prescribed in Chapter 4, may be given a conditional offer of employment. All job offers are conditioned upon the applicant passing all required medical examinations, drug tests, reference checks and background investigations.
2. **Physicals:** The Human Resources Department shall designate the proper procedures for scheduling of physicals, monitoring and disseminating results and approving/disapproving hiring decisions.
3. **Payroll:** The hiring department is responsible for completing status change, payroll and personnel forms on all employee actions. The appropriate forms shall be forwarded to the Human Resources Department by the effective date of the action. No department may place an individual on payroll that has not successfully completed processing by the Human Resources Department.
4. **Orientation:** The Human Resources Department shall be responsible for developing and conducting a general employment orientation for all new employees with the City of Mesquite. Departments are responsible for developing and conducting department-specific orientations that can cover departmental policies and procedures.
5. **Employee Identification:** Employees may be required to be photographed and fingerprinted, at the City's expense, for identification purposes.

4.14 RESIDENCY REQUIREMENTS

To the extent permitted by federal and state law, the City Manager or his or her designee may:

1. Designate certain positions where it is appropriate that the incumbents assume residency within the Mesquite city limits.
2. Establish rules governing response time for certain positions that may be subject to standby duty or immediate response capability.
3. Require any employee hired or transferring into a position with residency or response requirements to comply with the established standards prior to completion of the probationary period.
4. Require any employee subject to residency or response requirements to remain in compliance with these restrictions during the term of their employment with the City of Mesquite.

4.15 EMPLOYEE REFERENCES

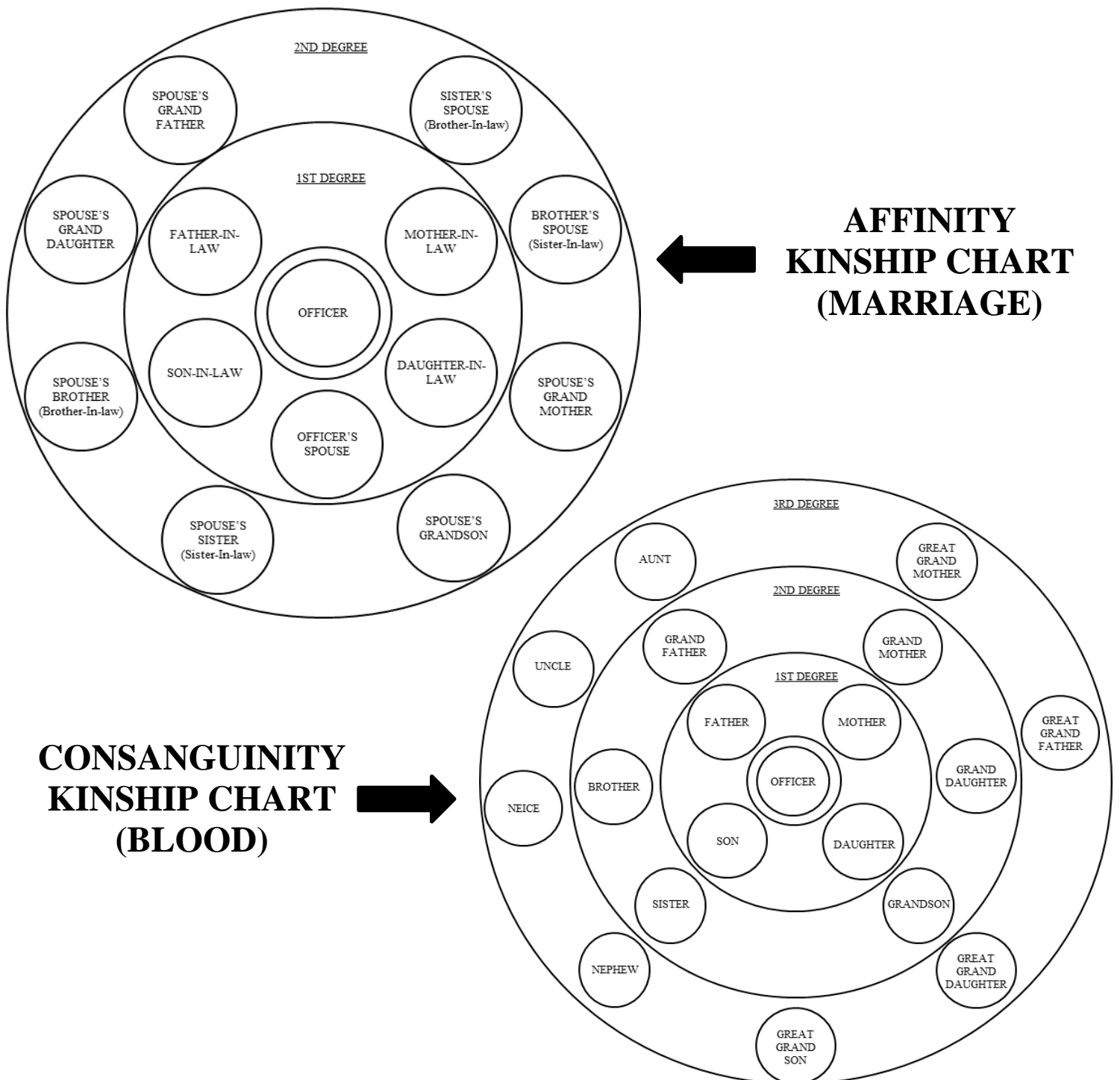
General Policy: It is the policy of the City of Mesquite to respond factually and accurately to properly submitted requests for employment information from new/subsequent employers, lenders, or employment reference check organizations.

1. **Employment Information:** All written or phone requests for employment information or verification for current, retired or terminated employees, received by a department, supervisor or employee shall be referred to the Human Resources Department.
 - a. **By Phone:** Responses to phone requests will be limited to information which is job-relevant and verifiable by proper documentation contained in the employee's official Human Resources Department file. This would include the following: dates of employment; positions held; pay grade minimum and maximum at separation; reason for separation as stated on the Separation Request Form.
 - b. **In Writing with Signed Release:** Upon receipt of an executed and proper authorization to release, the Human Resources Department may release job-related information deemed legal and appropriate by the Human Resources Director.
 - c. **Refusal to Furnish:** The Human Resources Director may decline to furnish employment information not required by law.
 - d. The City is not liable for any action taken by a lender as a result of information disclosed to such lender pursuant to this policy.
2. **Personal References:** Personal references may be provided by an employee as long as references are not on City stationery, not signed with the individual's title or position and do not contradict information documented in the employee's Human Resources Department file.

CHAPTER 4: EMPLOYMENT POLICIES

- 3. **Recordkeeping:** A copy of all written requests for information, authorizations to release and information provided will be maintained by the Human Resources Department.
- 4. **Eligibility for Rehire:** If an applicant is deemed to be eligible for rehire by the City Manager as stated in Chapter 4, Section 4.4, the applicant must adhere to the requirements of Chapter 14, Section 14.5.6.c. (Re-employment Buyback) .

4.16
KINSHIP CHARTS



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CHAPTER 5: EXAMINATION

5.1

EXAMINATION AUTHORITY

The Human Resources Department shall have the sole authority for the administration and establishment of examination procedures for all position vacancies. Departments shall not administer examinations of any type without prior approval by the Human Resources Department.

5.2

EXAMINATION METHODS

All employment decisions shall be based on a determination of the applicant's qualifications. The method of determining an applicant's qualifications shall be the same for all applicants for a particular position, except that reasonable accommodations will be made for otherwise qualified disabled applicants who are unable to take the type of examination that is required of non-disabled applicants. Examination of qualifications may include, but is not restricted to, the following methods:

1. **Written Examinations:** Written examinations may be given to assess the applicant's knowledge, skill or aptitude in the field for which the test is being administered.
2. **Applications and Supplements:** Applications may be rated using training, education, experience, work history and other job-related information which demonstrates the applicant's qualifications for the position. Ratings may be based upon information contained in the application and/or supplements, follow-up contact with the applicant and other investigations as deemed necessary.
3. **Interviews:** Interviews may be conducted in person, by video or via telephone using one or more interviewers. Candidates may be rated on the information conveyed in the interview process.
4. **Oral Examination:** Oral examinations may be administered to assess knowledge or skills which are not readily demonstrated through use of a written examination or where necessary to reasonably accommodate disabled applicants.
5. **Performance Examinations:** Performance examinations may be given to assess an applicant's knowledge, skill, ability or aptitude in performing job-relevant tasks. Performance examinations will be used only where consistent with business necessity and will be narrowly tailored to measure only the ability to perform the essential functions of the position being applied for.
6. **Biographical Inventories:** Questionnaires utilizing biographical information may be used in rating an applicant's qualifications.
7. **Background Investigations:** Background investigations may include, but are not limited to, previous employer references, personal references and any other job-related contacts and questions which enable adequate assessment and/or verification of the applicant's qualifications.
8. **Drug Testing:** Drug testing of applicants who have been made a contingent offer of employment shall be conducted in accordance with established policy based upon the provisions of City of Mesquite Ordinance No. 2652.
9. **Medical, Physical, Psychological Testing:** Applicants who receive a contingent offer of employment shall be required to successfully complete a medical and physical examination prior to appointment. Additional testing may be required to determine the applicant's suitability for employment.
10. **Other:** Any other examination which serves to further demonstrate the qualifications of the applicant may be utilized as deemed necessary by the Human Resources Director.

5.3

EXAMINATION PROCEDURES

1. The Human Resources Director shall establish procedures pertaining to the administration of examinations such as:
 - a. Applicant admission to exam sites.
 - b. Failure to report for examination.
 - c. Exam failure and re-testing and other relevant procedures.
2. The Human Resources Director shall not permit testing of any applicant who does not meet the minimum requirements of the position prior to taking the examination.
3. Examinations or their administration are not appealable. All examinations and answer sheets are the property of the City of Mesquite and are not subject to review.
4. When feasible, the most efficient and accurate method of examination scoring will be used.
5. Applicants who do not meet the minimally required score on examinations shall not be referred to the hiring supervisor.

CHAPTER 5: EXAMINATION

6. Examination results may be furnished to the hiring supervisor, but an individual applicant's examination results may not be disclosed to other applicants.

CHAPTER 6: PROBATIONARY PERIODS

6.1

PURPOSE OF PROBATIONARY PERIOD

1. **Probationary Period:** Probation is a period of time that is required of all newly hired, full-time and part-time employees. Transferred and promoted employees also serve a probationary period in their new position. During probation, employees demonstrate their ability to successfully perform the duties of the job and that they can successfully operate within the work environment.

6.2

COMPLETION OF PROBATIONARY PERIOD

1. **Probationary Full-Time Employees:** All newly hired probationary full-time employees will serve a period of original probation of six (6) months or twelve (12) months, depending on the position. Employees promoted while serving an original probation will have their original probationary period extended for a period of six (6) months or twelve (12) months from the date of promotion, depending on the position. An employee's probationary status does not affect his/her at-will status and employees on probation at all times remain at-will employees. Subject to review and approval by the Human Resources Director, an employee's probationary period may be extended for an additional period not to exceed ninety (90) days. (Fire and Police commissioned personnel are governed by the probation provisions of the Texas Local Government Code, Chapter 143.) Full-time employees on their initial probation who are terminated do not have a right to appeal such termination.
2. **Part-Time Employees:** All newly hired part-time employees shall serve a probationary period of six (6) months or twelve (12) months, depending on the position. Part-time employees are always "at will" and may be terminated without cause or without appeal at any time during their employment with the City.
3. **Seasonal Employees:** Seasonal employees do not serve a probationary or introductory period. Seasonal employees are always "at will" and may be terminated without cause or without appeal at any time during their employment with the City.
4. **Transfer/Promotion/Demotion Probation:** Full-time employees who are promoted, given a lateral transfer or demoted will serve a probationary period of six (6) months or twelve (12) months (depending on the position) following such promotion, transfer or demotion. Subject to review and approval by the Human Resources Director, an employee's probationary period may be extended for an additional period not to exceed ninety (90) days. Employees failing a transfer probation may, at the City's discretion, be considered for transfer to a vacant position for which they meet the minimum qualifications. Employees serving a transfer, promotion or demotion probation who fail to successfully complete probation, where other employment with the City is not feasible or available, will be given a disciplinary termination.
5. Part-time employees who are promoted or transferred to a full-time position will serve a probationary period as described in Chapter 6, Section 6.1 above.
6. Employees on probation may not apply for a new position until they have completed at least three (3) months in their current position and have successfully completed their mid-probationary evaluation.

6.3

EVALUATIONS

Evaluations shall be conducted as set forth in Chapter 16. Regardless of when the probationary evaluation is completed, employees shall not be deemed to have completed the probationary period until so certified by the department. Departments will document in writing and submit to the Human Resources Department all probationary performance decisions on the form and in the manner prescribed by the Human Resources Department.

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CHAPTER 7: PROMOTION/TRANSFER/DEMOTION

7.1

INTERNAL PROMOTION/TRANSFER/DEMOTION

1. **Internal Posting:** Departments may request that the Human Resources Department post a vacancy for internal applicants, thereby restricting consideration to current City employees. Internal postings shall be handled in accordance with the provision of Chapter 4.
2. **Performance Evaluations and Employment Records:** Performance evaluations and employment records shall be reviewed when considering applicants for vacancies.
3. **Notice Period:** An employee selected for a new position must provide at least two weeks' notice to the releasing department, except where both departments agree on a different notice period.
4. **Effective Date:** All personnel actions under this section shall not occur before the first day of the subsequent pay period.
5. **Selection:** The Human Resources Department shall ensure that all provisions of this manual are followed when filling a vacancy. The Human Resources Director shall assist supervisors in selecting the best methods for testing and evaluating an applicant's minimum qualifications.

7.2

PROMOTION

Promotional decisions shall be made on the basis of an applicant's relative knowledge, skills, abilities, training, experience, work record and job performance.

1. **Promotion Defined:** When an employee accepts greater job responsibility and receives a change from a pay grade with a lower midpoint to a pay grade with a higher midpoint.
2. **Compensation:** Promoted employees shall be placed at the minimum of the new pay grade or receive the equivalent of a 5% increase, whichever is greater, unless such increase would place the employee above the pay grade maximum, in which case the employee will be placed at the pay grade maximum for the new position.

7.3

TRANSFER

1. **Transfer Defined:** A transfer is an assignment of an employee from one position to another, not involving promotion or demotion. A transfer may be for administrative convenience or upon the written request of the employee to any vacancy for which the employee meets the minimum qualifications.
2. **Interdepartmental Transfers:** The City Manager or City Manager designee has the authority to make interdepartmental transfers for administrative convenience. Transfers for administrative convenience may include moving personnel to and from positions in different classifications. Transfers to a lower classification shall be treated as an involuntary demotion.
3. **Intradepartmental Transfers:** Intra-departmental transfers within the same classification must be approved by the department head.
4. **Qualifications:** Transfers shall not be allowed unless the employee fully meets the minimum requirements of the job description, with or without reasonable accommodations, and successfully completes all required testing.

7.4

DEMOTION

1. **Demotion Defined:** A demotion is defined as the voluntary or involuntary movement of an employee from a pay grade with a higher midpoint to a pay grade with a lower midpoint.
2. **Disciplinary Demotions:** A disciplinary demotion will be handled in conformance with procedures in Chapter 8, Section 8.4.1(d).
3. **Voluntary Demotions:** A voluntary demotion must be requested in writing. Employees requesting a voluntary demotion must meet all of the testing and job requirements for their new position. The decision to grant a voluntary demotion rests with the City.
 - a. Except where otherwise approved by the City Manager or City Manager designee, voluntary demotions will require an appropriate salary reduction to be determined by the department head and Director of Human

CHAPTER 7: PROMOTION/TRANSFER/DEMOTION

Resources or Director of Human Resources designee.

- b. The demoted employee's salary should not be greater than the maximum of the lower pay grade.
- 4. **Involuntary Demotions:** Involuntary demotions may or may not require a salary reduction and will be reviewed on a case-by- case basis by the department head and Director of Human Resources or Director of Human Resources designee.

7.5

LATERAL TRANSFERS

If an employee receives a lateral transfer to another department or within his/her own department, he/she may receive up to a 5% increase in pay. Increases in compensation for lateral transfers will require an exception request explaining the reasons for consideration from the department director to the Human Resources Director. If the Human Resources Director agrees with the lateral transfer pay increase, final approval of the exception will be required from the City Manager in order to implement the request.

City of Mesquite General Government Policies and Procedures Manual
**CHAPTER 8: CODE OF CONDUCT, RULES OF BEHAVIOR, DISCIPLINARY
ACTIONS AND SEPARATIONS¹**

8.1
STANDARDS OF CONDUCT

The City's Code of Ethics (1) is contained in Chapter 2, Art. IV, Division 2 of the City Code, (2) applies to all officers and employees of the City and (3) includes the Standards of Conduct and Penalty recited below. For ease of reading, references to "officer(s)" are omitted below as indicated by "[omitted]."

Standards of Conduct

1. No [omitted] employee of the City shall:
 - a. Accept any gift or favor from any person that might reasonably tend to influence him in the discharge of his official duties or grant in the discharge of his official duties any improper favor, service or thing of value.
 - b. Grant any special consideration, treatment or advantage to any citizen, individual or group beyond that which is available to every other citizen, individual or group.
 - c. Disclose information that could adversely affect the property, government or affairs of the City, nor directly or indirectly use any information gained by reason of his official position or employment for his own personal gain or benefit or for the private interest of others.
 - d. Engage in any outside activities which will conflict with, or will be incompatible with, the duties assigned to him in the employment of the City, or reflect discredit upon the City, or in which his employment in the City will give him an advantage over others engaged in a similar business, vocation or activity.
 - e. Transact any business on behalf of the City in his official capacity with any business entity with which he is an officer, agent, or member, or in which he owns a substantial interest. In the event that such a circumstance should arise, then he shall make known his interest, [omitted] and turn the matter over to his superior for reassignment, state the reasons for doing so and have nothing further do with the matter involved.
 - f. Accept other employment or engage in outside activities incompatible with the full and proper discharge of his duties and responsibilities with the City or which might impair his independent judgment in the performance of his public duty.
 - g. Receive any fee or compensation for his services as an [omitted] employee of the City from any source other than the City except as may be otherwise provided by law. This shall not prohibit his performing the same or other services for a private organization that he performs for the City if there is no conflict with his responsibilities.
 - h. Represent, directly or indirectly, or appear in behalf of private interests of others before any agency of the City or any of its agencies.
 - i. Use his official position to secure special privileges or exemptions for him or others.
2. The provisions of subsection (1) of this section shall not be deemed to deny to such party any right or privilege guaranteed by law or the federal and state constitutions. Where the advocacy of a right or privilege, however, is incompatible with the position held by the advocate, such party shall make an election so that his position with the City and his advocacy will not be incompatible. Where the advocacy of a right or privilege is occasional and infrequent or involves little or no discretion, the advocate shall abstain from any action as an [omitted] employee that would reasonably appear to influence the outcome of the matter, such as voting on the matter, sitting on a board or tribunal charged with deciding the issue when the issue is to be decided; or in the case of an employee, personally processing the matter. Where the advocacy of the right or privilege is usual and frequent or can reasonably be expected to arise in due course of one's occupation or profession, then such [omitted] employee shall remove himself from his position as may be incompatible until such position of incompatibility ceases to exist.
Penalty. The failure of any [omitted] employee to comply with or who violates one (1) or more of the standards of conduct pursuant to this division, which apply to them, shall constitute grounds for expulsion, reprimand, [omitted] or discharge, whichever is applicable. In the case of an employee of the City, not a member of the Fire Department or Police Department subject to V.T.C.A. Local Government Code, Chapter 143, disciplinary action and appeals therefrom shall be in conformance with procedures established by City charter and personnel rules and regulations, and in actions involving members of the Fire Department or Police Department covered under V.T.C.A. Local Government Code, Chapter 143, appeals shall be in conformance with the procedures established in that statute. [omitted] The decision of these bodies shall be final in the absence of bias, prejudice or fraud.

¹ With respect to Fire Department and Police Department employees, V.T.C.A. Local Government Code, Chapter 143 shall prevail to the extent of any conflict between the provisions of the Chapter and Chapter 143.

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8.2
GROUNDS FOR DISCIPLINARY ACTION/TERMINATION

Grounds for disciplinary action/termination include, but are not limited to, the following. The City reserves the right to determine the degree of violation and take appropriate action to maintain the functions and order of the organization. Individuals who report suspected non-compliance with law or suspected actions below can do so without fear of retaliation.

1. **Attendance**
 - a. Abuse of approved leave.
 - b. Tardiness.
 - c. Failure to report to work without timely notification.
 - d. Failure to follow procedures for requesting or using leave.
 - e. Unauthorized absence from work site for anything other than protected concerted activity.
 - f. Job abandonment (absence for two consecutive working days without providing notice).
 - g. Violations of departmental attendance policy.
 - h. Other actions that constitute unsatisfactory attendance.
2. **Unsatisfactory Job Performance**
 - a. Neglect of duty.
 - b. Loafing.
 - c. Carelessness.
 - d. Lack of initiative.
 - e. Lack of cooperation.
 - f. Failure to remain at work station.
 - g. Sleeping or otherwise being inactive during working hours.
 - h. Performing or conducting personal business during working hours.
 - i. Abuse of eating and/or rest periods.
 - j. Interfering with work of others.
 - k. Discourteous treatment of the public or other employees.
 - l. Failure to exercise good judgment in the performance of the job.
 - m. Failure to take the necessary steps to protect assets or employees.
 - n. Inability to perform the duties of the job.
 - o. Inefficient or unproductive behavior.
 - p. Violation of departmental work rules.
 - q. Deliberate or careless damage to property or equipment.
 - r. Unsatisfactory quality or quantity of work.
 - s. Inability to work effectively with other employees.
 - t. Inability to adjust or adapt to changing work requirements.
 - u. Failure to make requested changes in job performance.
 - v. Repeated disciplinary action for minor infractions of policy or procedure.
 - w. Incurring an expense or liability for the City without proper authorization.
 - x. Other acts constituting unsatisfactory job performance.
3. **Failing to Follow Instructions/ Insubordination**
 - a. Failure or refusal to perform assigned work or fully comply with instructions or orders as requested by appropriate authorities.
 - b. Failure or refusal to fully cooperate with official internal investigations.
 - c. 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.
 - d. Other acts that reflect the failure to follow instructions/insubordination.
4. **Violation of Safety Rules**
 - a. Smoking in prohibited areas.
 - b. Unauthorized removal of safety guards, fire extinguishers or other equipment designed to protect employees or equipment.
 - c. Failure to use safety equipment or to follow safety practices or rules.
 - d. Careless, neglectful or improper use of tools or equipment.
 - e. Causing injury or damage to person or property through negligence or deliberate action.

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- f. Causing a preventable accident or injury.
 - g. Failure to report maintenance deficiencies or properly maintain equipment.
 - h. Operating equipment in an unsafe manner.
 - i. Violation of traffic laws pursuant to Chapter 13, Section 13.8.
 - 1) Violation of any of the policies and/or procedures of Chapter 13 relating to on- the-job injuries or illness, regardless of the employee's eligibility for salary supplement including, but not limited to:
 - a) If an employee fails or refuses to comply with the instructions or advice of a treating physician to improve his/her condition.
 - b) If an employee fails to keep the immediate supervisor informed on a weekly basis as to the status of the injury when off work.
 - j. Failure to report an on-the-job illness/injury as required by Chapter 13, Section 3.
 - k. Failure to report an accident or incident involving City vehicles or City equipment as required by Chapter 13.
 - l. Other acts reflecting the violation of safety rules.
5. **Dishonesty**
- a. Stealing or taking City property or property of other employees without prior authorization.
 - b. Misuse of funds or property.
 - c. Misrepresentation or knowingly providing false information.
 - d. Cheating.
 - e. Providing false or misleading information or omitting material information during the course of an official investigation.
 - f. Forging or otherwise falsifying official reports, records or documents, including but not limited to time sheets, credit card reimbursements, benefit enrollment forms and affidavits, etc.
 - g. Misusing paid leave.
 - h. Unauthorized use of official documents or information.
 - i. Releasing or making known, in any manner, confidential information without authorization.
 - j. Failure to properly account for City documents or property.
 - k. Misuse or usurpation of authority, employee identification or business card.
 - l. Duplication, removal or destruction of documents or property without authorization.
 - m. Theft of City services or falsifying any benefits affidavit.
 - n. Other acts reflecting dishonesty.
6. **Conduct Prejudicial to Good Order**
- a. Fighting or using profane, abusive or threatening language.
 - b. Using unnecessarily loud or boisterous language.
 - c. Offensive or lewd conduct.
 - d. Spreading false reports or otherwise disrupting the harmonious relations of the workplace.
 - e. Possession of unauthorized firearms or lethal weapons on any City premises. An employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Texas Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition is not prohibited from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the City provides for employees.
 - f. Behavior causing disruptions in the workplace.
 - g. Threatening another in a manner reasonably likely to cause the person to believe bodily injury will be inflicted on the person or a member of his family or friends or damage will be done to the person or person's family or friend's property.
 - h. Intentionally destroying or threatening destruction of City or another's property.
 - i. Making harassing or threatening communications to another.
 - j. Stalking or conducting unauthorized surveillance on another.
 - k. Other acts reflecting conduct prejudicial to good order.
7. **Alcohol or Drugs:** Violation of the City's Controlled Substance and Alcohol Abuse and Testing Policy (Chapter 15).
8. **Unlawful Conduct**
- a. Conviction or disposition other than acquittal, including probation or deferred adjudication, of any criminal offense, except Class C misdemeanor traffic offenses that are determined pursuant to Chapter 13, Section 13.8.
 - b. Engaging in any unlawful activity.
 - c. Failure to report any arrest, indictment, conviction, probation, adjudication or deferred adjudication of any

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- misdemeanors and/or felonies, including but not limited to DWIs, within three (3) days of the incident.
 - d. Other acts of unlawful conduct.
- 9. **Conduct Inconsistent With Interests of the City of Mesquite** (nothing herein, however, is meant to interfere with or prohibit employees' rights to engage in protected concerted activity)
 - a. Any violation of the City Charter, Civil Service Rules and Regulations, City and departmental policies and directives, Standards of Conduct or other policies addressed in this manual.
 - b. Actions which demonstrate disloyalty to the goals and objectives of the City.
 - c. Acting in a manner onsite or offsite as to impugn or embarrass the City.
 - d. Engaging in any activities or actions showing a lack of good moral character.
 - e. Indecent, provocative, harassing or offensive behavior.
 - f. Other acts inconsistent with the interests of the City of Mesquite.
- 10. **Solicitation**
 - a. Solicitation of funds or anything of value for personal profit from either employees or the public during work hours.
 - b. Solicitation of funds or anything of value from either employees or the public during work hours without prior authorization.
 - c. Solicitation of other employees for membership in employee organizations during work time.
 - d. Using the City's name or employee's position to promote personal business.
 - e. Other acts of solicitation not consistent with the performance of work-related duties.
- 11. **Financial Obligations**
 - a. Disruption in the workplace resulting from failure to pay just debts and obligations.
 - b. Other types of neglect related to failure to pay financial obligations which disrupt the workplace.
- 12. **Personal Appearance**
 - a. Failure to dress appropriately and in good taste in relation to assigned job duties.
 - b. Failure or refusal to wear assigned uniforms in the manner prescribed.
 - c. Failure to dress appropriately in accordance with City and departmental policies.
- 13. **Acceptance of Gifts or Favors:** (See also Standards of Conduct, Chapter 8, Section 8.1)
 - a. Accepting gifts or favors that might reasonably tend to influence an employee in the discharge of official duties. The foregoing includes, but is not limited to, accepting such gifts, gratuities or favors from individuals or firms with which the City does business or an individual or firm seeking City business.
- 14. **Harassment, Discrimination and Retaliation**
 - a. Violating the City's Harassment, Discrimination and Retaliation policy in any manner (Chapter 17).
 - b. Failure to cooperate in any investigation of harassment, discrimination and retaliation.
- 15. **Political Activity**
 - a. Using one's City position or personal influence as a City employee for or against any candidate for public office.
 - b. Dressing in uniform (shirt, pants, coats, hats, patches, etc.) that would identify one as a City employee while engaging in any type of political activity, except as allowed under V.T.C.A. Texas Local Government Code 143.086.
 - c. Directly or indirectly coerce, attempt to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization or person for political purpose.
- 16. **Secondary Employment**
 - a. Engaging in activities related to secondary employment during normal duty hours or conduct secondary employment or activities related to secondary employment that reflects unfavorably upon the City or impairs performance of City job duties.
 - b. Using City facilities, equipment, supplies or time for engaging in secondary employment.
 - c. Using information gained during employment for personal profit or gain.
- 17. **Dereliction of Duty**
 - a. Failure to observe and give effect to the policies of the organization.
 - b. Failure to report or document violations of policy or procedure.
 - c. Other acts reflecting dereliction of duty.
- 18. **Unauthorized Electronic Surveillance, Eavesdropping and Recording:** Violation of the City's Unauthorized Electronic Surveillance, Eavesdropping and Recording policy (Chapter 3, Section 3.1).
- 19. **Electronic Mail and Internet:** Violation of the City's Electronic Mail and Internet policy (Chapter 3, Section 3.2).

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8.3
GROUNDS FOR NON-DISCIPLINARY TERMINATION

Discharge of an employee resulting from a non-disciplinary termination may not be appealed to the City's Trial Board and is considered final. The following are grounds for a non-disciplinary termination:

1. **Failure to Maintain Minimum Job Requirements:** Failure to maintain or secure licenses or certifications required as a condition for performing the job.
2. **Probationary Period:** Failure to successfully complete probationary period.
3. **Layoff:** A reduction in authorized positions as described in Chapter 8, Section 8.5 of this manual.
4. **Paid and Unpaid Leave Exhausted:** Pursuant to the procedures below, upon exhaustion of injury leave, injury absence, available modified duty and all sick leave, vacation leave or unpaid leave, the employee will be given a non-disciplinary termination if no other reasonable accommodations can be made.
 - a. Within thirty (30) days prior to the employee exhausting his/her leave or if the employee's previously stated return date is sooner, the employee shall contact the Director of Human Resources to discuss the employee's return or inability to return within the leave period and the availability or not of a reasonable accommodation if the employee is unable to return.
 - b. If the employee fails to return to work by the previously agreed upon date, and in the absence of the employee communicating as required in Paragraph 4.a. above, or other further communication, he/she will be considered to have abandoned the job and will immediately receive a non-disciplinary termination.
 - c. If the employee communicates as required by Paragraph 4.a. above, but no further reasonable accommodation can be made, the employee will immediately receive a non-disciplinary termination.

8.4
DISCIPLINARY ACTION

To the extent practical and reasonable, the City will use a progressive discipline system. The City, however, is not obligated to use any or all of the progressive disciplinary steps. Additionally, the City may begin the disciplinary process at any level, up to and including termination, based upon the severity of the infraction. The department director or assigned supervisor will be responsible for responding to evidence of non-compliance with the law or the standards of conduct listed in Chapter 8.1, and take appropriate action to prevent future non-compliance. All suspensions, demotions, terminations or resignations in lieu of terminations of employees, regardless of probationary status or employment category (part-time, seasonal, etc.), shall be approved by the Human Resources Director or Human Resources Director designee prior to action being taken. All meetings relating to disciplinary action other than an appeal of a disciplinary action will be between City representatives and the employee. There shall be no right of representation in such meetings. The City disciplines employees based on their entire record. The City is not required to use separate disciplinary tracks for each type of misconduct.

1. **Types of Disciplinary Action**
 - a. **Oral Warning:** The oral warning is a conference, discussion, talk or any other form of oral communication between a supervisor and employee in which the intent is to correct unsatisfactory job performance or conduct. Supervisors will document, for the employee's personnel file only, oral warnings given to their employees, citing at a minimum the date of warning, content of the warning and expected action to be taken by the employee to avoid further disciplinary action.
 - b. **Written Reprimand:** The written reprimand is used to document, in writing and presented to the employee, the unsatisfactory job performance or conduct that has been demonstrated by the employee. The employee will be requested to sign the reprimand. If the employee refuses, the supervisor present shall document on the reprimand that the employee was given the opportunity to sign but refused. The employee shall be given a copy of the supervisor's signed, written reprimand. Such written reprimand is to be placed in the employee's personnel file.
 - c. **Suspension Without Pay:** Suspension without pay is used when an employee's unsatisfactory job performance or conduct requires more severe disciplinary action than a written reprimand. A suspension must be no less than one full workday and no more than twenty working days for any single disciplinary incident. Employees on disciplinary suspension without pay may not use compensatory, vacation or sick leave to recuperate the lost time.
 - d. **Disciplinary Demotion:** A disciplinary demotion is the reduction of an employee's pay grade as a result of action initiated by the City. Disciplinary demotion may be considered as an appropriate form of action when the employee's job performance or conduct is unsatisfactory in the current position and it is determined that the employee should be retained in a lower graded position.

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- e. **Termination:** Termination is an involuntary discharge from the City. Terminations may be for disciplinary or non-disciplinary reasons.
2. **Filing of Disciplinary Actions:** A signed copy of all reprimands, suspensions, disciplinary demotions and terminations shall be promptly submitted to the Human Resources Director for inclusion in the employee's Human Resources file and may only be removed by court order, or in accordance with VTCA Local Government Code Chapter 143, where applicable.
3. **Effect of Disciplinary Termination on Benefits:** Employees terminated as a result of disciplinary action are leaving "not in good standing" and are not eligible for payment of separation benefits (i.e. accrued vacation and sick leave).
4. **Notice of Disciplinary Action**
 - a. **Procedural Due Process:** Prior to suspension, disciplinary demotion or disciplinary termination, employees shall be notified of the department's intentions, the basis for the proposed action and shall be allowed an opportunity to respond to the official making the disciplinary decision.
 - b. **To Employee:** All employees who are reprimanded, suspended, disciplinarily demoted or terminated will be given written notification of the grounds for the disciplinary action, the acts or alleged actions justifying the disciplinary action, the consequences of any future violations of policy (except in cases of termination) and any right of appeal.

8.5
LAYOFF POLICY

A layoff is a non-disciplinary reduction in the number of authorized positions.

1. **Basis:** The City reserves the right to determine the number and type of personnel required to maintain the functions of the organization. The following are illustrative, but not all inclusive, of the basis for a layoff:
 - a. A discontinuation of or reduction in demand for service.
 - b. A change in level or source of funding.
 - c. Technological developments that reduce staffing requirements.
 - d. To accomplish economic or staffing efficiency.
 - e. Privatization of services/contracting out.
 - f. Requirements of state and/or federal laws.
2. **Retention Criteria:** The initial consideration shall be to maintain the level of service necessary to operate the City. Thereafter, the following factors shall apply in determining which employees shall be subject to layoff:
 - a. Degree of organizational impact as evidenced by employee's knowledge, skills and abilities, productivity and job performance.
 - b. Employee's length of service in the position, in the department and with the City.
3. **Notice of Layoff:** Employees subject to layoff will be given two weeks' notice.
4. **Recall and Severance Pay:** The City makes no provision for recall or severance pay for the classified service.
5. **Benefits:** A layoff is considered a non-disciplinary termination. Employees will receive all termination benefits for which they are eligible, as provided by policy.
6. **Re-employment:** Employees subject to layoff may make application with the Human Resources Department, through the normal employment process, for consideration for current vacancies. Employees who have been subject to layoff will be required to meet all of the qualifications for the position for which they are applying.
7. **Fire and Police State Civil Service:** Employees covered under Fire and Police State Civil Service are governed by the provisions of Chapter 143 of the Local Government Code.

8.6
ADMINISTRATIVE LEAVE

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 Chapter 8, Section 8.2.

1. **Terms of Administrative Leave:** Administrative leave is not considered a disciplinary action and is not grievable or appealable to the Trial Board. Paid administrative leave may not exceed forty-five calendar days per inquiry.
2. **Authorization of Administrative Leave:** In cases where use of administrative leave appears appropriate, the department head shall submit a request to the Human Resources Director who will review the request and determine the appropriate course of action.

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8.7
APPEAL FROM DISCIPLINARY ACTION

Only regular full-time or terminated classified employees not on initial probation who have been suspended, involuntarily demoted or terminated for disciplinary reasons may use the Trial Board appeal for disciplinary action process.

1. **Employee Appeals**

Time Limitations: The time limitations in the appeal process are mandatory and jurisdictional. Failure to comply with the time limits by the employee shall result in loss of all appeal rights. All time limits begin the day after notification of the appealable action (i.e. the suspension, involuntary demotion or termination for disciplinary reasons). An employee's appeal must be received during normal business hours (8 a.m. to 5 p.m.) in the Human Resources Department no later than ten (10) calendar days after the date of notification to the employee of the appealable action.

a. Appeal Process

- 1) It is the responsibility of the Human Resources Director or the Human Resources Director designee to administer and coordinate the provisions of these policies and ensure compliance with established procedures.
- 2) The employee's appeal must be in writing on the “*Appeal of Disciplinary Action to Trial Board*” form provided by the Human Resources office.
- 3) All appeals must be signed and dated by the employee. The Human Resources Director may not process an unsigned or incomplete appeal.
- 4) To be complete, the appeal must state in detail:
 - i) The action being appealed;
 - ii) Why employee feels the action should be modified; and
 - iii) The remedy or resolution sought by employee.
- 5) Once filed, the scope of the appeal may not be expanded or amended and the appeal will only address the items and information outlined in the employee’s appeal form.

b. Appeal Exclusions: The Human Resources Director may not process an appeal:

- 1) Which questions the wisdom or advisability of any policy, procedure or directive; or
- 2) Which has been rendered moot by existing law.

c. Appeal Retraction: An appeal may be withdrawn at any time by written request of the appellant.

d. Reimbursement of Legal Fees and Damages Prohibited: Employees are not entitled to seek reimbursement of any legal fees or seek damages other than back pay and benefits in connection with a Trial Board appeal.

e. Hearings Private: Unless otherwise requested in writing by the appellant at the time of filing of the appeal, the appeal shall be closed to the public.

f. **Only evidence included in the employee’s original appeal will be heard by the Trial Board. Employees may not present new evidence at the Trial Board hearing and may only present evidence originally included in the employee’s appeal.**

8.8
TRIAL BOARD

1. **Membership:** The Trial Board shall be comprised of the three members of the Personnel Board (Chapter 1, Section 1.13). Personnel Board members will also serve as Civil Service Commissioners.
2. **Jurisdiction Restricted:** The Trial Board may only consider appeals from disciplinary action for suspension, involuntary demotion or disciplinary termination and (a) which do not question the wisdom or advisability of any policy, procedure or directive or (b) which have not been rendered moot by existing law.
3. **Board Administrator:** The City’s Human Resources Director shall serve as administrator and coordinator for the Trial Board. The Human Resources Director will provide all necessary assistance to the Trial Board not in conflict with these policies.
4. **Rules of Procedure:** The Trial Board shall adopt rules of procedure that, at a minimum, shall contain the following:
 - a. The Trial Board rules of procedure may not supplant or conflict with established City policy.
 - b. The Trial Board may not consider appeals that (a) question the wisdom or advisability of established City policy, procedure or directive or (b) which have not been rendered moot by existing law.
 - c. The Trial Board may not render a decision that would (a) serve to amend or modify any classification or compensation structure, benefit or program or (b) countermand any established City policy, procedure or

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- directive.
- d. The Trial Board may not interpret or consider issues or questions of law, but will adhere solely to the review of facts presented during the hearing relating to the disciplinary action taken.
 - e. The Trial Board may not consider claims for reimbursement of any legal costs, fees or damages other than back pay and benefits. The Trial Board will not allow the admission of nor consider evidence that is not relevant to the disciplinary action being appealed.
 - f. The Trial Board will not allow the appellant to present testimony that has the effect of expanding their written appeal.
 - g. The Trial Board will not review exhibits or hear testimony not presented during the hearing under oath and in the presence of both appellant and the City's representative.
 - h. The Trial Board may not retain in their personal possession notes, exhibits or items furnished in evidence during the hearing.
 - i. The Trial Board may require witnesses to be removed from the hearing room except while testifying. The Trial Board may limit the number of witnesses and decline to hear repetitive and irrelevant testimony.
 - j. The Trial Board may recess or go "off- the record" by a majority vote of the Trial Board members present.
 - k. The Trial Board will establish an agenda of presentation to provide for the efficient conduct of its meetings.
 - l. All Trial Board members will sign the official record of their deliberations and decisions within the time limits established by this policy.
5. **Quorum:** Two members constitute a quorum for hearing of an appeal. A majority of those present is necessary to render a decision.
 6. **Notice of Appeal Hearing:** Notice of an appeal hearing will be posted not less than seventy-two (72) hours prior to the hearing.
 7. **Time Limits:** Unless otherwise agreed to by the parties, the Trial Board shall hear all valid appeals and render a written decision within thirty calendar days from the first full day after the appeal is received in Human Resources. The Trial Board, by a majority vote, may extend the thirty-day limit by an additional fifteen (15) calendar days. The decision of the Trial Board shall be final.

City of Mesquite General Government Policies and Procedures Manual
CHAPTER 9: CLASSIFICATION SYSTEM

9.1
CLASSIFICATION PLAN

The Human Resources Department shall be responsible for the administration, maintenance and revision of the City's classification and job evaluation program.

1. **Classification of Positions:** Individual positions (jobs) are grouped, whenever possible, to form classifications. Classifications are comprised of jobs that are substantially similar in form, function, qualifications, training and other relevant characteristics to be summarized into one job classification.
2. **Classification Assignments:** Each position shall be assigned a classification title, code, pay grade and job family.

9.2
CLASSIFICATION PLAN ADMINISTRATION

1. **Responsibility**
 - a. The Human Resources Department may initiate job analysis studies to determine that classification qualifications and pay grades are current and appropriate.
 - b. All assignment of positions of official classifications and pay grades shall be based on analysis conducted and analyzed by the Human Resources Department.
2. **Job Descriptions**
 - a. The Human Resources Department shall prepare job descriptions based upon information gathered from incumbents, supervisors and other relevant sources. Department supervisors shall review job descriptions in their area of responsibility. All changes to job descriptions shall be approved by the department director and the Human Resources director.
 - b. Job descriptions shall outline the knowledge, skills and abilities required for the position, minimum qualifications for adequate performance of the position, and identify the essential job functions and other pertinent job information. The information in the job description is not inclusive of every duty performed by the employee but rather a descriptive representation of the position's major job functions.
3. **Classification of Newly Created Positions**
 - a. Department heads are responsible for submitting a written request for a job audit of newly created positions to the Human Resources Director. The department will submit a comprehensive description of the projected position's responsibilities with the request.
 - b. Once a newly created position has been filled, a second review of the position shall occur six (6) months to one (1) year after the incumbent's date of hire to ensure that the job description accurately reflects the duties and responsibilities of the position.
 - c. New positions, for which an existing classification does not exist, may be submitted for budget purposes with an estimated pay grade and title. However, the final pay grade and job classification will be determined by the City Manager or City Manager designee as a result of the Human Resources Department's job analysis and evaluation.
4. **Reclassification Due to Job Duties and Responsibilities of Existing Positions**
 - a. Supervisors or managers who consider a position or group of positions to be improperly classified due to changes in duties, responsibilities, internal inequity, or competitive market conditions may submit a request for a job analysis study to their department director. If the department director finds that the request has merit, a written request to conduct a job analysis study may be submitted to the Human Resources Director for consideration. If the Human Resources Director finds the appeal to have merit, the request will be submitted to the City Manager for final consideration. With Management approval, the Human Resources Department will conduct a job analysis/market study regarding the changes in duties, responsibilities, knowledge, skills, ability and minimum requirements. Based on the study results, Human Resources may recommend an adjustment in the incumbent's pay grade. Final approval (through the Compensation Committee) is required to implement the change.
 - b. Where reclassification results in lowering the position's grade, the current incumbent may be provided the opportunity to accept reassignment to a vacant position in the same department. Otherwise, the incumbent will be moved to the lower classification with the lower classification's pay grade. Where reclassification results in moving the position's grade upward, the incumbent must meet all minimum qualifications of the new job classification. In the event the incumbent does not meet all minimum qualifications, the Human Resources

CHAPTER 9: CLASSIFICATION SYSTEM

Department shall determine whether to grant the incumbent an extended probation period or require the incumbent to seek a new position within the City.

- c. The decision to modify, create or abolish a position or classification is the exclusive prerogative of the City Manager and is not subject to appeal.

5. Reclassification Due to Salary Market Adjustment

- a. A salary market adjustment is defined as a change in a position's pay grade to reflect competitive salaries in the market. In conjunction with the annual budget process, the HR department may conduct an annual salary survey to measure salary competitiveness with select metroplex cities and the City of Mesquite. A department director may also request the HR department to conduct such a survey. Reclassifications may occur as a result of the annual salary survey. Any such surveys will not necessarily address all positions within the City.
- b. Supervisors or Managers who consider a position to be noncompetitive with the market may submit a request for a salary survey to their department director. If the department director finds that the request has merit, a written request to conduct a salary survey study may be submitted to City Management for consideration. With City Management approval, the Human Resources Department may conduct a salary survey study to measure salary competitiveness with select metroplex cities and the City of Mesquite. If based on the salary survey Human Resources recommends a grade change, City Management approval is required to implement the change.

City of Mesquite General Government Policies and Procedures Manual

CHAPTER 10: COMPENSATION POLICIES

10.1

COMPENSATION DEFINITIONS

1. **Exempt:** An exempt employee is an employee exempt from minimum wage and overtime provisions of the Fair Labor Standards Act. Exempt employees primarily include those individuals occupying a bona fide executive, administrative and professional position under the Fair Labor Standards Act.
2. **Nonexempt:** A nonexempt employee is an employee covered by the minimum wage and overtime provisions of the Fair Labor Standards Act. Nonexempt employees include hourly employees (where pay is directly related to the number of hours worked) and some nonexempt salaried workers (clerical, supervisory and paraprofessional job categories).
3. **Workday:** A workday is any twenty-four (24) hour period beginning and ending at 12 a.m.
4. **Workweek:** A workweek is defined as any fixed and regularly recurring period of seven (7) consecutive days. The City workweek begins at 12:00 a.m. Sunday and ends at 11:59 p.m. the following Saturday. The beginning and ending of the workweek is subject to change by the City Manager or City Manager designee. The usual and customary hours worked per workweek for full-time, nonexempt employees, except for firefighting and emergency medical service personnel, shall be forty (40) hours.
5. **Work Schedule:** The work schedule for a full-time, nonexempt employee, except firefighting and emergency medical service personnel assigned to shift duty, is forty (40) duty hours in each workweek and eight (8) hours in each workday. With the written approval of the City Manager or City Manager designee, department heads may establish alternate work schedules in their departments.
6. **Fire Department Work Period:** Firefighting and emergency medical service personnel assigned to shift duty shall work a recurring twenty-seven-day (27) work period. The work period shall begin at 7:00 a.m. and conclude at 7:00 a.m. twenty-seven days later.
7. **Alternative Work Arrangement:** Nonexempt employees performing work at a location other than the customary workplace, such as at home, or work which exceeds their scheduled hours of work must have prior approval from their department head before such work occurs. The department is responsible for documenting their approval of alternative work arrangements with nonexempt employees by forwarding a copy of the agreement to the Human Resources Department. Employees who violate this section will be subject to disciplinary action.
8. **Pay Period:** A pay period is designated for accounting purposes only and refers to a period of two (2) workweeks. All employees are paid biweekly with normal paydays occurring every other Friday. Exceptions to paydays may occur due to City-observed holidays and official City closures.
9. **Hours Worked:** Hours worked shall be all time an employee is "suffered or permitted to work" for the City in any job-related capacity at any location where the City's business is performed, and includes approved overtime.
10. **Business Hours of the City:** The hours during which City offices and departments shall be open for business shall be determined by the City Manager or City Manager designee.
11. **Overtime:** Hours worked over forty (40) in a particular workweek, excepting firefighting and emergency medical service personnel.

10.2

DETERMINATION OF FAIR LABOR STANDARDS ACT STATUS

The Human Resources Department shall make the determination concerning a position's exempt or nonexempt status. Requests to review the status of a position must be submitted in writing to the Human Resources Director by the department head, or organization equivalent of the department, in which the position is located.

10.3

OVERTIME

1. **Policy:** For non-exempt employees, overtime is paid at a rate of one and one-half (1½) times an employee's regular hourly rate pursuant to FLSA regulations. Firefighting and emergency medical service personnel assigned to a twenty-seven-day (27) work period shall be paid on an overtime basis for time worked in excess of 204 hours within the work period. The one-half time provisions permitted under the FLSA shall apply. Overtime shall be considered as authorized when submitted in compliance with this chapter and applicable departmental regulations.

CHAPTER 10: COMPENSATION POLICIES

- Exempt employees are not subject to this policy.
2. **Regular Hourly Rate:** The regular hourly rate for purposes of calculating overtime includes base pay, longevity pay, non-discretionary bonuses, and all other pay as required by the FLSA.
 3. **Authorization:** When practical, in the judgment of the department head, employee work schedules should be adjusted to reduce the necessity of overtime. Nonexempt employees must receive prior written approval from the department's designated official prior to working overtime. Posted schedules or written departmental policy governing authorization of overtime shall be considered prior written approval. Working unauthorized overtime by nonexempt employees shall be considered grounds for disciplinary action.
 4. **Compensatory Time**
 - a. **Comp Time:** Nonexempt employees, except firefighting and emergency medical service personnel, who work authorized overtime may be compensated for that time by receiving compensatory time off at the rate of one and one-half (1 ½) hours of compensatory time for every hour of authorized overtime worked. However, the City may at any time, in its sole discretion, substitute cash payment for overtime at the rate of one and one-half (1 ½) times the employee's regular rate in lieu of compensatory time off, either in whole or in part.
 - b. **Comp Time Accrual in Public Safety Jobs:** Firefighting and emergency medical service personnel will receive cash payment for overtime at the rate of one and one-half (1 ½) times their regular rate and are not eligible for compensatory time without prior department head approval. Nonexempt employees engaged in public safety activities, emergency response activities or seasonal activities that are approved and eligible for compensatory time may accrue up to one hundred twenty (120) hours of compensatory time off, after which overtime will be paid at the rate of one and one-half (1 ½) times the employee's regular rate.
 - c. **Comp Time Accrual in General Government Jobs:** All nonexempt employees eligible for compensatory time will receive cash payment for overtime at the rate of one and one-half (1 ½) times their regular rate after they have accrued one hundred twenty (120) hours of compensatory time off.
 - d. **Payment for Accrued Comp:** Payment for accrued compensatory time may be made at any time, at the City's sole discretion and shall be paid at the regular rate earned by the employee at the time payment is made.
 - e. **Comp Payment Upon Termination:** Upon termination of employment, nonexempt employees will be paid for unused compensatory time at a rate of compensation not less than the higher of:
 - 1) The average regular rate received by the employee during the three-year (3) period immediately prior to termination; or
 - 2) The final regular rate received by the employee.
 - f. **Exempt Employees:** Employees who are exempt from the Fair Labor Standards Act are not entitled to automatically accrue compensatory time.
 5. **When Overtime/Compensatory Time is Granted**
 - a. **Comp Time Over 40 Hours:** Comp time may be granted to nonexempt employees for all hours worked over forty (40) in a workweek. Averaging of hours worked over two (2) workweeks is not acceptable and violates the Fair Labor Standards Act. Comp time shall be accrued on the regular payday for the period in which the workweek ends unless the correct amount of comp time cannot be determined until sometime after the regular pay period has been processed.
 - b. **Overtime Payments:** Temporary or seasonal, nonexempt employees whose hours worked per workweek exceed forty (40) hours shall receive overtime pay for the hours worked in excess of forty (40) for that workweek. Seasonal aquatic employees are not eligible for overtime as defined by FLSA regulations.
 6. **Use of Compensatory Time:** A non-exempt employee who has accrued compensatory time may request the use of compensatory time off at any time. The department shall grant the use of compensatory time as requested by the employee unless the employee's absence from work would unduly disrupt departmental operations.
 7. **Disciplinary Actions:** Nonexempt employees on disciplinary suspension without pay may not use accrued compensatory time to recuperate the time lost due to the disciplinary suspension.
 8. **Mandatory Payment for Compensatory Time**
 - a. **At Termination:** See Chapter 10, Section 10.3.4(e).
 - b. **Promotions:** Nonexempt employees who are promoted or reclassified into an exempt position shall be allowed to continue using any previously accumulated compensatory time which was gained while employed in a nonexempt status until all time has been depleted subject to Chapter 10, Section 10.3.4(d).
 9. **Exempt Employees:** All full-time employees of the City classified as exempt are paid on a salaried basis, regardless of hours worked and are not subject to overtime. The inclusion of an hourly rate in the compensation plan does not constitute designation of an employee as being paid on an hourly basis under applicable wage and hour laws, but merely is an accounting convenience.

CHAPTER 10: COMPENSATION POLICIES

10. **Discretionary Time of Exempt Employees:** Exempt employees are expected to perform a function that is not strictly defined by an established number of hours. Exempt employees, who in the opinion of the department director, have worked beyond a normal workweek may be granted discretionary time off in accordance with the procedures below.
- Eligibility:** Exempt employees may be eligible for accumulated discretionary time. Discretionary time is not an entitlement nor is it to be accrued on an hour-for-hour basis. Directors reserve the right to grant discretionary time accrual and usage based on the merit of each individual situation. Discretionary time is not permitted for instances where an exempt employee occasionally comes to work early or stays late as these are considered part of their professional duties for which they receive a salary.
 - Use of Discretionary Time:** Exempt employees may take discretionary time off within a reasonable period following their requests to the extent such discretionary time off does not unduly interrupt departmental operations and prior supervisory approval was granted. Exempt employees may not accumulate more than forty (40) hours of discretionary time off per year and a maximum of forty (40) hours of discretionary time off may roll over to the following year. The maximum amount of discretionary time that can be taken and used per pay period is sixteen (16) hours.
 - Unused Discretionary Time:** Exempt employees will not be paid for accumulated unused, discretionary time upon termination.
 - Recordkeeping and Administration:** Department heads/division managers are responsible for discretionary time records and policies for use of discretionary time for their exempt employees. The Discretionary Time Record form should be used to track discretionary time off.

10.4
RECORDKEEPING

1. **Recordkeeping**
- Department Responsibilities:** Each department is responsible for ensuring that complete records are maintained of actual hours worked by all nonexempt employees for a period of three (3) years. Records should contain the employee's:
 - 1) Full name, home address including zip code, date of birth (if under age 19), sex and occupation.
 - 2) Hour and day when workweek begins.
 - 3) Beginning and ending time for each work day.
 - 4) Total hours worked each workday and workweek.
 - 5) Total daily or weekly straight-time earnings.
 - 6) Regular, hourly pay rate for any week when overtime is worked.
 - 7) Total overtime for the workweek.
 - 8) Deductions from or additions to wages.
 - 9) Total wages paid each pay period.
 - 10) Date of payment and pay period covered.
 - FLSA Regulations:** FLSA regulations require maintenance of complete records as follows for all exempt employees:
 - 1) Full name, home address including zip code, date of birth (if under 19), sex and occupation in which employed.
 - 2) Time of day and day of week on which the employee's workweek begins.
 - 3) The basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment, including fringe benefits and prerequisites.
 - Records:** Records must be accurate and available upon request by the Human Resources Department.
 - Supervisor's Responsibilities:** Supervisors of nonexempt employees are responsible for monitoring each subordinate's hours worked for each workweek and ensuring that the employee is properly compensated.
 - Employee's Responsibilities:** Employees are responsible for accurately reporting their hours worked each day through the ExecuTime timekeeping system. Update and accruals can be viewed on the Employee Self Service (ESS) portal. **Note: All possible accrual adjustments must be made within three (3) pay periods of occurrence.**

City of Mesquite General Government Policies and Procedures Manual

CHAPTER 10: COMPENSATION POLICIES

10.5

OTHER PAYROLL TIME DEFINITIONS AND POLICIES

1. **Leave Time**
 - a. General Government Employees: Paid leave time, including vacation, sick leave or workers' compensation will not be considered as hours worked for purposes of determining eligibility for overtime payment.
 - b. Sworn Police: Compensatory time, personal leave, sick leave, worker's compensation leave, ABL (as defined in the Meet and Confer Agreement), and all other paid leave, will not be included in the calculation of hours worked for purposes of determining eligibility for overtime pay or compensatory time.
 - c. Firefighting and Emergency Medical Service Personnel: Time not actually worked will not be considered as hours worked when calculating FLSA overtime payment for Fair Labor Standards Section 207(k) firefighting and emergency medical service personnel assigned to shift duty.
2. **On-Call Time**: Non-exempt employees who are "on-call" are free to use their time effectively for their own purposes as long as they leave word with the appropriate supervisory officials as to where they can be reached, are able to respond within a reasonable and acceptable time and are physically able to perform the duties assigned to their position. As such, on-call time is not compensable unless an employee is actually called to work, and on-call time that is not worked will not be included for purposes of calculating overtime. An employee who is free to perform personal activities but is required to be available to summons via pagers, phone or radio is not working while on call.
3. **Waiting Time**: Nonexempt employees who arrive at work before their scheduled hours, unless working approved overtime, are not eligible for compensation for that period of time and should not work during that time. Supervisors are responsible for ensuring that employees do not perform work outside their scheduled work hours without prior approval. Disciplinary action may be taken against employees and/or supervisors who fail to comply with scheduled hours of work.
4. **Nonexempt Employees Personal Device Usage**: Nonexempt employees are prohibited from accessing their City email and any other work-related items on their personal electronic devices (i.e. cell phones, etc.) absent prior authorization from the Human Resources Director or his/her designee. See Ch. 3, Sec. 3.2.
5. **Rest Periods**: At the discretion of the department head, employees may be granted two (2) fifteen-minute (15) paid rest periods each day. Rest period schedules shall be provided by the department. Rest periods may not be combined with the normally scheduled meal period for purposes of extending the meal period. Employees who do not receive rest periods may not alter their normal workday by leaving early and/or arriving late.
6. **Inactive Hours**: Nonexempt employees shall not receive pay for inactive hours. Inactive hours are those hours that the employee was regularly scheduled to work but does not work due to inclement weather, equipment breakdown or other sufficient reasons as determined by the department head. The employee must be completely relieved of duty and allowed to leave the worksite by permission of a supervisor.
7. **Meal Periods**: Uninterrupted meal periods of at least 30 minutes, during which an employee is completely relieved from duty, are not compensable and will not be included in hours worked for purposes of calculating overtime. However, if an employee is required by his/her supervisor to work during the meal period, he/she will be compensated.
8. **Travel Time**
 - a. Between Home and Work Site: Under ordinary circumstances, time spent by an employee traveling between home and work and returning home is not compensable. However, if an employee has gone home after completing a day's work and is subsequently called out on an emergency, time spent traveling to and from the location where work is performed will be compensable.
 - b. One Job Site to Another: Time spent traveling from one job site to another job site during the workday is compensable. When an employee is required to travel out of town for one day, time spent traveling from home to the point of departure is not compensable, but all other travel time is compensable. Where employees travel overnight on business, travel time during normal working hours, on non- working days as well as regular working days, is compensable. (i.e., if an employee's regular work schedule is Monday through Friday 9am – 5pm, time spent traveling from 9am – 5pm, regardless of the day, is compensable). Time spent traveling as a passenger outside of regular working hours is not compensable and will not be included in hours worked for purposes of calculating overtime as long as the employee performs no work.
9. **Training Time**
 - a. Exclusion Criteria: Time spent by employees in training programs, lectures and safety meetings is not counted as working time if all the below are met:

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- 1) It occurs outside the employee's regular working hours.
 - 2) Attendance is voluntary.
 - 3) The employee does no productive work while attending.
 - 4) The program, lecture or meeting is not directly related to the employee's job. Moreover, even if all of the above requirements are not met, attendance outside of regular working hours at specialized or follow-up training, required by the law of a higher level of government, will be considered non-compensable and will not be included in hours worked for purposes of calculating overtime.
- b. **If Training Required:** Training must be considered hours worked if the employee is required to attend by the City or approved by their supervisor.
- c. **Self-Development Excluded:** Training may not be considered hours worked if the employee, on his/her own initiative, attends an independent school, college, meeting or independent trade school after work hours.
10. **Volunteer Service:** Employees perform unpaid volunteer service for the City when the following criteria are met:
- a. The service is for civic, charitable or humanitarian reasons without promise or expectation of compensation in the form of paid expenses, benefits or fees to perform services.
 - b. The services are offered freely without coercion.
 - c. The services performed are not services the employee normally performs for the City.

10.6

PAY PLAN ADMINISTRATION

The Human Resources Department shall be responsible for the administration and maintenance of the City's Pay Plan. The City's Pay Plan includes merit increases, pay grades, salary ranges and other compensation items. The Pay Plan is subject to revision each fiscal year through the budget process.

1. **Pay for New Employees**
 - a. **Hiring Salary:** All new employees shall be employed at the minimum rate of pay for the position's current grade. Department directors may request a variance in writing to the City Manager's Office.
 - b. **Merit Increase:** Employees are eligible for annual merit increases based on the date of hire. The employee will be evaluated annually and Supervisors will discuss the employee's progress on performance reviews.
2. **Pay for Promotions/Reclassifications**
 - a. **Promotions:** When an employee accepts greater job responsibilities and receives a change from a pay grade with a lower midpoint to a pay grade with a higher midpoint.
 - b. **Reclassifications:** A reclassification may occur when there is a major change in duties and/or responsibilities of an individual's job.
 - c. **Eligibility for Salary Increase:** Promoted or reclassified employees are eligible for a 5% salary increase or the new grade's minimum salary, whichever is higher. Employees will be evaluated annually and are eligible for a merit increase based on the date of the promotion.
3. **Pro-Rated Merit Increase:** Upon promotion or lateral transfer, individuals whose last review was three months or more prior to lateral transfer or promotion may be eligible to receive a pro-rated merit increase based on the number of months since the last review date. The Pro-Rated Merit increase is given before the promotion increase is calculated. A new performance review by the outgoing supervisor is required to determine eligibility for a pro-rated merit increase.
 - 3 months = 25% of eligible merit increase
 - 4 months = 33% of eligible merit increase
 - 5 months = 42% of eligible merit increase
 - 6 months = 50% of eligible merit increase
 - 7 months = 58% of eligible merit increase
 - 8 months = 67% of eligible merit increase
 - 9 months = 75% of eligible merit increase
 - 10 months = 83% of eligible merit increase
 - 11 months = 92% of eligible merit increase
4. **Pay Upon Demotion**
 - a. **Disciplinary:** Employees who are demoted for disciplinary reasons shall receive a salary decrease commensurate with the degree of pay grade change. Employees will be evaluated annually and eligible for a merit increase 12 months from date of demotion.

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CHAPTER 10: COMPENSATION POLICIES

- b. Voluntary and Involuntary (Not Disciplinary)
 - 1) **Maximum Pay:** Regular full-time employees who take a voluntary demotion or receive an involuntary demotion as the result of an interdepartmental transfer for administrative convenience may have their pay reduced within the pay range of the new grade. Except where approved by the City Manager or City Manager designee, the employee's pay shall not exceed the highest salary in the new pay grade. The performance review date shall not change for voluntary or involuntary demotions.
- 5. **Out-of-Class Pay**
 - a. Minimum Increase: Any regular full-time employee who is assigned temporarily to work in a regular full-time position with a higher pay grade midpoint than his or her own shall be eligible for a 5% salary increase or the new grade's minimum salary, whichever is higher.
 - b. Minimum Time Period: An employee temporarily assigned to serve in a higher-level position must actually perform the full range of duties of the higher-level position and perform the position's duties for two (2) or more work days in a work week to be eligible for out-of-class pay. Once eligible, all days worked in the higher classification shall be compensated at out-of-class rate. The two-day (2) period does not apply to employees subject to provisions of the Texas Local Government Code, Chapter 143.
 - c. Maximum Time Period: No employee shall be allowed to work in a higher classification for more than thirty (30) consecutive calendar days. Department head requests for extended out-of-class pay shall be in writing and referred to the Human Resources Director who shall analyze the request and recommend appropriate action to the City Manager. Employees subject to provisions of the Texas Local Government Code, Chapter 143, shall not be subject to the thirty-day (30) maximum restriction.
 - d. On-the-Job Training: Employees performing the duties of a higher classification for purposes of on-the-job training are not eligible for out-of-class pay.
 - e. Positions Excluded: The positions of City Manager, Assistant City Manager, City Council-appointed positions and Department Directors or their organizational equivalents are excluded from out-of-class pay provisions.
 - f. Prior Authorization: All job assignments requiring out-of-class pay require prior authorization of the department head.
- 6. **Training and Incentive Pay**
 - a. Minimum Requirements Excluded: Training and incentive pay shall not be paid for certifications, licensures, etcetera, which are minimally required qualifications of the position as specified in the official job description.
 - b. Implementation Approval: Department head requests to implement training and incentive programs shall be in writing and referred to the Human Resources Director who shall analyze the request and recommend appropriate action to the City Manager.
- 7. **Longevity Pay:** All regular full-time employees who have completed a full continuous year with the City are eligible to participate in the City's longevity program. Longevity pay increases are calculated in real time, based on the schedule below. Changes in employment status from part-time or seasonal to a full-time probationary appointment shall be treated as a new hire and subject to the same procedures. Longevity pay shall be earned as follows, commencing with such employee's employment anniversary date:

| <u>Number of Years Employed:</u> | <u>Longevity Amount</u> |
|----------------------------------|---|
| 1 through 4 years: | \$4/month for each year of service |
| 5 through 9 years: | \$6/month for each year of service |
| 10 through 14 years: | \$8/month for each year of service |
| 15 or more years: | \$10/month for each year of service up to a 25-year maximum |
- 8. **Holiday**
 - a. Eligibility: Only employees in full-time positions are eligible for paid holidays. Holiday pay shall be received for those holidays officially observed by the City.
 - b. Absences: A new employee whose first scheduled day is the day after a holiday shall not be paid for that holiday. An employee must work the day before and the day after the holiday to receive holiday pay. Employees in an authorized paid leave status will receive holiday pay.
 - c. Working on Holiday: As many employees as possible shall be given each holiday off without loss of pay. Employees who because of the nature of their work cannot be given time off may, at the discretion of the department head, receive holiday time in addition to their regular rate of pay for the actual time worked or have their holiday rescheduled at a later date. Except for police and fire department employees, holiday time is the employee's regular straight-time pay for the 8-hour holiday day.
 - d. Alternate Holidays: Employees wishing to observe religious holidays not officially observed by the City shall,

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at their option and with the approval of the department head, be given time off without pay or the time charged to their accrued vacation or compensatory time.

- e. **Termination:** An employee who is terminating employment and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday. An employee whose last day is on that holiday shall not receive holiday pay unless they actually work on that holiday.
 - f. **Official Holiday:** The day the City observes the holiday shall be considered the "holiday" for all City employees.
 - g. **On Regular Day Off:** If an employee's regular day off falls on a holiday, the department may compensate the employee in one of the following ways:
 - 1) The employee may be paid an additional eight (8) hours; or,
 - 2) The employee may schedule another day off from their regular assigned work schedule.
 - h. **Disciplinary Action:** Employees who are off without pay due to a disciplinary suspension shall not receive holiday pay. Employees who are off without pay, for any reason, the day before or the day after the holiday shall not receive holiday pay or accrue holiday pay.
 - i. **Determination of Other Compensation Issues:** Questions regarding compensation that are not covered by the above regulations shall be referred in writing to the Human Resources Director for determination.
9. **Emergency Call-Back Pay**
- a. **Defined:** Defined as times when a nonexempt employee is called back to work after/before regular working hours or required to work a double shift due to the absence of another employee.
 - b. **Pay:** Employees called back shall receive compensation for all hours worked at their regular rate of pay or overtime, if applicable, but will receive at least a minimum of two (2) hours at the rate of time and one-half their regular rate.
 - c. **Multiple Call Backs:** Employees may not receive more than two (2) call back credits in any eight-hour (8) work period. A multiple call back occurs when an employee returns home and is recalled to their work site. Responding to a recall after being released but prior to returning home does not constitute a multiple call back.
 - d. **Department Records:** Departments are responsible for documenting the call back reasons and maintaining documentation in the department for a period of three (3) years.
10. **Inclement Weather**
- a. **City Policy:** The City is responsible for providing Police, Fire, water, sewer, sanitation and other services to the citizens of Mesquite 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.
 - b. **Reporting to Work:** All employees shall be required to work on their normally scheduled work days regardless of inclement weather conditions unless instructed otherwise by their department head or supervisor.
 - c. **Supervisory Notification:** Department heads are responsible for ensuring that their operations are adequately staffed during periods of inclement weather. Employees who miss work or expect to be late for work due to inclement weather conditions must notify their department head or supervisor immediately. Failure to properly notify may result in disciplinary action.
 - d. **Time Missed:** Employees who miss work due to inclement weather may use accrued vacation or compensatory time to compensate for the lost time. Employees with no vacation or compensatory time accrued shall not be reimbursed for the lost time.

10.7

PERFORMANCE EVALUATION

- 1. **Overview:** The performance pay system is established for purposes of rewarding those employees who demonstrate and maintain a high level of performance. The amount of the increase received shall be commensurate with the performance evaluation. Merit increases may be deferred, pending improvement in performance, when processed in accordance with established procedures.
- 2. **Merit Increase Effective Dates:** The effective date of merit increases shall occur on the employee's merit review date. Promotions and disciplinary/involuntary demotions will result in a new merit review date. With the exception of unclassified employees, no merit increase shall be processed without the completion of a performance review.
- 3. **Non-Periodic Increases:** Non-periodic increases may be granted to employees who clearly demonstrate service of an unusual and exceptional quality upon recommendation of the department head and approval of the City Manager. Non-periodic increases may not exceed one (1) per employee per fiscal year.

City of Mesquite General Government Policies and Procedures Manual
CHAPTER 10: COMPENSATION POLICIES

10.8
DISTRIBUTION OF PAYROLL CHECKS

1. **Release of Employee's Check**
 - a. Designated Individual: An individual designated by a current employee may pick up that employee's paycheck if the employee specifies in writing that the person may do so. The designated individual, if unknown to the party authorized to release the check, will be required to provide valid photographic identification.
2. **Termination Checks**
 - a. Pick Up: Termination checks will be distributed to the terminated employee at the Human Resources Department.
 - b. Releasing Paychecks: The City shall release the employee's final paycheck on no later than six (6) calendar days following the termination unless the termination was the result of a resignation in which case the employee's final paycheck will be released on the next payday following resignation.
 - c. City Property: Departments are responsible for obtaining all City property. The City, with employee preauthorization, may deduct for any unreturned property from the employee's last paycheck.
 - d. Mailing Check: Terminated employees who are unable to pick up their final check in person must inform the Human Resources Department of this situation and make arrangements for the final check to be sent to them via registered mail. The employee is responsible for ensuring that the address on file with the Human Resources Department is current.

10.9
COMPENSATION RECLASSIFICATION

Supervisors or managers who consider a position or group of positions to be improperly classified due to changes in duties, responsibilities, internal inequity, or competitive market conditions may submit a request for a job analysis study to their department director. If the department director finds that the request has merit, a written request to conduct a job analysis study may be submitted to the Human Resources Director for consideration. If the Human Resources Director finds the appeal to have merit, the request will be submitted to the City Manager for final consideration. With Management approval, the Human Resources Department will conduct a job analysis/market study regarding the changes in duties, responsibilities, knowledge, skills, ability and minimum requirements. Based on the study results, Human Resources may recommend an adjustment in the incumbent's pay grade. Final approval (through the Compensation Committee) is required to implement the change.

City of Mesquite General Government Policies and Procedures Manual

CHAPTER 11: RESIGNATIONS

11.1
NOTICE

A resignation is defined as a timely written notice to the employee's supervisor of intention to terminate or retire from employment. For any resignation other than retirement, to be considered timely and to allow for an orderly transfer of functions, employees are required to provide at least ten (10) workdays' notice prior to their last actual work day. The written resignation shall include: the requested effective date of the resignation, the reasons for resigning and signature of the employee. Resignations are not grievable or appealable. For the timeliness of retirements, see Chapter 11, Section 11.8 herein.

11.2
ACCEPTANCE

Upon receipt by an authorized supervisor, the notation "Accepted," date received, and signature of the supervisor will be placed on the document and promptly forwarded to the Human Resources Department.

11.3
RESIGNATION WITHDRAWAL

An employee wishing to request the withdrawal of an "accepted" resignation shall submit a written statement to the department outlining the basis for the request. Once a resignation is tendered by the employee and accepted by the department, it may not be withdrawn unless all concerned parties thereafter agree in writing.

11.4
FAILURE TO NOTIFY

Failure to comply with provision Chapter 11, Section 11.1 Notice or other requirements of Chapter 11 will result in employee's forfeiture of accrued benefits or leave to which they would normally be eligible upon termination, except those required by law. Failure to notify will be considered as separation for misconduct.

11.5
RESIGNATION IN LIEU OF DISCHARGE

A resignation in lieu of discharge will be considered as separation for misconduct.

11.6
JOB ABANDONMENT

Absence for two (2) or more consecutive days without prior authorization constitutes job abandonment and will result in the employee's termination. Termination for job abandonment is considered as failure to notify [Chapter 8, Section 8.2.1.(f) and Section 11.4 above.

11.7
ORAL RESIGNATIONS

In instances where only an oral resignation is tendered or actions by the employee indicate their intent to resign, the supervisor shall promptly communicate the facts in writing to the Human Resources Director for inclusion in the employee's Human Resources file. Oral resignations shall be considered as failure to notify [Chapter 11, Section 11.4].

11.8
RETIREMENT

To permit an orderly transfer of duties and ensure proper processing of retirement benefits, an employee is expected to submit notification of their retirement sixty (60) days prior to their last actual work day.

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City of Mesquite General Government Policies and Procedures Manual
CHAPTER 12: COMPLAINT RESOLUTION PROCEDURE

12.1
INFORMAL COMPLAINT RESOLUTION

Misunderstandings or conflicts can arise in any organization. To ensure effective working relations, it is important that such matters be resolved before serious problems develop. Employees should handle conflicts informally by discussing the situation with their immediate supervisor unless their supervisor is the source of the complaint or discussing it with the supervisor would otherwise cause employees unreasonable discomfort. Any and all issues should be discussed freely between employees and supervisors. Therefore, supervisors are encouraged to have an open door policy with their employees to listen to issues and resolve them informally. Employees should follow the chain of command using these steps to resolve conflicts informally.

- **Step 1:** Discuss the concern with your immediate supervisor unless they are the source of the complaint or discussing it with them would cause unreasonable discomfort.
- **Step 2:** If your concern is not resolved after discussion with your immediate supervisor or your supervisor is the source of the complaint or discussing it with them would cause you unreasonable discomfort, you should request a meeting with the next level of supervision.
- **Step 3:** The final level of departmental discussion will occur at the departmental head level or organizational equivalent.

12.2
FORMAL COMPLAINT PROCEDURE

When informal efforts do not satisfactorily resolve the situation, then employees may follow a formal complaint resolution procedure.

- **Step 1:** Request a meeting with the department director and present the formal complaint in writing. The department director will respond to the employee's complaint, in writing, within 10 business days. If the department director should require additional time to conduct an investigation, the employee will be informed.
- **Step 2:** If a complaint has not been satisfactorily resolved, the employee may request that the department director forward the complaint to the person in City Management to whom the director reports.

The department director should forward the complaint within 10 calendar days. All complaints forwarded to City Management shall be in writing (unless circumstances dictate otherwise), clearly stating the employee's concern and the relief the employee is seeking. A copy of the department director's written response should be sent along with the employee's complaint. City Management will review the written complaint, and any action taken by City Management shall be considered final.

12.3
CHAIN OF COMMAND

An employee is allowed to bypass the established chain of command in an attempt to resolve their complaint when the person at the next level in the chain of command is the source of the complaint. Complaints that have not followed the chain of command typically will be referred to the proper level in the department for processing, although extenuating circumstances may dictate otherwise.

12.4
TIME LIMITATIONS

Although no specific time limits are established for reviewing and responding to employee complaints other than as provided above, it is expected that responses will be expeditiously provided to the employee.

City of Mesquite General Government Policies and Procedures Manual
CHAPTER 12: COMPLAINT RESOLUTION PROCEDURE

12.5
ACTIONS EXCLUDED FROM THE FORMAL COMPLAINT PROCEDURE

The following actions are excluded from the complaint procedure:

1. Performance evaluation.
2. Other actions for which specific resolution procedures are provided elsewhere in this policy and procedures manual.

12.6
RETALIATION PROHIBITED

Supervisors and other employees are prohibited from penalizing, harassing or otherwise retaliating against a fellow employee for a good-faith use of the complaint procedure described in this chapter.

City of Mesquite General Government Policies and Procedures Manual
CHAPTER 13: EMPLOYEE SAFETY AND HEALTH

13.1
PROGRAM MANAGEMENT

The Human Resources Department is responsible for the management and administration of the City's Risk Management program including property and casualty insurance programs, workers' compensation and employee safety. The safety program includes, but is not limited to, the following areas: accident and injury investigation, safety training, general liability assessment, facility inspection, evaluation of hazardous work activities or environment and return-to-work releases.

13.2
WORKERS' COMPENSATION

An employee suffering an injury/illness on the job by way of a compensable injury/illness arising out of and in the course and scope of employment may be eligible for Workers' Compensation in accordance with state law.

13.3
ON-THE-JOB INJURIES/ILLNESSES: REPORTING, REVIEW AND RESPONSIBILITIES

1. **Employees:** Employees must immediately report an on-the-job injury/illness, however minor, to their supervisor or designated representative.
2. **Treatment:** After reporting, the supervisor and employee must decide whether first aid, treatment at a medical clinic or hospital emergency care is required. Employees sustaining an on-the-job injury/illness requiring medical treatment at a medical facility shall be examined by one of the Worker's Compensation network medical providers. When necessary, the supervisor must call 911 or arrange for someone to transport the employee.
3. **Supervisor's First Report of Injury:** Upon notification of an on-the-job injury/illness, the supervisor or designated representative must complete a first report of injury and submit it to Risk Management by the next business day.
4. **Investigations:** Investigations for Fire and Police personnel will be conducted pursuant to their policies. For general government employees, the immediate supervisor, division manager, and the department head will review, investigate and determine if the accident/ incident that resulted in property damage or injury/illness is preventable or non-preventable to the employee. If necessary, Risk Manager will make the final determination. The employee will be given written notice of the determination.
5. **Employee Responsibilities:** It is imperative that employees absent due to an on-the-job injury/illness maintain regular contact (at least weekly) with their supervisor. Employees must communicate their treatment progress in recovery and probable return-to-work date. Employees absent due to an on-the-job injury/illness must not engage in any activity or other employment which may impede their recovery.

13.4
PAY FOR ON-THE-JOB INJURIES/ILLNESSES

Employees unable to work because of a compensable on-the-job injury/illness may be eligible for salary paid by the City and Workers' Compensation.

1. Eligible employees are required to take FMLA leave concurrently with any leave required as a result of a workplace injury.
2. **Fire and Police Personnel:** Fire and Police Sworn personnel will receive work-related injury benefits in accordance with the state Workers' Compensation law, as well as applicable state and local civil service statutes.
3. **General Government Employees:**
 - a. **Workers' Compensation Pay:** Workers' Compensation will pay only a portion of the injured employee's normal salary. Workers' Compensation benefits are paid directly to the employee and subsequently offset by payroll deductions by the City. It is the responsibility of the employee to reconcile the Workers' Compensation payments and bi-weekly City paychecks.
 - b. **City Pay:** Full-time employees qualifying for Workers' Compensation benefits qualify for City pay to supplement Worker's Compensation pay. City pay will be an amount equal to the difference between Workers' Compensation payments and the employee's net pre-injury wage. Net pre-injury wage is defined as gross wage (excluding overtime) less deductions for Texas Municipal Retirement System, Social Security, Medicare,

CHAPTER 13: EMPLOYEE SAFETY AND HEALTH

FICA and federal Income Tax Withholding. City pay will not exceed 26 weeks or 1,040 working hours for each injury/illness. Employees not receiving City pay must use sick leave, as well as vacation and compensatory time to supplement the pay received from Workers' Compensation, up to their net pre-injury wage.

- c. **Preventable:** A preventable incident is defined as the failure to follow policy, instructions, or safe work practices, which directly contributed to an accident/ incident that resulted in property damage or injury/illness. Employees who suffer an on-the-job injury/illness resulting from an incident that is determined to be preventable may be subject to disciplinary action. Appropriate discipline shall be based on the circumstances, severity, liability and/or number of prior incidents determined preventable. Disciplinary action may include:
 - Oral Warning (Documented).
 - Written Reprimand.
 - Suspension.
 - Demotion.
 - Termination.
4. **Grounds for Denial or Discontinuation of City Pay:** The following are grounds for denial or discontinuation of City pay for a compensable on-the-job injury/illness:
 - a. Failing to timely report an on-the-job injury/illness in accordance with this policy.
 - b. Engaging in activities or employment which may impede the employee's recovery from an on-the-job injury/illness.
 - c. Termination of employment.
 - d. Failing or refusing to comply with the instructions or advice of a treating physician to improve his/her condition.
 - e. Workers' Compensation payments cease.
 - f. Refusing to accept or perform a modified-duty assignment.
 - g. Refusing to submit to a medical examination or treatment in accordance with the Texas Workers' Compensation statute.
 - h. Refusing to return to regular duties after being released by a treating physician.
 - i. Failing to keep the immediate supervisor informed on a regular basis (at least weekly).
 - j. Refusing to cooperate with investigations with regard to an on-the- job injury/illness.
 - k. Providing false or erroneous information regarding medical treatment.
 - l. Failing or refusing to take any post-accident drug or alcohol test.
5. **Disciplinary Action for non-compliance may include:**
 - a. Oral Warning (documented).
 - b. Written reprimand.
 - c. Suspension.
 - d. Demotion.
 - e. Termination.

13.5

RETURN TO WORK FOLLOWING INJURY/ILLNESS

The purpose of this section is to establish guidelines for an employee's return-to-work for full or modified duty after suffering an on- or off-the-job injury/illness.

1. **Full Duty:** As soon as the employee is released by their medical provider to return to work full duty, they are to contact their supervisor to determine a return-to-work date.
2. **Modified Duty:** As determined by the department head, and where available, modified duty may be assigned to an employee unable to perform one or more of the essential functions of their job. If modified duty is assigned to an employee following recommendation by the treating physician, the employee must accept such modified duty. When modified duty is expected to exceed 45 calendar days, the employee must obtain an updated work status for continued modified duty from their medical provider. Modified duty may not exceed 26 weeks or 1,040 work hours. However, if modified duty exceeds 26 weeks or 1,040 work hours, the City will treat the need for extended modified duty as a request for reasonable accommodation under the ADA, at which time the request will be considered pursuant to ADA law and City policy.

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CHAPTER 13: EMPLOYEE SAFETY AND HEALTH

3. **Conditions for Approving Modified Duty**

- a. Modified duty assignments must benefit the City and/or provide needed services to the citizens of Mesquite.
- b. The department head determines that a modified-duty assignment is available.
- c. The employee must obtain a medical release from his/her treating physician.
- d. The medical release from the treating physician must outline specific limitations of the injured/ill employee.
- e. The employee must sign a modified- duty agreement.

13.6

EMPLOYEE APPEAL OF PREVENTABLE ACCIDENTS/INCIDENTS

1. **Fire and Police Personnel:** Appeal processes for Fire and Police personnel shall be set out in their respective standard operating procedures and/or regulations.
2. **General Government Employees:** An employee receiving a written notice of a preventable accident – or – incident – or – injury decision may appeal the decision to the appeal board (defined below). The appeal must be in writing to Risk Management and filed within ten (10) calendar days of receipt of the notice. The appeal board shall determine the cause and assess theresponsibility.
 - a. Board Membership: The Board shall consist of five (5) members selected by the Risk Manager and consist of the Risk Manager or his designee, a department head/division manager not of the appealing department, two employees/supervisors not of the appealing division, and one employee/supervisor in the appealing division.
 - b. Review of Factual Evidence: The Board will review all the evidence and facts of the case.
 - c. Board Decision: All decisions of the Board shall be by majority vote and shall be final.

13.7

VEHICLE/EQUIPMENT OPERATOR STANDARDS FOR JOB APPLICANTS

1. **Statement of Purpose:** The purpose of this policy is to establish guidelines covering minimum standards for the qualification of applicants to operate City vehicles/equipment for all positions where driving is an essential function in the job description.
2. **Driving History Verification:** Driving history will be verified and evaluated by the Human Resources Department. The evaluation period shall begin seven (7) years preceding the application date.
3. **Minimum Qualifications**
 - a. An applicant must possess or obtain a current, valid Texas drivers' license that is not under suspension, or as required by the job description.
 - b. The applicant must be able to safely operate a motor vehicle and/or motorized equipment;
4. **Grounds for Automatic Disqualification for Initial Appointment:** The applicant may not have a conviction or have been placed on deferred adjudication within the past seven (7) years preceding the application date for any of the following:
 - a. Driving Under the Influence (DUI).
 - b. Driving While Intoxicated (DWI).
 - c. Manslaughter or criminally negligent homicide involving the operation of a motor vehicle.
 - d. Operating a motor vehicle with license suspended or revoked.
5. **Grounds Which May be Cause for Disqualification for Initial Appointment**
 - a. License suspended, revoked or denied in the last seven (7) years.
 - b. Conviction of three (3) violations occurring within 36 months immediately preceding the application date for any of the following:
 - 1) Conviction for operating a motor vehicle in violation of drivers' license restriction(s).
 - 2) Conviction for disregarding traffic control signals and devices.
 - 3) Conviction for exceeding speed limit.
 - 4) Conviction for illegal operation of motor vehicle without state-required auto insurance.
 - 5) Traffic accidents for which the employee was determined to be contributorily negligent.
 - c. Department directors may disqualify an applicant with one or two violations based on the facts and severity of the violation(s).

City of Mesquite General Government Policies and Procedures Manual
CHAPTER 13: EMPLOYEE SAFETY AND HEALTH

13.8
EMPLOYEE VEHICLE/EQUIPMENT
OPERATOR STANDARDS

1. **Statement of Purpose:** The purpose of this policy is to establish guidelines governing minimum standards for the qualifications of employees to operate City vehicles/equipment for all positions where driving is an essential function in the job description.
2. **Employee Driving Standards and Driving Record Audits**
 - a. Only City employees or authorized personnel may operate City vehicles. Employees who are in jobs requiring the driving/operating of a vehicle shall report any and all traffic convictions, citations for moving violations, and/or revocations incurred while operating a City vehicle or any vehicle on City business to their immediate supervisor within 24 hours of the violation and/or conviction. These employees also must report any and all off duty traffic convictions, citations for moving violations, DWI or DUI citations, and/or revocations incurred while operating a vehicle to their immediate supervisor within 24 hours of the violation and/or conviction or on the next business day if the violation and/or conviction occurs on a weekend.
 - b. Employees who are in jobs requiring the driving/operating of a vehicle shall be subject to periodic drivers' license audits.
3. **Employee Loss of Driving Privileges/Non-Disciplinary Termination/Disciplinary Action**
 - a. Employees who are in jobs requiring the driving/operating of a vehicle and who are convicted of or are placed on deferred adjudication for the following will lose their driving privilege and will be a non-disciplinary termination.

Intoxication Manslaughter involving the operation of a motor vehicle.

- b. Employees who are in jobs requiring the driving/operating of a vehicle and who are convicted of or placed on deferred adjudication for the following *may* lose their driving privilege and be subject to non-disciplinary termination, or, in the alternative, at the discretion of their Department Director and with the approval of the City Manager, the employee may keep their driving privileges and be subject to disciplinary action:
 - 1) Driving Under the Influence (DUI).
 - 2) Driving While Intoxicated (DWI).
 - 3) Criminally negligent homicide involving the operation of a motor vehicle.
 - 4) Operating a motor vehicle with license suspended or revoked.Maintenance of driving privileges and determinations relating to discipline shall be based upon due consideration of the following factors:
 - 1) The circumstances surrounding the incident leading to the conviction or deferred adjudication;
 - 2) The employee's length of employment with the City; and
 - 3) The employee's overall employment record with the City.In all instances when an employee, as a result of conviction, deferred adjudication or other action is no longer able to meet the minimum qualifications of their job to operate a vehicle, they will be given a non-disciplinary termination.
 - c. Employees who have had their license suspended, revoked or denied for any reason will lose their driving privileges. Except as otherwise provided in this section, these employees will be given fifteen (15) calendar days from the date of suspension, revocation or denial to have their license reinstated by the state of Texas. If after fifteen (15) calendar days, the employee's license and/or driving privileges have not been reinstated, the employee will be given a non-disciplinary termination.
4. **Procedures for Post-Accident Drug Screens:** See Chapter 15, Sections 15.4.4 and 15.4.5.

13.9
DISTRACTED DRIVING POLICY

1. **Purpose:** In order to increase employee safety and eliminate unnecessary risks behind the wheel, it is necessary to implement procedures to reduce the adverse impact of distracted driving for any employee operating a personal vehicle, City vehicle or heavy equipment while conducting business on behalf of the City of Mesquite and using a cell phone in the course of their employment.
2. **Procedure:** General government employees (full-time, part-time, and/or seasonal employee or volunteer) may not use hand-held cell phones while operating a vehicle or heavy equipment, whether the vehicle is in motion or stopped

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CHAPTER 13: EMPLOYEE SAFETY AND HEALTH

at a traffic light. This includes, but is not limited to, answering or making phone calls, engaging in phone conversations, utilizing social media and reading or responding to emails, instant messages and text messages. Additionally, City employees are required to:

- a. Refrain from answering all incoming calls until their vehicle/equipment is stopped and parked in a safe location.
 - b. Consider modifying voice mail greetings to indicate the employee may be unavailable during limited time periods to answer calls or return messages while driving.
 - c. Inform potential contacts of this policy as an explanation of why calls may not be answered immediately.
3. **Exceptions**
- a. Not applicable to public safety employees responding to true emergencies.
 - b. Not applicable to hands-free usage with Bluetooth capable devices or cell phones with speaker capabilities.
 - c. If City employees need to use their phones, they must pull safely off the road or another safe location prior to initiating communication.
4. **Enforcement:** Employees failing to comply with intent and scope of this policy are subject to disciplinary action, up to and including termination of employment.

13.10

EMPLOYEES IN NON-DRIVING POSITIONS

Employees in positions where driving is not an essential function of their job, while driving their own personal vehicle or City vehicle on City business, must report any and all accidents/incidents, however minor, and all traffic citations for moving violations to their supervisor.

13.11

REPORTABLE ACCIDENTS/INCIDENTS

1. **Definition:** A reportable incident is one that involves actual, or the claim of, property damage or bodily injury/illness.
2. **Requirements**
 - a. An employee bodily injury/illness shall be reported in accordance with Chapter 13, Section 13.3.
 - b. An employee must immediately report an incident, however minor, to their supervisor or designated representative.
 - c. Accidents/incidents involving an employee or non-employee (e.g., volunteers, temporary workers, contractors, etc.), and City Property must be immediately documented and reported by the supervisor to Risk Management.
 - d. Investigations for Fire and Police personnel will be conducted pursuant to their policies. For general government employees, the Risk Manager and the department head will review, investigate and determine if the incident is preventable or non-preventable to the employee. The employee will be given written notice of the determination.

13.12

REPORTING NON-EMPLOYEE PERSONAL ACCIDENTS

1. **Purpose:** In an effort to keep all interested parties informed concerning personal accidents and injuries which are alleged to have been incurred by the general public while on, around, or using City facilities, the standard procedures should be followed.
2. **Procedure**
 - a. The City department in charge of the facility or property where an accident occurs shall be responsible for obtaining and reporting the necessary information concerning the accident or injury.
 - b. The department head responsible for a specific facility or property shall designate by name a competent person, and alternate, one of which will be responsible for the initial information intake of this procedure. Other employees working at the facility or property location are to be informed of the names of the designated persons. Department heads are to inform the City Attorney's office of the designated persons for facilities or properties.
 - c. These procedures shall be based solely on reporting what the injured person states to the person accepting the report. The designated persons identified by this procedure have responsibility to collect and record facts by

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CHAPTER 13: EMPLOYEE SAFETY AND HEALTH

use of the “**Non-Employee Personal Accident or Injury Report**” form located on the City’s employee intranet page under “**Risk, Health, and Safety Forms**” found on the Human Resources menu. Persons involved in taking a report shall make no statement or representation to the reporting/injured person regarding the reported accident, its location, or circumstances surrounding the accident. At no time during conversations with a person reporting an accident or injury are they to suggest that the City or City employee is at fault, negligent and/or accepts liability for the incident in any manner. All accidents and personal injuries brought to the attention of the City by any individual shall be reported by the employee receiving the report regardless of how minor the accident or injury may appear.

- d. An employee to whom an accident is initially reported shall exhaust all efforts to locate the designated person or alternate whenever possible. Otherwise, this employee should contact his/her department and/or division head’s office immediately for further instructions. Where accidents involve an emergency, unconsciousness, etc., 9-1-1 should be phoned at once before any other procedures in this policy are implemented. Accidents involving calls to 9-1-1 should be reported to the department and/or division head and controlling Assistant City Manager as soon as reasonably possible. In most cases, this will be within one hour of the occurrence.
- e. The **Non-Employee Accident or Personal Injury Report** should be completed by the designated person within 24 hours after the accident/injury occurs and forwarded by the designated person to his division head and/or department director. Information that was not available at the time the form is sent shall be obtained by the designated person as soon as possible and forwarded to the division head and/or department director. Following review of the report by the department and/or division head, the fourth copy of the report should be retained by the department and the remaining copies forwarded to the City Attorney’s office. All reviews should be completed and copies forwarded to the City Attorney’s office within three business days of the accident/injury. The City Attorney’s office will distribute the remaining copies of the form upon receipt as follows:
 - Original** City Attorney
 - Copy 1** Risk Management
 - Copy 2** City Manager
 - Copy 3** Finance Director
 - Copy 4** Retained by reporting Dept.
- f. The responsible department head is to take immediate steps to ensure all evidence related to an incident under this procedure is preserved. This evidence includes but is not limited to photographs, moving pictures, slides, drawings, graphs, charts, video recordings, written statements, contemporaneous notes, recorded or transcribed statements of anyone connected to the incident, emails, digital documents and like materials which may be used to establish facts pertaining to the incident.
- g. It shall be the responsibility of the City Attorney’s office to initiate or receive any further contacts or communication with the injured party or the insurance company on behalf of the City. All subsequent telephone contacts or personal inquires made by the injured party or his representative shall be referred to the City Attorney’s office.

It is to be emphasized that the purpose of this reporting procedure is not to determine City liability, but only to report facts and information concerning an accident or injury that occurs on or around City facilities. These procedures should not be confused with the forms and procedures for reporting an injury to a City employee or reporting a vehicular accident.

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CHAPTER 14: EMPLOYEE BENEFITS

14.1

DEFINITION

Days: All references in this chapter to the term "days" shall mean eight (8) hours for employees who work a 40- hour workweek or 12 (12) hours for employees who work a 56- hour workweek (firefighters).

14.2

HOLIDAYS

1. **City Observed Holidays:** Regular and probationary full-time employees are paid eight (8) hours of holiday pay (straight time) regardless of whether they work 8-, 10- or 12-hour days when based on a 40-hour workweek.
 - a. **City Holidays:** The City of Mesquite observes the following holidays:
 - New Year's Day (January 1)
 - Martin Luther King Day (3rd Monday in January)
 - Memorial Day (last Monday in May)
 - Independence Day (July 4)
 - Labor Day (1st Monday in Sept.)
 - Thanksgiving Day (4th Thurs. in November)
 - Thanksgiving Friday (Friday after Thanksgiving)
 - Christmas Day (December 25)
 - 2nd Day Christmas (either December 24 or December 26 as determined by the City)
 - Floating Holiday (Selected individually by regular full-time employees)
 - b. **Falling on Weekend:** Officially- observed holidays which fall on a Saturday shall be observed on the preceding Friday. Holidays which fall on a Sunday shall be observed on the following Monday.
 - c. **Floating Holiday:** One (1) floating holiday, selected by the employee, is earned by regular full-time employees on the first day of each calendar year or upon completion of the initial probationary period. This holiday must be taken during the calendar year in which it is earned and may not be carried over to the following year. Employees will be required to request the holiday using the same procedures for requesting vacation. The department head has final approval on scheduling floating holidays. Employees hired after June 30 of each year are not eligible for a floating holiday until the next calendar year.

14.3

VACATIONS

Fire and Police employees covered by the Texas Local Government Code Chapter 143 are entitled to earn a minimum of fifteen (15) working days vacation leave each year.

1. **Eligible Employees:** All full-time employees accrue vacation leave. Regular full-time employees who have completed their initial probationary period are eligible to use accrued vacation leave. Temporary, seasonal, part-time or employees otherwise designated as ineligible are not eligible to accrue or use vacation leave.
2. **Accruing Vacation:** Employees accrue vacation on an hourly basis. Employees accrue vacation leave for any day they are on a paid leave or paid work status. Paid time does not have to be consecutive days.
 - a. **Less Than Five Years:** Regular full- time employees who have completed less than five (5) years continuous service with the City shall accrue, on a hourly basis, a total of ten (10) working days vacation leave each year.
 - b. **Five Years:** Regular full- time employees who have completed at least five (5) years but less than fifteen (15) years continuous service with the City shall accrue, on a hourly basis, a total of fifteen (15) working days vacation leave each year.
 - c. **Fifteen Years:** Regular full-time employees who have completed at least fifteen (15) years but less than twenty-five (25) years continuous service with the City shall accrue, on a hourly basis, a total of twenty (20) working days vacation leave each year.
 - d. **Twenty-five Years:** Regular full-time employees who have completed at least twenty-five (25) years continuous service with the City shall accrue, on a hourly basis, a total of twenty-five (25) working days vacation leave each year.

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CHAPTER 14: EMPLOYEE BENEFITS

3. Maximum Vacation Accrual

- a. Schedule of Maximum Vacation Accrual: Employees are encouraged to use a substantial portion of their vacation leave each year. Vacation balances in excess of the maximum will be deleted according to the following schedule:

| <u>Years of Service</u> | <u>Max. Vacation Accrual</u> |
|-------------------------|------------------------------|
| 0 through 14 years | 240 hours |
| 15 through 24years | 320 hours |
| 25 years and above | 400 hours |

- b. Notification of Excess Vacation Balance: *Before November of each calendar year*, employees with excess vacation balances from the previous calendar year will receive notification from Human Resources.
- c. Using Excess Vacation Balance: Employees with excess vacation balances must use the excess balance by December 31 in the year of notification, or have their excess balance deleted. The City Manager or City Manager designee may, upon written application, approve an extension of time to use the excess vacation balance carryover. Such approval must be in writing.

4. Using Vacation Leave

- a. Leave Request: Employees wishing to schedule vacation must submit a request to their supervisor. When deciding to grant vacation leave, supervisors will give due consideration to the needs of the department.
- b. Holidays During City-Paid Vacation: Official holidays occurring during an approved vacation leave shall not be charged against the employee's vacation leave.
- c. Vacation Leave Minimum: Vacation leave may be granted in periods of not less than fifteen-minute (15) increments.
- d. Consecutive Day Limit: No more than fifteen (15) working days' vacation leave may be taken consecutively without prior written approval of the department head.
- e. No Vacation Leave Advance: Unless pre-negotiated, no employee shall be granted vacation leave in excess of the actual amount accrued without approval from the department director and City Manager.

5. Payment for Accumulated Vacation

- a. General Government Employees: General Government full-time employees leaving the service of the City in good standing following at least one (1) year of full-time continuous service shall be paid for accumulated vacation leave not to exceed twenty (20) days.
- b. Fire and Police Personnel: Fire and Police personnel leaving the service of the City shall be paid for accumulated vacation leave in accordance with state Civil Service rules.
- c. No Cash Advances: Employees may not receive cash payment on accrued vacation except upon termination, retirement or death. Cash payments in lieu of vacation to persons currently employed shall not be permitted.

14.4

VACATION AND CATASTROPHIC FAMILY SICK LEAVE BANK

1. Vacation and Catastrophic Family Sick Leave Bank Administration

The City allows eligible employees to voluntarily donate accrued vacation leave and family sick leave hours to the Vacation and Catastrophic Family Sick Leave Bank. Upon meeting the requirements set out in this policy, eligible employees may apply to withdraw unearned vacation leave hours or catastrophic family sick leave hours, when applicable, from the City's leave bank. The leave bank assists employees when they, or eligible family members, suffer a medical illness or injury as provided herein and qualifies under the Family Medical Leave Act (FMLA).

- **Loss Compensation**: The employee satisfies the loss of compensation requirement when he or she has exhausted all applicable paid leave, excluding compensatory time, and has been placed on leave without pay for at least eight (8) hours (one work day) prior to the effective date of the grant of leave bank hours.
- **Bank Administration Team (BAT)**: The Director of HR and Benefits Manager will systematically and periodically solicit leave donations from the employee population on a quarterly basis, or as needed.

2. Contributions to the Bank

Employees may make vacation and catastrophic family sick leave contributions to the bank in eight (8) hour increments. Donations are made to the bank and not to specific individuals.

- There is no maximum vacation donation amount, however, the donation amount may not reduce the donor's vacation leave below eighty (80) hours.
- The maximum catastrophic family sick leave donation amount is forty (40) hours per calendar year.

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Terminating and retiring employees may donate any unused vacation and catastrophic family sick leave balance to the bank up to the maximum of eighty (80) hours vacation and forty (40) hours family sick leave.

3. Vacation and Catastrophic Family Sick Leave Bank Procedures

Application Requirements: An employee is eligible to apply for the Vacation and Catastrophic Family Sick Leave Bank when all of the following conditions are met:

- The employee or employee's immediate family has a catastrophic illness or injury¹ and is covered under the Family Medical Leave Act (FMLA);
- The employee has exhausted all accrued sick leave (if applicable);
- The employee has exhausted all accrued vacation leave, excluding compensatory time;
- If an employee is on approved FMLA leave for an eligible family member, and has exhausted all of their available family sick leave and vacation accruals, they may submit a written request to the Director of HR and Benefits Manager, accompanied with a doctor's statement certifying need of employee's additional absences, to utilize their accrued sick leave for consideration.
- The employee has been, or will be, placed on leave without pay for at least eight (8) hours (one work day);
- The employee has not exhausted the maximum allowable hours established under the Vacation and Catastrophic Family Sick Leave Bank policy guidelines for the current year and contingent upon there being donated hours in the City of Mesquite Leave Bank as set forth herein;
- The Vacation and Catastrophic Family Sick Leave Bank application has been approved by the employee's director;
- The condition is not an on-the-job injury covered by Worker's Compensation insurance;
- The employee applying for vacation or catastrophic family sick leave donations must also have the required medical certification on file in the HR office; and
- The employee has exhausted all vacation or catastrophic family sick leave awarded under a prior award before the employee may apply for a subsequent award.

The employee can apply to the Vacation and Catastrophic Family Sick Leave Bank no more than two (2) times per twelve (12)-month period with a limit of six (6) weeks per request and the employee will not accrue any paid leave until the employee returns back to full duty.

4. How to Apply for Vacation and Catastrophic Family Sick Leave Bank

Complete and submitted applications to HR will be processed on a first-come, first-served basis. Awards from the bank may not exceed the following:

- No more than twelve (12) weeks in a twelve (12)-month period.
- No more than thirty (30) weeks in a City career.

The Bank Administration Team (BAT) will determine the exact amount of time that an eligible employee may draw from the bank based on medical need. The Bank Administration Team's (BAT) decision is subject to City Manager approval. The City Manager's approval is final. Retroactive requests will not be considered. Employees who have exhausted all applicable accrued paid leave need to be put on leave without pay until a vacation or catastrophic family sick leave bank award, if any, is approved.

Unused vacation or catastrophic family sick leave bank hours will be returned to the bank upon the employee returning to work.

If there are not enough hours in the Vacation and Catastrophic Family Sick Leave Bank to accommodate all requests received, the HR office may solicit additional donations from the employee population on an as needed basis.

Note: In all circumstances where Vacation Donation or Catastrophic Family requests are approved, leave will run concurrently with FMLA in accordance with federal guidelines.

14.5
SICK LEAVE

1. Sick Leave Accumulation

- a. Eligible Employees: All full-time employees accrue sick leave at the rate of 0.0577 hours (120 hours total per calendar year) for every hour worked, beginning the first day of employment. Temporary, seasonal, part-time or employees otherwise designated as ineligible are not eligible to accrue sick leave.

¹Pregnancy, adoption, and/or birth of a child is not a catastrophic illness or injury for the purposes of this policy. Pregnancy-related complications may be considered on a case-by-case basis.

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- b. Accruing Sick Leave: Employees accrue sick leave on an hourly basis. Employees accrue sick leave for every hour they are on a paid leave or paid work status. Paid time does not have to be consecutive days.
2. **Using Sick Leave**
- a. Personal Illness and Medical Treatment: Sick leave may be used for purposes of permitting an employee to be relieved of their duties during actual personal illness or to secure necessary medical treatment.
- b. Care of Family Members: A maximum of 40 hours of sick leave per calendar year may be used for the care of an eligible family member with a serious illness, injury, surgery, hospitalization, contagious disease, emergency medical treatment or care for an illness requiring the presence of a family member. For the purpose of using sick leave, an eligible family member shall be the employee's child, stepchild, parent, stepparent or spouse. A child is defined as a biological child, adopted child, foster child, stepchild or child for whom an employee is standing in loco parentis.
- c. Notification: To receive sick leave, an employee must notify their immediate supervisor within the time limits established and published by their department. In the absence of established departmental time limits, the time limit shall be within one hour after the time set for beginning work.
- d. Signed Statements: Departments may require an employee to provide a signed statement from a medical provider attesting to the illness of the employee or family member during the period of time when sick leave was granted. An employee who cannot provide such proof may be charged other leave or leave without pay.
- e. Sick Leave Minimum: Sick leave may be granted in periods of not less than fifteen-minute (15) increments.
- f. Probationary Period: Sick leave may be used as accrued during the probationary period.
- g. During Approved Vacation: Employees who become ill for more than one (1) day, while on approved vacation leave, may request that their vacation be suspended and time they were ill charged to sick leave, except for employees who have given notice to terminate or retire. The employee may be required to submit a signed medical provider's statement attesting to the employee's illness and indicating the number of days the employee was incapacitated due to illness.
3. **Sick Leave Abuse**: Employees whose use of sick leave other than as permitted in this policy or established departmental policies shall be subject to disciplinary action. In addition, upon discovery of an abuse of sick leave, sick leave may be denied and/or converted to another leave status.
4. **Departmental Sick Policies**: Department heads may, with the approval of the Human Resources Director, establish written policies governing sick leave absences within their department.
5. **Departmental Responsibilities**: Department heads are responsible for maintaining and enforcing sick leave policies within their departments.
6. **Sick Leave upon Separation**
- a. General Government Employees: General government employees separating service with the City in good standing shall be paid for accumulated unused sick leave subject to the following schedule:
- | <u>Period of Employment</u> | <u>Amount Paid Upon Termination</u> |
|-----------------------------|---|
| Up to 3 years | None |
| 3 up to 5 years | 1/3 of unused sick leave |
| Up to 6 years | 2/3 of unused sick leave |
| 6 years+ | All unused sick leave (not to exceed 90 days) |
- b. Fire and Police Personnel: Fire and Police personnel separating service with the City shall be paid accumulated sick leave in accordance with state Civil Service rules.
- c. Re-employment Buyback: Employees seeking re-employment will be required to have the sick leave reinstated through a buyback from the City for any sick leave payments received at the time of termination. Employees rehired following a layoff have the option to reinstate sick leave through a buyback or forgo sick leave reinstatement and begin a new sick leave accrual. Terms of the repayment will be negotiated on an individual basis and documented in writing in the employee's official Human Resources file. After five (5) years of employment separation, buyback of sick leave will not be allowed and the employee will be required to start a new sick leave bank.
7. **Vacation and Catastrophic Family Sick Leave Bank**
- a. See Chapter 14, Section 4.

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14.6

PERSONAL LEAVE

1. **Eligibility:** All regular full-time employees who have satisfactorily completed six months of service are eligible for Personal Leave, not to exceed 24 hours per calendar year based on a 40-hour work week, for the following reasons:
 - a. Death or funeral of family member: To attend the funeral or handle the affairs of the deceased family member. Family member shall include immediate family, extended family or a person who served in “loco parentis.” Extended family includes all family members identified in the kinship chart located at the end of Ch. 4.
 - b. Uncontrollable Property Damage: Damage caused by “acts of God,” i.e. fire, flood, tornado, explosion, vandalism, car wrecks, water damage or burglary.
2. **Approval:** The department directors reserve the right to cancel or not approve Personal Leave. When possible, all leave under this section must be approved in advance according to established departmental policy.
3. **Documentation:** Departments may require satisfactory proof of the need and duration of absence under this section and may disallow personal leave in the absence of such proof.
4. **Duration:** Employees are expected to utilize judgment and discretion in determining the duration of absences.
5. **Abuse of Leave:** Abuse of, failure to notify, deception in requesting or unnecessary extension of Personal Leave are grounds for disciplinary action, up to and including termination.

14.7

MILITARY LEAVE

All regular full-time, part-time and seasonal employees shall be entitled to military leave of absence subject to the following rules and regulations:

1. **Eligibility:** Employees who are members of the National Guard, Texas military forces or any of the reserve components of the Armed Forces of the United States, when ordered or authorized by proper authorities, shall be entitled to military leave with pay during any period when they shall be engaged in field training or encampment or when ordered to active duty. This leave of absence with pay shall be limited to fifteen (15) normally scheduled work days during any one calendar year, and any absence in excess of this time shall be considered as military leave of absence without pay.
2. **Deductions Canceled:** Employees on military leave without pay will have payroll deductions canceled. Deductions may be reinstated once the employee returns to work.
3. **Health Coverage:** Employees who choose to drop group health coverage for dependents may be reinstated without re-application when the employee returns to work.
4. **Life Insurance Coverage:** Employees who are called to active duty are not eligible for life insurance coverage. Employee’s group life insurance coverage will be reinstated upon returning to work. **See Group Life Insurance Plan Description Booklet for general provisions, incorporated herein.
5. **Terminating Employment:** Military leave with pay benefits shall not be granted to employees who terminate their employment as a result of draft or enlistment.
6. **Benefit Accrual:** Employees on active duty do not accrue sick leave or vacation benefits during their term of active service with the Armed Forces.
7. **Payment of Benefits:** Benefits accrued prior to the initiating of military leave with or without pay shall not be reimbursed to the employee unless a formal resignation has been submitted and separation papers processed. Benefits of employees who die during military service shall be paid to their designated beneficiary.
8. **Benefit Reinstatement:** Benefits accrued prior to military leave shall be reinstated upon return of the employee to service with the City.
9. **Military Orders:** Employees must submit military orders and a completed leave request form to their department head and the Human Resources Department as soon as possible.
10. **Reemployment:** Reemployment with the City will be in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

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14.8

EDUCATIONAL LEAVE

Department heads may, subject to budgetary and staffing constraints, grant regular full-time and part-time employees leave with pay and expenses to attend professional conferences, short schools and other training activities that are considered to be in the best interest of the City. Educational leave without pay may be granted for a period not to exceed twelve (12) months upon approval of the City Manager or City Manager designee.

14.9

COURT LEAVE

1. **Pay Continued:** Regular full-time employees required by law to render jury duty shall receive their regular pay, upon providing required documentation, during the period of jury service which overlaps with normally scheduled work hours.
2. **Documentation Required:** Employees summoned to jury service must provide an Official Certificate of Attendance to their immediate supervisor.
3. **Return to Work:** Upon release from jury duty, the employee must return to their assigned workplace.
4. **Personal Legal Business:** Employees absent for personal legal business must use accrued vacation or compensatory time. Leave without pay may be used with department head approval.
5. **City Witness:** Employees directed to appear as a witness, at trial or deposition, or the City will be compensated for the time which overlaps with their normally scheduled work hours.

14.10

APPROVED LEAVE WITHOUT PAY

Directors, at their discretion, may grant approved leave without pay to regular full-time and part-time employees for up to ten (10) calendar days in a calendar year. Additional days require the City Manager's or City Manager's designee's written approval. Employee's paid leave must be exhausted before being considered for approved leave without pay.

14.11

FAMILY & MEDICAL LEAVE¹

1. **General Provisions:** In accordance with the Family and Medical Leave Act, the City will grant job-protected unpaid family and medical leave to eligible employees for up to 12 weeks per 12-month period for any one or more of the following reasons:
 - a. In order to care for a child following the child's birth, adoption or placement in foster care with the employee.
 - 1) Leave must be taken within the 12-month period following the child's birth or placement with the employee.
 - 2) If married spouses both work for the City, their total leave in any 12-month period may be limited to an aggregate of 12 weeks if the leave is taken for the birth or placement of a child.
 - b. In order to care for an immediate family member (spouse, child or parent) of the employee if such immediate family member has a serious health condition.
 - c. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.
 - d. The employee must attend to a qualifying exigency, as defined in 3.i of this section, arising out of the fact that the employee's spouse, child or parent is on federal call or impending federal call to active Reserves, National Guard or Retired Armed Forces or Retired Reserve or a member of the Armed Forces deployed to a foreign country.

¹In the event of a conflict between this Sec 14.11 and the Family and Medical Leave Act, the Family and Medical Leave Act shall control.

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2. **Servicemember Family Leave:** Eligible employees who are the spouse, child, parent or next of kin of a covered Servicemember, as defined in 3.h of this section, are entitled to up to 26 weeks of leave during a single 12-Month Servicemember Period (for a total of 26 weeks even if combined with other FMLA leave), to care for such Servicemember who incurred a serious injury or illness in the line of active duty in the armed forces. Available leave not taken during the 12-Month Servicemember Period, which begins on the first day of leave taken, will be forfeited. No more than 26 weeks of leave may be taken in a single 12-Month Servicemember Period, and no additional extended leaves may be taken in other years for the same injury or illness. If married spouses both work for the City, their total Servicemember Family Leave is limited to an aggregate of 26 weeks.
3. **Definitions**
 - a. **12-Month Period:** A rolling 12-month period measured backward from the date leave is taken.
 - b. **12-Month Servicemember Period:** A single 12-month period measured forward from the first day Servicemember Family Leave is taken.
 - c. **Spouse:** A husband or wife recognized under federal law for purposes of marriage, including those in same-sex marriages and common law marriages, but not those who are unmarried domestic partners.
 - d. **Child:** A child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.
 - e. **Parent:** A biological parent of an employee or an individual who stood in place of a parent to an employee when the employee was a child.
 - f. **Next of Kin:** The nearest blood relative of a covered Servicemember.
 - g. **Active Duty:** Duty under a call or order to active duty during a contingency operation.
 - h. **Covered Servicemember:**
 - 1) 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 incurred in the line of duty on active duty and which may render the member medically unfit to perform the duties of the member's military office, grade, rank, or rating.
 - 2) A member of the armed forces, including a member of the National Guard or Reserves, whose serious injury or illness was incurred before the member's active duty and was aggravated by military service in the line of duty on active duty.
 - 3) A veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces, including the National Guard or the Reserves, who was discharged or released under conditions other than dishonorable, and who was discharged within the five year period before the eligible employee first takes FMLA military caregiver leave to care for the veteran.
 - i. **Qualifying Exigency:** This includes:
 - 1) Short-notice deployment: notification of a call to active duty seven or fewer days from date of deployment.
 - 2) Military events and related activities
 - To attend an official ceremony, program or event sponsored by the military that is related to active duty or call to active duty.
 - To attend family support programs and briefings sponsored or promoted by the military, military service organization or American Red Cross that are related to active duty or call to active duty.
 - 3) Childcare and School activities: Leave may be taken for a child in order to:
 - arrange for alternate childcare.
 - provide childcare on an urgent, immediate need basis.
 - enroll or transfer the child to a new school or daycare facility.
 - attend meetings with staff at school or daycare facility.
 - 4) Financial and Legal Arrangements:
 - To make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status.
 - To act as the covered military members' representative to obtain, arrange or appeal military service benefits while the member is on active duty or call to active duty status and for 90 days following termination of active duty status.
 - 5) Counseling: To attend counseling for oneself, the military member or child when the need for such counseling arises from the active duty or call to active duty status of the covered military member.
 - 6) Rest and recuperation: To spend up to five (5) days with a military member who is on short-term, temporary

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- rest and recuperation leave during the period of deployment.
- 7) Post-deployment activities: To attend arrival ceremonies, reintegration events and any other official ceremony or program sponsored by the military for the approximately 90-day period following termination of active duty or death of the Servicemember while on active duty.
 - 8) Additional activities related to the call to active duty otherwise agreed to by the employer and employee.
- j. **Serious Health Condition:** An illness, injury, impairment or a physical or mental condition that involves:
- 1) Inpatient care (overnight stay).
 - 2) Incapacity requiring absence from work for more than three (3) calendar days and that involves continuing treatment by a health care provider.
 - 3) Continuing treatment by a health care 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 of more than three (3) calendar days.
 - 4) Prenatal care by a health care provider.
- k. **Continuing Treatment**
- 1) Two (2) or more visits to a health care provider within 30 days of the commencement of the incapacity; or
 - 2) Two (2) 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
 - 3) A single visit to a health care provider within seven (7) days of the commencement of the incapacity that results in a regimen of continuing treatment.
- l. **Qualifying Injury or Illness of a Veteran Servicemember:** Injury or illness must be incurred in the line of active duty or be a pre-existing condition that was aggravated by military service in the line of active duty. [This definition may be amended upon the Secretary of Labor defining the term as directed by FMLA provisions.]
4. **Coverage and Eligibility:** To be eligible for family/medical leave, an employee must have worked for the City for at least 12 months total and have worked at least 1,250 hours over the previous 12-month period.
 5. **Intermittent or Reduced Leave:** An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave. An employee may not take intermittent leave following the birth or placement of a child except at the discretion of the City.
 6. **Use of Paid Leave:** An employee will be required to use accrued paid leave (including paid vacation, sick leave, compensatory time and workers' compensation) for any part of a family/medical leave. When an employee has used all of his or her accrued paid leave, the employee may request an additional period of unpaid leave so that the total paid and unpaid leave provided equals 12 weeks (or 26 weeks if combined with Servicemember Family Leave time).
 7. **Employee Notice Requirement**
 - a. An employee must give 30 days notice in the event of a foreseeable leave. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable. The notice must indicate that (1) the employee is unable to perform the functions of the job or that a covered family member is unable to participate in regular daily activities; (2) the anticipated duration of the absence and (3) whether the employee intends to visit a health care provider or is receiving continuing treatment.
 - b. If an employee fails to give 30 days notice of foreseeable leave with no reasonable excuse, leave may be denied until 30 days after the employee provides notice.
 - c. When planning medical treatment, an employee must make a reasonable effort to schedule the leave so as not to unduly disrupt the department's operations.
 - d. In the event of leave to attend to a qualifying exigency, the employee shall provide as much notice as is reasonable and practical under the circumstances.
 8. **Employer Notice Requirements**
 - a. **Notice of Eligibility Rights:** Within five (5) days after the employee requests leave or after the City learns the leave may be for an FMLA-qualifying reason, the City will provide written notice stating whether the employee is eligible for FMLA leave, and if not eligible, at least one reason why.
 - b. **Notice of Designation of Leave:** Within five (5) days after the employee requests leave or after the City learns the leave may be for an FMLA-qualifying reason, the City will provide a written notice stating whether leave is available, and notifying the employee how much leave has been designated as FMLA leave and how much leave remains. If any part of the requested leave is not designated as FMLA leave, the City will provide written notice of and reason for denial.

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9. Medical Certification

- a. Certification of Serious Health Condition: For leaves taken because of the employee's or a covered family member's serious health condition, the employee, upon request, must submit a completed "Physician or Practitioner Certification" form and return the certification to the Human Resources Department. Medical certification must be provided by the employee within 15 days after requested. If the employee fails to provide adequate certification within this time period, the City will inform the employee, in writing, what additional information is necessary and will allow the employee at least seven (7) days to correct the certification. The City may delay leave until such certification is produced. In the case of medical emergency, the employee must submit certification as soon as is reasonably possible.
- b. City May Require Second Opinion: The City may require a second or third opinion (at its own expense), periodic reports on status and intent to return to work and a fitness-for-duty report to return to work.
- c. Certification Related to Active Duty or Call to Active Duty: The employee requesting leave related to a family member's active duty or call to active duty shall provide supporting documentation of such status issued by the applicable Armed Services branch.
- d. Certification for Extended Servicemember Family Leave: Employees requesting extended Servicemember Family Leave must provide documentation of the injury, recovery, or need for care, such as the military medical information, orders for treatment or other official Armed Forces communication showing that the injury or illness was incurred on active military duty and renders the member medically unfit to perform military duties.
- e. Confidentiality of Medical Records: Documentation related to the employee's and/or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.

10. Effect on Benefits

- a. An employee granted a leave under this policy will continue to be covered under the City's group health insurance plan with the same conditions as if the employee had been continuously employed during the leave period.
- b. Employee contributions will be required either through payroll deduction or by direct payment to the City. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
- c. If an employee's contribution is more than 30 days late, the City may terminate the employee's insurance coverage.
- d. If the City pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the City for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments. If the employee fails to return from unpaid leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the City may seek reimbursement from the employee for the portion of the premiums paid by the City on behalf of that employee (employer contribution) during the period of leave.
- e. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave, but will not lose benefits already accrued prior to the start of the leave. Paid time off does not accrue while on unpaid leave.

11. Job Protection

- a. If the employee returns to work within 12 weeks following a family/medical leave (or 26 weeks if combined with Servicemember Family Leave), he/she will be reinstated in his/her former position or an equivalent position in terms of pay, benefits, status and authority.
- b. The employee's restoration rights are the same as they would have been had the employee not been on leave. If the position would have been eliminated or the employee would have been terminated but for the leave, the employee does not have the right to reinstatement upon return from leave.
- c. Within thirty (30) days prior to the employee exhausting his/her leave or if the employee's previously stated return date is sooner, the employee shall contact the Director of Human Resources to discuss the employee's return or inability to return within the leave period and in the event of inability to return, to determine if a reasonable accommodation is available.
- d. If the employee fails to return to work by the previously agreed upon date, and in the absence of the employee communicating as required in paragraph 11.c. above, or other further communication, he/she will be considered to have abandoned the job.

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Unlawful Actions and Enforcement of FMLA Rights: It is unlawful for the City to interfere with, restrain or deny the exercise of FMLA rights, or to discharge or discriminate against anyone for opposing such unlawful practices or for participating in a proceeding related to the FMLA. An employee may file a complaint with the U.S. Department of Labor’s Wage and Hour Division or may bring a private lawsuit against an employer for violating his/her rights under the FMLA.

14.12

TRAUMATIC EVENT LEAVE

1. Statement of Purpose:

- a. The City of Mesquite is committed to safeguarding the mental health and emotional well-being of all City of Mesquite employees, and the purpose of this policy is to establish guidelines governing the circumstances under which City employees are granted traumatic event leave.

2. Eligibility:

- a. Traumatic event leave will be granted to all full-time employees who have directly experienced a traumatic event related to their work function during the course and scope of employment, so that they can address any mental health concerns stemming from such an event. Any traumatic event leave granted will be coded as Traumatic Event Leave.
- b. This policy complies with mental health leave requirements for licensed peace officers under Section 614.015 of the Texas Government Code.

3. Definitions:

- a. A “traumatic event” is a shocking, intensely frightening, or dangerous event that causes the employee to experience unusually strong emotional reactions or feelings that have the potential to interfere with their ability to perform their job duties and that requires mental health care. The employee must have been present at the scene when the traumatic event occurred or was the first employee responding except as provided below in section 3b.
- b. For purposes of this policy, “traumatic events” are limited to the following:
 - 1) Major disasters which may include response to weather-related events involving multiple casualties; fires or explosions involving multiple casualties; or search and recovery missions involving multiple casualties.
 - 2) Incidents involving multiple casualties, such as traffic accidents or shootings.
 - 3) Line of duty death or serious bodily injury of a fellow employee.
 - 4) Encountering the death of a child resulting from violence or neglect.
 - 5) Officer involved shooting of a person.
 - 6) Any extraordinary event subject to the approval of one of the following: Chief of Police, Fire Chief, Human Resources Director, or the City Manager.
- c. “Traumatic event leave” is administrative leave with pay granted to a full-time employee in response to a traumatic event that occurred in the course and scope of their employment.
- d. A “mental health professional” is a licensed mental health worker, counselor, psychotherapist, psychologist, or psychiatrist.
- e. “Confidentiality” is a professional or ethical duty to refrain from disclosing information from or about a recipient of mental health services.
- f. Traumatic events, as referenced in this policy, refer to only work-related events. Personal trauma, such as family issues or an event encountered outside the course of employment, is not covered by this policy.

4. General Provisions:

- a. Any City supervisor or co-worker who becomes aware of behavioral changes in a co-worker directly involved in a traumatic event should report the behavioral change to their department director, so professional assistance and/or leave may be offered.
- b. Any approved traumatic event leave used by an employee runs concurrent with leave authorized under the Family Medical Leave Act.
- c. Employees will continue to accrue all benefits, seniority and applicable special pays when using their traumatic event leave.

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- d. Employees must use all available approved traumatic event leave within thirty (30) days of traumatic event leave authorization. Under no circumstances will approved traumatic event leave be rolled over or accrue on a continuing basis after thirty (30) days has elapsed from the date of traumatic event leave authorization.
- 5. **Procedure to Request and Approve Traumatic Event Leave:**
 - a. Any full-time employees requesting traumatic event leave must submit their traumatic event leave request in writing on a City-designated traumatic event leave request form within three (3) business days from the occurrence of the traumatic event:
 - 1) The employee must notify their department director in writing.
 - 2) The employee will also promptly provide a completed City-designated traumatic event leave request form to the appropriate department director in the Police Department, Fire Department or Human Resources Department, or their designees, who will timely grant a qualifying traumatic event leave request unless they have an articulatable and specific compelling reason to deny the request.
 - b. Requests granted by the Chief of Police or Fire Chief must be reported to the Human Resources Department, and all approvals shall be sent in writing to the requesting Employee and their director using the City-designated approval form.
 - c. If a traumatic event leave request is denied, it must be provided in writing to the requesting employee by the Chief of Police, Fire Chief, or the Human Resources Director.
 - d. The Chief of Police and the Fire Chief, or their designees, are authorized to grant traumatic event leave for employees in their respective departments. The Human Resources Director, or designee, is authorized to grant traumatic event leave to Employees in all other City departments.
 - e. The use of traumatic event leave may also be initiated at the discretion of the Chief of Police, Fire Chief or Human Resources Director, or their designee, based on their awareness of an employee's involvement in a work-related traumatic event. Any traumatic event leave initiated by the Chief of Police, Fire Chief or Human Resources Director must be in writing on a City-designated traumatic event leave form.
 - f. When multiple requests for a traumatic event leave are requested simultaneously, the department head of the affected department shall coordinate coverage to ensure appropriate staffing levels are maintained.
- 6. **Duration of Traumatic Event Leave and Extension Requests:**
 - a. An employee directly involved in a traumatic event may request up to three (3) business days, or one (1) fire shift for firefighters, of traumatic event leave per traumatic event.
 - b. Any traumatic event leave hours granted are not required to be used consecutively. If additional days beyond the initial three (3) working days of traumatic event leave are necessary, the employee must use accrued leave unless the leave is determined to be covered under workers' compensation or requests an extension of traumatic event leave.
 - c. Traumatic event leave extensions may be granted under circumstances where the employee provides appropriate documentation from a mental health professional currently treating the employee and recommending the extension up to a total of five (5) business days and the equivalent of two (2) fire schedule at the discretion of the Chief of Police, Fire Chief, Human Resources Director. The Chief of Police, Fire Chief, Human Resources Director may also consider other circumstances presented by the employee concerning their request for traumatic event leave extension, such as inability to obtain mental health appointments for treatment and supporting employee documentation.
 - d. Each employee may request no more than one (1) extension per traumatic event by submitting their traumatic event leave extension request in writing on a City-designated traumatic event leave extension request form with relevant documentation attached. The Chief of Police, Fire Chief, or Human Resource Director shall grant the extension request upon receipt of sufficient documentation explaining the need for the traumatic event leave extension and will notify Human Resources in writing of any necessary time adjustments.
 - e. If a traumatic event leave extension request is denied, it must be provided in writing to the requesting employee by the appropriate City personnel as listed above.
- 7. **Documentation Required for Return to Work From Traumatic Event Leave:**
 - a. Upon return to work from traumatic event leave, the employee must provide appropriate documentation indicating the employee received proper treatment, consultation, or care from a mental health professional.
 - b. The City may request further documentation from the employee to verify any licensing or accreditation standards for the mental health professional that the employee utilized.
 - c. For Police and Fire Department employees, all such documentation received from the employee will be kept in the employee's departmental personnel file in accordance with Chapter 143, section 143.089(g) of the Local

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Government Code. Documentation received from employees in all other City departments shall remain confidential and may not be stored in any employee personnel files.

8. Traumatic Event Leave Abuse:

- a. Employees using traumatic event leave other than as permitted in this policy shall be subject to disciplinary action. Upon the discovery of an abuse of traumatic event leave, such leave may be denied and/or converted to another leave status.

9. Confidentiality:

- a. Any request for traumatic event leave shall be treated as confidential by all parties involved and shall not be discussed openly, except where necessary for operations or to facilitate the use of leave. Any breach of this confidentiality shall be grounds for discipline.
- b. Confidentiality may be waived by the employee seeking traumatic event leave or may be waived under circumstances which indicate the employee is a danger to themselves or others and the City must confer with the appropriate professionals. Confidentiality is also waived in the event of traumatic leave abuse.
- c. All submitted City-designed traumatic event leave forms and accompanying employee documentation, such as the Employee Request Form for Traumatic Leave, the Employee Request Form for Traumatic Event Leave Extension, and Traumatic Event Leave Initiated by Police/Fire/HR Directors, shall not be stored in any employee personnel files. Such records are confidential and shall be maintained by the Human Resources Department in compliance with appropriate legal retention requirements.

10. No Reduction in Salary:

- a. Any employee, including a licensed peace officer, using traumatic event leave will not experience a reduction in salary or other compensation as a result of using this type of leave.

11. Mental Health Services Available to Employees:

- a. The City's Human Resources Department compiles and maintains an up-to-date list of all mental health resources accessible to employees. (<https://www.cityofmesquite.com/613/Employee-Benefits-Resources>)

14.13

MEDICAL PLAN BENEFITS

The following information is a summary of health benefits currently provided by the City of Mesquite. In summarizing this information, technical jargon has been avoided. Any statement that is inconsistent with the official Summary Plan Document is void. Rights to any benefit and the amount of the benefit will depend on the actual facts and provisions of the Summary Plan Document since the Summary Plan Document controls. The City retains the right to modify these benefits consistent with applicable laws.

1. Medical Plan Eligibility

- a. Regular Full Time: Regular full-time employees shall be eligible for medical and prescription benefits. Application for benefits must be made within the first 30 days of employment. Benefits become effective on the first (1st) day of the month after the employee has been employed for thirty (30) consecutive days (240 hours) with the City.
- b. Dependent Coverage: Dependents of eligible employees may participate in the medical and prescription plan. Dependents of eligible employees may be enrolled in the plan within 30 days of the employee's hire date.

2. Medical Plan Coverage: The Human Resources Department is responsible for processing all changes in the medical plan. It is the employee's responsibility to complete the necessary paperwork and provide appropriate documentation in order to add or delete a dependent from their medical plan. Changes must be made within 30 calendar days of a change of status, within 31 calendar days of a child's birth, or during Annual Open Enrollment.

- a. Change in status: If an employee has a change in status or needs to add or delete a dependent from the health plan, the change must be made within 30 calendar days of the change in status date. A change in status is considered a qualifying event that allows changes to be made during this special enrollment period. A change in status is defined as:
 - 1) Change in legal marital status due to marriage, death of a spouse, divorce annulment or legal separation.
 - 2) Change in the number of dependents due to birth, adoption, placement for adoption or death of a dependent.
 - 3) Change in employment status of the employee, spouse or dependent due to termination or start of employment, strike, lockout, beginning or end of unpaid leave of absence, including Family and Medical Leave Act (FMLA) or change in worksite.
 - 4) Changes in employment status of employee, spouse or dependent resulting in eligibility or ineligibility for coverage; or,

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- 5) Changes that cause a dependent to become eligible or ineligible for coverage.
- b. Newborns: A dependent child born while the employee is insured under the health plan will be insured for 31 days beginning on the date of the child's birth. If the employee does not elect to make application to insure the newborn child within the 31 days of the child's birth, coverage for that child will end on the 31st day. No benefits for expenses incurred beyond the 31st day will be payable.
 - c. Annual Open Enrollment: An annual open enrollment period will be held for those employees who wish to enroll in the medical plan, make changes to the medical plan or add/delete dependents without a change in status requirement.
3. **Payment for Medical Plan**
- a. Payroll Deductions: A portion of employee and dependent rates for coverage shall be paid by the employee with the City subsidizing the remaining amount. Employee and dependent rates for coverage shall be paid through payroll deductions.
 - b. Direct Payment When an Employee is on Unpaid Status: Employees off the job without pay must make arrangements to pay costs for their medical plan. The Human Resources Department must be contacted to make such arrangements.
4. **Medical Benefits upon Retirement**
- a. Eligibility for Retirees Under 65 Hired Before October 1, 2004: All employees who retire from the City of Mesquite with TMRS benefits are eligible to continue participating in the City's medical plan. Employees will have the option to continue the coverage they had at the time of retirement if they continue their medical plan coverage. Employees will be able to change their level of coverage at retirement, during the annual Open Enrollment or when a qualifying event occurs. The Human Resources Department will send notification regarding the Open Enrollment Dates.
 - Retirees who have less than ten (10) years of service with the City will be responsible for 100% of the premium.
 - The City will contribute toward retiree coverage based on years of service for those retirees who have ten (10) or more years of service with the City. The City will also contribute toward dependent coverage at a rate based on the retiree's years of service.
 - The City recognizes eligible dependents as those that were enrolled on the employee's medical plan at the time of retirement. Retirees will not be able to add non-eligible dependents at a future Open Enrollment period unless by certain exceptions (i.e. marriage, court order or gaining guardianship of a minor). This applies to all retirees regardless of hire or retirement date.
 - Payments for the retiree's portion of the premium are due in the Human Resources department no later than the 10th of each month. Payments for the plan year may be made in advance.
 - At retirement, or after retirement, if the employee chooses to discontinue participation in any of the City-sponsored medical plans, the employee will not be eligible to re-enroll. Declining the City's medical plan at any point is a permanent decision.
 - b. Eligibility for Retirees Over 65 Hired Before October 1, 2004: Employees who retire after age 65 or become 65 while on retirement, will have the option to enroll in a Medicare supplemental plan and will pay a monthly premium associated with the plan. The supplemental plan is available to both the retiree and his/her spouse who is over the age of 65. Spouses under 65 will be allowed to stay on the City's Under 65 plan and will be required to pay a monthly premium. The various plan options available to retirees will be outlined during the annual open enrollment period.
 - c. Eligibility for Retirees Under 65 Hired On or After October 1, 2004: For employees who were hired on or after October 1, 2004, the employee must have at least fifteen (15) years of service with the City and be age 55 or older in order to receive the City contribution. The City medical plan contribution will be \$12 per month for each year of service at the City. Those retiring with fewer than fifteen (15) years of service or prior to reaching age 55 will be able to continue on the medical plan but without any City contribution. The various plan options available to retirees will be outlined during the annual open enrollment period.
 - d. Rates: Employee and retiree medical plan costs are an important part of the City budget. Plan designs and premiums for employees and retirees are subject to review and change each fiscal year. Retiree rates will be determined each year and will be mailed to the retiree's home address.

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5. **Medical Benefits Upon Separation-COBRA²**

- a. Regular Full-time and Dependent Coverage: Regular full-time employees have the right to retain group medical benefits as provided under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).
- b. Eligibility: Eligibility for COBRA continuation coverage begins when an employee or dependent loses regular coverage because the employee resigns, retires, experiences a reduction in hours, dies, divorces or is fired. Employees dismissed for gross misconduct are not eligible for COBRA. Gross misconduct is defined as: "Mismanagement of a position of employment by action or inaction, neglect that places in jeopardy the lives or property of others, intentional wrongdoing or malfeasance, intentional violation of a law or violation of a policy or rule adopted to ensure orderly work and the safety of employees."
- c. Rates: Rates shall be paid in full by the employee, except where otherwise provided by law.

14.14
DENTAL

Eligibility and Enrollment

- a. Regular full-time: The City of Mesquite offers all regular full-time employees and their dependents the opportunity to enroll in the dental program.
- b. Dependents: Regular full-time employees must be enrolled in the dental plan in order to enroll their dependents.
- c. Eligibility: Benefits become available to eligible employees on the first (1st) day of the month after the employee has been employed for thirty (30) days with the City.
- d. Retirees: Retirees may continue employee and/or dependent coverage in the Dental program at the full rate. No City subsidy is provided.
- e. Change in Coverage: Any changes in coverage to the Dental Plan must occur in accordance with Chapter 14, Section 14.12.2 as it applies to the medical plan.

14.15
VISION

Eligibility and Enrollment

- a. Regular full-time: The City of Mesquite offers all regular full-time employees vision insurance at no cost.
- b. Dependents: Dependents of full-time employees can be added onto the City's vision plan for an additional cost.
- c. Eligibility: Benefits become available to eligible employees on the first (1st) day of the month after the employee has been employed for thirty (30) days with the City.
- d. Retirees: Retirees may continue employee and/or dependent coverage in the Vision plan at the full rate. No City subsidy is provided.
- e. Change in Coverage: Any changes in coverage to the Vision Plan must occur in accordance with Chapter 14, Section 14.12.2 as it applies to the medical plan.

14.16
DEPENDENT VERIFICATION

When adding dependents on the City's medical plan, employees must show documentation that supports they are covering eligible dependents. Eligible dependents include, but are not limited to:

- Your legal spouse;
- You domestic partner;
- Your or your spouse's child under age 26;
- A disabled dependent child age 26 or older. A dependent child who is mentally or physically incapable of earning his or her own living and who is enrolled under the subscriber's group membership will continue to be covered after he or she would otherwise lose dependent eligibility under the subscriber's group membership, so long as the child continues to be mentally or physically incapable of earning his or her own living;

² In the event of a conflict between Chapter 14, Section 14.12.5 and COBRA, COBRA shall control.

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- A child is defined as your biological child, a step-child, an adopted child, a newborn infant of an enrolled dependent child, a dependent child, or a child recognized under a Qualified Medical Child Support Order as having the right to enroll for health care coverage;
- Your grandchild (ren) under age 26, for whom you have legal guardianship and qualifies as a dependent under the Internal Revenue Code.

If you have any questions regarding the dependent eligibility verification process, please contact the Human Resources Department. Failure to provide required documentation may result in a denial of coverage for eligible dependents. Providing false documentation to the Human Resources Department can lead to disciplinary action up to and including termination.

14.17

REMOVAL OF INELIGIBLE DEPENDENTS

The employee is responsible for removing ineligible dependents from the medical, dental and vision plans within 30 days of ineligibility. Failure to do so may result in disciplinary action, up to and including termination and repayment of benefits paid by the City.

14.18

EMPLOYEE ASSISTANCE PROGRAM

1. **Description:** The Employee Assistance Program (EAP) is designed to provide employees and dependents with professional assistance in resolving difficult personal problems or issues such as job performance, marital difficulties, family issues, communication skills, managing depression and anxiety, child and elder care resources, parenting support, anger management, legal and financial issues, grief and bereavement, self-improvement plans, smoking cessation, weight loss, time management, stress management, personal concerns and career management.
2. **Eligibility:** All employees, retirees and dependents are eligible for EAP services.
3. **Benefits:** The EAP provides up to six (6) visits with a licensed counselor per incident per member. Continuing mental health or substance abuse requiring medical attention or hospitalization must be accessed through an existing medical plan.
4. **Using the Employee Assistance Program**
 - a. **Self-Referral:** Employees, retirees and dependents experiencing personal and/or psychological problems may call the Employee Assistance Program twenty-four-hour help line to speak to a counselor or to arrange a confidential appointment regarding a variety of personal, psychological, substance abuse or family-related issues.
 - b. **Procedural Referral:** A procedural referral generally occurs in conjunction with some form of performance improvement and/or disciplinary action. A decision to refer an employee to the City's EAP for a procedural referral shall be jointly made by the department director and the Human Resources Director and/or his designee.
 - c. **Fitness-for-Duty Referral:** When evidence is presented which calls into question an employee's fitness for duty, the supervisor may request an EAP fitness-for-duty referral. A decision to refer an employee to the City's EAP for a fitness-for-duty referral shall be jointly made by the department director and the Human Resources Director and/or his designee.
5. **Confidentiality**
 - a. **Self-Referral:** Participation in the EAP through a self-referral is confidential between the provider and the employee.
 - b. **Procedural Referral:** Although case specifics will be treated confidentially, the EAP will keep Human Resources informed whether the employee is satisfactorily completing the program prescribed by the EAP.
 - c. **Fitness-for-Duty Referral:** Although case specifics will be treated confidentially, the EAP will inform Human Resources whether the employee is fit-for-duty. If the EAP has additional recommendations, the EAP will keep Human Resources informed whether the employee is satisfactorily completing the program prescribed by the EAP.

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14.19

LIFE INSURANCE AND VOLUNTARY BENEFITS

1. **Group Term Life Insurance Plan**
 - a. **Regular full-time:** All regular full-time employees are enrolled in the City's Group Term Life Insurance Plan at no cost to the employee. **See Group Life Insurance Plan Description Booklet for general provisions incorporated herein by reference.
 - b. **Beneficiaries:** The employee shall designate beneficiaries upon enrollment and may change beneficiaries as necessary. All changes must be processed through the Human Resources Department.
2. **Voluntary Benefits:** Voluntary benefits may be purchased by the employee for the employee and eligible dependents for the following:
 - a. Supplemental Life.
 - b. Accidental Death & Dismemberment Cancer/Critical Care.
 - c. Long Term Disability (may be purchased by the employee for the employee only).

14.20

TAX SAVER PROGRAM

1. **Description:** The Tax Saver Program as adopted by the City of Mesquite allows certain medical expenses and dependent care expenses to be reimbursed with funds deducted before tax withholding in order to reduce tax liability, for employees and their covered dependents not eligible or receiving Social Security benefits. This program is also known as the Flexible Spending Account, created under Section 125 of the Internal Revenue Code. In addition, Group Medical Plan rates will be deducted on a pre-tax basis unless the employee designates otherwise.
2. **Eligibility and Enrollment**
 - a. **Regular full-time:** All regular full-time employees are eligible to participate in the Tax Saver Program.
 - b. **Enrollment Period:** Eligible employees may enroll in the Tax Saver Program upon appointment with the City or at open enrollment periods that occur annually.
 - c. **Plan Year:** Plan years are on a calendar- year basis beginning January 1 and ending December 31. However, under the Internal Revenue code grace period rule for Dependent Care only, expenses may be incurred through March 15 of the following plan year.
 - d. **Plan Election:** To participate in the Tax Saver Plan, an employee must make an election each year. Once election has been made to participate or not participate in the Plan, no change or revocation may be made in that election year except in the case of a change in family status as defined by the Internal Revenue Code.
3. **Reimbursement Procedures:** Employees with eligible medical or dependent care expenses must complete a Tax Saver Reimbursement form. Substantiating documents to verify expenses must be attached to the reimbursement form and forwarded to the Human Resources Department.
4. **Forfeited Balance:** A claim for benefits may be submitted for the plan year in which expenses were incurred, including expenses incurred during the grace period. Reimbursements for the plan year may be submitted up to March 15th (Medical Tax Saver) and June 15th (Dependent Care Tax Saver) of the following plan year. On March 16th (Medical – amounts over \$500) and June 16th (Dependent – total) any previous plan year's Tax Saver dollars remaining in the participant's accounts will be forfeited as mandated by the Internal Revenue Code.
5. **Note: The City's Healthcare Reimbursement Tax Saver Program has been amended to reflect the IRS ruling allowing a carryover provision of up to \$500.** This provision allows Healthcare Reimbursement Tax Saver participants to carryover up to \$500 for the following year's healthcare expenses. The carryover of up to \$500 will not count against the annual IRS maximum permitted. The carryover provision only applies to Healthcare Reimbursement and does not apply to Dependent Care Reimbursement.

14.21

TEXAS MUNICIPAL RETIREMENT SYSTEM

1. **Membership:** All regular full-time and eligible part-time employees of the City are required to become members in the Texas Municipal Retirement System (TMRS).
2. **Vesting:** Members with at least five (5) years of creditable service become "vested" and, if the funds are not withdrawn, are eligible to receive the City's contribution and accrued interest upon retirement.

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3. **Eligibility for Retirement:** A member becomes eligible for "service retirement" under the Texas Municipal Retirement System if they have:
 - a. At least five (5) years of creditable service and have reached age sixty (60); or
 - b. At least twenty (20) years of service regardless of age, except if prior service was with another TMRS city requiring twenty-five (25) years of service at the time of retirement, in which event twenty-five (25) years are required,
4. **Benefits:** Each pay period, seven percent (7%) of a full time or eligible part-time employee's gross salary is withheld and deposited with TMRS. Member deposits to TMRS are tax-deferred. For every month a deposit is made to TMRS, the City agrees to match the deposit and interest at a rate of 2-1. The City's match of the deposits and interest is held in the City's TMRS account until retirement, when the City match becomes part of the benefit. The only way to receive the City's matching fund is to retire from TMRS and receive a monthly payment. The amount of the monthly benefit is based on and varies with the total deposits the member has made plus interest, the sums the City has agreed to pay, the member's life expectancy on retirement, the payment plan options selected and other factors.
5. **Death Benefits:** A beneficiary is the person the employee chooses to receive TMRS benefits in the event of the employee's death. Employees will be asked to choose a beneficiary upon hire when the employee becomes a TMRS member. When the employee vests (after 5 years of service) TMRS will ask the employee to reexamine the beneficiary choice. If an employee is a vested TMRS member but dies before retirement, the designated beneficiary has choices about how to receive benefits. Benefits to the beneficiary may include City matching funds depending on which option is chosen. If an employee is not vested at the time of death, the beneficiary will receive a refund of member deposits plus interest, and no City matching funds will be received.
6. **Disability Benefits:** If an employee becomes disabled so that the employee is no longer able to perform their job, and the disability is likely to be permanent, the employee may be eligible for Occupational Disability benefits from TMRS. An Occupational Disability benefit is calculated like a Service Retirement benefit, based on deposits and interest, the city's matching funds, and other credits, and is payable to the employee beginning on the last day of the month following the effective retirement date, assuming the disability is approved by the TMRS Medical Board.
7. **Additional Information:** Due to the complexity of questions relating to the retirement program, only a brief summary of the program is provided. For additional information, contact the Human Resources Department.

14.22

PAYCHECKS

1. **Deductions:** Employees may have deductions withheld from their biweekly paycheck for all approved benefit plans, association dues (minimum of 75% participation of eligible membership required), except where otherwise provided by law, wage attachments and other deductions approved by the Human Resource and Finance Directors. Unless authorized by law, no deductions will be made without an authorization signed by the employee.
2. **Direct Deposit:** Employees may have their biweekly paychecks directly deposited to participating banks. In lieu of direct deposit, employees may elect to be compensated by way of a "CashPay Prepaid Debit Card". Direct deposit enrollments and cancellations must be processed through the Human Resources Department.
3. **Pre-authorized Deductions:** Employees who have pre-authorized deductions will have money deducted on their final paycheck for unreturned uniforms, equipment or other obligations.

14.23

TRAINING AND DEVELOPMENT

The City is committed to the continuous training and development of its employees, both to improve job related skills and to develop the future leaders of our organization. In order to ensure that training activities support both the individual's and organization's objectives as well as being cost-effective, all training/development activity will be planned, monitored, and approved through department management.

1. **Internal Training:** Depending on the department and the requirements of individual positions, the City of Mesquite provides internal training to enhance job skills and/or prepare individuals for advancement. Human Resources and/or individual departments coordinate these types of training activities.
2. **External Training and Association Memberships:** The City of Mesquite encourages employees to enhance knowledge and skills by networking with other professionals to broaden their base of knowledge and learn how others with similar issues address them in their organizations. The City recognizes that for development purposes,

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employees may need to attend training seminars or workshops conducted off-site or join professional associations that will keep them abreast of best practices in their respective fields. Thus, the purpose of this policy is to outline parameters for attending external training functions and joining/renewing memberships in professional associations. Please note that this policy is subject to and controlled by the annual budgets established by the employee's department for external training and memberships.

- a. In support of this policy, City-funded training is determined on a case-by-case basis by the employee's individual department management based upon the individual's and department's needs. The City-funded training may include costs associated with:
 - i. Professional exams and exam preparation courses.
 - ii. Certificate programs and credentials.
 - iii. Licenses.
 - iv. Courses offered by an accredited institution, including e-learning.
 - v. Workshops, seminars and conferences.
 - vi. Membership in professional organizations.
 - b. Positions requiring licenses or certifications as a job requirement are typically the responsibility of the employee to maintain and any monetary assistance by the City is determined by department management and subject to budgetary approval.
 - c. Employees are permitted and encouraged to join one or more professional association(s), membership fees for which may be paid by the City. To qualify, the association selected must have a direct relationship to the job the employee performs. Requests for monetary assistance must be presented to the employee's department manager for approval.
 - d. The City reserves the right to determine which training functions and association memberships are in the best interests of the organization or its future planning and direction.
 - e. Department heads may authorize job-related college courses, but such courses may only be approved if the requirements are noted in the approved position job-description.
 - f. Department heads, in coordination with Human Resources, may develop special retention and/or technical skill development programs that may include city-funded college level coursework. However, employees who participate in such programs must execute a written agreement with the City indicating their willingness to remain with the City for a period of at least two years after completion of such coursework. Employees who depart the City prior to the end of the two-year period will be required to repay the City a prorated amount of the cost of the coursework as outlined in the agreement.
3. Compensation for training attendance is subject to the provisions of Chapter 10, Section 10.5.9.

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**CHAPTER 15: CONTROLLED SUBSTANCE, ALCOHOL ABUSE
AND TOBACCO TESTING**

15.1
SCOPE

1. Applicants for employment and current City employees are governed under this policy.
2. All department heads and supervisors are responsible for carrying out the provisions of this policy. Failure of a department head to carry out the requirements of this policy may lead to disciplinary action, up to and including termination.

15.2
PURPOSE

1. It is the policy of the City to provide a work environment that is free from the manufacture, use, consumption, sale, dispensing, distribution or possession of controlled substances (drugs) or alcohol in the workplace. (In this policy, use of the term "drugs" also includes alcohol.) The specific purpose of the policy is to outline the methods for maintaining a work environment free from the effects of controlled substances and alcohol.
2. Each City employee has a responsibility to deliver service in a safe, efficient and conscientious manner. Therefore, the manufacture, use, sale, dispensing, distribution, possession or being under the influence of alcohol or any controlled substances, including prescription medication (when use of such prescribed medication is likely to affect the employee's ability to perform assigned duties) during working hours, as outlined in the provisions of this policy, is strictly prohibited and shall result in disciplinary action, up to and including termination.
3. Employees in need of assistance, in relation to controlled substance or alcohol abuse, are encouraged to explore the use of leave time and medical benefits in obtaining assistance through public and private referral agencies specializing in chemical dependency before the problem affects their job.
4. In order to meet the objectives of this policy, the City has established a drug and alcohol- free awareness program for the purpose of informing employees about the dangers of alcohol and substance abuse, the City's Controlled Substance and Alcohol Abuse Policy, the availability of substance abuse counseling, rehabilitation programs and disciplinary actions that may be imposed on an employee for violations of the City's controlled substance and alcohol abuse policy.
5. Supervisory personnel will be provided with the information and instruction necessary to identify work-related performance problems, to identify potential symptoms of substance abuse, to understand the methods of drug and alcohol testing, to document reasonable suspicion instances and to understand and implement guidelines for disciplinary action.
6. The Director of Human Resources, or designee, has the responsibility to develop and adopt procedures for drug and alcohol testing.

15.3
ALCOHOL/CONTROLLED SUBSTANCE/MEDICATION USE: EMPLOYEE RESPONSIBILITY

1. No employee shall report to work under the influence of alcohol, illegal substances or controlled substances without a prescription.
2. Any employee manufacturing, distributing, dispensing, using, selling or in personal possession of alcohol, illegal substances or controlled substances while on duty or on City property at any time may be subject to termination, except when in the discharge of official duties or where otherwise permitted.
3. Any employee using illegal substances or controlled substances without a prescription, at any time, on or off the job, is subject to disciplinary action, up to and including termination.
4. Employees taking prescription or non-prescription medications, including CBD oil, must report this use to their supervisor or a designee when the use of such medications is likely to affect the worker's ability to perform assigned duties. It is the employee's responsibility to ascertain from his or her medical provider whether the medication is likely to have an adverse impact on the employee's performance of his or her duties, or if it may interfere with the employee's ability to pass a drug screening and, whether prescribed or non-prescribed, the employee assumes the risk of such medication resulting in a positive test during drug screening which is subject to disciplinary action up to and including termination. This provision is intended to protect the safety of each employee and his or her co-workers, property and the public. Employees failing to follow this instruction may be subject to disciplinary action, up to and including termination. Any information received from an employee under this provision will be kept

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confidential except to the extent it may be shared with individuals who are in a "need-to-know" position, such as the immediate supervisor or as required by state or federal law.

5. Any use of controlled substances and alcohol abuse that has an adverse effect on the employee's performance or that could jeopardize the safety of others, City equipment or the City's relations with the public is a violation of this policy, and the employee may be subject to disciplinary action, up to and including termination.
6. An employee scheduled to be on call, who is called out, is subject to the provisions in this policy.
7. An employee not scheduled to be on call, who is called out and is under the influence of legally prescribed drugs or alcohol or who is impaired by alcohol, must so advise his or her supervisor and will not be required to report to work. An employee who is called out and who reports to work, but fails to notify his or her supervisor that he or she is under the influence or impaired may be subject to disciplinary action, up to and including termination.

15.4
CONDITIONS WHEREBY DRUG, ALCOHOL OR TOBACCO
TESTING IS TO BE CONDUCTED

1. **Conditions Applicable to all Testing**
 - a. The Human Resources Department is responsible for the administration of the drug and tobacco screening process. All inconclusive results, all positive results and all results that appear to have been altered will be reviewed by a Medical Review Officer. All positive specimens will be confirmed by further recognized scientific testing, under the guidance of a Medical Review Officer.
 - b. Specimens for drug and tobacco screening may include, but are not limited to, bodily fluids and hair.
 - c. Any applicant who tampers with or attempts to tamper with a specimen in any manner shall be disqualified from employment with the City and shall be barred from any future consideration for employment with the City.
 - d. If an employee tampers with or attempts to tamper with a specimen in any manner, the employee shall be subject to disciplinary action up to and including termination or indefinite suspension.
 - e. Prescription or over-the-counter drugs validated by the Medical Review Officer as being prescribed for or taken by the person to be tested will not be considered if the drug affects the testing, unless the use of such drugs in the judgment of the Medical Review Officer would be potentially harmful to the safety of the person being tested, or others.
 - f. Any question relating to drug testing will be referred to the Human Resources Director or designee.
2. **Pre-Employment Drug Testing:** All persons given a contingent offer of employment with the City in a safety or security sensitive position are required to submit to a drug and/or alcohol test.
 - a. Prior to submitting to a drug or alcohol test, all applicants shall be required to sign a written consent form authorizing testing for the presence of controlled substances and alcohol. A job applicant refusing to sign a requested consent form will be withdrawn from consideration for employment.
 - b. Test results shall be communicated in a confidential manner to the Director of Human Resources or designee. An applicant shall not be placed on the City payroll or otherwise allowed to report for work until negative test results have been received by the Director of Human Resources or designee.
 - c. In the case of positive test results, disclosure of the results shall be made to the applicant by the Director of Human Resources or designee. The applicant shall be told by the Director of Human Resources or designee that he or she is disqualified for employment with the City. An applicant may be reconsidered for employment after one-year upon submitting evidence of successful completion of a rehabilitation program.
3. **Pre-Duty Testing**
 - a. Current employees who seek transfers or promotions into other positions will not be required to submit to drug and alcohol testing unless they are transferring or promoting to a position where duties include operating a commercial motor vehicle or the position is a safety or security sensitive position.
 - b. An applicant, under this section, will be requested to sign a consent form authorizing the testing and the use of the test results in employment decisions.
 - c. An applicant, under this section, refusing to cooperate and take a drug test and/or sign a consent form will not be considered for continued employment.
4. **Post-Accident Testing:**
 - a. Drug, alcohol and tobacco testing will be required of employees following motor vehicle or motorized equipment accidents in which the employee could have caused the accident in any of the following circumstances:
 1. A bodily injury that requires medical treatment;

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2. A City vehicle or other City property is involved;
 3. A third party (non-employee) is involved;
 - b. Employees who have an accident while driving City vehicles or equipment on or off duty will be subjected to testing.
 - c. Employees who have an accident while driving personal or rental vehicles on City business will be subject to testing.
 - d. In the event of an out-of-town accident, while on City business, the driver shall immediately notify their supervisor. The supervisor shall contact Human Resources to arrange for drug testing at the remote location.
5. **Procedures for Post-Vehicle or Motorized Equipment Accident Testing**
- a. The employee(s) involved in an accident and/or the first employee(s) from the department who arrive at an accident site are required to inform the department director of the accident immediately. If the department director or designee is not available, the employee(s) shall notify the Risk Manager of the accident. If the department director and the Risk Manager are unavailable, the Director of Human Resources or designee shall be notified. In the event none of the above individuals are available, an Assistant City Manager shall be notified of the accident.
 - b. The employee(s) involved in an accident and any employee who may be a contributing factor to an accident shall be prohibited from working or continuing to work until reporting to a City-approved testing facility.
 - c. A specimen for drug, alcohol and tobacco testing shall be collected from the employee(s) directly involved as soon as possible.
 - d. Except when otherwise approved by the Risk Manager, a supervisor or a designated person shall take the employee to a City-approved testing and collection site.
 - e. If the employee, in the judgment of medical professionals and/or the supervisor, exhibits physical and/or emotional impairments such that his or her safety or the safety of others could be in jeopardy, the employee will not be allowed to return to work. If the results of the employee being tested are positive, inconclusive or appear to have been altered, the supervisor or a designated person shall arrange for the employee to be taken home.
 - f. Refusal to submit to a post-accident drug and alcohol test will be grounds for termination.
 - g. An employee shall be placed on administrative leave during an investigation surrounding the circumstances of an accident leading to a drug and alcohol test. The investigation will be conducted by the Human Resources Director or designee.
6. **Random Drug Testing**
- a. All employees identified as safety/security sensitive may be selected for testing on an unannounced, random basis using a scientifically valid, random number generation method.
 - b. The Director of Human Resources or designee shall be responsible to produce a list of names for random drug, alcohol and tobacco testing. This shall be done by means of a scientifically valid, random number generation method at time periods to be determined by the Director of Human Resources or designee. Employees will be selected by lottery to ensure that each employee has an equal chance at being selected.
 - c. The names produced from each random selection shall be forwarded to the employee's department director or designee. The names shall be kept confidential and shared only on a need-to-know basis. The employee's name will be re-entered into the random data file following selection.
 - d. Upon receiving the names of employees in his or her department who are to be tested for drugs, alcohol and tobacco, the department director or designee shall ensure that the employees report to the lab as soon as possible, but not later than two (2) hours after the employees are notified to appear, unless extenuating circumstances exist. If such circumstances exist beyond the employee's control, where it is not possible for him or her to appear for testing within the time allowed, the department director or designee shall immediately advise the Director of Human Resources or designee of the circumstances and the employee's inability to appear.
7. **Reasonable Suspicion Drug Testing:** Employees suspected of controlled-substance use or alcohol abuse will be required to provide a specimen for testing.
- a. A written record of specific, observable facts will be required before a drug, alcohol and tobacco test can be ordered based on reasonable suspicion.
 - b. The supervisor or other management staff will document the exact reasons why he or she suspects that a certain employee has violated the drug, alcohol and tobacco policy, including the symptoms exhibited by the employee, the actions of the employee, statements from other employees or third parties and other evidence that tends to establish a reasonable suspicion of drug, alcohol or tobacco abuse.
 - c. When it has been determined that reasonable suspicion exists and the employee should be tested, that decision

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must be approved by the Director of Human Resources or designee. In the event that these individuals are inaccessible within a reasonable period of time, the department head is authorized to require the employee to submit a specimen to the testing facility.

- d. Except when otherwise approved by the Risk Manager, the supervisor or a designated person will drive the employee to a City-approved collection site. Under no circumstances will the employee be allowed to drive.
 - e. If immediate test results are positive, inconclusive or appear to have been altered, the supervisor or designated person shall arrange for the employee to be taken home.
 - f. If immediate test results are positive, inconclusive or appear to have been altered, an employee will be placed on administrative leave until further testing results are confirmed by a Medical Review Officer.
8. **Post-Injury Testing:** Drug, alcohol and tobacco testing will be required of employees following on- the-job injuries in any of the following circumstances:
- a. A claim of bodily injury while on duty that requires medical treatment.
 - b. A bodily injury to a third party (another employee or bystander) whereby it is determined that an employee's actions or inaction(s) is a contributing factor to the accidental injury of another person.

15.5
DISCIPLINARY ACTION

The consequences for engaging in conduct prohibited by this policy are as follows:

1. Any employee whose breath alcohol test results in a Breath Alcohol Content of 0.02 or greater subjects the employee to disciplinary action up to and including termination.
2. Any employee who tests positive for non-prescription drugs, alcohol or tobacco, is subject to disciplinary action up to and including termination.
3. Any employee who refuses to take either a drug, alcohol or tobacco test as outlined in this policy will be subject to disciplinary action up to and including termination.

15.6
EMPLOYEE REQUEST FOR RETEST

1. An employee whose positive results are confirmed by the Medical Review Officer may request that the original specimen be analyzed again. An employee requesting a retest must submit a written request within two business days of the employee's notification of the test result.
2. An employee making a request for a retest will be required to pay the cost of the additional analysis and all costs associated with the transfer of the specimen to another certified, qualified laboratory, including shipping and handling. If the request results in the employee passing the drug, alcohol or tobacco test, the City will reimburse the employee for laboratory expenses.

15.7
CONFIDENTIALITY OF INFORMATION

The following procedures will be used to assure that records relating to the drugs, alcohol or tobacco testing process are kept confidential.

1. Test results and other written materials concerning a particular drug, alcohol or tobacco test will not be kept in the employee's official personnel file or the individual's departmental file.
2. No test results may be released except to the employee's department head and supervisor, any other individuals involved in a disciplinary action or an appeal process.
3. Human Resources staff who are authorized to have access to drug, alcohol or tobacco test results will maintain confidentiality. Breach of confidentiality relating to any test results or any other personnel-related matter will subject the employee to disciplinary action, up to and including termination.

15.8
ASSISTANCE TO EMPLOYEES

1. Prior to an event requiring testing when a non-probationary employee reports to the City that he/she has engaged in controlled- substance use or is abusing alcohol or prescribed drugs and the City decides to continue the

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employment of the employee, the City may require the employee to participate in a rehabilitation program, including the City's EAP, as a condition of continued employment.

2. Any employee who has completed a rehabilitation program must remain alcohol and drug free. Any relapse by an employee will be a violation of this policy and the employee may be subject to disciplinary action, up to and including discharge or indefinite suspension.

15.9
DRUG & ALCOHOL SEARCH POLICY

Based on reasonable suspicion, the City reserves the right to search any City employee and their property on City premises, City property and equipment for illegal drugs and alcohol.

15.10
CBD OIL USAGE

Whether the use of CBD oil (with or without THC) is considered lawful/unlawful by the State of Texas, it's use is prohibited by city employees while on duty and performing the essential duties of their jobs. As part of random or post-accident drug screening, any employee testing positive for a CBD derivative is subject to disciplinary action up to and including termination.

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CHAPTER 16: PERFORMANCE EVALUATIONS

16.1
PURPOSE

The purpose of evaluating an employee's performance is to identify whether the employee is meeting job requirements and to provide a time for structured feedback to the employee. Performance evaluations are a continuous communication process between the employee and supervisor. Formal periods involving written evaluations allow the employee and supervisor to fully review all aspects of the employee's performance and establish expectations for future evaluation periods.

16.2
EVALUATION FORMS AND PROCEDURES

The Human Resources Director shall be responsible for development of forms and procedures and the administration of the City's Performance Evaluation System.

16.3
PROBATIONARY EVALUATION

1. **Probationary Period Evaluation - Full-time Employees:** The probationary period provides a time for full-time employees to demonstrate and be evaluated on their ability to successfully perform in the position for which they have been hired. A probationary employee may be disciplined up to and including termination for any reason at any time while serving a probationary period and probationary employees remain at-will at all times. Probationary period evaluations shall occur as follows:
 - a. Mid-Probationary Evaluation: In order to provide at least one progress report prior to the six (6)-month's probationary evaluation, a mid-probationary evaluation of employees shall occur at or around the end of the employee's third month in a position.
 - b. Six (6)-Month's Probationary Evaluation: Approximately two weeks prior to the completion of the six-month's probationary period, employees shall be evaluated on their ability to successfully perform in the position for which they have been hired. The results of the evaluation will determine whether the employee will be retained as a regular full-time employee, released from employment or have their probationary period extended.
2. **Probationary Period Evaluation - Part-time Employees:** Part-time employees shall be evaluated on their ability to successfully perform in the position for which they have been hired and determine whether the employee will be retained. Part-time employees are always at-will and may be terminated without cause or appeal at any time during their employment with the City. Part-time employees will be evaluated at the same time intervals as full-time employees.
3. **Promotional Probation:** Promotional probationary employees will be evaluated as set forth in Chapter 16, Section 16.3.1.

16.4
ANNUAL PERFORMANCE EVALUATIONS

All regular full-time and part-time employees shall have their performance evaluated annually by their immediate supervisor prior to their anniversary date and are required to complete any mandatory training programs required by the City Manager, Director of Human Resources or their department director.

1. **Submission of Evaluation:** Supervisors shall submit a performance evaluation through the Performance Evaluation System prior to completion of employee's anniversary date. This evaluation is required even if the employee is not eligible for a salary (merit) increase.
2. **Merit Increases:** All merit increases require a completed performance evaluation prior to the effective date of the increase. Employees must be rated "Meets Expectations" or above on at least five (5) competencies (or at least ten (10) competencies for managers/supervisors) to be eligible to receive a merit increase. Annual merit increases are based on the employee's performance for the previous twelve-month (12) period.
3. **Work Improvement:** Employees who are not rated "Meets Expectations" or above on three or more competencies will be placed on a Work Improvement Plan. Upon satisfactory completion of the Work Improvement Plan, employees will be eligible for a merit increase. The employee's anniversary date will not change nor will the delayed merit increase be retroactive to their anniversary date. Employees failing to satisfactorily complete a Work Improvement Plan shall not be eligible for a merit increase and may be subject to disciplinary action up to and

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including termination.

4. **Mandatory Training:** On or before the date of their annual performance evaluation, the employee shall complete any training program required by the City Manager, Director of Human Resources or their department director.

16.5
ONBOARDING PROCESS

All employees hired after 1/1/2019 shall be engaged by use of the City's "Onboarding Checklist". This six (6) step checklist is designed to improve employee interactions and training by creating participation onboarding process during the employee's first year of employment. This interactive process includes a participation by the employee and all management in the employee's chain of command. Once an employee checklist has been completed, it is to be forwarded to the Human Resources Department to be filed in the Performance Evaluation System. Following is the Onboarding Checklist:

1. Day 1 – Meet Staff; Safety Training; Assign Equipment; 1x1 meeting with Manager.
2. Day 5 – Follow-up with Supervisor (discuss job knowledge, address safety concerns, answer any questions the employee may have).
3. Day 30 – Supervisor Evaluation (evaluate: job knowledge, safety awareness, input from peers, potential retraining needs).
4. Day 90 – Manager Evaluation (evaluate: 10 questions about job knowledge, customer service, attitude, etc.).
5. Day 180 – Director Probationary Approval.
6. Year 1 – Performance Review in City's Performance Evaluation System; written verification of licenses and trainings; input from employee on future at the City; outline employment development.

16.6
EVALUATION FORMS

Upon request, departments will furnish employees with a copy of their performance evaluation or employees may log on to the City's online performance evaluation system to print their own.

16.7
EVALUATION TRAINING

The Human Resources Department is responsible for ensuring that supervisors performing evaluations receive instruction in the proper evaluation, completion and processing of the Performance Evaluation System.

16.8
APPEAL OF PERFORMANCE EVALUATION

Employees who believe that their evaluation is not representative of their performance may discuss their concerns with the supervisor conducting their evaluation. If a satisfactory resolution is not reached through the department's normal supervisory chain of command, the employee may appeal the evaluation to the Departmental Director or organizational equivalent. The decision of the Departmental Director shall be final. In cases where the Departmental Director is the evaluator, the appeal will be heard by the appropriate Assistant City Manager.

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CHAPTER 17: HARASSMENT, DISCRIMINATION AND RETALIATION

17.1 POLICY

1. **Harassment:** It is the policy of the City of Mesquite, in accordance with Title VII of the Civil Rights Act of 1964 and the Texas Commission on Human Rights Act, that all employees are entitled to a work environment that is free from sexual intimidation, unwelcome sexual advances and other forms of harassment. The City of Mesquite strictly prohibits any form of harassment based on sex, age, disability, color, national origin, race/ethnicity, veteran status, religion, pregnancy, genetic information, sexual orientation, gender identity, or any other class protected by federal, state or local law. Any employee who engages in or condones any conduct or actions that constitute harassment is subject to disciplinary action, up to and including termination.
2. **Discrimination:** The City of Mesquite is committed to equal employment opportunity for all employees. The City does not discriminate against employees or job applicants on the basis of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age, disability, genetic information, political affiliation or belief, military status, or any other status or condition protected by applicable federal, state and/or local law. This policy extends to all terms, conditions and privileges of employment including, without limitation, hiring, promotion, discharge, compensation, fringe benefits, job training, classification, and all other aspects of employment. Any employee who engages in or condones any conduct or actions that constitute discrimination is subject to disciplinary action, up to and including termination.
3. **Retaliation:** The City of Mesquite prohibits retaliation against an individual for reporting discrimination or harassment, or for participating or agreeing to participate in an official investigation into a claim of discrimination or harassment.

17.2 DEFINITION

For purposes of this policy, the following apply:

1. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made a term or condition of employment.
 - b. Submission to or rejection of such conduct is used as a basis for employment decisions.
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment. This may include displaying sexually-suggestive visuals, calendars, graffiti or objects and/or offensive language, jokes, gestures or comments. Offensive or harassing behavior will not be tolerated against any employee. This policy covers vendors, customers or others who enter our workplace. Supervisory or managerial personnel are responsible for taking reasonable action to end such behavior in their workplace.
2. **Other Forms of Harassment:** All slurs, jokes and/or other verbal, non-verbal or physical conduct relating to an individual's race, color, national origin, disability, age, religious beliefs, veteran status, sexual orientation, or other protected classes constitute harassment when this conduct:
 - a. Has the purpose or effect of creating an intimidating, hostile or offensive working environment.
 - b. Has the purpose or effect of interfering with an employee's work performance.
 - c. Adversely affects an employee's employment opportunities.
3. **Discrimination:** Action of discrimination against or favoring any employee on the basis of race, color, creed, national origin, religion, sex, age, disability, veteran status, or sexual orientation in any aspect or terms of conditions of employment.
4. **Retaliation:** Any adverse employment action against an individual for reporting discrimination or harassment or for participating in an investigation of a claim of discrimination or harassment.

17.3 MANAGEMENT RESPONSIBILITY

It is the responsibility of each supervisor and manager to create and maintain an atmosphere free of any harassment, discrimination or retaliation. Any supervisor or manager who is aware of or suspects the existence of any form of harassment, discrimination or retaliation occurring within the work place shall take appropriate action, as specified in this chapter.

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17.4
EMPLOYEE RESPONSIBILITY

All City of Mesquite employees are responsible for helping to prevent harassment, discrimination or retaliation of any kind. Management will investigate all complaints to determine if the conduct constitutes harassment, discrimination or retaliation.

17.5
REPORTING HARASSMENT,
DISCRIMINATION OR RETALIATION

An employee who feels that he or she has witnessed any type of harassment, discrimination or retaliation or has been subjected to any type of harassment, discrimination or retaliation should use the complaint procedures set out in Chapter 17, Section 17.5 below. All employees must cooperate with an investigation into a complaint of any harassment, discrimination or retaliation.

An employee should normally report any harassment, discrimination or retaliation complaint to their supervisor. If the employee's supervisor is unavailable, the employee's supervisor is the cause of the complaint, or if the employee believes that it would be inappropriate to contact that person, the complaint should be reported to another supervisor in the employee's department or to a supervisor in the Human Resources Department. The supervisor to whom the complaint is reported will notify the Human Resources Director.

When a complaint is reported, the employee will be asked by the Human Resources Director or other investigating director or supervisor to provide a written and signed statement that details, as specifically as possible, the alleged harassment, discrimination or retaliation. The written statement should include the date(s) of the occurrences, the number of occurrences, an explanation of what happened, whether the person(s) against whom the complaint was filed was told that the conduct was unwelcome and what harm resulted from the alleged harassment, discrimination or retaliation.

17.6
CONFIDENTIALITY

The City of Mesquite will release information only on a need-to-know basis, maintaining confidentiality to the fullest extent possible throughout the investigation. Failure of an employee to comply with the confidentiality requirement of an investigation will subject the employee to disciplinary action, up to and including termination.

17.7
ADMINISTRATIVE INVESTIGATION

The Human Resources Director or a designee will investigate harassment, discrimination and retaliation complaints. If it is inappropriate for the Human Resources Director to investigate the complaint, the City Manager will assign another Director or Supervisor to conduct the investigation. Every effort will be made to begin investigating complaints immediately. The investigation normally will include, but is not limited to, interviewing the complaining party, the person(s) against whom the complaint was filed and any other employees required to obtain sufficient, factual information upon which determination can be made. Written statements will be signed. All employees must cooperate with the investigation. Failure to do so may result in disciplinary action, up to and including termination. Upon completion of the investigation, the Human Resources Director or appointed Director or Supervisor shall present a report of findings to the City Manager.

17.8
DISCIPLINARY ACTION

If the investigation concludes that harassment, discrimination or retaliation has occurred, the report to the City Manager will include a recommendation for remedial and disciplinary action. The City Manager and the department(s) involved will take prompt remedial measures to immediately end the offending misconduct. An employee who is found to have engaged in harassment, discrimination or retaliation will be subject to disciplinary action, up to and including termination. The City Manager will determine the severity of the discipline, which will be determined in accordance with the provisions of Chapter 8 of this Policies and Procedures Manual and on a case-by-case basis, taking into consideration the severity and nature of the offense, the context in which it occurred and the past record of the employee found to have engaged in harassment, discrimination or retaliation. The decision of the City Manager will be final subject to appeal to the Trial Board if the action results in suspension, involuntary demotion or disciplinary termination. The complaining party will be advised of the final disposition of the complaint.