

# City of Baytown Administrative Rules



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# Chapter 1. General Provisions

## **Chapter 1. Section 1: Equal Employment Opportunity: Respectful Workplace**

It is the policy of the City of Baytown to treat all employees, citizens, contractors, and customers with dignity and respect. Consistent with this policy, the City is fully committed to a workplace that is founded on equal opportunity and free from unlawful discriminatory action.

The City upholds five core values:

- Caring
- Collaboration
- Innovation
- Stewardship
- Leadership

These values play an important role in guiding our actions at the City. These foundational values provide our employees a baseline for determining appropriate workplace conduct and behavior.

As part of the New Employee Orientation Program, new employees will be trained on the City's policies and practices to prevent discrimination, retaliation, harassment, and sexual harassment, as well as communicating in a diverse organization. To support the core values, training is required of all new employees.

Employees have the responsibility to understand all aspects of these policies and are trusted to act responsibly to maintain a respectful working environment, free from discrimination, retaliation, harassment, and sexual harassment allowing each employee to perform to his/her maximum potential.

### **RESPONSIBILITIES**

Discrimination, retaliation, harassment, and sexual harassment can be prevented if each employee will treat others with respect, courtesy, and maintain a professional working relationship.

Anyone believing that they have been discriminated against, retaliated against, harassed, sexually harassed or has observed what they believe to be misconduct of this nature should:

- 1) Inform the offending individual that his/her behavior or action is not welcome and ask him/her to stop immediately. Be specific with the offending individual about the behavior that the employee wants stopped and its negative effects. If the employee feels uncomfortable in a face-to-face discussion with the offending individual, the employee should state his/her position in writing to the offender.
- 2) If this does not result in resolution, the employee may report the alleged act immediately using the processes outlined in *Administrative Rules, Chapter 1, Section 5: Complaint Procedures*.

### **EMPLOYEE GUIDELINES**

Employees are required to follow the following guidelines:

- 1) Be aware of, understand, and comply with, the City's Personnel Policy and Administrative Rules.
- 2) Evaluate in advance the possible impact of your actions on others --- if employees have any doubts about whether their behavior might be offensive, DON'T DO IT!
- 3) Ask themselves the following questions: Would I do or say the same thing if my supervisor, spouse, parent, or child were present? Would I take the same action if I knew it would be

published with my name in the local newspaper or social media? How would I feel if someone else said or did the same thing to a member of my own family?

- 4) Be courteous and respectful of others and their individual differences.
- 5) Cooperate fully and honestly with the individuals involved with investigating allegations of inappropriate conduct.

## **MANAGEMENT GUIDELINES**

The City's Directors and supervisors are responsible for promoting and maintaining a workplace which is free from discrimination, retaliation, harassment, and sexual harassment, by taking the following actions:

- 1) Set a personal example by carefully monitoring their own actions/language to treat others with respect and dignity.
- 2) Ensure every employee in their department/division (both full-time and part-time) is fully aware of and has access to the City's policies and resources to find out additional information.
- 3) Take all harassment allegations seriously and provide a supportive environment to help resolve the individual's concerns. Remain impartial/non-judgmental while listening to the individual's concerns.
- 4) Maintain an open-door policy to encourage those with concerns to come forward.
- 5) Contact the Human Resources Department to obtain guidance when informed and/or alerted to an allegation of inappropriate conduct.

## **HUMAN RESOURCES GUIDELINES**

The Human Resources Department is responsible for promoting and maintaining a workplace which is free from discrimination, retaliation, harassment, and sexual harassment, by taking the following actions:

- 1) Initiate a prompt, objective formal or informal investigation of all allegations. The investigatory information will remain confidential except for individuals identified as need-to-know.
- 2) Provide involved parties with an opportunity to present their perceptions and remain impartial/non-judgmental during the investigatory process.
- 3) Assist the department in taking consistent and appropriate disciplinary action when warranted based on the facts surrounding the situation and provide feedback to the appropriate individual(s) regarding the final resolution.
- 4) Provide training to all City employees on a regular and timely basis.
- 5) Review program results and make recommendations to the City Manager to improve the program as required.

## **CONSEQUENCES**

Any violation of these policies may result in appropriate disciplinary action, up to and including termination. In addition, an employee found to not cooperate or provide full disclosure in an investigation may be subject to disciplinary action, up to and including termination.

## **Chapter 1. Section 2: Discrimination and Retaliation Prevention**

### **PURPOSE**

The purpose of this policy is to prevent discrimination and retaliation at all levels of employment with the City and to provide a uniform procedure for consistent, fair, and timely resolution of discrimination and retaliation complaints of City employees.

### **SCOPE**

This policy applies to all City employees, including full-time, part-time, temporary/seasonal, elected officials, and volunteers/community service workers.

### **PROHIBITIONS**

The City of Baytown expressly prohibits discrimination and retaliation at all levels of City employment.

This policy covers discrimination allegations of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national origin, age, disability, or genetic information, as well as any other category protected by federal, state, or local laws, in promotion, transfer, compensation, terms, conditions, or privileges of employment. Further, the City has made a full commitment that it will not discriminate against any individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. An applicant, employee, or employee who is seeking a promotional opportunity and is requesting an accommodation should contact the Human Resources Department and complete the City of Baytown's "Reasonable Accommodation Request Form." (For further details, see the City of Baytown's *Personnel Policy Manual, Chapter 1, Section 3: Discrimination & Retaliation-Free Work Environment.*)

This policy also covers claims that an employee is being retaliated against for reporting a violation of law (Whistleblower), opposing unlawful discriminatory employment practices, making a good faith complaint under this policy, or for participating in the investigation of such a complaint.

### **CONSEQUENCES FOR VIOLATION OF THIS POLICY**

If, after an investigation of the allegations, the City of Baytown determines that an employee has discriminated or retaliated against another in violation of this policy, disciplinary action, up to and including termination will be taken against the perpetrator. Supervisors are accountable and have an obligation to pursue a discrimination and retaliation-free workplace environment.

### **DISCRIMINATION AND RETALIATION COMPLAINT PROCEDURE**

If any employee feels that he or she has been discriminated or retaliated against in violation of this policy, he or she should immediately report the alleged activity using the process outlined in *Administrative Rules, Chapter 1, Section 5: Complaint Procedures*. Employees have the right to report the incident to any manager or supervisor, and the right to file a complaint with the Human Resources Department. A complaint received by a manager or supervisor will be promptly forwarded to the Director of Human Resources. Complaints can be made either in writing or verbally. Any anonymous complaint will be investigated fully based on the information provided in the original complaint. Anyone who has observed discriminatory or retaliatory conduct should immediately report it to the Director of Human Resources or designee. A complaint need not be limited to someone who was the target of discrimination or retaliation.

### **INVESTIGATION OF DISCRIMINATION AND RETALIATION COMPLAINTS**

The Director of Human Resources, or designee, shall cause the matter to be promptly investigated. All parties involved in the investigation of a complaint must provide full and complete information relevant

to the complaint. The complainant and the accused party will be informed of the results of this investigation.

## **POSSIBLE LIMITS ON CONFIDENTIALITY**

While the City will not disclose an investigation except as provided herein, under existing Texas law, confidentiality cannot be assured and requests may need to be referred to the Attorney General. An investigation of a complaint may necessitate divulging information to individuals who are directly named in the complaint, or who may have witnessed the alleged discriminatory/retaliatory activity, or others with a need or right to know.

## **RETALIATION**

Retaliation, in any form, against an employee for reporting a complaint in good faith under this policy, or for assisting in the investigation of such a complaint, is prohibited. Any incident of retaliation shall be immediately reported in writing by the employee to the Director of Human Resources, or designee.

### ***Chapter 1. Section 3: Harassment Prevention Policy***

## **PURPOSE**

The purpose of this policy is to prevent harassment at all levels of employment with the City and to provide a uniform procedure for consistent, fair, and timely resolution of harassment complaints of City employees.

## **SCOPE**

This policy applies to all City employees, including full-time, part-time, temporary/seasonal, elected officials, and volunteers/community service workers.

## **PROHIBITIONS**

The City of Baytown expressly prohibits harassment at all levels of City employment.

The City of Baytown does not condone and will not tolerate harassment of any of its employees on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national origin, age, disability, or genetic information, as well as any other category protected by federal, state, or local laws. Sexual harassment is dealt with by a separate policy referenced in *Administrative Rules, Chapter 1, Section 4: Sexual Harassment Prevention Policy*.

Harassment may include physical or verbal conduct, including jokes which belittle, denigrate, or intimidate on the basis of the above listed categories, or insulting remarks, as well as graphic representations. Harassment is abusive, obscene, or threatening conduct or communication that is intended to harass, annoy, alarm, torment, embarrass or injure another. Harassment of employees by supervisors, co-workers, elected officials, citizens, customers, visitors, contractors, or other third parties will not be tolerated.

## **CONSEQUENCES FOR VIOLATION OF THIS POLICY**

If, after an investigation of the allegations, the City of Baytown determines that an employee has harassed another individual in violation of this policy, disciplinary action, up to and including termination will be taken against the harassing employee. If an individual other than a City employee is in violation of this policy, other appropriate actions will be taken. Supervisors are accountable and have an obligation to pursue a harassment-free workplace environment.

## **HARASSMENT COMPLAINT PROCEDURE**

If any employee feels that he or she has been harassed in violation of this policy, he or she should immediately report the alleged harassment using the process outlined in *Administrative Rules, Chapter 1, Section 5: Complaint Procedures*. Employees have the right to report the incident to any manager or supervisor, and the right to file a complaint with the Human Resources Department. A complaint received by a manager or supervisor will be promptly forwarded to the Director of Human Resources. Complaints can be made either in writing or verbally. Any anonymous complaint will be investigated fully based on the information provided in the original complaint. Anyone who has observed harassing conduct should immediately report it to the Director of Human Resources or designee. A complaint need not be limited to someone who was the target of harassment.

## **INVESTIGATION OF HARASSMENT COMPLAINTS**

The Director of Human Resources, or designee, shall cause the matter to be promptly investigated. All parties involved in the investigation of a complaint must provide full and complete information relevant to the complaint. The complainant and the accused party will be informed of the results of this investigation.

## **POSSIBLE LIMITS ON CONFIDENTIALITY**

While the City will not disclose an investigation except as provided herein, under existing Texas law, confidentiality cannot be assured and requests may need to be referred to the Attorney General. An investigation of a complaint may necessitate divulging information to individuals who are directly named in the complaint, or who may have witnessed the alleged harassing conduct, or others with a need or right to know.

## **RETALIATION**

Retaliation, in any form, against an employee for reporting a complaint in good faith under this policy, or for assisting in the investigation of such a complaint, is prohibited. Any incident of retaliation shall be immediately reported in writing by the employee to the Director of Human Resources, or designee.

### ***Chapter 1. Section 4: Sexual Harassment Prevention Policy***

## **PURPOSE**

The purpose of this policy is to prevent sexual harassment at all levels of employment with the City and to provide a uniform procedure for consistent, fair, and timely resolution of harassment complaints of City employees.

## **SCOPE**

This policy applies to all City employees, including full-time, part-time, temporary/seasonal, elected officials, and volunteers/community service workers.

## **DEFINITIONS**

The City of Baytown does not condone any behavior or action which constitutes sexual harassment. Under the Equal Employment Opportunity Commission (EEOC) guidelines, sexual harassment in the workplace is described as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1) submission to such conduct is either expressed or implied as a term or condition of an individual's employment;

- 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

## PROHIBITIONS

The City of Baytown expressly prohibits sexual harassment at all levels of City employment.

Sexual harassment of employees by supervisors, co-workers, elected officials, customers, visitors, contractors, or other third-parties will not be tolerated. The City of Baytown specifically prohibits the following behaviors:

- Unwelcome sexual advances, defined as any invitation, no matter how blatant or subtle, which is intended to result in coerced sexual intercourse; requests for sexual favors; and all other verbal or physical conduct of a sexually offensive nature, especially where:
- submission to such conduct is clearly expressed or implied as a condition of employment by the person with authority by directly or indirectly threatening to base work-related decisions affecting an individual's employment on such submissions (e.g., promotions, desirable work assignments, future job opportunities, performance appraisals, merit pay recommendations, disciplinary actions up to and including termination). This is known as "Quid Pro Quo" harassment which means "this for that." Quid Pro Quo harassment occurs when a supervisor makes submission to sexual conduct a term or condition of employment and uses it as a basis for employment decisions that affects subordinates.
- such conduct has the purpose or effect of creating a hostile work environment. Examples of this type of sexual harassment include repeated, unwelcome sexual flirtations, advances, or propositions; continued or repeated verbal abuse of a sexual nature; the display of sexually-suggestive objects, pictures, or words; any uninvited and unwelcome physical contact or touching including patting, hugging, pinching, or constant brushing against another's body; threats, or assaults. A hostile environment is created when there is conduct occurring that a "reasonable" person standing in the shoes of the victim (whether female or male) would find offensive, and the conduct interferes with the victim's peace of mind, ability to do her/his job, or alters the nature of the work environment or employment relationship (even if the employee's salary, benefits, promotional and advancement opportunities, are not affected). Generally, for a hostile work environment to exist, more than an isolated incident must occur.
- Continued or repeated sexually explicit comments or behavior. While it is not possible to list all circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcomed, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:
  - 1) Unwelcome sexual advances, whether they involve physical touching or not;
  - 2) Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, the use of derogatory and insulting terms related to an employee of the same or opposite sex, comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess;
  - 3) Displaying sexually suggestive objects, pictures, calendars, cartoons, or text;
  - 4) Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments or sounds;
  - 5) Inquiries into one's sexual experiences;
  - 6) Discussion of one's sexual activities; and

- 7) Use of electronic media in violation of this policy.

## **CONSEQUENCES FOR VIOLATION OF THIS POLICY**

If, after an investigation of the allegations, the City of Baytown determines that an employee has sexually harassed another in violation of this policy, disciplinary action, up to and including termination will be taken against the harassing employee. Supervisors are accountable and have an obligation to pursue a sexual harassment-free workplace environment.

## **SEXUAL HARASSMENT COMPLAINT PROCEDURE**

If any employee feels that he or she has been sexually harassed in violation of this policy, he or she should immediately report the alleged harassment using the process outlined in *Administrative Rules, Chapter 1, Section 5: Complaint Procedures*. Employees have the right to report the incident to any manager or supervisor, and the right to file a complaint with the Human Resources Department. A complaint received by a manager or supervisor will be promptly forwarded to the Director of Human Resources. Complaints can be made either in writing or verbally. Any anonymous complaint will be investigated fully based on the information provided in the original complaint. Anyone who has observed sexually harassing conduct should report it to the Director of Human Resources or designee. A complaint need not be limited to someone who was the target of harassment.

## **INVESTIGATION OF SEXUAL HARASSMENT COMPLAINTS**

The Director of Human Resources, or designee, shall cause the matter to be promptly investigated. All parties involved in the investigation of a complaint must cooperate fully and provide full, complete known information relevant to the complaint. The complainant and the accused party will be informed of the results of this investigation.

## **POSSIBLE LIMITS ON CONFIDENTIALITY**

While the City will not disclose an investigation except as provided herein, under existing Texas law, confidentiality cannot be assured and requests may need to be referred to the Attorney General. An investigation of a complaint may necessitate divulging information to individuals who are directly named in the complaint, or who may have witnessed the alleged harassing conduct, or others with a need or right to know.

## **RETALIATION**

Retaliation, in any form, against an employee for reporting a complaint in good faith under this policy, or for assisting in the investigation of such a complaint, is prohibited. Any incident of retaliation shall be immediately reported in writing by the employee to the Director of Human Resources, or designee.

### ***Chapter 1. Section 5: Complaint Procedures***

This policy exists to provide employees a means by which they may report an incident if they are the target of or the witness to violations that may require corrective action. All City employees are encouraged to speak out when they are witnesses to inappropriate behavior that violates the City's Core Values, City wide policies and procedures, Departmental policies and procedures, Federal, State, or local laws.

The employee may first attempt to resolve the complaint by having a discussion with their supervisor. Employees are encouraged to use the organizational chain of command in these discussions, if possible. If this does not result in a resolution which is satisfactory to the employee, the employee may file a formal complaint. A complaint of a sensitive nature against a direct supervisor may be taken to the next level in the chain of command or to the Director of Human Resources or designee. Complaints involving harassment, sexual harassment, discrimination, or retaliation should be brought to the

immediate attention of the Director of Human Resources or designee. The Director of Human Resources shall cause the matter to be promptly investigated.

In order to file a complaint, the employee will use the **City of Baytown Complaint Form** and provide it to the Director of Human Resources, or designee, promptly after the cause of the complaint arises or becomes known to the employee. In some instances, an oral rendering of the complaint may serve as the basis of a written complaint.

The Human Resources Department will undertake the appropriate investigation and make recommendations for action, which could include a discussion forum for the resolution of the complaint.

Before corrective action may be taken on a complaint against a City employee, the complaint must be documented and include a statement of the specific remedial action requested. The complaint shall be presented to the Human Resources Department for investigation and to make appropriate recommendations for action within a reasonable time frame dependent upon the complexity of the complaint. Human Resources will communicate the outcome of the investigation to the affected parties within ten (10) working days after completion of the investigation.

All parties involved in the investigation of the complaint must provide full and complete information relevant to the complaint. The complainant and the accused will be informed of the results of the investigation.

While the City will not disclose an investigation except as provided herein, under Texas law, confidentiality cannot be assured and requests may have to be referred to the Attorney General. An investigation of a complaint may necessitate divulging information to individuals who are directly named in the complaint, or who may have witnessed the alleged behavior, or others with a need or right to know.

The City is committed to upholding the requirements of all state and federal laws including applicable Whistleblower Act(s). The City will not suspend, terminate, or otherwise discriminate against an employee who appropriately reports a violation of law to an appropriate authority if the employee report is made in good faith.

Employee rights include:

- Right and/or duty to report violations of law
- Right to report unsafe act or condition
- Right to file a Workers' Compensation Claim
- Right to file a grievance
- Right to file a complaint of alleged misconduct, harassment, or discrimination.

Retaliation, in any form, against an employee for reporting a complaint in good faith or for assisting in the investigation of such a complaint, is prohibited. Any incident of retaliation shall be immediately reported by the employee to the Director of Human Resources, or designee.

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Discipline, up to and including termination will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action will be imposed in situations where claims of prohibited conduct were untruthful, fabricated or exaggerated or when employees are untruthful during an investigation.

### **Chapter 1. Section 6: HIPAA Privacy Policy and Procedures**

It shall be the policy of the City of Baytown to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), its implementing regulations regarding the restrictions on the use and disclosure of protected health information (PHI), and any subsequent changes contained in the

Health Information Technology for Economic and Clinical Health Act (HITECH), which is Title XIII of the American Recovery and Reinvestment Act (ARRA) of 2010. "The Plan" is the self-funded Group Health and Dental plans.

The Director of Human Resources has been designated by the City Manager as the Privacy Officer for the Plan. The City's Privacy Officer will be responsible for the development and implementation of policies and procedures relating to privacy. The Privacy Officer will also serve as the contact person for participants who have questions, concerns, or complaints about the privacy of their PHI.

PHI will only be used and disclosed as permitted under HIPAA. For purposes of this policy, "use" is known as the sharing, employment, application, utilization, examination, or analysis of individually identifiable health information by certain persons working for or within the Human Resources Department of the City, or by a Business Associate of the Plan. For protected health information, "disclosure" means any release, transfer, provision of access to, or divulging in any other manner of individually identifiable health information to persons not employed by or working within the Human Resources Department of the City.

These employees may use and disclose PHI for Plan Administrative functions, and they may disclose PHI to other employees within the Human Resources Department. Any PHI accessed by these employees may not be disclosed by these employees to anyone outside the Human Resources Department unless an authorization from the affected party is in place.

#### **PERMITTED USE AND DISCLOSURE OF PHI**

PHI shall be disclosed for the Plan's own payment purposes, and shall be disclosed to another covered entity for the payment purposes of that covered entity.

The term "payment" includes activities undertaken to obtain Plan contributions or to determine or fulfill the Plan's responsibility for provision of benefits under the Plan, or to obtain or provide reimbursement for health care.

PHI shall also be disclosed for purposes of conducting some of the Plan's activities related to its own operations.

#### **PERMISSIVE DISCLOSURES OF PHI**

PHI shall be disclosed without a participant's authorization for certain situations involving legal and public policy purposes. The City's Privacy Officer will review such requests to ensure they meet necessary requirements for disclosure.

#### **POLICY VIOLATION**

Any improper use or disclosure of PHI in violation of the HIPAA Privacy Policy will be grounds for disciplinary action up to and including termination. The City shall mitigate, to the extent possible, any harmful effects that become known to it from the improper use or disclosure of the employee's PHI.

No employee may intimidate, threaten, coerce, discriminate against, or take other retaliatory action against individuals for exercising their rights, filing a complaint, participating in an investigation, or opposing any improper practice under HIPAA. No individual shall be required to waive their Privacy rights under HIPAA as a condition of treatment, payment, enrollment, or eligibility.

#### ***Chapter 1. Section 7: Employee Access to Personnel Records and Management Files***

An employee who wishes to see his/her personnel records should contact the Human Resources Department, where a representative shall assist the employee. An employee may inspect his/her files and may take notes or have single copies made of any page in the file. No employee is allowed to remove any City of Baytown documentation from any personnel file. In such cases, an employee may be terminated for removing City property. An employee has the right to request a correction or deletion of inaccurate information. Approval for correction or deletion of any material rests with the Director of

Human Resources and such request must be submitted in writing. In case of disagreement, the employee may add a statement of disagreement in the file.

### **Chapter 1. Section 8: Emergency Conditions**

The citizens of Baytown depend on City employees before, during and after an emergency or disaster to provide quality customer service in maintaining and/or restoring essential public services for the health, safety and quality of life for our community. City employees demonstrate pride and a commitment to quality customer service by ensuring a continuation of public services during the essential periods of every emergency or disaster. This policy sets out responsibilities of City employees before, during, and after disasters to ensure that City employees function as a team in preparing the City's vital assets, maintaining essential City services and in restoring City services.

Since all City employees, in the course and scope of their employment, provide services for the benefit of the general public during emergency situations, this Policy applies to all City employees. Effective upon the City Manager's approval of this Policy, and any subsequent revisions thereto, all City job descriptions are hereby amended to require incumbents to provide services in the course and scope of their employment for the benefit of the general public during emergency situations that threaten the safety of Baytown's citizens.

The actions necessary under this Policy will be implemented whenever the City Manager, or designee, in accordance with the City Emergency Management Plan (EMP), declares that emergency conditions warrant it, either in preparation for, or as a reaction to, one or more disastrous events such as: a civil disturbance, hurricane, tornado, earthquake, flood, ice storm, fire, chemical accident including a hazardous material spill, possible public exposure to hazardous conditions, or other disasters which threaten the safety of Baytown's citizens.

### **POSITION DESIGNATION AND RESPONSIBILITIES**

All employees of the City hold essential service positions and, as part of the City's Emergency Response Team, provide services in the course and scope of their employment for the benefit of the general public during emergency situations that threaten the safety of Baytown's citizens. All City employees may be required to work immediately before, during, or immediately after an emergency or disaster as required by the circumstances. Employees may be assigned and required to perform different tasks/duties, and assigned to a different management or supervisor during pre- and post- disaster periods. Directors will make assignments for employees based on the organization needs and the employee's skills.

### **Chapter 1. Section 8a: Readiness Conditions**

The procedures of the Emergency Services Personnel Policy will correspond to the increased readiness actions in the Emergency Operations Plan (EOP). The Baytown Fire Department, Emergency Management Division will notify departments of any change in Readiness Levels. Hazardous conditions include, but are not limited to, one or more disastrous events, such as: a civil disturbance, hurricane, tornado, earthquake, flood, ice storm, fire, chemical accident including a hazardous material spill, possible public exposure to hazardous conditions, acts of terror, or other disasters which threaten the safety of Baytown's citizens.

- Normal Conditions Phase – (EOP Level 4 – Normal Conditions)

Customer service and responsiveness is the daily job of all City employees. Employees are responsible to the citizens of Baytown for providing for their safety, health and welfare in event of a state of emergency or disaster.

- Watch Phase – (EOP Level 3 – Increased Readiness)

Indicates the existence of a potential danger that could develop into a hazardous condition requiring a higher degree of readiness than Readiness Level 4, but is not an immediate threat

to life or property. The hazardous condition has the probability of requiring moving into Readiness Level 2.

Employees will review procedures with their families and inform them of the probability of Readiness Level 2 and make final arrangements. It is the responsibility of the employee to be prepared for Readiness Level 2.

Supervisors and employees will be allowed to secure their homes and belongings during this Phase as approved by the Department Director, or designee.

- **Warning Phase – (EOP Level 2 – High Readiness)**

A situation has definite characteristics of becoming hazardous, and there is significant probability of injury and/or property damage.

Employees will remain at work until dismissed by their supervisor in accordance with the department's operational demands and Emergency Operations Plan.

Department Directors will reassess on a case-by-case basis all approved conference and vacation leave requests for employees who are currently on vacation or personal leave or who have scheduled leave at the time Readiness Level 2 is activated (Warning Phase) and will use discretion in deciding to cancel, re-approve, or reschedule the leave.

Employees who are on approved leave are responsible for calling in to their Department Directors, or designees. Based on circumstances, the Department Director may use discretion to cancel or re-approve such leave.

If the employee is out of state or country, and does not learn from available media of the opening of the Emergency Operations Center or of a general emergency that would likely cause activation of the Emergency Operations Plan in Baytown, he/she will not know to call in. Under such circumstances, the employee's approved leave will not be cancelled.

- **Essential Services Phase – (EOP Level I – Maximum Readiness)**

A hazardous condition is imminent or has occurred. Emergencies such as a civil disturbance, hurricane, tornado, earthquake, flood, ice storm, fire, chemical accident including a hazardous material spill, possible public exposure to hazardous conditions, or other disasters which threaten the safety of Baytown's citizens will result in declaration of Readiness Level 1.

- **Release of Personnel**

For an emergency event that threatens lives or property, management may identify personnel to be considered as non-essential for that specific event, who may be released from duty. Any employee that is designated as non-essential for a specific event will be notified by a management-designated representative. Any such designation will apply only to the specific emergency. The department will maintain a list of essential personnel that have been temporarily designated as non-essential and released from duty, including the date and time of their release and by whom they were notified.

- **Return-to-Duty Phase**

By reporting to duty as directed, each employee meets his/her responsibility to work with other City employees as a team in restoring the community to normal service levels following a disaster. Following the announcement of the Return-to-Duty Phase by City Officials, employees who were released for the Essential Services Phase will report to work at the start of the next normal shift unless otherwise directed to call in or report sooner.

- 1) Employees who cannot report at the start of the next normal shift must call in, or otherwise contact their supervisor, or designee; at or before the time the employee's shift begins.

- 2) Employees must make every attempt within reason to contact their supervisor, or designee, to report their inability to report to work and request authorized leave. Mitigating circumstances that prohibit the employee from calling in, or reporting to duty at the next normal shift, will be considered on a case-by-case basis based on the facts of each circumstance.
- 3) Failure of employees to call in or otherwise contact their supervisor, or designee, will result in the leave being designated "unauthorized without pay", and subject the employee to disciplinary action up to and including termination depending on the circumstances.

***A telephone number (281-420-5820) has been established solely for employees to obtain information on the Return-to-Duty Phase. If an employee is out of the area they may call "collect" to this number at no cost.***

### **Chapter 1. Section 8b: Positions and Responsibilities**

#### **CITY MANAGER AND DEPARTMENT DIRECTORS**

On or before May 31st each year, the Department Director or designee will meet with assigned personnel and train employees on the content of the Emergency Services Personnel Policy, as last revised, and secure a signed **Acknowledgement Form** from each employee stating he/she had an opportunity to ask questions on the Policy and understand his/her responsibilities.

Department Directors, or designees, will document all hours worked by non-exempt and exempt personnel assigned to their department or work tasks during Readiness Conditions 3 through 1, including their assignments.

#### **SUPERVISORS**

Supervisors are responsible for the support and implementation of this Policy in a consistent and fair manner. Supervisors are responsible to their Department Directors for documentation, reporting potential violations of this Policy by employees, assisting with fact-finding, and assisting the Department Director in the initiation of necessary disciplinary action.

Supervisors are responsible for ensuring that each employee under their supervision correctly completes and signs his/her **Emergency Conditions Personnel Policy Acknowledgement Form**.

#### **CITY EMPLOYEES**

Each employee is responsible for knowing his/her responsibilities under this Policy. Compliance with this Policy is mandatory. Each employee is responsible for calling in, and reporting as directed, to the Emergency Operations Center, or elsewhere as otherwise assigned.

Employees are required to report to their direct supervisor, or as directed under the Return-to-Duty Phase of this Policy.

Employees are required to maintain an up-to-date employee identification card. Employees are required to carry their I.D. badge with them at all times while on duty or during an evacuation to help facilitate their return to work after an emergency.

Employees who do not have a telephone will be required to contact their Department Director, or designee, in person and on their own initiative, in a reasonable time period, upon knowledge that the Mayor, City Manager, or their designees, have announced the opening of the Emergency Operations Center or the need for employees to report to duty regardless of the Readiness Condition at the time of the announcement. This knowledge includes general media information regarding a potential emergency situation that may impact the Baytown area.

### **Chapter 1. Section 8c: Action**

A violation of this policy may result in disciplinary action up to, and including, termination. Appropriate action will be taken based on the individual circumstances as decided by the applicable Department Director and the Director of Human Resources.

An employee can violate this Policy by:

- 1) Refusing to perform assigned duties required by this Policy or to obey any order or direction made or given by a supervisor.
- 2) Failing to report for duty or to remain on duty as directed during any applicable Phase of this Policy.
- 3) Failing to abide by City Policy, departmental rules or regulations, Standard Operating Procedures (SOP's), Emergency Operations safety plan.
- 4) Any conduct that interferes with, or might reasonably be expected to interfere with, the proper and orderly conduct of the City's business, preparation or response to an emergency or potential emergency, or brings, or might reasonably be expected to bring, discredit on the public service.
- 5) Failure of an employee to sign the **Acknowledgement Form**.

### **Chapter 1. Section 8d: Pay Provisions**

#### **EMERGENCY PERIOD**

This period begins with the issuance of a disaster declaration, state of emergency, public health emergency, or at the discretion of the City Manager during an undeclared emergency situation.

The emergency declaration ends at the discretion of the City Manager, but shall not exceed 7 business days unless the local declaration, local state of emergency, or local public health emergency issued by the Mayor is extended by City Council.

#### **CITY CLOSURE AND ADMINISTRATIVE LEAVE:**

Employees released from duty by the City Manager due to the closure of City operations may receive compensation (administrative leave with pay) at their regular rate of pay for regular scheduled hours until the City Manager, or designee, declares the date and/or time when all employees are required to return to work. **Administrative leave is non-worked time for the purpose of overtime calculations.**

Employees who have previously scheduled accrued time off during the emergency period will not be allowed to change their time off to administrative leave with pay.

Employees actively working the emergency or disaster situation cannot be granted Administrative Leave hours concurrent or overlapping with actual hours worked.

#### **LEAVE FOR INDIVIDUAL AND FAMILY PREPARATIONS:**

Employees may be allowed time off if necessary to secure their families and property as approved by the employee's Department Director, or designee. Employees will be allowed to use accrued vacation, holiday, compensatory time, or leave without pay if paid leave is exhausted, for this purpose.

#### **HOURS OF WORK DURING EMERGENCY PERIOD:**

When a local or state declaration of disaster or presidential state of emergency or declaration of disaster has occurred and the event affects Baytown as referenced above, City employees engaged in emergency or disaster activity may be placed on rotating 12-hour duty shifts. This 12-hour shift rotation may be maintained for the duration of the emergency or disaster and until released for return to normal work hours by the City Manager.

## **EMERGENCY PAY PROVISIONS:**

During the emergency period **Non-Exempt employees** who are actively working the emergency, or who are stationed or staged for emergency response, **will receive 1.5 times their base rate** of pay for all hours worked where they were

- performing duties related to essential operations of the City
- staged or stationed at a duty site with restricted movement
- on-call on City premises, or so close to the premises, that the employee cannot use the time effectively for their own purposes.
- working remotely if those hours were mandated by their department director as being essential to City operations during the emergency event.

During the emergency period **Exempt employees** who are actively working the emergency, or who are stationed or staged for emergency response, **will receive their base salary plus additional pay at their regular rate** for each hour worked over 40 hours where they were

- performing duties related to essential operations of the City
- staged or stationed at a duty site with restricted movement
- on-call on City premises, or so close to the premises, that the employee cannot use the time effectively for their own purposes.
- working remotely if those hours were mandated by their department director as being essential to City operations during the emergency event.

**Civil Service employees** (uniformed fire and police personnel) will be paid in compliance with their FLSA 207(k) exemption.

## **EMERGENCY ON-CALL AND CALL BACK:**

Employees who are permitted to leave the work place between shifts, but are required to be available to be called to duty as needed are considered to be on call. If recalled to work, the employee will be compensated per this policy for all hours spent working. On-call hours not spent working will not be compensated unless the on-call conditions or location are such that the employee cannot use the time effectively for their own purposes.

Non-exempt employees who are called in to work during normal off time, and who are subsequently released from duty due to emergency conditions, shall be paid a minimum of two (2) hours at 1.5 times their regular rate of pay, or for the number of actual hours worked at 1.5 times their regular rate of pay, whichever is greater.

## **ABSENCE FROM DUTY DURING EMERGENCY OR DISASTER:**

Employees who fail to report for duty, or leave their assigned duty at any time during any "Emergency" or "Disaster" without approved leave shall be unpaid and are subject to disciplinary action up to and including termination.

## **RETURN TO NORMAL PAY:**

When the local disaster declaration expires, or when the City Manager decides that it is safe for all employees to return to work, employees will be paid according to the normal pay policy. The only exception to this rule would be employees who are serving on Specialized Disaster Recovery Teams.

## **SPECIALIZED DISASTER RECOVERY TEAMS:**

Following a major disaster, specialized teams may be formed to clear debris or perform other duties essential to restoring City services. These teams will be designated by the City Manager and Department Directors. **Non-exempt** members of these specialized teams will be compensated under regular FLSA rules at the rate of 1.5 times their base pay for hours worked over 40. **Exempt** members of these teams will also be eligible for 1.5 times their base pay for hours worked over 40. The City manager and Department Directors will determine when these specialized teams are dissolved and exempt employees involved in recovery activities revert back to regular rates of pay. This Recovery Period will end by order of the City Manager when recovery operations cease and all specialized disaster recovery team employees will revert back to regular rates of pay per the city's normal compensation policy.

### ***Chapter 1. Section 8e: Emergency Event Leave***

#### **PURPOSE**

The purpose of this policy is to provide guidance and instruction to employees on how to manage time away from work if a leave of absence is needed during a declared emergency event.

#### **BACKGROUND**

In the event of a wide scale emergency (as declared by the City Manager or an authorized designee), the City of Baytown must balance a variety of objectives when determining how best to ensure the continuity of operations and reduce the impact on the workplace. If an emergency rises to the level that results in school dismissals, child care program closures, quarantine, and the like, the City will permit an employee appropriate time away from work to provide care for their children, themselves and/or other immediate family members in a manner that allows for the continuity of the required City operations and service delivery.

#### **DEFINITIONS**

- **FMLA (Family Medical Leave Act)** - A leave designation that applies to qualified employees experiencing serious health conditions themselves or by their immediate family members and which runs concurrently with other types of leave, such as sick leave, vacation leave, short-term disability, and worker's compensation, as well as leave without pay.
- **Leave of Absence** - A leave designation that applies to situations not covered by FMLA and which runs concurrently with other types of leave, such as sick leave, vacation leave, short-term disability, and worker's compensation, as well as leave without pay.

#### **SCOPE**

This policy will take immediate effect when an emergency is declared, as such, by the City Manager or authorized designee. This policy will remain in effect until the City determines that the emergency is no longer a threat to the organization or its employees. No part of this policy will be effective to the extent it conflicts with State or Federal law.

#### **PROCEDURES & RESPONSIBILITIES**

If an emergency is declared by the City Manager or authorized designee, employees may be forced to evacuate from their worksite and perform work from home, while others may need to take sick leave to recuperate from illness or assist with caring for immediate family members. It is important that all employees understand the various pay and leave flexibilities that may be utilized during an emergency crisis and to enable employees to stay home either for their safety or when ill, to care for an ill family member and/or dependent, or their children's schools or childcare programs close, or dismiss as a result

of the emergency. Employees required to stay home to take care of a child where the school or day care has closed, but there is no illness, will not qualify for the use of sick leave accruals under this policy. In the event of an emergency, the City reserves the right to adjust its leave policies, as well as may allow eligible employees to realize an appropriate negative sick leave balance.

To be eligible to accrue a negative sick leave balance, employees must be on approved FMLA leave unless the employee did not qualify solely based on the failure to have 12 months of employment with the City. Before an employee shall be allowed to enter into a negative sick leave balance they shall have exhausted all other applicable accrual balances such as vacation, holiday, and compensatory time.

Eligible employees will be permitted to accrue up to 80 hours of negative sick leave in the event a local emergency is declared by the City Manager or authorized designee. To be eligible, the employee must be a full-time employee, exempt or non-exempt, who works a minimum of forty (40) hours per week on a regular basis and has exhausted all other accrued leave balances. This negative sick leave balance will be considered a salary advance and require the employee to reimburse the City either through future accruals or cash payment.

If the leave qualifies as FMLA-protected leave, the City will require the employee to use paid sick leave, vacation leave, and other accruals pursuant to the FMLA policy.

If an employee's employment is terminated prior to satisfying the negative sick accrual, a deduction shall be made from the employee's final check to the extent allowed by law to cover the value remaining that was advanced to the employee or the employee shall make a cash payment to the City for the balance remaining. **The employee's acknowledgement of this policy will serve as evidence of receipt of this policy and shall serve as permission for the City to make said deduction, without the need for a separate agreement.**

During an emergency, the City may suspend return to work and fitness for duty policies that require a doctor's note or certification from a health care provider before employees may return to work.

In the event of a wide scale emergency or pandemic, where the employee is not ill, the employee may not take leave, or refuse to work, simply to avoid possible exposure in the workplace. Employees who may have a disability that creates an increased risk associated with the emergency are encouraged to notify Human Resources in order to seek an accommodation.

Any employee who fails to follow the requirements of this policy and/or falsifies any information or documentation related to their own or another's potentially life-threatening, contagious illness will be subject to disciplinary action in accordance with City policy up to and including termination.

## ***Chapter 1. Section 8e: Emergency Event Telecommuting***

### **PURPOSE**

This policy defines the City's use of telecommuting and establishes guidelines and rules for telecommuting when it is a viable work arrangement. Telecommuting is intended to create flexible conditions that will help employees accomplish their work effectively without disruption to City services especially leading up to, during and/or immediately after emergency events. Telecommuting may be appropriate for some employees and jobs but not for others. Telecommuting is not an entitlement, it is not a companywide benefit, and it in no way changes the terms and conditions of employment with the City of Baytown.

### **BACKGROUND**

In the event of a wide scale emergency, as declared by the City Manager or an authorized designee, the City of Baytown realizes a need to develop a formal process to implement telecommuting to preserve the environment and for the safety and wellbeing of our employees and citizens of the community.

## DEFINITIONS

- a) **Telecommuting**- an arrangement in which an employee regularly performs work at an alternative work site for a specified portion of the work week. Occasional work off-site, including work while traveling on City of Baytown business, does not constitute telecommuting and does not require the formal arrangement specified in this policy.
- b) **Telecommuter** - an employee who has an approved telecommuting work arrangement agreement on file and working from approved alternate work site.
- c) **Alternate Work Site** - an employee will establish an appropriate work site within their home for work purposes. The City of Baytown will not be responsible for the costs associated with the initial setup of the employee's home office such as remodeling, furniture, etc.

## SCOPE

Certain requirements for all telecommuting arrangements are set forth in this policy and are intended to ensure that such arrangements comply with all applicable laws, as well as to prevent losses and claims. Aside from these requirements, and with the caveat that careful consideration must be given to the issues presented in this policy, the intent is to allow telecommuting arrangements as an alternative to working at the employee's normal worksite in the event that there is a wide scale catastrophic event, in order to maintain the City's essential services.

A telecommuting arrangement is not an entitlement and in no way changes the terms and conditions of employment with the City of Baytown. Telecommuting is not a formal, universal employee benefit or a condition of employment, but rather an alternate method of meeting the needs of both the City and the employee. The City of Baytown considers telecommuting to be a viable work arrangement in certain cases where job characteristics are best suited to such an arrangement.

The duties, responsibilities, and conditions of employment remain the same as if the employee were working at the normal work site. The employee will continue to comply with City of Baytown policies and procedures while working at the alternate work site.

The employee understands telecommuting is a mutually agreed upon work alternative between the City and the employee and will be required to complete a Telecommuting Work Arrangement Agreement. The City, with or without cause, can revoke or modify the employee's participation as a telecommuter at any time.

Telecommuting by one employee should not negatively affect the workload or productivity of others either by shifting burdens or creating delays and additional steps in the work flow. Telecommuting will not affect an employee's compensation, benefits, work status or work responsibilities. A telecommuting arrangement shall not result in any additional cost to the City of Baytown.

## PROCEDURES & RESPONSIBILITIES

### Procedures

#### Emergency Event

In the event of a wide scale emergency that could impact our community, the Baytown City Manager, or an authorized designee, can declare the City in an emergency event status and activate the ability to utilize this policy. All employees must be ready to assist in managing the crisis and will be considered essential for the continuity of governmental operations.

#### Eligibility

Before entering into any telecommuting agreement, the Employee and Director, with the assistance of the Human Resource Department, will evaluate the suitability of such an arrangement, reviewing the following areas:

- a) Employee suitability. The employee and manager will assess the needs and work habits of the employee, compared to traits customarily recognized as appropriate for successful telecommuters.
- b) Job responsibilities. The employee and manager will discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.
- c) Equipment needs, workspace design considerations and scheduling issues. The employee and manager will review the physical workspace needs and the appropriate location for the telework.
- d) Tax and other legal implications. The employee must determine any tax or legal implications under IRS, state and local government laws, and/or restrictions of working out of a home-based office. Responsibility for fulfilling all obligations in this area rests solely with the employee.

An appropriate level of communication between the telecommuting employee and manager will be agreed upon as part of the discussion process and will be at a level consistent with employees working at the office or in a manner and frequency that is appropriate for the job and the individuals involved. Once all details are agreed to and formalized in the Telecommuting Work Arrangement Agreement, the Department Director and the Director of Human Resources must approve and sign the form.

### **Equipment**

On a case-by-case basis, City of Baytown will determine, with information supplied by the employee and the manager, the appropriate equipment needs (including hardware, software, modems, phone and data lines and other office equipment) for each telecommuting arrangement. The Human Resources and Information Technology Departments will serve as resources in this matter. Equipment supplied by the organization will be maintained by the organization. Equipment supplied by the employee, if deemed appropriate by the organization, will be maintained by the employee. City of Baytown accepts no responsibility for damage or repairs to employee-owned equipment. City of Baytown reserves the right to make determinations as to appropriate equipment, subject to change at any time. Equipment supplied by the organization is to be used for business purposes only. The telecommuter must sign an inventory of all City of Baytown property received and agree to take appropriate action to protect the items from damage or theft. Upon the end of the emergency period, all City property will be returned to the City.

The employee will establish an appropriate work environment within their home for work purposes. City of Baytown will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

### **Security**

Consistent with the organization's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of City information accessible from their home office. Steps may include the use of locked file cabinets and desks, regular password maintenance, and any other measures appropriate for the job and the environment.

### **Safety**

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards. Injuries sustained by the employee in a home office location and in conjunction with his or her regular work duties are normally covered by the City's workers' compensation policy. Telecommuting

employees are responsible for notifying the employer of such injuries according to the policy. The employee is liable for any injuries sustained by visitors to his or her home worksite.

Telecommuting is not designed to be a replacement for appropriate child care. Although an individual employee's schedule may be modified to accommodate child care needs, the focus of the arrangement must remain on job performance and meeting business demands. Prospective telecommuters are

encouraged to discuss expectations of telecommuting with family members prior to entering an agreement.

### **Time Worked**

Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to accurately record all hours worked. Hours worked in excess of those scheduled per day and per workweek require the advance approval of the Telecommuter's Manager. Failure to comply with this requirement may result in the immediate termination of the Telecommuting Work Arrangement Agreement.

### **Chapter 1. Section 9: Inclement Weather**

Except for extraordinary circumstances, City offices DO NOT CLOSE during normal business hours. All City employees, whether exempt or nonexempt, are expected to make a sincere effort to report to work during inclement weather conditions or other emergency situations.

If an employee determines that the weather conditions constitute a danger to life and/or property, the employee must notify the immediate supervisor and/or Department Director and make arrangements to report to work if weather conditions improve. Any leave taken due to inclement weather can be flexed or charged to vacation or compensatory time. Regular full-time and part-time nonexempt employees who are unable to flex their time and who have no accrued vacation or compensatory time available will not be paid for the time missed.

The Department Director/immediate supervisor is responsible for seeing that City services are staffed while City offices are open for business during inclement weather or emergency conditions. Any City service that cannot be provided during inclement weather or other emergency conditions must be immediately reported to the City Manager's Office.

When weather or other conditions are such that the City Manager declares certain City offices/departments officially closed, all affected personnel, i.e., those non-essential employees who were scheduled to work during the time of closure, will be granted "administrative leave" for the time the office/department is closed. Essential personnel must report to work even when other City departments are officially closed due to weather or other type of extraordinary circumstances. Essential personnel required to be on the job regardless of adverse weather or other conditions are designated by the Department Director and/or the City Manager. Essential personnel who fail to report to work may be subject to disciplinary action up to and including termination.

### **Chapter 1. Section 10: Workplace Lactation**

#### **PURPOSE**

To establish a lactation policy, pursuant to state and federal law, that will provide a supportive environment enabling breastfeeding employees to express milk during working hours.

#### **DEFINITIONS**

*Lactation Location* – A location, other than a restroom, for expression of breast milk. This may include a location specifically designated as a lactation area by a department or it may be a non-designated area such as an employee's office, cubicle, or other area agreed upon by the employee and her supervisor. Whether a designated or non-designated location, a lactation location must be shielded from public view and free from intrusion from coworkers and from the public.

## **RESPONSIBILITIES**

### **Department Directors shall:**

- a) Identify department-designated lactation locations.
- b) Develop department specific procedures and practices as needed to implement this policy.
- c) Alert pregnant and breastfeeding employees about the City's workplace lactation policy and engage in an interactive process with employees to make arrangements that will help facilitate each employee's infant feeding goals.
- d) Approve reasonable lactation arrangements and amendments as requested.
- e) Identify agreed upon lactation location(s) with the employee at the time of the accommodation request. If use of a department designated lactation location is not feasible given the employee's work schedule, or work facility, a suitable non-designated lactation location must be identified for an employee's use.
- f) Ensure employee compliance with approved arrangements and subsequent amendments.

### **Lactating Employee shall:**

- 1) Alert her immediate supervisor to her need for a lactation arrangement, and engage in an interactive process to arrive at an arrangement that will satisfy the needs of both the employee and the City. So as to avoid discomfort of the mother or disruption of operations, whenever possible, the employee should notify her supervisor of the need for a lactation arrangement prior to the start of her first shift after the birth of a child so that lactation arrangements may be agreed upon in advance.
- 2) Complete a lactation arrangement request and submit it to her supervisor.
- 3) Upon approval of a lactation arrangement, keep her supervisor informed of changing needs so that appropriate amendments to the arrangement can be made to satisfy the needs of both the employee and the City.
- 4) Adhere as closely as possible to the location(s) and duration of breaks as identified in an agreed arrangement and subsequent amendments.
- 5) Assume all responsibility for the storage and security of her breastfeeding equipment and breast milk.

### **All Employees shall:**

- 1) Assist in providing a positive atmosphere of support for breastfeeding employees.
- 2) Avoid harassment, discrimination, and insensitive remarks.
- 3) Report violations of policy to the Human Resources Department.

## **PROCEDURES**

- 1) For one (1) calendar year after the birth of child, an employee is permitted reasonable break times to express milk during working hours. This policy should not, however, be construed to permit breastfeeding during working hours.
- 2) Whenever possible, employees should use their allotted breaks and meal times for the expression of milk.
- 3) For time that may be needed beyond the allotted break and meal times, an employee may use accrued leave (vacation or personal) in accordance with existing leave usage practices, unpaid leave, or may make up the time as agreed with her supervisor.

- 4) The employee may use a department designated lactation location, or, with permission of her supervisor, may use an identified non-designated lactation location.
- 5) If any request is amended or denied, it is subject to review by designated Human Resources Department.
- 6) Requests for additional lactation arrangements beyond one (1) calendar year after the birth of a child will be referred to Human Resources to be considered on a case by case basis. The Human Resources Department will approve or deny such requests.

## **COMPLIANCE**

Harassment or discrimination against any employee on account of her choice to express breast milk in the workplace is strictly prohibited. Employees found to have engaged in the foregoing may be subject to disciplinary action up to and including termination.

Abusing the availability of lactation breaks, taking excessive breaks, and taking breaks at a location or for a duration which is unreasonable, may result in discipline up to and including termination.

Alleged violations of this policy should be promptly reported to the Human Resources Department.

## **Chapter 2. Recruitment and Employment**

### ***Chapter 2. Section 1: Vacancy Identification and Recruitment Process***

These guidelines ensure best practices are followed when a vacancy is identified. When a vacancy is identified, the Human Resources Department should be consulted to assist with the recruitment and selection process.

At this time, the Hiring Manager will assess requirements and responsibilities of the position and ensure alignment of the current position requirements with service and operational requirements of the Department. The job description will be reviewed for accuracy and relevance at the time of vacancy, and appropriate job posting materials will be developed.

The Hiring Manager and Human Resources staff will determine pre-screening selection criteria and interview questions. If a panel interview is required, panelists must consistently apply the selection criteria to candidates. It is imperative that those involved in the selection process have a clear and shared view of the requirements and expectations for the vacant position. Should position specific pre-employment testing be required, these tests should be identified prior to the commencement of the selection process.

Full time regular vacancies will be posted for at least three (3) working days, unless otherwise directed by the Director of Human Resources. Each announcement shall contain a statement affirming the City's commitment to a practice of equal employment opportunity as well as the City's commitment to diversity and inclusion. Additionally, each announcement will contain the requirement that attendance is imperative for the position especially through emergency conditions.

Should a department desire to fill a vacancy with a current employee within the department without posting for other candidates, the Department Director must provide written justification to the Director of Human Resources for approval. The City Manager may fill the positions at or above the Department Director level with or without posting the position as appropriate.

### ***Chapter 2. Section 2: Selection Process***

These guidelines ensure best practice is followed through the selection process the objective of which is to identify the most qualified candidate for a position based on merit. Approval to fill a vacancy is provided by the Department Director, in line with the approved budget. Additional vacancies not included in budget must be considered and approved by City Manager or City Council as required.

When a vacancy notice and requirements of the position are posted, a candidate may apply for the position through the designated system of record. Applications that are received for a posted position that meet the required qualifications are accepted.

Qualified applications are forwarded to the Hiring Manager. The Hiring Manager, or panel if relevant, will review the list of applications received within the posting period so as to determine those applicants they want to interview. The Hiring Manager, or designee, will contact the applicant for the interview. The Hiring Manager is responsible for documenting the selection process as necessary, through interview notes, communication to Human Resources, etc. The Hiring Manager is also responsible for notifying internal candidates if they will not be afforded an interview as they have not met requirements.

The purpose of the interview is to complete the picture about the applicant that was formed through the initial review and screening process. The interview should seek to explore the qualifications presented in the applications and to assess verbal communication and interpersonal skills. For some positions, it is important to test a specific skill or knowledge. Key elements of the interviews and subsequent deliberations of the Hiring Manager, or interview panel, should be documented such that recruitment decisions are capable of review.

If the applicant is interviewed and is being considered for employment, the following will be done:

- 1) Job references will be completed by the Hiring Manager. Applicants will not be approved for hire without appropriate work references.
- 2) Criminal background and social security checks will be conducted by Human Resources.
- 3) A driver's license check will be conducted for all driving positions by Human Resources.
- 4) The Hiring Manager will send a completed **Salary Approval Form** to the Human Resources Department.
- 5) If the above checks are within City parameters, a job offer will be made contingent on applicant passing the pre-employment testing.
- 6) If the offer is accepted, Human Resources will schedule pre-employment testing that includes a drug screen for all positions. Based on positions requirements, a physical and/or functional test (FCE) may be administered.
- 7) If the applicant passes all required testing, a hire date to align with the beginning of a pay period will be arranged.

In an endeavor to develop employees, all internal applicants who are interviewed will receive feedback from the Hiring Manager as to the interview and selection process. Although not successful on this specific occasion, the information provided may be used in individual development plans.

When an offer of employment has been provided to the successful candidate, unsuccessful applicants who were interviewed should be notified of the outcome of the selection process.

Applications will be retained in the designated system of record at the conclusion of the recruitment process.

As the objective of the selection process is to identify the most qualified candidate for a position based on merit, these guidelines may be used to identify a current employee for promotional purposes. These guidelines do not prohibit the promotion of an employee based on performance without completing a selection process.

Training and coaching on interview techniques may be provided by the Human Resources Department or the Department Director. The Human Resources Department is able to consult and advise throughout the selection process.

## **CIVIL SERVICE EMPLOYEES**

Employment procedures for Civil Service employees are governed by Civil Service Statutes.

### ***Chapter 2. Section 3: Background Checks***

Background checks will be conducted by the Human Resources Department and reviewed on all part time and full-time applicants for hire, transfer or promotion. This type of information is collected as a means of promoting a safe work environment for current and future City employees and the public at large. Background checks also help the City obtain additional applicant related information that helps determine the applicant's overall employability. This ensures the proper stewardship of City resources while also protecting the security, safety and health of employees and citizens.

All convictions are evaluated on a case-by-case basis to determine if the applicant is eligible for hire. Consideration shall include, but not be limited to, the following factors:

- The nature and gravity of the offense or conduct;
- The time that has passed since the offense, conduct and/or completion of the sentence; and
- The nature of the job held or sought.

The City recognizes that its need to investigate potential employees' criminal histories and

backgrounds must be balanced with the need to protect employee privacy. It is, therefore, prohibited for City employees and agents of the City to seek, use, or disclose background information except within the scope of their assigned duties.

All candidates for employment must voluntarily consent to the release of information which may include conviction and non-conviction data, and investigative consumer reports, also known as reference check, which may include information as to character, general reputation, personal characteristics, credentialing information, and information on licensing.

Any false statement or omission of any information from an applicant shall result in disqualification for consideration for that position or termination if the individual has already begun employment. The applicant will also be barred from employment with the City for any position for a period of 2 years. The City may conduct periodic background checks on current employees in specific public accountability positions (i.e. finance, cash handling, children's services, etc.).

#### ***Chapter 2. Section 4: Referral of Candidates***

In line with the City's objective to attract and recruit high quality staff, the City adopts multiple recruitment methods to ensure a suitable number of qualified applicants are available for each vacancy. Current staff members are encouraged to recommend candidates who would be suitable and qualified for positions with the City.

Employees should direct candidates to review the job posting details and to follow the application process identified with the posted vacancy notice. To be eligible for a referral bonus (if referral funds are available), employees must be an active employee at the time they make a referral, as well as at the time the bonus is paid.

Employees are encouraged to refer as many candidates as they like, provided that each candidate is suitable and qualified for the position. Former employees, and independent contractors or consultants presently working with the City are not eligible for a referral bonus.

This bonus may be given for a referral if the City hires the candidate and the candidate remains in the position for 90 days. The bonus may be paid in a lump sum after the candidate completes the specified period. Employees are advised that referral bonuses are taxable income and subject to appropriate tax reporting and withholding.

The Human Resources Department is responsible for monitoring the success of the employee referral program and will make recommendations for improvement in line with recruitment strategies.

#### ***Chapter 2. Section 5: Temporary Promotions Policy***

A temporary promotion may be used to ensure the proper performance of the City functions if a position is vacant or its regular incumbent is absent for more than two consecutive pay periods. This arrangement also provides a developmental opportunity for employees.

Requests for the temporary promotion should be in memo form from the Department Director to the Director of Human Resources for authorization. All requests for temporary promotion must state a specified period of time and the employee's name and qualifications to fill this temporary position.

The temporary vacancy must be of duration of less than 6 months unless special authorization is given by the Director of Human Resources. If duration is greater than 6 months, consideration must be made to fill the position on an ongoing basis.

In the event that a Department Director is unable to identify a suitable employee to act in a temporary vacancy, the Director may ask for the position to be posted internally only. The posting would outline the expected term of the vacancy, job requirements and closing date. Interested staff would submit a brief written application to the Director. The Director, or designee, would proceed with short listing or

interviewing as required to determine the most appropriate temporary resource. It is recommended that feedback be provided to applicants.

Employees selected to fill the temporary vacancy, who do not meet the minimum qualifications of the position, will not be considered for a promotion if the position becomes vacant.

## **COMPENSATION**

Employees approved for placement into a temporary vacancy may receive additional compensation only in cases of a formal temporary promotion. Formal temporary promotion is where the employee meets the minimum job requirements and warrants movement of the employee to the minimum salary for the grade in which the position is assigned, or 5% added to the employee's current salary, whichever of the two is greater. For temporary promotions into the position of Assistant Director or above, the employee will receive 10% of current salary, or minimum of the pay grade, whichever of the two is greater.

If the employee's performance evaluation is scheduled during the timeframe he/she fills the temporary vacancy the percentage of increase, if warranted, will be added to the salary the employee was paid prior to the acting salary.

## **RE-INSTATEMENT**

Employees placed in a temporary vacancy will resume their prior position and salary once the period is complete. Employees selected to act in the temporary vacancy will not be guaranteed a promotion into that position if it becomes vacant.

## **CIVIL SERVICE EMPLOYEES**

Civil Service employees are subject to the provisions of the Local Government Code Chapter 143.

### ***Chapter 2. Section 6: Relocation Expenses***

In most instances, applicants for City employment are responsible for interview and/or relocation expenses. This policy will be implemented on a case by case basis based on market demand and position. Reimbursement of relocation expenses are negotiated at time of hire. The City Manager has authority to approve following the recommendation of the Director of Human Resources.

Relocation expenses will be charged to the hiring department and appropriate receipts and/or documentation will be required. All payments will be handled in accordance with relevant state and federal tax regulations.

## Chapter 3. Compensation and Work Hours

### Chapter 3. Section 1: Classification

To ensure positions with similar levels of responsibility and work value are allocated similar classification levels, the City uses classification descriptors to objectively evaluate positions.

The evaluation of a position's classification occurs for a variety of reasons. These include the creation of a new position, the advertising of a vacant position, major changes to a position description, revisions of a job description, an organizational restructure, or a request for reclassification (refer to *Administrative Rules, Chapter 3, Section 2: Reclassification Process*). The classification process deals with the assessment of the position and not the occupant of the position.

Changes to the job description of an approved position must always be done in consultation with the employee who holds the position. Major changes must be submitted by the Department Director to Human Resources for assessment. These changes may include the inclusion of a completely new function, an increase in responsibility in a function which is currently performed and/or, increased responsibility in delegating and directing the work of others and accepting responsibility for their work.

Minor changes to a job description may be authorized by the Department Director and may include editorial changes, such as changes in the language but not the duties, rearrangements of existing duties to a minor extent; and/or, reallocation of duties between positions classified at the same level within department.

#### **CLASSIFICATION DESCRIPTORS:**

The classification descriptors are the primary factor for determining the classification of positions at all levels. These descriptors focus on:

- Education, training and experience. The type and duration of formal education and training which the duties of the classification level typically require for effective performance. Education and training refers to the process of acquiring skills and knowledge through formal education, on-the-job instruction or exposure to procedures. Experience is the process of acquiring skills and knowledge through previous employment.
- Task level. The type, complexity and responsibility of tasks typically performed by employees within each classification level.
- Judgment and problem solving. Judgment is the ability to make sound decisions based on an understanding of relevant procedures and recognizing the consequences of decisions taken or actions performed. Problem solving is the process of defining or selecting the appropriate course of action.
- Supervision and independence. This dimension covers both the way in which employees are supervised or managed and the role of employees in supervising or managing others. Independence is the extent to which an employee is able (or allowed) to work effectively without supervision or direction.
- Organizational relationships and impact. The level of knowledge and awareness of the organization, its structure and functions that would be expected of employees at each proposed classification level and the purposes for which that organizational knowledge may be used. Impact refers to the level of influence employees may have on the organization.

Work value refers to the merit of the work done in relation to achieving the City's objectives. It is based on an assessment of the nature of the training, skill and responsibility required. A change in work value may mean a change in the type of work performed, the skills required to carry out important aspects of the work, the responsibilities required of the position, or the conditions under which the work is carried out. Comparative positions play a role in ensuring equity and to produce a measurement of work value.

The use of comparatives can provide a measurement of work but are of lesser significance in determining the classification of a position than the descriptors.

### **Chapter 3. Section 2: Reclassification Process**

Reclassification of a position is based on significant change to the work value of the position. The classification descriptors are used to objectively evaluate the position classification. As a result, positions with similar levels of responsibility and work value are allocated similar classification levels in the City. Reclassification of a position may be required as a position has an increase or decrease in responsibilities in current duties, includes the supervision of employees or new duties at a higher or lower level.

Increases in work volume at the same level cannot form the basis of a case for reclassification.

All classification assessments are undertaken by the Director of Human Resources, or designee. Unless otherwise approved by the Director of Human Resources, reclassification requests shall be submitted in conjunction with departmental budget requests. No reclassification shall occur for the purpose of circumventing regulations, rules or procedures relating to demotion or promotion. The employee's anniversary date shall remain the same.

### **Chapter 3. Section 3: Fair Labor Standards Act (FLSA)**

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, and child labor standards affecting full-time and part-time workers.

#### **WORK WEEK/WORK PERIOD**

The standard work week determined Fair Labor Standards Act is a seven (7) consecutive day period.

For Fire personnel who work a shift schedule, the City has adopted a 28 consecutive day work period under the 207(k) provision of the Fair Labor Standards Act.

For Police personnel who work a shift schedule including jail personnel, the City has adopted a 14 consecutive day work period under the 207(k) provision of the Fair Labor Standards Act.

#### **REST & MEAL PERIODS**

The FLSA does not require that an employer provide its employees with time off for rest breaks, coffee breaks, meal periods, or for any other such purpose. However, if the employer does provide breaks of this type, there are regulations governing the determination of whether the break time is compensable hours worked.

Rest or coffee breaks are of short duration, usually from 5 to 10 minutes. Rest breaks are considered as compensable hours worked if less than 15 minutes. Rest breaks shall never interfere with proper performance of an employee's work responsibilities and department work schedules.

In fairness to all employees, individuals who smoke are expected to comply with this policy on breaks. Smoke breaks that are excessive in number or duration or that interfere with the employees' job performance or the departments operations may be addressed through the disciplinary process.

Each employee should take an unpaid lunch period each day. The time for lunch each day shall be for thirty minutes or one hour as set by each department. Meal periods are designated by the individual departments and may be staggered in order to minimize departmental interruption. The employee must be completely relieved of duties both active and inactive. If the employee is not completely relieved of duties, then the meal period is considered hours worked. An employee who is unable to take a lunch period must report this to his/her supervisor and must be reported on that days' time card. Working through lunch requires prior approval by the supervisor.

Managers may control inappropriate use of rest and meal periods, or unauthorized work during meal periods, by utilizing the disciplinary process.

### **Chapter 3. Section 4: Work Time**

The City consistently applies the definition of work time so as to ensure equitable compensation of employees across the City. Work time is defined as all time spent in physical or mental exertion, controlled or required by the City and pursued necessarily and primarily for the benefit of the City. The supervisor is responsible for determining an appropriate work schedule with employees, based on operational requirements.

Each employee has the responsibility for accurately reporting hours worked. While prior approval for overtime is required, when extra hours are claimed these hours will be paid to the employee. Should an employee require additional work hours to perform their job function, he/she is to notify the supervisor in advance that overtime will be required and receive approval prior to working.

Any violation of this Administrative Rule may result in appropriate disciplinary action, up to and including termination.

### **Chapter 3. Section 5: Overtime under FLSA**

The City's intent is to provide consistent, fair and equitable compensation for employees who work in excess of 40 hours in a 7-day work period or as defined below for fire shift and police patrol and jail personnel. The City will comply with the provisions of the Fair Labor Standards Act (FLSA).

The scheduling of overtime and compensatory time is made in advance when possible and as determined by management. All employees may be required to work hours in excess of their regular hours, when necessary, as determined by management. Extra work assignments shall be rotated as evenly as possible among qualified employees. All overtime must be approved by the Department Director, or designated representative, prior to working in excess of scheduled hours.

### **OVERTIME FOR FIREFIGHTER SHIFT PERSONNEL AND POLICE PATROL PERSONNEL**

Firefighter shift and police patrol personnel have special provisions for overtime pursuant to Section 207(k) of the Fair Labor Standards Act and Texas law. All such rules shall be consistent with the Fair Labor Standards Act and applicable Texas law.

Pursuant to Section 142.0015(j) of the Texas Local Government Code, a work period for non-exempt police patrol personnel is defined as 80 hours within a fourteen (14) day work period. Any time less than one quarter hour is not compensable.

In accordance with FLSA Section 207(k), a fire protection work period is defined as 212 hours within a 28 consecutive day work period.

### **Chapter 3. Section 6: Compensatory Time Agreement (Comp Time)**

The City has the right to require that Overtime Hours be compensated in the form of pay or compensatory time, as determined appropriate by the Department Director. Overtime compensated as compensatory time shall be calculated at the rate of one and one-half hours for each hour of overtime worked. Additional hours worked that do not qualify for overtime under FLSA shall be paid hour-for-hour as compensatory time or regular pay, as determined by the Department Director. An employee who has accrued compensatory time and requests use of this time may be permitted to use the time off within a "reasonable period" after making a request if it does not "unduly disrupt" the operation of the City.

The City may at any time elect to pay an employee for any portion of or all of the employee's accrued compensatory time. When an employee is promoted, demoted or moves from a non-exempt to an

exempt position, the City will pay out all accrued compensatory time. Additionally, when an employee changes departments the City will pay out all accrued compensatory time.

The City may also require employees to take off in order to reduce their accrued compensatory time. Otherwise, compensatory time may be used the same as other leave times.

Upon termination, an employee who has accrued compensatory time shall be paid for the unused time at the average regular rate received by such employee during the last three years of the employee's employment, or at the final regular rate received by the employee, whichever is higher.

### **CAP ON COMPENSATORY TIME**

FLSA limits the amount of compensatory time that can be accrued. The City has further defined the cap on compensatory time to ensure the efficient operations of the department. The maximum hours allowed for accrued compensatory time cannot exceed:

- 316 comp hours for Fire and Police personnel
- 80 comp hours for all other employees

Hours in excess of this amount will be paid.

Individual departments within the City may further define the cap on compensatory time to ensure the efficient operations of the department. Prior to the changing of this cap, the Human Resources Department must be notified in writing.

### ***Chapter 3. Section 7: Standby and On-call Time***

The City's intent is to provide consistent, fair and equitable compensation for employees scheduled for standby and on-call status in order to provide services after normal business hours to the City of Baytown. The Department Director will have the primary responsibility for defining those particular job functions that should be operating under this procedure, and the personnel who shall be operating as standby personnel during each standby period.

On-call is all time after regularly scheduled working hours when a non-exempt employee is designated to be available for call-back. If called back, compensation shall be paid for actual hours worked, but no less than two (2) hours. Time spent traveling to respond to an emergency call that occurs within one (1) hour before the regular work period is scheduled to begin, shall not be counted as hours worked. All full-time employees who are waiting to be engaged (on call) and are subsequently called into service shall be paid from the moment they are on-site or clock in, if required, until the job is completed (two hours minimum).

FLSA provides that time is compensable when an employee is required to remain on-call on City premises or so close to the premises that the employee cannot use the time effectively for his own purposes. Conversely, time is not compensable when an employee is only required to leave word as to where he may be reached.

The employee may be required to wear a cell-phone or other communication device and shall promptly respond to calls. The employee will be responsible to follow established procedures and supervisor directions while serving on designated standby. The employee may pursue personal activities but is prohibited from consuming alcohol, illegal drugs, or any other substance (legal or illegal) that may impact the employee's ability to perform duties in a safe and capable manner.

Refusal to be on-call or failure to respond while on call may result in disciplinary action up to, and including, termination.

### **Chapter 3. Section 8: Travel and Training Time**

#### **TRAVEL TIME**

Department of Labor FLSA guidelines provide that travel must be job related to be considered work hours. Whether employee's travel time must be counted as hours worked depends on the kind of travel involved.

- 1) Commuting - Employees who travel to and from their homes to work are commuting, which is not worked time. The same rule applies even if the work site changes every day.
- 2) Travel that's all in a day's work - The time employees spend traveling from job site to job site during the day is working time.
- 3) Travel away from home overnight - This travel time is hours worked during an employee's regular work hours. It will also be considered hours worked if the employee travels during the corresponding hours on non-workdays.
- 4) Travel as the driver of an automobile – Travel time spent driving an automobile with one or more passengers, is treated as work hours, regardless of whether the travel takes place within normal work hours or outside of normal work hours.
- 5) Travel as the passenger of an automobile – Travel as a passenger is only compensable to the extent that it cuts across the employee's normal work schedule, unless the passenger is engaged in productive work.

The travel authorization process and list of reimbursable expenses are available from the Finance Department. To claim travel expenses, the employee will complete the **Travel Expense Report** in which a detailed record of their expenses must be stated and supported by receipts, unless specifically exempted by the policy.

#### **TRAINING TIME**

City-required attendance at training or other meetings, whether before, during, or after an employee's regular work schedule, is work time. In order to request compensation for travel time to attend training, the training must be part of the employee's current job. Attendance at lectures, meetings, training programs, and similar activities need not be counted as working time if these four criteria are met:

- 1) Attendance is outside of the employee's regular working hours;
- 2) Attendance is, in fact, voluntary;
- 3) The course, lecture, or meeting is not directly related to the employee's job; and
- 4) The employee does not perform any productive work during such attendance.

Training is not considered voluntary if the employee is led to believe that his present working conditions, or the continuance of his employment, would be adversely affected by nonattendance.

Attendance could be considered working time if the training is directly related to the employee's job, that is, it is designed to make the employee handle his job more effectively, as distinguished from training him for another job, or to a new additional skill level. Professional development training is not considered part of the employee's current job, but rather a development tool for future consideration regarding promotions and/or future responsibilities.

### **Chapter 3. Section 9: Payroll**

#### **EMPLOYEE TIME CARD REPORTING OF HOURS WORKED**

The purpose of the policy is to set procedures for using the Executime electronic timekeeping system to ensure accurate reporting of time worked by employees and use of any time-off benefits.

All employees are responsible for accurately recording their time worked using the Executime system. The employee's network identification/login is his/her "electronic signature" and the use of this implies the employee's knowledge and approval of the time and attendance information. Usage of either of these by anyone other than the intended user is grounds for disciplinary action up to and including termination.

Failure to comply with any provisions of this policy and/or falsification of Executime documents could result in disciplinary action up to and including termination.

Employees are required to record their work hours by clocking in and out of the system if they are not set on a schedule in Executime. The Department Director will determine the time collection method to be used.

Time off request should be entered in accordance with department policy.

Supervisors must review and approve all time and attendance records before they are submitted for payroll processing. During this review/approval cycle, it may be necessary for supervisors to adjust time and attendance to correct any errors in order to provide timely and accurate payroll. It is impermissible for any supervisors or payroll processor to intentionally or knowingly approve false records.

The employee's hours need to be approved by a person with knowledge of the employee's hours worked. A supervisor who is absent for a period of time is allowed to temporarily assign approval responsibilities to another person.

## **METHOD OF PAYMENT**

Wages and salaries shall be paid on a bi-weekly basis (twenty-six pay periods per year) through Electronic Funds Transfer (EFT). If a scheduled payday falls on a holiday, pay shall be issued the day preceding the holiday.

### ***Chapter 3. Section 10: Starting Salary Guidelines***

There are several considerations in deciding what compensation to offer an applicant to work for the City. These considerations are broken down into two parts: the total offer and the salary offer. The total offer to an applicant in exchange for his/her time, talent, services, and judgment is compensation, benefits, a performance pay system, challenging situations, working environment, security of a stable organization, career opportunities, location and community. The Human Resources Department will take into account all of these factors and, in particular, the monetary value of all the benefits the City offers. The total package should be what is explicitly offered and not just salary alone. This way, the person can make a better comparison with his/her current situation and, hence, make a more realistic decision.

Human Resources will coordinate with the hiring department to determine starting salary offers for all employees. Under no circumstances should the salary offer be discussed with the candidate until approved by the department and Human Resources.

The person's current salary is not the primary consideration in determining the starting salary. The salary range, the requirements of the job, and the person's qualifications are the primary considerations.

The minimum of the salary range may to be used for starting salaries as follows:

<b>CANDIDATE</b>	<b>STARTING SALARY</b>
1) Meets minimum job qualifications	Minimum
2) Meets minimum job qualifications plus some job-related experience or education beyond the minimum	Up to 90% of midpoint

3) Meets minimum job qualifications, plus substantial job-related experience or education over and above the minimum qualifications for the new job	90-100% of midpoint
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**Chapter 3. Section 11: Promotion Guidelines**

The City supports the career development of employees and the promotion of those who are capable of assuming job duties and responsibilities that are higher in character.

A promotion is defined conceptually as the assumption of job duties and responsibilities that are higher in character and scope than in the previous job. For purpose of salary administration, a promotion occurs when the new job is one (1) grade higher than the prior job (Examples of a promotion: grade B21 to B22, B23 to C41) or from a non-supervisory to a supervisory position. Supervisory control involves the authority to schedule, assign, and evaluate work, hire, fire and discipline, or effectively recommend these actions, and schedule/approve leave.

During the first six (6) month period and at the annual review cycle, the employee's performance in the new position will be reviewed and formally evaluated. An employee must complete at least six (6) months of service in his/her current position and be meeting expectations before he/she is eligible for consideration in another position with the City, unless authorized by the Human Resources Director or designee.

The salary range, the requirements of the job, and the person's qualifications are the primary considerations for a salary offer. Additionally, the amount of the salary increase will be based on the salaries of other employees more experienced in the job (internal equity) and the employee's current salary. Human Resources will coordinate with the hiring department to determine promotional salary offers for all employees. Under no circumstances should the salary offer be discussed with the candidate until approved by the department and Human Resources. The employee's evaluation date shall be changed to the effective date of the promotion.

**Chapter 3. Section 12: Demotion Guidelines**

It is the City's desire to appropriately fill all positions with qualified staff to ensure success of the organization and the individual. It may be necessary, on occasion, for an individual to be placed into a position that is lower in pay grade.

A demotion may be voluntary from the employee or may be involuntary.

Voluntary demotions are not encouraged. However, if an employee chooses to apply for a position that is lower in pay grade, the appropriate salary adjustment will be made. In order for the employee to be eligible for the position, he/she must meet the minimum qualifications of the current open position.

Involuntary demotions may be required in the following situations:

- 1) Disciplinary demotions result when an employee violates departmental or City policies, or performs other actions that warrant discipline;
- 2) Non-disciplinary demotion results when an employee does not effectively perform the duties required in the job or when an employee no longer meets the minimum qualifications for the job due to the job requirements changing (i.e., certification); or

Demotions require a salary adjustment. A demotion shall not fall below the minimum rate or above the maximum rate for the pay grade of the new job. Human Resources will coordinate with the hiring department to determine the salary adjustment. The salary of individuals currently occupying the position will be taken into consideration to ensure equity.

## **CIVIL SERVICE EMPLOYEES**

Civil Service employees are subject to the provisions of the Local Government Code Chapter 143.

### ***Chapter 3. Section 13: Allowances and Reimbursement***

Approved allowances shall be paid through the regular pay period and be subject to applicable taxation and deductions.

Employees in positions that normally provide a uniform may be authorized to receive a clothing allowance when their job assignment necessitates being in plain clothing. These will be allowed as authorized by the City Manager and shall be paid on a reimbursement basis up to the annual budgeted amount as approved by City Council.

Additional expense reimbursement and purchasing guidelines are maintained and made available by the Finance Department. Reimbursement for out of pocket expenses relating to travel required for City business will be made in line with the Travel Policy maintained by the Finance Department.

### ***Chapter 3. Section 13a: Vehicle Reimbursement & Car Allowance***

In an effort to provide service to the City of Baytown, certain positions are required to travel within the local area. As such, car allowances are provided to compensate employees' expenses for the portion of personal vehicle usage that is City-related.

Compensation for the use of a private vehicle for City-related business will be determined by using market data, CPI data and other relevant sources of data. The actual expenses will be borne by the car allowance recipients. These expenses include, but are not limited to, depreciation, fuel, maintenance, repairs, insurance, inspection stickers, license tag fees, any applicable taxes or loss deductibles.

Each individual receiving a car allowance shall maintain current vehicle registration tags, a current state inspection sticker, and at least the minimum liability insurance required by State law. The City will not provide any insurance coverage on private vehicles. The vehicle also should be in good condition and appropriate for business usage. Employees receiving a car allowance may not car pool to and from work on a regular, ongoing basis.

Mileage reimbursement at the IRS rate applies to destinations outside of the 75-mile radius. Any City related travel beyond the 75-mile radius will be eligible for mileage reimbursement for actual mileage. Any such reimbursement shall be submitted in accordance with *Administrative Rules, Chapter 3, Section 8: Travel and Training Time*.

The City reserves the right to determine whether car allowance or City vehicle will be provided.

Employees equivalent to division manager and superintendent level and above may qualify for car allowance or City vehicle as determined by the City Administration. The car allowance may be set as a part of the employee's total compensation package. Other positions may be approved based on their job duties and responsibilities and the time required to drive.

The City Manager will base his/her decision for granting additional car allowances on the following criteria:

- Written recommendations from the Department Director
- Analysis of City related mileage traveled in prior 3-month period. It is recommended that a position being considered for a car allowance maintain records of miles driven (either in city or personal vehicle) on City related business on a mileage form, for at least three months prior to being considered for a car allowance in order to determine the most cost-effective method of reimbursement.
- Frequency of external public contact requiring driving

- Frequency of after-hours and weekend job related activities
- Frequency of City related business requiring driving
- Or other special requirements.

### **Chapter 3. Section 13b: Bilingual Incentive Pay Program**

This program provides employees the incentive to develop and maintain language skills, to increase the retention of productive bilingual employees, and to compensate for skilled Spanish, Vietnamese, and Mandarin language services necessary to the operations of the City of Baytown.

This program is open to employees who are in a non-exempt job classification identified by Human Resources where customer service is the primary function and where bilingual skills are a benefit to the job, or of necessity to our citizens and our City. The employees who receive bilingual incentive pay must be willing to accept assignments, work overtime, or special projects in order to provide bilingual coverage for the City. The employees unwilling or unable to accept such assignments may not participate in the program, or if already receiving bilingual pay, will be subject to forfeiture of this compensation.

The Human Resources department will conduct an annual check of all employees currently participating in the Bilingual Incentive Pay Program to ensure they are still in an eligible job classification as stated above. If the employee is no longer in an eligible job classification, they will forfeit the bilingual pay effective the pay period following the annual check. All employees who qualify and wish to apply for the Bilingual Incentive Pay Program, must submit the online application to the Human Resources Department. This form must be filled out completely including the appropriate department director or their designee's signature.

Upon receipt of the completed application, Human Resources will coordinate the testing with the employee and the testing center. The employee will receive an email from the testing center confirming their test date and time.

An Oral Proficiency Evaluation will be used to qualify an employee for the Bilingual Incentive Pay Program. It will consist of a guided oral language proficiency test for spoken language. All testing will be given and scored by qualified language evaluators. Testing will be scored according to standard guidelines and grading scales used by the Common European Framework of Reference for Languages (CEFR).

If the employee does not pass, the employee must wait 30 days before being eligible to retest. If the employee does not pass the second attempt, the employee may not reapply for the bilingual incentive pay program for one hundred eighty (180) days.

In order to reschedule or cancel a test, Human Resources must be notified (and confirmation of notification must be obtained) by 4:00PM (Central Time) one business day before the scheduled test date. If notification is not received by this time or not at all, the testing center will charge for the test regardless of the reason for cancellation. The employee will be responsible for this charge if they did not notify Human Resources within this time restriction.

The testing center will inform the Human Resources Department of the results. The Human Resources Department will notify the employee and the supervisor and arrange for the bilingual incentive pay to be implemented. The effective date of the bilingual incentive pay will be the pay period following the passing date of the examination.

### **Chapter 3. Section 13c: Tuition Assistance Program**

The City desires to encourage employees to continue their education. The facilitation of employee development through personal education efforts is consistent with the City's values, as well as the goals of quality customer service, increased work efficiency, and higher employee productivity.

This program is available to regular full-time employees with at least one (1) year of service with the City who are currently meeting performance expectations. The program is designed for degree programs or courses that are job-related and will enhance an employee's performance. This program is contingent upon annual appropriation of funds and is subject to change at any time.

Degree programs and courses eligible for assistance include those offered by an accredited institution of higher learning (college, university, or technical school), those offered as part of an adult continuing education program, or those offered by a professional educational or training company or facility.

This policy will be judiciously interpreted in determining whether a degree program or course is job-related or fulfills a job-relevant requirement. Consideration will also be given to what benefit would be derived by the City as a result of the employee's participation in the degree program or course. In addition, the employee's past work performance and disciplinary record will also be considered in whether a request for tuition assistance shall be approved. This program is available to employees who wish to voluntarily pursue educational advancement or training. It does not apply to courses or training that are required by the City. All courses, for which an employee is receiving assistance under this program, must be taken on the employee's own time. If a class is only available during an employee's normal work hours, the employee may request a flexible schedule from the employee's Department Director. A memorandum outlining the employee's flexible work schedule must be signed by the employee, approved by the Department Director and forwarded to Human Resources with the completed **City of Baytown Tuition Assistance Program Application Form**. When there is a conflict between classes and the employee's job responsibilities, the job responsibility must come first. The Department Director may deny any request for assistance that does not meet these criteria.

Prior to the start of each semester, employees proposing to participate in the City's Tuition Assistance Program must first complete a **Tuition Assistance Program Application Form** along with any supporting documentation requested, including an invoice for the cost of tuition, mandatory fees, and any financial assistance being received. Employees shall then submit this form to their Department Director for review and recommendation. The form will then be forwarded to Human Resources for review and final recommendation. In the event that a question arises regarding eligibility, the application will be brought to the Director of Human Resources for review. The Department Director and Director of Human Resources ultimately make the final determination on an employee's acceptance into the Tuition Assistance Program.

At the time of approval for the program, the employee will complete the **City of Baytown Tuition Assistance Program Service Agreement Form** in order to receive the approved Tuition Assistance amount.

Employee participation in the Tuition Assistance Program is a privilege, not a right. Therefore, employees are expected to continue meeting performance expectations and avoid any significant disciplinary action, as determined in the sole discretion by the Director of Human Resources. The Director of Human Resources shall have the right to suspend any employee from the Tuition Assistance Program who fails to meet such performance and/or conduct expectations.

#### **APPLICABLE COSTS AND AMOUNTS FOR TUITION ASSISTANCE**

Approved employees may receive assistance for up to \$1500 per semester with a \$3000 maximum per fiscal year provided that funding is available in the City's budget. Tuition assistance will be made only

for tuition and not for mileage, lodging, books, special materials or incidental expenses. Employees enrolling in college courses must show that they have taken advantage of and pursued other financial sources such as grants, scholarships, Veteran benefits, and fellowships. The City only considers the difference between the actual tuition cost and any received financial assistance award as the amount eligible for assistance. Employees who fail to disclose other sources of financial assistance in connection with their application and subsequent receipt of tuition assistance shall be disqualified from the program and will be subject to discipline, up to and including termination.

Employees will have 30 days from the end date of the semester to submit a final grade report to Human Resources.

### **SERVICE AGREEMENT**

A two (2) year service requirement for employees receiving this benefit begins on the semester end date for which tuition assistance is being received.

### **REIMBURSEMENT**

Employees receiving tuition assistance, who are separated from employment before such two (2) year-period has expired, shall be required to reimburse the City for tuition assistance paid at 100% of the amount of the total reimbursement if less than one (1) year of service has been completed towards the contract completion date, or at 50% of the amount of the total reimbursement if at least one (1) year of service has been completed towards the contract completion date.

If a course is dropped, Human Resources must be notified within 15 days of the course drop date. Employees shall be required to refund the City for the full amount of tuition assistance paid for the dropped course(s).

Employees receiving tuition assistance, who do not submit their final course grades to Human Resources within thirty (30) days of the end date of the semester, who drop a course, who leave employment before the course(s) have been completed, and/or who do not pass their course(s) with a grade of C or above, or "pass" in a pass/fail class, shall be required to refund the City for the full amount of tuition assistance paid for the course(s).

### ***Chapter 3. Section 14: Trading Work Time (Civil Service Personnel Only)***

Trading Work Time is used to gain time off to attend to personal business. This is considered a personal agreement allowing two employees to temporarily substitute for one another during scheduled work hours in performance of work in the same capacity. The City assumes no financial responsibility for trading work time.

Shift trades will be allowed on an hour for hour exchange provided prior approval is obtained from a supervisor. Trades must be between personnel of the same job classification or where personnel are qualified to fill a position. Request forms should be submitted for consideration in advance of the original trade.

In order to better manage the work activity of the Department and/or Division and each employee, the following measures must be followed:

- The shift trade (original and payback) must be completed within twelve (12) months from the date of the original trade.
- Trading duty hours is a courtesy allowed to civil service employees of the City.
- Once a trade is agreed to by both parties and approved by a Supervisor, the person working a shift for another assumes all responsibility for filling that position.

- Should the person who was scheduled to assume tour of duty for another member becomes unable to report for that duty (illness or emergency), then it becomes their duty to arrange for a suitable substitute after notifying the on-duty Supervisor. The party that fails to report or secure adequate replacement may have their trade privilege revoked for a period of at least six (6) months and disciplinary action may be taken.
- Where one employee substitutes for another, the payroll book should reflect the hours worked for the employee normally scheduled to work the hours in question. Each employee will be credited as if he/she had worked his/her normal work schedule for that shift or hours. Shift differential or acting pay will not be paid to the person actually working the trade time. The hours worked (trade and payback) will be excluded in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation.
- Each employee participating in trading time must sign and have on file a current agreement acknowledging this policy and their agreement to all terms and conditions.

### **Chapter 3. Section 15: Performance Based Merit Plan**

The City has designed a merit-based compensation plan in conjunction with the Performance Management System. Although the objective of a performance management system is to review past performance and facilitate on-going development of the employee through planning and goal setting, the merit plan provides an opportunity to reward employees for performance.

Funds available for implementation of the merit plan are dependent on City Council's allocation of dollars for compensation in each budget year. If funding is approved, employees merit increase will be based on the annual period. Seasonal or Temporary employees are not eligible to participate in the merit plan.

### **Chapter 3. Section 16: Alternate and Remote Work Schedules**

The City of Baytown supports alternate and remote work schedules and allows Departments to implement these schedules, where appropriate, for eligible employees. Alternate and remote work schedules may be implemented when they benefit the City of Baytown in one or more of the following ways.

- 1) City of Baytown Citizens – To provide Citizens with an even higher level of service with no delays at the beginning of the business day and continue this level of service until the close of the day.
- 2) City of Baytown Employees – To improve job satisfaction, employee morale, effectiveness and productivity; promotes employee health, wellness and reduces absenteeism by helping employees face the demands of juggling work, family and life related issues.
- 3) City of Baytown as an Employer – To improve recruitment and retention of high-quality employees, to decrease employee vacancy rates and to provide a no-cost enhancement to the City's work environment.

The City of Baytown Offices will normally be open from 8:00 a.m. until 5:00 p.m. Monday through Friday except for designated holidays unless otherwise determined by the City Manager. Alternate and remote work schedules shall not impede on the established hours of City operations of any offices.

Alternate and remote work schedules shall not diminish the ability of the City to meet all operational requirements or cause significant disruption to performance, department operations, delivery of services, or workload increase for co-workers.

Employees participating in an Alternate or Remote Work Schedule are not excused from being activated and required to report on-site to work at any time as an Essential Worker as outlined in Administrative Rule, Chapter 1, Section 8 Emergency Conditions.

No new positions are to be created as a result of alternate and remote workplace schedules. Alternate and remote work schedule shall not result in automatic overtime or compensatory time.

The City Manager will have the final authority in the applicability of alternate and remote work schedules for each situation and shall have the right to terminate the program or any employee's alternate and remote work schedule at any time.

In general, the City's success relies upon personal interaction and relationship-building between employees, citizens, and community members. Many duties, processes, and circumstances require performance of work duties on-site. However, certain positions' roles and duties may be accomplished by an employee working remotely at times/intermittently (such as working offsite for a few days to facilitate work on a specific project) or on a part-time basis. Remote work on a full-time basis will be considered appropriate for very few positions.

### **Chapter 3. Section 16a: Definitions**

1) Primary Workplace

The employee's designated worksite at a City location/facility.

2) Alternate Work Location

A management-approved work site, other than the employee's primary workplace, where the remote work employee performs their regularly assigned job duties. Such locations may include, but are not limited to, the employee's residence.

3) Remote work

An alternate or remote work schedule in which some or all of an employee's regularly assigned duties are performed at an alternate work location for all or some of their regularly scheduled hours.

4) Types of Work Schedules

The City of Baytown utilizes five types of work schedules. An employee's work schedule is considered a "fixed schedule" in which the employee consistently works the same schedule. However, employees may be called upon to temporarily work a different schedule in order to accommodate the needs of the City.

- a) *Standard Work Schedule* - Employees work 40-hours in the standard five (5) 8- hour days with work being performed between 8:00 a.m. and 5:00 p.m., five days a week, Monday through Friday.
- b) *Shift Schedule* - Shift work is defined as regular work time performed outside of standard business hours as defined above. Employees work shifts based on the needs of the Department which operates outside of Monday through Friday 8:00 a.m. and 5:00 p.m. The start and end times, scheduled work days, and length of shifts are determined by the Department. Shifts can vary daily or weekly. Examples of shift work are rotating shifts, evening shifts, night shifts, split shifts and irregular schedules.
- c) *Alternate Schedule* - Employees work 40 hours in five (5) days, normally with weekends off but with flexible starting and ending times other than the standard work day. An alternate schedule provides up to 2 hours of flexibility in an employee's set scheduled starting and ending times for their 8-hour workdays. For instance, an employee might prefer to begin work earlier (i.e., 7:00 am) and leave earlier (i.e., 3:30 pm), while another employee may prefer to start later and work later.
- d) *Compressed Schedule* - Employees work 40-hours in less than five (5) full work days. Examples of a Compressed Schedule are (4) 10-hour days or (4) 9-hour days and (1) 4-hour day.

- e) *Remote Work Schedule* - Employees regularly work a maximum of two days each week from an alternate location (normally their home) instead of commuting to their regular workplace. The occasional practice of working at home is not considered a remote work schedule.

### **Chapter 3. Section 16b: Implementation Considerations & Guidelines**

The priorities of implementing an Alternate or Remote Work Schedule is communication, equality, and to ensure the public needs are met. When the Director implements an Alternate or Remote Work Schedule, the following guidelines should be met:

- Each work group that primarily is office based, is accountable for having someone available for counter coverage and phone coverage during standard public hours.
- Each work group that primarily is in the field, is accountable for having someone available to handle citizen or emergency field requests.
- The Fair Labor Standards Act (FLSA) requires that non-exempt employees be paid overtime for all hours worked in excess of forty hours during a workweek. The workweek consists of seven consecutive 24-hour periods, and the City retains the right to designate when the work period begins and ends. The City will not incur additional costs in order to allow employees to choose alternate work schedules. Therefore, alternate schedules regularly in excess of 40 hours per workweek will not be approved.
- Employees will be required to accurately record all hours worked using the City's time-keeping system. Hours worked in excess of those scheduled per day and per workweek will still require the advance approval of the employee's director/supervisor. Failure to comply with this requirement may result in discipline and the immediate termination of the alternate or remote work agreement.
- Employees may be required to work at their regular workplace on their regular remote workday to meet workload requirements. The supervisor should provide as much advanced notice as possible.
- Employees may be required to depart from an alternate or remote schedule to perform their jobs duties, as needed.
- Non-exempt employees may be asked to work overtime regardless of an alternate or remote schedule.
- As the City's needs may dictate, employees may be required to work on their regularly scheduled "off" day and will be compensated accordingly for hours worked. Supervisors and employees will provide as much advance notice as possible if any scheduling deviations occur that impact the employee's standard alternate and remote work schedule.

### **Chapter 3. Section 16c: Eligibility**

Alternate and Remote Work schedules are a management option and by their nature, certain positions are not suited for alternate and remote work schedules. Participation is not appropriate for all employees and no employee is entitled to, or guaranteed the opportunity to have an alternate or remote work schedule.

Alternate or Remote Work schedules are determined at the Department level to provide adequate staffing for the functions performed by the Department. The Department director is responsible for ensuring schedules are established in such a way as to fulfill all the purposes of this policy (such as the need to establish core hours of work or the need to use leave time to not work during core hours).

Full-time and part-time employees (including limited-term employees) may apply for an alternate or remote work schedule. Consideration is based on a combination of job characteristics and work unit needs.

Employees eligible to be considered for alternate or remote work must meet the following criteria:

- The employee must have a satisfactory employee record (i.e. attendance, discipline, etc.).
- The employee must meet all performance expectations in his or her current role, and consistently demonstrate the ability to complete tasks and assignments on a timely basis.
- The nature of the employee's work and responsibilities must be conducive to an alternate or remote work schedule without causing significant impact to others due to coverage needs, disruption to performance and/or service delivery.
- The employee must normally have been employed for a minimum of 6 months.

Each situation will be evaluated on a case-by-case basis, considering factors such as:

- Impact of alternate or remote work schedules on business operations
- Ability to meet the needs of customers, co-workers, and the community
- Effect on timeliness and quality
- Confidentiality concerns
- Availability of information/data security protections
- Availability of a conducive remote work environment

An employee's flexible schedule agreement may be revoked when they no longer demonstrate:

- Adequate attendance and responsiveness.
- Adequate ability to meet project/work deadlines.
- Effective and timely communication with supervisors, co-workers, and customers
- Consistent productivity with measurable or quantifiable work product.

### ***Chapter 3. Section 16d: Leave Time***

Sick and vacation leave will continue to accrue at the employee's regular rate. When an employee takes a full day of sick or vacation leave, the time charged will be equivalent to the full number of hours the employee was scheduled to work on that day pursuant to their approved flexible schedule.

When a paid holiday falls on a full-time employee's regularly scheduled workday, the employee will be paid eight hours of holiday pay. If the regularly scheduled workday is greater than eight hours, the employee will be required to use either vacation or compensatory time earned to make up for the time in excess of the eight hours that the employee was scheduled to work. If the department director approves, an employee may work additional hours during the same workweek as the holiday in lieu of using accrued leave.

- **Example 1:** An employee is working the (4) 10-hour days schedule and a holiday falls on their scheduled day off - they will not be paid for 48 hours. They will only receive 40 hours of pay which includes 8 hours of holiday pay. They will need to adjust their working hours to 32 hours for the remainder of the week.
- **Example 2:** An employee is working the (4) 10-hour days schedule and a holiday falls on one of their 10-hour work days – they will be required to either work an additional 2 hours one of the other days or take 2 hours of vacation.

Employees who use leave such as bereavement leave or jury duty, receive the equivalent number of hours as provided for employees on a standard work schedule (8-hours per day). Example: An employee is scheduled to work 10-hour days and takes three days of bereavement leave. The employee will receive 24 hours of bereavement leave (3 days X 8 hours) and not 30 hours (3 days X 10 hours).

During an inclement weather event, all eligible City employees, regardless of the type of work schedule, will only receive 8 hours of inclement weather pay if the City Offices are closed a full day. If the offices close for a portion of the day, all employees will only receive the number of hours as though they were working a Standard Work Schedule.

Vacation time may not be used to reduce or alter a regular work schedule on an ongoing basis as it is intended to provide restorative time away from work or the opportunity to occasionally address personal matters.

In order to maintain adequate levels of service for the City, employees are encouraged to schedule personal appointments on their scheduled days off.

### ***Chapter 3. Section 16e: Guidelines for Alternate Work Schedules***

#### **REQUEST & APPROVAL FOR ALTERNATE WORK SCHEDULES**

Employees may request an alternate work schedule by submitting a Request for Alternate Work Schedule Request and Agreement form to their supervisor detailing the type of schedule requested and the reason for the request. The supervisor will forward a recommendation to the Department Director who will either approve or decline the request. Denied requests must be reviewed with the employee. Employees are not authorized to work an alternate or remote work scheduled until their request has been approved.

Any changes to the agreement must be requested and approved in the same manner as a new request. Should a conflict arise between two or more employees concerning an alternate or remote work schedule, the Director shall have authority to resolve the matter.

The denial or discontinuation of an alternate or remote work request or agreement is not subject to any appeal process.

#### **PERIODIC REVIEWS AND DURATION OF ALTERNATE WORK SCHEDULE**

Initial approval shall be followed by periodic status updates to assess an employee's abilities and performance expectations as stated above and determine if alternate work schedule should continue. Approved alternate work schedule agreements should be reviewed anytime a substantive factor in the agreement changes, and a new agreement may be required. Prior to starting the alternate work schedule, the immediate supervisor should discuss a plan for periodic check-ins to evaluate the effectiveness of the alternate work schedule.

### ***Chapter 3. Section 16f: Guidelines for Remote Work Schedules***

To be eligible for a remote work schedule, typically, the nature of the employee's work must be such that face-to-face interaction with internal or external customers or project workgroups is minimal and the employee's tasks can be performed successfully away from the office.

#### **EXPECTATIONS AND RESPONSIBILITIES OF EMPLOYEES**

- Remote work employees understand that all obligations, responsibilities, codes of conduct, laws, policies, and terms and conditions of employment apply in the same manner during remote work as if the employees were working at the primary workplace.
- The work schedule of the remote work employee will be determined by the employee's immediate supervisor and set forth in the Remote Work Request.

- Work schedule policies and rules must still be enforced. An employee may only work at their alternate work location on approved remote work days. Otherwise, the employee should report to their primary workplace as scheduled. Remote work outside of an agreed upon date requires advance approval from their supervisor.
- Remote work employees shall not hold meetings at their alternate workplace where the physical presence of others is required. Employees shall not conduct any unauthorized external (non-city) work during their remote work schedule.
- Remote work employees are subject to the same job responsibilities and standards of conduct (including dress), performance and productivity as if they were working at their primary workplace.
- Supervisors may require remote work employees to submit a written daily account of the work performed at the alternate work location.
- Remote work employees are required to be accessible and responsive in the same manner as if they were working at their primary workplace, regardless of the alternate work location. Remote work employees are required to be available to respond to inquiries and/or call-back within 30 minutes, unless not operationally feasible due to work-related reasons, in which case the employee will respond as soon as available.
- Remote work employees are in an on-duty status when remote working and are expected to have the resources necessary to perform their job and concentrate on job duties without undue interruption. Remote work employees must promptly notify their immediate supervisor of any disruptions at the alternate work location (e.g., equipment failure, power outages, etc.) that impact the employee's ability to perform their job duties. In these situations, the City may require the employee to report to the primary workplace or the employee may request leave. If the employee is required to report to the primary workplace, the employee is not guaranteed "replacement time" or an "in lieu of" remote work day.
- The employee's remote work day may be temporarily switched to another day with approval from their immediate supervisor. Remote work employees understand effective communication is essential for the remote work schedule to be successful.
- The remote work employee must be available by telephone (i.e., landline or mobile), email, and/or video conferencing during the established remote work schedule. Teleconferencing or video conferencing (i.e., Zoom) may be considered as a reliable means of communication and may substitute for actual attendance at some meetings with advance approval from the employee's immediate supervisor.
- Remote work employees must be available to report to the primary workplace, as instructed by the employee's department, in a reasonable amount of time (i.e., within two hours).
- Remote work employees must manage personal responsibilities such as childcare and other dependent care in a manner that allows job responsibilities to be successfully met as if they were working at their primary workplace. Participation in remote work is not a substitution for child, dependent, and/or elder care. Remote Work is not intended to allow for employees to pursue outside employment, to run their own business or engage in personal activities, including child, dependent, or elder care, during working hours.
- Remote work employees will maintain accurate time accounting documentation to support and substantiate hours worked. Furthermore, remote work employees should accurately complete their timesheet and provide it to their supervisor or designee per established Department deadlines. Remote work employees should submit routine reports detailing hours worked and the status of tasks performed and/or completed as mutually agreed upon with their supervisor.

- Remote work employees subject to overtime, per FLSA overtime regulations shall obtain advance written approval from their supervisor before working overtime hours.
- Remote work employees must follow the Department's standard reporting and leave request procedures.

## **EQUIPMENT AND SUPPLIES**

A City issued laptop computer and cell phone will be provided to employees approved for remote work; use of personal computers will not be allowed. The City laptop will include a cellular data service and the capability of connecting to the employee's residential internet service provider via Wi-Fi. Employee owned peripherals like monitors, keyboards, printers are allowed, but the City will not provide any support of these devices.

The City will provide remote assistance during normal business hours. If the repair requires hands on the laptop or cell phone, the employee is responsible for returning the equipment to a City facility for maintenance. The City will not provide maintenance or repairs for employee owned equipment.

The City will not pay for or reimburse the employee for any communications charges including but not limited to, local or long-distance telephone calls or service, internet access or service, cell phone charges, etc. for the purposes of providing a remote work opportunity.

Employees who telecommute may use City supplied office supplies such as pens, pencils, stationary, envelopes, etc. for work purposes. Necessary supplies should be obtained through the normal procurement process. Office furniture, toner, ink or paper for printers or copiers will not be provided to employees who work remote.

Employees who work remote are subject to the same city policies regarding the use of City provided equipment, supplies and services as well as the City's policies covering information security, software licensing, internet access, and data privacy.

City-owned equipment is to be used for work-related purposes only, and its use is limited to the remote work employee. Remote work employees are responsible for ensuring that City-owned equipment is properly and responsibly used, maintained, or securely stored. Remote work employees accept financial responsibility for any equipment that is lost, stolen, or damaged because of the employee's negligence, misuse, or abuse.

The employee must sign an inventory of all City property received and agree to take appropriate action to protect the items from loss, damage, theft, or unreasonable wear and tear. All equipment and supplies must be returned to the City upon conclusion of the remote work schedule, or if the equipment or supplies are no longer needed by the employee to perform their work.

Upon termination of employment, all inventoried property must be returned to the City, unless other arrangements have been made.

## **CONFIDENTIAL INFORMATION**

The employee will maintain the confidentiality of City information and documents and prevent unauthorized access to any City system or information, and dispose of work-related documents in a manner that will not jeopardize the interests of the City.

All work product is the property of the City of Baytown regardless of whether the work product is created or modified on a City-owned or personal device. As such, this work product is subject to the Public Records Act. This includes, but is not limited to: notes, data, reference materials, sketches, drawings, memoranda, reports and records.

## **REQUESTING AND APPROVAL OF REMOTE WORK**

Employees may request an alternate work schedule by submitting a Remote Work Self-Assessment form and Remote Work Schedule Request and Agreement form to their supervisor detailing the type of

schedule requested and the reason for the request. The supervisor will forward a recommendation to the Department Director who will either approve or decline the request. Denied requests must be reviewed with the employee. Employees are not authorized to work an alternate or remote work schedule until their request has been approved.

Any changes to the agreement must be requested and approved in the same manner as a new request. Should a conflict arise between two or more employees concerning an alternate or remote work schedule, the Director shall have authority to resolve the matter.

The denial or discontinuation of an alternate or remote work request or agreement is not subject to any appeal process.

## **PERIODIC REVIEWS AND DURATION OF FLEXIBLE WORK SCHEDULE**

Initial approval shall be followed by periodic status updates to assess an employee's abilities and performance expectations as stated above and determine if flex schedule should continue. Approved remote work agreements should be reviewed anytime a substantive factor in the agreement changes, and a new agreement may be required. Prior to starting the remote work schedule, the immediate supervisor should discuss a plan for periodic check-ins to evaluate the effectiveness of the remote work schedule.

### ***Chapter 3. Section 16g: Temporary Arrangements***

Temporary remote work and alternate or flex work schedule arrangements may be approved for circumstances such as inclement weather, special projects, or business travel. These arrangements are approved on an as-needed basis only, with no expectation of a change to the employee's regular work schedule or location. Other informal, short-term arrangements or reasonable accommodations may be made for employees on family or medical leave to the extent practical for the employee and the City and with the consent of the employee's health care provider, if appropriate. All informal remote work and alternate or flex work schedule arrangements are made on a case-by-case basis, focusing first on the business needs of the City. Temporary arrangements are normally for a few days but in no case should exceed 30 days. Request beyond 30 days should apply through the Alternate or Remote Work Schedule approval process.

Department directors may permit employees to work other than standard daily hours to avoid incurring overtime when operations necessitate unplanned changes in schedules.

## **Chapter 4. Employee Development**

### ***Chapter 4. Section 1: Employee Development***

It is the City's philosophy to provide exceptional customer service by maintaining a high standard of professionalism through competent, well-trained employees. At a minimum, employees should be able to perform their essential job duties and consistently exhibit behavior which is aligned with the City's values. Supervisors should ensure their employees are well trained to perform their job duties and deliver exceptional service delivery and customer service.

Pivotal to the performance management system is ongoing communication focused on enhancing performance and development of employees. Open communication between an employee and supervisor ensures that any issues are elevated quickly and resolved expeditiously.

Informal feedback for performance throughout the review period is imperative. Employees are encouraged to seek clarification of requirements of the position and request performance feedback. The employee must clarify task assignments, and accept coaching and feedback throughout the period. Supervisors are accountable to assign tasks and monitor execution. The supervisor is also responsible to provide coaching and support to the employee. The supervisor provides feedback to their employees on a regular basis, by identifying deficiencies in performance, providing suggestions for further development, and celebrating outstanding performance.

### ***Chapter 4. Section 2: Performance Evaluation Review***

While informal discussions focusing on performance and development of employees will occur throughout the year, a formal performance review will be conducted a minimum of three times annually for employees. The performance review is intended to ensure that all employees are aware of what duties are expected, understand the level of performance expected, receive timely feedback about their performance, provided opportunities for training and development, and are evaluated in a fair and consistent manner.

The Human Resources Department has the responsibility to administer an appropriate performance review tool. Training and coaching on performance evaluation techniques may be provided by the Human Resources Director or assignees. Full time employees on probation will participate in an initial performance discussion within the first 90 days of employment. Employees will typically participate in at least three formal performance evaluation meetings with their supervisor each year: January 1 – April 30, May 1 – August 31, and September 1 – December 31. During these meetings, employees and supervisors will discuss performance during the review period and determine an overall performance rating. Employees will be given an opportunity to document their response to their overall rating. In this meeting, employees and supervisors will also work together to establish performance expectations, goals & priorities, and developmental opportunities for the coming year.

Supervisors and employees are encouraged to come to the performance review meetings prepared to discuss past and present performance, set future goals and priorities, and identify developmental needs in an open, honest, and collaborative manner. Both parties may collect and review notes, citations and performance-based examples, and should spend time prior to the meeting reflecting on accomplishments and opportunities realized in the preceding months. Steps should be taken to provide a comfortable and confidential environment so that the discussion can be held without interruptions. Objective statements should be made providing specific examples of performance.

Some evaluation review meetings may be difficult due to the employee's failure to achieve performance expectations. Supervisors should be prepared to describe the unsatisfactory performance or behavior and cite specific observed examples. The supervisor and employee will work together to develop an action plan to resolve any performance or behavioral issues.

### **Chapter 4. Section 3: Training**

It is the philosophy of the City to support employee training and development opportunities that will prepare employees for increased responsibilities and enhance individual growth, development and promotion. The Human Resource Department will coordinate in-house training programs. Some courses may be deemed to be mandatory and failure to attend could result in disciplinary action. In addition, as part of a corrective action plan, an employee may be required to attend a training program. Such attendance will be required to continue employment with the City.

The Human Resource Department regularly schedules the New Employee Orientation Program to cover policies, procedures, benefits and other pertinent information. All new full and part time employees are required to participate as scheduled.

Upon completion of training or educational courses, appropriate information or certificates should be furnished to the Human Resource Department for inclusion in the employee's personnel file.

All training must be pre-approved by supervisors. If training is determined to be of significant cost as determined by the Department Director, employees may have to sign a reimbursement agreement prior to attending training to ensure the City receives benefit from paying for the training.

### **Chapter 4. Section 4: Performance Improvement Plan (PIP)**

The Performance Improvement Plan (PIP) is designed to facilitate constructive discussion between an employee and his or her supervisor to clarify the work performance that needs to be improved. It is implemented, at the discretion of the supervisor, in collaboration with Human Resources when it becomes necessary to help the employee improve his or her job performance.

The PIP should include statements regarding the specific deficiencies in the employee's job performance, what improvement is necessary, the period of time in which improvement must occur (i. e. 30, 60 90 days), and what action will result if the employee fails to show satisfactory improvement. The supervisor should review the following items with the employee when utilizing a PIP to improve an employee's poor job performance:

- 1) Clearly identify the performance issues.
- 2) Establish a clear expectation for the employee's work performance with the caveat that it must be performed on a consistent basis.
- 3) Specify the support/resources you will provide to assist the employee.
- 4) Communicate your plan for providing feedback to the employee (*meetings, with whom, how often*).
- 5) Provide resources for additional information (*i.e., time management, communication techniques, project management, etc.*).
- 6) Define the possible consequences if performance standards are not met.

The Performance Improvement Plan and any additional documentation including follow up reviews will be placed in the employee's personnel file.

## **Chapter 5. Employee Benefits**

### ***Chapter 5. Section 1: Employee Health, Welfare and Development***

The City provides a competitive benefits package so as to attract and retain high quality staff. The package includes Federal and State mandated benefits, as well as discretionary benefits.

### ***Chapter 5. Section 1a: Mandated Benefits***

Mandated benefits include social security, unemployment insurance and workers' compensation.

#### **SOCIAL SECURITY**

Employees of the City are covered under the provisions of the Federal Old Age and Survivor's Insurance Trust Fund (Social Security) as expressed in the agreement between the Texas Department of Public Welfare and the City of Baytown.

#### **UNEMPLOYMENT INSURANCE**

All employees of the City are covered under the Texas Unemployment Compensation Insurance program and the City pays this tax. This program provides payments for employees separated from work by the City for reasons other than gross misconduct.

#### **WORKERS' COMPENSATION INSURANCE**

Workers' Compensation benefits are applicable to on-the-job injuries and resulting disability for all City employees. Benefits will be in accordance with the provision of the Texas Employers' Liability and Workers' Compensation Insurance Law, and with special rules and requirements of the insurance carrier. The application and administration of this arrangement shall be handled by the Human Resources Department in accordance with operating and procedural rules issued by the City Manager.

#### **RETIREMENT PLANS**

The City's Texas Municipal Retirement System (TMRS) plan requires a contribution (made by means of bi-weekly payroll deductions) equal to seven (7) percent of the salary of each full-time City employee. The City matches employee contributions on a 2 to 1 basis upon retirement from the City.

Monthly retirement benefits are computed on an actuarial basis and vary with age, length of service, amount of salary or wages and type of annuity selected by the retiring employee. The plan provides for retirement on the following basis:

- Completion of 20 years of service, regardless of age; or
- Upon attaining age 60 and provided the employee has at least five (5) years of service.

Vesting is defined as retirement rights after the completion of five (5) years of service credit. This means that the employee is entitled to an annuity at age 60 if the employee's contributions and interest are left on deposit.

To the extent employees can no longer perform the duties of their job, and their disability is likely to be permanent, there are provisions for a disability retirement under TMRS. There is no minimum length of service or age required, and the cause of the disability can either be duty related or non-duty related. All Disability Retirements must be approved by the Texas Municipal Retirement System Medical Board.

For more detailed information employees may refer to the TMRS plan booklet.

## **Chapter 5. Section 1b: Discretionary Benefits**

Discretionary benefits include medical, dental, vision, life insurance, flexible spending/dependent care accounts, retirement and Employee Assistance Program. Discretionary benefits are offered to full time employees and may be modified by the City at any time. Summary Plan Descriptions are available for complete plan information.

### **MEDICAL, DENTAL, VISION, AND LIFE INSURANCE**

Health benefits are available for full time employees effective the first day of the month, following thirty (30) days service with the City. Once elected, an employee cannot make changes until the open enrollment period unless he/she has experienced a qualifying event.

Examples of qualifying events include the following:

- The employee or spouse's change in employment status (such as termination of employment, reduced hours of work, change of employer, etc.)
- Birth or adoption of a child
- Marriage or legal separation
- Loss of dependent status
- Social Security Disability Determination or
- Death

For more detailed information employees may refer to the Summary Plan Document or the benefits booklet.

### **FLEXIBLE SPENDING AND DEPENDENT CARE ACCOUNTS**

Flexible Spending plans allow an employee to elect an annual amount to be deducted pre-tax from the employee's bi-weekly paycheck for health care expenses and/or IRS qualified dependent care expenses not reimbursed by insurance or any other source. All expenses incurred for reimbursement must be in the calendar year.

### **RETIREMENT PLANS**

The City offers an additional retirement plan through ICMA-RC (International City/County Management Association – Retirement Corporation). This plan allows employees to contribute additional dollars pre-tax to various investment accounts. All contributions are made by the employee. The City does not contribute any dollars to these accounts.

### **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

The City has adopted an Employee Assistance Program (EAP) as a tool for assisting employees and their family members to manage their wellbeing, behavioral health, and other personal concerns that can affect their job performance. The program is a confidential resource that is available 24 hours, 7 days a week.

Behavioral problems that affect work performance and attendance are City concerns. The City recognizes that most behavioral problems can be successfully treated provided they are identified early and appropriate referral is made.

This program assists whether the problem is one of physical illness, mental or emotional illness, marital or family distress, alcoholism, drug abuse, legal problems, financial problems or other concerns. Guidance and counseling are provided to support employees and assist in the resolution of personal concerns and behavioral health issues and restore them to full job effectiveness.

## **Chapter 5. Section 1c: Consolidated Omnibus Budget Reconciliation Act (COBRA)**

Under the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) a continuation of coverage option for group health insurance is offered by the City to eligible employees and their eligible dependents. The rights allowed under COBRA are defined in the City of Baytown health insurance booklets and are also available through information provided by the Human Resources Department. Each employee should receive an initial COBRA notification in his/her new employee packet. Employees are encouraged to seek out this information if they are unsure of their rights under this law.

## **Chapter 5. Section 2: Holidays**

The following days are recognized as City-paid holidays during the fiscal year:

- New Year's Day – January 1
- Martin Luther King Jr. Day – 3rd Monday of January
- Good Friday – Friday preceding Easter
- Memorial Day – Last Monday in May
- Independence Day – July 4
- Labor Day – 1st Monday in September
- Thanksgiving Day – Fourth Thursday in November
- Day after Thanksgiving – Friday after Thanksgiving
- Christmas Eve – December 24
- Christmas Day – December 25
- One (1) Personal Holiday to be selected by employee

City Council may declare additional holidays. An employee must be in a paid status the day before and the day after the holiday to receive a paid holiday.

Full time employees who are not regularly scheduled to work on a holiday and who are required to work on a holiday (actual or observed) will be paid their regular rate of pay and will accrue the holiday as hour for hour compensatory straight time to be taken at a later date. The employee may elect to receive pay for the holiday as well as pay for the time worked.

Effective January 1, 2017, the maximum accrual an employee may maintain is equal to but not greater than one times the annual amount. All holidays earned after January 1, 2017, in excess of this will be paid. Effective January 1, 2017, employees with accrual amounts over the maximum may be required to draw the hours down or receive pay (if budgeted) for the excess hours in a manner determined by the City Manager.

Holidays paid out over the maximum accrual amount will not be considered worked time and will not be used in the calculation of overtime.

Personal holidays provided by Council must be taken in either half day or whole day increments with prior notice to and approval by the employee's supervisor. Unused personal holiday time cannot be carried over from one fiscal year to the next. An employee who has any unused personal holiday time at the time of termination will not be compensated for the unused time.

### **Chapter 5. Section 3: Vacation**

Vacation is provided to ensure that employees have periods of rest and relaxation which contribute to their quality of life by maintaining an equitable balance between work, family and personal time. For non-Civil Service, an employee's hire date shall be recorded as the anniversary date for the purpose of vacation accrual.

Employees may carry forward up to two times their annual accrual rate. When an employee has reached his/her maximum allowed accrual amount, each pay period additional accruals will be added to the employee's bank; and if not used during that pay period, the oldest accruals will be deducted to maintain the maximum allowed. Employees shall be encouraged to use a substantial portion of their vacation leave each year.

Vacation leave shall be charged only for time during which the employee would ordinarily have worked. City holidays will not be charged against vacation time. Employees being laterally transferred, promoted, or demoted shall retain accrued vacation leave. The City does not provide vacation pay in lieu of vacation time.

Deferred vacation will be authorized only in exceptional cases. All requests for deferred vacation shall be submitted to the Human Resources Department. Deferred vacation shall be completed as soon as the Department Director can conveniently schedule it in the following year. A deferred vacation not taken within 12 months of approval will automatically lapse and be deducted from the employee's accruals.

### **Chapter 5. Section 4: Sick**

Sick leave is income protection for employees who, because of illness or accident, are temporarily absent from work. Sick leave shall not be advanced to an employee, and sick leave credits are not transferable between employees except as authorized under the Sick Leave Pool.

An employee who becomes ill or injured during a vacation may request that the vacation be terminated and the time of the illness be charged to sick leave.

### **ABUSE OF LEAVE TIME**

A supervisor may at any time require satisfactory proof of the proper use of sick leave and may disallow sick leave in the absence of such proof. An employee who misuses sick leave should be counseled and will be subject to disciplinary action, up to and including termination.

Evidence of abuse of leave privileges can include, but is not limited to:

- Frequent unapproved absences on Friday and/or Monday
- Maintaining low or zero paid leave balances
- Frequent unapproved absences prior to or following a holiday or
- Any pattern of absences that can be identified by a review of leave usage.

Department Directors are authorized to investigate any claim of abuse of sick leave benefits and disapprove any claims not properly justified. Frequent claiming of benefits under this rule constitutes grounds for the assumption by a Department Director that the physical condition of the employee is below the standard necessary for the proper performance of their duties. Likewise, evidence of malingering or the abuse of this benefit shall constitute grounds for disciplinary action by the Department Director.

## DOCUMENTATION AND NOTIFICATION

Employees who are absent due to illness for three (3) or more consecutive days may be required to provide their supervisor with sufficient documentation for the absence from a medical provider.

Generally, when the employee seeks to return to work after three (3) or more days of absence, the employee may be required to furnish a statement from their medical provider to the effect that the employee's physical condition permits the resumption of employment without endangering the employee's health or the health or safety of others. The City may request clarification as needed. An employee who is released by an examining physician to return to regular duty, and refuses to report for work or perform his assigned duties, is subject to disciplinary action, up to and including termination. All documentation shall be provided to the Human Resources Department.

A supervisor shall be responsible to notify the Human Resources Department when an employee is absent due to illness for three (3) consecutive work days (or 2 shifts for fire fighters) so the time may be evaluated for family and medical leave.

Upon using three (3) days of absence in a quarter, an employee may be placed on medical certification and required to bring verification from a doctor to receive pay for any additional absence. Employees placed on medical certification will be notified of this action and this documentation will be forwarded to the Human Resources Department for their personnel file. Continued absences may result in disciplinary action even if doctor's verification has been provided.

### **Chapter 5. Section 4a: Sick Leave Pool**

The purpose of the sick leave pool is to provide additional sick leave days to City employees in the event of an employee's own catastrophic illness or injury, surgery, or disability as defined under the Family Medical Leave Act (FMLA) that prevents an employee from active employment. Days shall be applied from the Pool only after the employee has exhausted all accrued sick, vacation, holiday and compensatory time off.

#### I. Definitions:

- *Employee* – a regular full-time employee. Only those employees that accrue sick and vacation leave shall be eligible.
- *Member* – is an eligible employee as described in the definition of "Employee" above who has enrolled in the sick leave pool by contributing at least one day of sick leave or vacation.
- *Catastrophic illness or injury* – is defined as a terminal, life-threatening, and/or severe condition or combination of conditions affecting the mental or physical health of the employee that requires the services of a health care practitioner for a prolonged period of time and that forces the employee to exhaust all accrued leave time (sick leave, vacation, holiday and compensatory time off), thereby resulting in the loss of all compensation from the City.
- *"Sick Leave Days from the Pool"* – those days granted to a member who has a qualifying condition and is unable to perform the duties of his/her position. Members shall be limited to a lifetime benefit maximum of 120 days of sick leave from Pool.
- *"Unit of sick leave days"* – the number of sick days which are awarded from the Pool and which shall be within the discretion of the Committee, up to and including ten (10) days per Sick Leave Pool request.
- *Committee* – the Sick Leave Pool Committee, an appointed body of Pool members which serve as the administrator of the Pool, including the granting authority for benefits from the Pool.

## II. Contribution of Days and Membership Terms

Contributing to the Sick Leave Pool is voluntary; however, all eligible employees are encouraged to participate. An employee may contribute two (2) days of sick leave or vacation leave each year from his/her accrued leave. The Committee may accept or reject the donated days based on the "reasonable level" of the Pool.

Employees may opt in to the sick leave pool once each year, during the month of January. Beginning January 1, 2017, a contribution of up to two days of sick (or vacation) time provides the employee with one year of membership in the Pool, which must be repeated each year prior to January 31 in order to remain eligible for benefits through the Sick Leave Pool.

During January of each year the Committee shall conduct a "contributions drive", when eligible employees may make an annual contribution of two (2) days of accrued sick leave or vacation to the Pool. During any year in which the number of days accumulated exceeds a "reasonable level", as determined by the Committee, the Committee may decide that members do not have to contribute during that year. During such years current members shall remain active and eligible for benefits for an additional year. If the pool falls below a reasonable amount the Committee may request that members voluntarily contribute an extra day(s), up to a maximum of three (3) days, until the Pool reaches an acceptable level.

Day(s) donated shall be subtracted from the employee's accrued sick leave and/or vacation record by Payroll. The sick leave and/or vacation days shall become the property of the Pool and cannot be returned. At the end of the leave year, the number of unused days in the Pool shall be determined and carried forward for the next year.

## III. Applying for Sick Leave Days

- 1) If a member has a qualifying condition requiring additional sick leave days after all accrued sick leave days, vacation days, holiday and compensatory time off have been used, the member may submit a request for sick leave days from the Pool. A copy of the request shall be forwarded to their Department Director.
- 2) A member who requests sick leave days must submit to Human Resources a Sick Leave Pool Request form which includes the attending health care practitioner's statement identifying:
  - a. The nature of the qualifying condition;
  - b. The date of initial onset of the qualifying condition; and
  - c. The anticipated date the member will be eligible to return to work, either on a full duty or modified duty.
- 3) The Committee may refuse to consider a request that does not contain the required information.
- 4) If a member is critically ill and unable to file a request for sick leave days from the Pool, the Department Director may submit an application at the request of the employee.
- 5) An employee whose request is denied may provide additional information and request a second review.

## IV. Granting of Days from the Pool

- 1) Days granted from the Pool shall be in units of not more than ten (10) consecutive working days. At the end of the ten (10) days, the member may apply for an extension by submitting an updated statement from the health care practitioner on the proper form. A member may draw out only as many days as the Committee approves.
- 2) The Committee shall review and forward to the Human Resources Department its decision on all requests within five (5) working days after a request is received by the Human Resources Manager.

- 3) A member may not use time in the Pool in an amount that exceeds 12 weeks of all combined leave as provided by Family Medical Leave.
- 4) A member absent on sick leave assigned from the Pool will be treated for all purposes as if the employee were absent on earned (accrued) sick leave.
- 5) The estate of a deceased member is not entitled to payment for unused sick leave acquired by that member from the Pool.
- 6) Sick leave days from the Pool may not be granted for the period of disability when monies are paid to the member under the Texas Workers' Compensation Act or a disability plan.
- 7) All unused days shall be returned to the pool.

#### V. Composition of Committee

- 1) The Committee shall be composed of five members. Committee Members shall be appointed for positions one through five. Odd numbered positions shall expire in odd numbered years and even numbered positions shall expire in even numbered years. However, Committee Members shall serve until replaced through appointment. No Department shall have more than one representative on the Committee.
- 2) Directors may nominate an employee by submitting a written request to the Human Resources Department. The letter must be received by Human Resources no later than January 31<sup>st</sup> of each year, although the City Manager may extend the deadline if necessary to receive a minimum number of candidates.
- 3) The Committee shall be selected by the City Manager's Office and shall be composed of five regular full-time employees.
- 4) In the event that a Committee Member chooses to resign from the Committee or leaves employment with the City prior to the expiration of the term for that position, the vacancy shall be filled by the Directors and City Manager's Office.
- 5) A staff member from Human Resources shall serve as the Committee's Secretary and shall provide guidance and administrative assistance to the Committee but shall not be a voting member.

#### VI. Committee Duties and Responsibilities

- 1) At the initial yearly meeting the Committee shall elect a Chairman and Vice-Chairman.
- 2) Requests for Sick Leave Pool days shall be confidentially and individually reviewed by the Committee in a called meeting. A member may be required to appear before the Committee to substantiate a request.
- 3) The Committee shall approve, disapprove, or modify the number of days requested from the Pool. Sick leave days shall be awarded in amounts up to the maximum ten (10) day unit.
- 4) The decision of the Committee shall be based on a majority vote of the quorum. A quorum shall be based on at least three (3) committee representatives.
- 5) The Committee Chairperson shall notify the Department Director of all approved sick leave requests.
- 6) The Committee Chairperson shall forward all approved sick leave requests to Payroll.
- 7) The Committee reserves the right to modify or waive any requirement listed above, with the approval of the City Manager, to address any special circumstances that arise.

## **Chapter 5. Section 5: Family and Medical Leave**

Family and Medical Leave (FMLA) is provided to enable employees to receive time away from work without pay for limited periods to attend to their own or their family member's serious health condition with job protection and no loss of accumulated service.

### **APPLICATION AND COMMENCEMENT**

Eligible employees should provide at least 14 days' notice, when possible, of the need for leave under this provision. Employees are also required to make a reasonable effort to schedule treatment for medical conditions in advance so as not to disrupt City operations. When the 14-day advance notice cannot be given, employees must give notice as soon as possible. Human Resources must respond in writing to an employee's request for FMLA leave within two (2) working days when possible. FMLA leave will start when an employee is on leave for three (3) or more calendar days due to a qualifying event or intermittently for a serious health condition. In all cases, the employee must submit a **Certification by a Health Care Provider Form** to the Human Resources Department.

Accrued paid leave, if available, must be used concurrently with the unpaid FMLA leave entitlement. This could include sick, vacation, holiday, compensatory time, or workers compensation. All accrued leave must be used prior to going into a no pay status.

After the third consecutive day of sick leave, the supervisor shall immediately notify the employee and Human Resources in writing of their tentative "Family and Medical Leave" status. Calculation of FMLA leave begins on the first day of the three-day period. It is the responsibility of Human Resources to calculate the leave and maintain employee records.

If the employee requests leave to take care of a family member, the health care provider must verify that the employee's assistance is needed. Supervisors may request progress reports from employees on leave. An employee who takes leave for their own health condition must provide a "return to work" certificate from their physician or practitioner to Human Resources before being allowed to return to work.

### **BENEFITS**

While an employee is on paid leave the City shall continue all employee benefits, including employer contributions to insurance and retirement programs. The employee continues to accrue all paid leave during this period. The employee continues to accrue seniority during this period for purposes of calculating leave accrual, longevity pay, and for seniority credit on Civil Service promotional exams.

The City must continue employer contributions for employee health coverage while an active employee is on unpaid FMLA. Employees may continue their employee insurance coverages and all dependent insurance coverages by paying the required biweekly premiums.

Employees do not accrue leave or credits under Texas Municipal Retirement System (TMRS) while on leave without pay.

## **Chapter 5. Section 6: Military Leave of Absence**

A military leave of absence will be granted for full-time or part-time employees who enter or are part of the Armed Services, Reserves, National Guard, NOAA, or Public Health Corp for duty or for training, for a period generally not to exceed 5 years.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) requires that employees provide advance written or verbal notice of their military duty assignment unless giving such notice is impossible, unreasonable, or precluded by military necessity. The City requires deployment orders or other military assignment instructions prior the military leave commencing unless precluded by military necessity.

## **REEMPLOYMENT RIGHTS**

A returning service member is eligible for re-employment rights if he/she meets the following criteria:

- The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions and be able to perform the essential functions of the job with or without reasonable accommodations.
- The employee must have held a position that has a reasonable expectation of continuation indefinitely or for a significant period.
- The employee must not exceed the five-year statutory limit on cumulative periods of service unless the time beyond the five years was to complete an initial period obligated service and the employee was unable to obtain release orders through no fault of their own. The five-year period begins with military service after December 12, 1994.

Annual training and monthly drills are not counted against the cumulative total. USERRA provides that returning service members will be reemployed in the jobs that they would have attained had they not been absent on military service, unless reemployment would be unreasonable, or would cause an undue hardship.

## **BENEFITS**

Service members reemployed will be reinstated with the same seniority, status, pay, accrual rate for vacation and sick leave, as well as other rights as though they had never left employment. Employees will not accrue additional leave while on military leave.

## **HEALTH AND DENTAL BENEFITS**

While an employee is on paid military leave (or any military leave of less than 31 days), the City will continue to pay its portion of the monthly premium for group health benefits. When military leave is unpaid, the employee may elect to continue group health coverage for up to 24 months following separation of employment or until the employee's reemployment rights expire, whichever event occurs first, for the employee and eligible dependents.

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

## **TEXAS MUNICIPAL RETIREMENT SYSTEM**

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

## **TRAINING**

The City will make an effort to provide training and/or retraining for military service members to refresh or upgrade their skills to help them qualify for reemployment, unless unreasonable, or if it would cause an undue hardship.

## **COMPENSATION**

The City will provide a paid leave of absence to employees who are a member of the armed forces or a reserve component for authorized training or duty which is ordered by official military authority for not more than 15 work days in a fiscal year.

## **CONDITIONS FOR RE-EMPLOYMENT**

A person returning from service must report back to work or apply for reemployment within the time constraints prescribed by USERRA. The City shall re-employ a returning veteran according to the provisions of USERRA. Civil service employees shall be required to meet additional requirements in Chapter 143 of the T.L.G.C. before being reinstated.

- 1) The deadline for an employee to return to work and/or notify the City that the employee intends to return to work following military leave depends upon how long the employee's military service lasted: For service 30 days or less, employees must report back to work on the first regularly scheduled workday following completion of service and the expiration of eight hours after a time for safe transportation back to his/her residence.
- 2) For service that lasts between 31 days and 180 days, employees must submit to the employer a written application for re-employment within 14 days of completion of service.
- 3) For service more than 180 days, employees must submit a written application for reemployment within 90 days of completion of service.

These deadlines may be extended for 2 years or more when an employee suffers service-related injuries that prevent the employee from applying for reemployment or when circumstances beyond the employee's control make reporting within the time limits impossible or unreasonable.

To qualify to return to work, an employee returning from leave must provide documentation of the length and character of military service. Also, evidence of discharge or release under honorable conditions must be submitted to the City if the military leave lasted more than 31 calendar days.

### ***Chapter 5. Section 7: Workers' Compensation Policy***

The City provides Workers' Compensation coverage to employees for job related injuries and occupational illnesses in accordance with the Texas Workers' Compensation Act. This policy defines when a workers' compensation claim can be made, specifies reporting requirements when employees sustain injuries or illnesses and addresses the necessity for medical treatment. The policy specifies an employee who is returning to work from a work-related illness or injury must provide a fully completed Return to Work form from the treating medical provider and report the use of medications that would affect their job performance. The policy also informs employees about fraudulent reporting penalties.

## **GENERAL REQUIREMENTS**

Employees must submit in writing complete and accurate information regarding job injuries, illnesses, disabilities, causes of such, medical care and treatment to their immediate supervisor and the Risk Manager/Human Resources.

The recommendations regarding care and treatment of the injury/illness by the medical service supplied by the City or selected by the individual must be followed. If medical service is selected by the employee, the employee must provide for communication of the disability, injury, illness, medical care and treatment between his/her selected provider, the Risk Manager/Human Resources, and the City designated Workers Compensation Administrator. Failure to follow doctor's orders or the City's request for communication may result in disciplinary action, up to and including termination.

Employees must communicate with their supervisors and the Risk Manager/Human Resources weekly upon the outset of the absence relating to an on-the-job injury or illness. The communication must be

maintained by the employee with the City during the period of the disability until fully released to return to work or supplemental pay will be stopped and result in disciplinary action up to and including termination.

The employee must be available for consultation at the request of the City during the period of disability.

The employee will submit to such physical and/or mental examinations that the City or City representative deems necessary. The treating medical provider will evaluate and make recommendations to the City regarding progress, return to work dates, or extended leave situations requiring medical separation. If an appointment is scheduled, the employee must attend the appointment. If the employee needs to reschedule the appointment, you must make the arrangements prior to the appointment and inform the Risk Manager/Human Resources. If the employee fails to do so, the missed appointment becomes the employee's financial responsibility. Continued missed appointments are also subject to non-payment of workers' compensation benefits and result in disciplinary action up to and including termination.

No employee on modified duty will be allowed to work overtime. When on workers' compensation, all other employment must be approved by the Human Resources Department and the Department Director before the employee may continue the other employment.

Disagreement between doctors' opinions will be settled by the method established by the Director of Human Resources according to Texas Workers' Compensation processes and/or law. Failure to abide by any of the above criteria may result in the forfeiture of supplemental benefits and may result in disciplinary action, up to and including termination.

Employees may be released from employment through medical separation for inability to perform the essential functions of the job with or without reasonable accommodation. If an employee is terminated for any reason, supplemental pay will be stopped.

While on workers' compensation, the City may pay a portion of the employee's average weekly salary which is not paid by workers' compensation based on a schedule and/or Civil Service law. Employees receiving workers' compensation benefits continue to accrue sick and vacation leave.

## **REPORTING WORKERS' COMPENSATION INJURIES**

Each employee is required to report injuries or illnesses to their supervisors as soon as possible. In the event that their immediate supervisor is not available, the employee will report the injury or illness to a departmental supervisor or their Department Director. The Risk Manager/Human Resources is to be notified immediately or by the next working day in the event of an injury. If an injured employee is admitted into the hospital, or a fatality has occurred, the Risk Manager should be notified immediately in order to verify benefits with the physician and/or hospital.

The supervisor must complete the appropriate accident reporting forms. The form should be sent to the Risk Manager/Human Resources within 24-hours or by the next working day of an accident. Supervisors are responsible for ensuring all information is completed.

All requests for verification of workers' compensation benefits should be forwarded to the Risk Manager. Medical providers should contact the Risk Manager/Human Resources for insurance carrier information.

All injured employees should be instructed by their supervisor to contact the Risk Manager after an injury for an explanation of benefits. For any employee unable to travel, arrangements will be made to visit the employee at the place of convalescence, if needed.

An employee may be subject to disciplinary action for failure to comply with the reporting requirements of this policy and/or have their claim denied. Health care providers and pharmacies may refuse care and medicines to employees that fail to report work-related injuries as required by this policy. They will not be allowed to continue treatment or prescribe medication without the claim being filed and approval for the care or medication from the City's insurance carrier.

## **JOB RELATED INJURIES**

An injury sustained by an employee while the employee is performing within the course and scope of job duties may be considered to be a job-related injury.

The following shall NOT be considered job related injuries:

- 1) Injuries occurring while the employee was in a state of intoxication;
- 2) An injury caused by the employee's willful intention to attempt personal injury or to unlawfully injure another person;
- 3) Injuries sustained when the employee's horseplay was a contributing cause of the injury;
- 4) Injuries arising out of an act of a third person intended to injure the employee or volunteer because of personal reasons;
- 5) Injuries arising out of voluntary participation in an off duty recreational, social or athletic activity not constituting part of the employee's work-related duties, except where these activities are a reasonable expectancy of or are expressly or impliedly required by the employer;
- 6) Injuries arising out of an act of nature, unless the employment exposes the employee or volunteer to a greater risk of injury from an act of nature than ordinarily applies to the general public.

## **OCCUPATIONAL ILLNESS**

The term "occupational illness" is a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body. The term includes other diseases or infections that naturally result from the work-related disease. The term does not include an ordinary disease of life to which the general public is exposed outside of employment.

## **MEDICAL TREATMENT PROCEDURES**

Injured employees are to be transported for medical treatment either by ambulance or another person depending on the severity of the injury. Injured employees should never be allowed to transport themselves for initial medical treatment, but they may transport themselves for follow-up visits if the injury does not impair their driving abilities. The Risk Manager/Human Resources should be contacted immediately if a traumatic or life-threatening medical emergency has occurred.

For non-life-threatening injuries, the employee and their supervisor should report the injury to the designated nurse line phone number. The employee should then be transported to the City designated facility.

All injured employees must see the City designated medical provider after an injury. The employee may choose to continue care with this medical provider or seek treatment with another medical provider that is in the designated workers compensation healthcare network. It is the employee's responsibility to ensure that the physician is in the designated workers compensation healthcare network or the employee will be responsible for the medical bills incurred by this medical provider. It is the employee's responsibility to arrange transportation to medical appointments.

Any incident involving possible exposures to blood borne pathogens, communicable diseases, or any other contagious substance shall be handled in accordance with those specific policies or procedures regarding that particular incident.

No employee will return to work without a release from the treating medical provider. All modified duty will be coordinated through the Risk Manager/Human Resources per *Administrative Rules, Chapter 5, Section 7a: Modified Duty*.

## USE OF MEDICATIONS

If, due to a workers' compensation injury, an employee is using a legally obtained prescription or over-the-counter medication which could potentially affect safety in the workplace, the employee must report the use of the medication to the Risk Manager/Human Resources prior to reporting to the work site so that the Risk Manager/Human Resources and employee can review and acknowledge any potential effects of the medication(s).

The Risk Manager/Human Resources, based upon the direction of the treating medical provider, shall determine whether the employee will be allowed to continue with normal work duties, considered for modified job duties or required to be off work until the medication(s) is no longer medically necessary.

If the treating medical provider is unable to determine whether the employee could safely and effectively perform assigned duties or if the employee disagrees with the decision, a second opinion will be obtained by the method established by the Director of Human Resources.

Failure to notify the Risk Manager/Human Resources of the use of medications may result in disciplinary action, up to and including termination.

## FRAUDULENT REPORTING OF INJURY OR ILLNESS

It is a violation of this policy and a criminal offense if a person knowingly or intentionally makes a false or misleading statement, misrepresents or conceals a material fact, or fabricates, alters, conceals or destroys documents with the intent of obtaining or denying payments of workers' compensation benefits.

Persons who knowingly receive workers' compensation benefits for which they are not entitled commit a criminal offense and violate this policy.

An employee may be subject to disciplinary action, up to and including termination, for making a fraudulent report. Criminal prosecution may be pursued as applicable.

### **Chapter 5. Section 7a: Modified Duty**

If an employee's treating medical provider imposes work restrictions, the City will offer modified duty as required or allowed by law. Modified duty will be authorized only when an assignment can be justified as a business necessity. The City will not create modified duty assignments when a real need does not exist. Necessity as defined by this policy refers to work that would require the department to hire outside personnel or would create an overtime situation. When possible, all employees released to modified duty will be placed in a modified duty assignment within the City for a specified period of time and may be placed in another department with approval by Department Directors.

Modified duty will continue on an as needed basis. Employees may not exceed 6 months of combined absence (paid or unpaid) and modified duty. The assignment will be evaluated at least every 30 days by the Department Director to determine the continued necessity of the modified duty assignment. The evaluations must be documented and discussed between the Department Director and the Human Resources Department. Upon approval by the Department Director, Human Resources Director and City Manager, an extension may be granted in cases where an employee is performing their regular duties on a modified work schedule that amounts to no less than half time. In no case shall the modified duty assignment exceed a continuous twelve-month period of combined absence, modified duty and modified schedule. The City has made a full commitment that it will not discriminate against any individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position. An employee who exhausts the twelve months of modified duty who wishes to request an accommodation should contact the Human Resources Department and complete the City of Baytown's **Reasonable Accommodation Request Form**. (Reference the *Personnel Policy Manual, Chapter 1, Section 3: Discrimination & Retaliation-Free Work Environment Policy*.)

All modified duty assignments must be coordinated through the Risk Manager/Human Resources prior to the employee's return to work. The employee will be required to sign a Bona Fide Offer of Employment before they begin the modified duty assignment. The employee and supervisor will then be instructed on the restrictions before the modified duty assignment begins. If a supervisor suspects that the employee is not capable of performing the modified duty assignment, they must notify the Risk Manager immediately.

Before an employee is permitted to work modified duty, he/she must receive a release and have the Return to Duty form fully completed which includes all restrictions from their treating physician. An employee may be required to see the City designated physician if further clarification is needed on the release and/or restrictions. Every 30 days, the employee must receive a physician update and submit to the Risk Manager/Human Resources.

Failure to comply with or disregard restrictions could result in disciplinary action, up to and including termination, for both the supervisor and/or employee.

If an employee refuses a modified duty assignment or elects to take himself/herself off of modified duty, a sick or vacation day must be used for the employee to be in a paid status and compensated for that day. Neither the City nor the workers' compensation administrator will pay workers' compensation benefits if a doctor releases the employee to modified duty and he/she refuses modified duty offered.

#### ***Chapter 5. Section 7b: Workers' Compensation Salary and Supplement Pay***

All employees who lose work time due to an on-the-job injury or work-related illness will be paid workers' compensation Temporary Income Benefits (TIBs) in an amount set by the Texas Workers' Compensation Act. The payment is based on the weekly average of the 13 weeks prior to the date of the injury up to a maximum set by the law.

These payments will begin to accrue on the eighth calendar day an employee is off and will continue until the employee either returns to work, receives an impairment rating or a maximum of 104 weeks from the date the lost time begins. (The eight days do not have to be consecutive.)

Full time employees that have completed probation and who have had at least one full year of service with the City of Baytown at the time of their injury may be eligible for supplemental injury pay which begins accruing on the eighth day of absence due to an on-the-job compensable injury or illness.

The City will directly pay any normally scheduled work hours for full time employees (with less than a year of service) during the first 7 calendar days of disability prior to their being eligible for Temporary Income Benefits.

Employees with less than a year of service with the City of Baytown will receive the TIBs only as outlined by law. Employees with more than a year of service with the City of Baytown will receive the Workers' Compensation pay plus supplemental pay to provide for 100% of the employee's regular base pay. For non-civil service employees, pay will be supplemented for a maximum of 8 weeks per injury, not to exceed a total of 8 weeks for all injuries combined per calendar year. Workers' compensation TIBs payments will continue as outlined in State law.

Employees who are not eligible for supplemental pay or have exhausted their 8 weeks of supplemental pay may use their available accrued leave to make up the difference between TIBs and their full salary.

Subject to allowable offsets, Civil Service employees will be eligible to receive line of duty pay in accordance with the Civil Service Statutes, commensurate with the nature of the line of duty injury or illness not to exceed one (1) year.

No supplemental pay/line of duty pay will be given to employees released for modified duty when modified duty is available. Employees refusing modified duty may use vacation or sick time if available, or if not, time missed will be uncompensated time.

All full-time employees who have returned to full duty or modified duty will be allowed workers compensation administrative leave to attend medical appointments for on the job injuries. The employee must provide documentation of their appointment for administrative leave to be approved.

*To receive supplemental pay or workers compensation administrative leave, an employee must report an injury to his/her immediate supervisor (on site or on call) as outlined in this administrative rule.*

#### **Chapter 5. Section 7c: Reporting Back to Work**

In order for an employee to return to regular duty, it is a requirement that they have the Return to Work form fully completed by the treating medical provider stating they are able to return to regular duties with or without reasonable accommodations. Individuals in positions that are weighted medium and above, by the established job description, depending on the seriousness of the injury, may be required to go through job strength and functional testing.

If the employee is receiving treatment from a medical provider other than the designated City medical provider, the employee will contact the Risk Manager/Human Resources immediately upon a release to return to regular or modified duty. The Return to Work form and documentation will be sent to the City designated medical provider for review and determination of the need for a Functional Capacity Exam.

If there is any disagreement with the assessment or if permanent accommodations are required, it will then be reviewed by the Director of Human Resources, Risk Manager and Department Director. They will analyze the particular job involved, its purpose, essential functions, and determine the next actions to be taken.

Upon satisfactory completion of functional capacity testing, the employee will then return to regular duties. Should the employee fail the testing he/she will continue with off duty workers' compensation or begin modified duty if released by the physician and it's available. Should the Risk Manager be unavailable to coordinate these events, it will then be handled by the Director of Human Resources or designee.

#### **Chapter 5. Section 8: Fitness for Duty**

The City endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation.

#### **SERIOUS HEALTH CONDITIONS/DISABILITIES**

The City recognizes that employees with a potentially life-threatening and/or infectious illness or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. As long as these employees are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees and the City, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees.

#### **MEDICAL EXAMS FOR CURRENT EMPLOYEES**

The Director of Human Resources, or an employee's Department Director (with the prior written approval of the Director of Human Resources), may require a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment.

## **MEDICAL INFORMATION FROM AN EMPLOYEE'S DOCTOR**

Under certain circumstances (e.g., FMLA Certifications), Human Resources may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.

## **RETURN TO WORK/FITNESS FOR DUTY**

Before returning to work following a medical and/or psychological examination under this policy, the employee must coordinate his/her return through Human Resources. An employee who misses work due to medical reasons may be required to provide a Return to Work certification before returning to work.

Civil Service employees are also covered by Civil Service law regarding fitness for duty.

### ***Chapter 5. Section 8a: Off the Job Injury/Illness – Modified Duty***

If an employee's medical provider or the City designated medical provider imposes work restrictions, the City may offer modified duty assignments. Modified duty will be authorized only when an assignment can be justified as a business necessity. The City will not create modified duty assignments when a real need does not exist. Necessity as defined by this policy refers to work that would require the department to hire outside personnel or would create an overtime situation. When possible, all employees released to modified duty will be placed in a modified duty assignment within the City, for a specified period of time and may be placed in another department with approval of Department Directors.

Modified duty will continue on an as needed basis. Employees may not exceed 6 months of combined absence (paid or unpaid) and modified duty. The assignment will be evaluated at least every 30 days by the Department Director to determine the continued necessity of the modified duty assignment. The evaluations must be documented and discussed between the Department Director and the Human Resources Department. Upon approval by the Department Director, Human Resources Director and City Manager, an extension may be granted in cases where an employee is performing their regular duties on a modified work schedule that amounts to no less than half time. In no case shall the modified duty assignment exceed a continuous twelve-month period of combined absence, modified duty and modified schedule. The City has made a full commitment that it will not discriminate against any individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position. An employee who exhausts the twelve months of modified duty who wishes to request an accommodation should contact the Human Resources Department and complete the City of Baytown's "Reasonable Accommodation Request Form." (Reference the *Personnel Policy Manual, Chapter 1, Section 3: Discrimination & Retaliation-Free Work Environment Policy.*)

All modified duty assignments must be coordinated through the Risk Manager prior to an employee's return to work. The employee may be required to sign a Bona Fide Offer of Modified Duty before they begin the modified duty assignment. The employee and supervisor will then be instructed on the restrictions before the modified duty assignment begins. If a supervisor suspects that the employee is not capable of performing the modified duty assignment, they must notify the Risk Manager immediately.

Before an employee is permitted to work modified duty, they must receive a release and have the Return to Duty form fully completed by their treating physician. An employee may be required to see the City designated medical provider if further clarification is needed on the release and/or restrictions. At least every 30 days, the employee must receive a physician's medical update and turn it in to the Risk Manager.

Failure to comply with or disregard restrictions could result in disciplinary action, up to and including termination, for both the supervisor and/or employee.

If an employee refuses a modified duty assignment or elects to take himself/herself off of modified duty, a sick or vacation day must be used for the employee to be in a paid status and compensated for that day.

### **Chapter 5. Section 8b: Off the Job Injury/Illness - Reporting Back to Work**

In order for an employee to return to regular duty, it is a requirement that they have the Return to Work form fully completed by the treating medical provider stating they are able to return to regular duties with or without reasonable accommodations. Individuals in positions that are weighted medium and above, by the established job description, depending on the seriousness of the injury, may be required to go through job strength and functional testing.

The employee will contact the Risk Manager/Human Resources immediately upon a release to return to regular or modified duty. The Return to Work form and documentation will be sent to the City designated medical provider for review and determination of the need for a Functional Capacity Exam.

If there is any disagreement with the assessment or if permanent accommodations are required, it will then be reviewed by the Director of Human Resources, Risk Manager and Department Director. They will analyze the particular job involved, its purpose, essential functions, and determine the next actions to be taken.

Upon satisfactory completion of functional capacity testing, the employee will then return to regular duties. Should the employee fail the testing he/she will continue on leave of absence or begin modified duty, if able. Should the Risk Manager be unavailable to coordinate these events, it will then be handled by the Director of Human Resources or designee.

### **Chapter 5. Section 9: Police and Telecommunicator Mental Health Leave**

#### **MENTAL HEALTH LEAVE**

All licensed peace officers and telecommunicators employed by the City of Baytown who experience a traumatic event within the scope of their employment at the City are eligible for mental health leave in compliance with Texas Government Code 614.015.

#### **DEFINITIONS**

- Traumatic event – an event occurring within the scope of employment of a peace officer or telecommunicator when involved in responding to or investigating an incident that causes them to experience unusually strong emotional reactions or feelings that may interfere with their ability to function during or after the incident.

Traumatic events may include, but are not limited to, the following:

- Major disasters which may include response to weather related events involving multiple casualties; or explosions with multiple casualties; or search and recovery missions involving multiple casualties;
  - Incidents involving multiple casualties which may include shootings or traffic accidents;
  - Line of duty death or suicide of a department member;
  - Death of a child resulting from violence or neglect;
  - Officer-involved shooting of a person.
- Mental Health Leave – Administrative leave with pay granted following and in response to a traumatic event that occurred in the scope of the peace officer's or telecommunicator's employment.

- Mental Health Professional – A licensed social or mental health worker, counselor, psychotherapist, psychologist or psychiatrist.
- Peace Officer – An employee of the City of Baytown serving in a police officer, police leadership, fire marshal, or related investigator role who is licensed by the Texas Commission on Law Enforcement (TCOLE) as a peace officer, as defined under Article 2.12 of the Texas Code of Criminal Procedure.
- Telecommunicator – A full-time employee authorized to act as a telecommunicator under Section 1701.405, Texas Occupations Code.
- Work Day – Any day on which a covered employee is scheduled to perform their regular duties. Days on which the employee is not normally scheduled to work shall not be counted as work days.

## **REQUESTING MENTAL HEALTH LEAVE**

A covered employee involved in a traumatic event, or their supervisor on their behalf, may request mental health leave. The request must be submitted in writing through the chain of command and will be treated as a priority. A decision shall be made within 72 hours of submission.

Mental health leave shall be granted unless the chain of command identifies specific, compelling reasons for denial. If denied, the decision must be provided in writing to the employee. Pending approval, the employee may be required to use accrued leave initially; if approved, the accrued leave will be converted to mental health leave. The Department Head or their designee has the final authority to approve or deny requests.

## **CONFIDENTIALITY OF REQUEST**

All requests for mental health leave shall be treated as strictly confidential by all parties involved. Information regarding the request shall not be discussed or disclosed outside the covered employee's immediate chain of command or the Human Resources Department, except as necessary to facilitate the leave. Any breach of confidentiality may result in disciplinary action.

Confidentiality may be waived under the following circumstances:

- Employee Consent: The covered employee voluntarily waives confidentiality.
- Safety Concerns: If there is reason to believe the employee poses a danger to themselves or others, department personnel may confer with mental health professionals.
- Legal and Administrative Requirements: Confidentiality may be waived in relation to mental health-related workers' compensation claims or the administration of the Family and Medical Leave Act (FMLA).

## **DURATION OF MENTAL HEALTH LEAVE**

A covered employee directly involved in a traumatic event may request up to five (5) workdays of mental health leave.

Extensions of mental health leave may be available under certain circumstances. Any request for an extension must be accompanied by documentation from a mental health professional counseling the employee. Each extension may grant up to an additional five (5) workdays and must be supported by sufficient documentation. Employees may request no more than two (2) extensions, for a maximum total of fifteen (15) workdays of mental health leave per event, including any approved extensions. The Department Head or designee shall approve the extension upon receipt of sufficient documentation explaining the need.

If requesting an extension beyond the initial five (5) workdays, employees must comply with City of Baytown *Administrative Rules - Chapter 5, Section 5: Family and Medical Leave* and formally request Family and Medical Leave Act (FMLA) leave. Mental health leave will run concurrently with FMLA leave. Once mental health leave is exhausted, employees will be required to use accrued vacation, holiday, compensatory time, or leave without pay.

### **MENTAL HEALTH LEAVE AND WORKERS' COMPENSATION**

Leave granted under this policy is separate from leave related to a compensable workers' compensation claim. Approval of mental health leave under this policy does not constitute acceptance of a workers' compensation claim as compensable by the City.

This policy does not prevent a first responder from filing a workers' compensation claim for a mental health-related injury. For details on filing a workers' compensation claim, refer to *Administrative Rules Chapter 5, Section 7: Workers' Compensation Policy*.

### **RETURN TO WORK**

Before returning to work, the City may require that a covered employee submit to a fitness-for-duty examination in accordance with *Administrative Rules Chapter 5, Section 8: Fitness for Duty* or provide documentation confirming their ability to perform the essential functions of their job, with or without reasonable accommodations.

## Chapter 6. Conduct

### **Chapter 6. Section 1: Code of Conduct and Ethics**

The City of Baytown is committed to conducting business with the highest integrity and in accordance with applicable laws, rules and regulations. In conjunction with the City's Code of Ethics in *Article VIII of the Code of Ordinances, Baytown, Texas*, the rules and procedures outlined in this Code are designed to ensure that the City's employees participate in and foster a culture of transparency, integrity and honesty. Each employee should avoid real or perceived improprieties in their roles as public servants and never use their City positions or authority to improperly obtain personal and/or professional gain. These guidelines shall apply at all times during the performance of City functions and include improper use of City equipment and/or City-issued items, as well as seeking and accepting gratuities. Any potential conflict of interest and/or circumstances that may present an ethical dilemma should be discussed with the appropriate supervisor(s) or Human Resources. To avoid conflicts of interests and the appearance of impropriety, all City employees are prohibited from accepting any City Council appointment to serve on any City board, commission, or committee, except as otherwise required by law or approved by the City Manager. This policy does not prohibit City employees from serving in an ex-officio capacity on any of the boards, commissions, and committees of the City.

Each employee is required to review this Code, be aware of the laws that are applicable to the City's business and use these guidelines to recognize and respond to situations that present ethical issues. Those who violate the standards in this Code will be subject to disciplinary action, up to and including termination.

When facing ethical dilemmas, an employee should gather facts surrounding the issue and consider whether action is illegal or contrary to the Code of Conduct, Personnel Policy or Administrative Rules. Employees are encouraged to talk to supervisors, Directors, or Human Resources when in doubt as to the best course of action in a particular situation or about any observed illegal or unethical behavior, or any violations of this Code.

Conduct can reinforce an ethical atmosphere and positively influence the conduct of fellow employees. If an employee is powerless to stop suspected misconduct or if discovered after it has occurred, it must be reported to the appropriate level of management at the location or Human Resources. Misconduct cannot be excused because it was directed or requested by another. In this regard, every employee is expected to alert management whenever an illegal, dishonest or unethical act is discovered or suspected.

### **Chapter 6. Section 2: Smoking & Tobacco Use**

The City is a tobacco-free work place. Employees may only use tobacco products when on break in a properly designated location.

Smoking and smokeless tobacco use is prohibited in:

- All enclosed City-owned buildings
- All vehicles of the City, whether owned or leased
- All enclosed equipment of the City, whether owned or leased
- All privately-owned vehicles while being operated for City business or
- All seating areas of outdoor arenas, stadiums and amphitheatres.

All enclosed areas in City owned facilities, including buildings and vehicles owned, or leased, or operated by the City of Baytown, shall be subject to current City ordinance. Employees and visitors are prohibited from smoking within a reasonable distance of 15 feet outside an enclosed area where

smoking is prohibited to ensure that tobacco smoke does not enter through entrances, windows, ventilation systems, or other means.

Smoking is defined as lighting, inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form. Smoking also includes the use of electronic smoking devices such as e-cigarettes.

Users of smokeless tobacco are prohibited from spitting on City property. Spit cups may not be left on City property and must not be disposed of in any trash cans inside of City buildings.

Any violation of the City's smoking policy will result in appropriate disciplinary action, up to and including termination. In addition, violations of this policy may be referred for criminal prosecution, where appropriate.

### **Chapter 6. Section 3: Weapons in the Workplace**

#### **PURPOSE**

It is the desire of the City of Baytown to ensure, to the extent practicable, that the day-to-day operations of the City are conducted in a safe and proper manner and that its employees are provided a safe environment in which to work.

#### **DEFINITIONS**

The following words and phrases, when used in this section, shall have the following meanings:

- *Air gun* means an air gun, air pistol, air rifle, or any other device using air pressure, compressed gas, springs or any other means to propel a projectile through a barrel.
- *Building* means a combination of any materials, whether portable or fixed, having a roof to form a structure affording shelter for persons, animals, or property.
- *City premises* shall mean a building or any portion thereof, as well as, all personal and real property or any portion thereof, owned, leased, occupied or in any manner controlled by the City including, but not limited to, offices, parks, and vehicles. A city-owned vehicle does not include a personal vehicle of an employee who receives a vehicle allowance from the City.
- *Concealed handgun* is a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.
- *Firearm* means (i) any device designed, made or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance, or any device readily convertible to that use or (ii) an air gun.
- *Prohibited weapon* shall mean a firearm, illegal knife, club, an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, knuckles, armor-piercing ammunition, a chemical dispensing device, or a zip gun, as these terms are defined by Section 46.01 of the Texas Penal Code.
- *Handgun* means any firearm that is designed, made, or adapted to be fired with one hand.
- *License holder* means a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.
- *Reasonable suspicion* as used in this rule is a belief based upon objective facts sufficient to lead a reasonably prudent person to suspect that an employee is carrying a prohibited weapon in violation of this administrative rule.

## **RULE**

At all times when acting within the course and scope of employment for the City, City employees are prohibited from carrying or otherwise possessing prohibited weapons on any City premises.

## **EXCEPTIONS**

Unless otherwise provided in a Police or Fire Departmental rule, regulation or order, this administrative rule shall not apply:

- a) To a peace officer or a commissioned security officer hired by or under contract with the City and acting within the scope of that employment;
- b) To an employee who holds a valid license under Subchapter H, Chapter 411, Government Code (handgun licensing law) and either:
  - 1) carries a concealed handgun or
  - 2) possesses a handgun concealed in a locked and secured compartment or container in compliance with all applicable state and federal laws on City premises while acting within the scope of the employee's duties;
- c) To an employee, whether licensed or not licensed under Subchapter H, Chapter 411, Government Code, who keeps a firearm and ammunition in a locked, privately-owned motor vehicle in a parking lot, parking garage, or other parking area the City provides for employees; or
- d) To an employee, otherwise not exempted from the provisions of this administrative rule, who transports, demonstrates, and displays a firearm for the purposes of show or sale on City premises in connection with an event approved by the City Manager or his/her designee; subject to any terms and conditions which the City Manager or his/her designee may require.

## **PROCEDURES**

Investigatory searches will be based upon reasonable suspicion that an employee is carrying a prohibited weapon in violation of this administrative rule. If reasonable suspicion as defined herein exists, as determined by the employee's supervisor, in conjunction with the Human Resources and Legal Departments, a search of the person, property, or City premises, wherein the prohibited weapon is suspected to be located, shall be required. However, if a search of an employee's property is required but the affected employee cannot for any reason be present, another employee may be asked to witness the search unless the nature of the search requires such confidentiality to preclude such employee from being present. No notice to the affected employee prior to an investigatory search is necessary. If such search reveals that a prohibited weapon is present or being carried in violation of this administrative rule, such violation will result in disciplinary action, up to and including termination.

### ***Chapter 6. Section 4: Search of City Property/Premises Policy***

The work place and work space are provided to employees for the sole purpose of facilitating the work of the City, and, as such, are subject to random investigatory searches for evidence of suspected work-related employee wrongdoing or misconduct. No employee has an expectation of privacy in his/her assigned work place and/or work space. The terms "work place" or "work space" in this section include those areas and items related to work and generally within the employer's control, such as offices, desks, file cabinets, vehicles, electronic files, and lockers, but do not include employee's personal items, such as handbags or briefcases.

Investigatory searches will be based upon a reasonable suspicion of employee wrongdoing or misconduct. Reasonable suspicion as used in this section is a belief based upon objective facts sufficient to lead a reasonably prudent person to suspect that an employee is engaged in wrongdoing

or misconduct. If reasonable suspicion of employee wrongdoing or misconduct exists, as determined by the supervisor in conjunction with the Human Resources, and the Baytown Police Department, a random search shall be required. Whenever possible, the affected employee will be present during the search. No notice to the affected employee prior to an investigatory search is necessary.

Should a search conducted pursuant to this section uncover wrongdoing or misconduct, the Human Resources Director or designee shall be consulted to recommend the handling of the case as an administrative or criminal matter.

### **Chapter 6. Section 5: Violations of Law**

City employees are subject to disciplinary action and/or job restrictions for violations of law. This policy applies to acts prohibited by law that result in charges being filed, arrest, confinement, indictment, and/or conviction, as well as to acts prohibited by law not resulting in charges filed, arrest, confinement, or indictment.

#### **PROCEDURE**

**Employee Notice of Felony and Misdemeanor Charges:** Employees must immediately notify their supervisor and/or Department Director within twenty-four (24) hours if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead nolo contendere to any misdemeanor or felony. Failure to report these events in a timely manner may result in immediate termination. Employees who do not drive as a part of their job duties with the City are not required to report minor traffic violations.

**Employee Status after Alleged Violation of Law:** At the time the employee's department is made aware of an employee's arrest or conduct constituting an offense, the Department Director shall consult with Human Resources to determine available options which may include, but are not limited to:

- allowing the employee to return to regular duty with pay;
- allowing the employee to return to restricted duty with pay;
- placing the employee on paid administrative leave;
- placing the employee on unpaid administrative leave; or
- terminating the employee

**Employee Status after Adjudication:** Once the indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are computed and all related administrative matters are completed, the Department Director will determine, in conjunction with Human Resources Director the status of the employee. If the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal, an employee on administrative leave may, in the City's sole discretion, be reinstated to the position held before being placed on administrative leave (if available).

**Disciplinary Action:** Disciplinary action may be pursued concurrently or in place of the above options or imposed at a later date. Multiple violations of law or confinements within a prescribed time period may also result in disciplinary action.

**Violations of Law Discovered through Criminal History Check:** The City may conduct criminal history checks on existing employees at any time during their employment, for any reason. Conduct constituting an offense, arrest or conviction that is discovered may result in disciplinary action, up to and including termination.

**Other Policies:** This policy should not be construed to limit disciplinary action that may be taken in accordance with other Personnel Policies and Procedures, department policies, or other city-wide policies.

In addition to the policy above, civil service employees shall be governed by applicable departmental policies and procedures, the City's Civil Service Rules and Regulations and Chapter 143 of the Texas Local Government Code.

### ***Chapter 6. Section 6: Damage, Loss or Misuse of City Property/Equipment***

The purpose of this section is to ensure proper care and accountability in handling City property and equipment. City property and equipment are to be used only by those authorized and trained to use it. Use shall be limited to official City purposes and in the capacity for which it was assigned, except when otherwise directed by an appropriate supervisor or required by necessary circumstances. Misuse of City property may include, but is not limited to, negligent or intentional damage or destruction of City equipment or property, waste of materials, careless or negligent loss of tools or materials, improper maintenance of equipment, or damage caused by use of tools or equipment for purposes other than that for which the tool or equipment was intended.

Violation of any provisions within this policy will be grounds for disciplinary action, up to and including termination. In addition to being subject to appropriate disciplinary action, an employee may be responsible for the repair or replacement of any item lost or damaged by the employee.

### ***Chapter 6. Section 6a: Take-Home Vehicle Policy***

Employees may be assigned by the Department Director or designee to take a City vehicle to the employee's residence that is within a 10-mile radius of the incorporated city limits as provided in this policy. Emergency response personnel may be assigned by the Department Director to take a City vehicle to the employee's residence within a 25-mile radius of the incorporated city limits if recommended by the Department Director and approved in advance, in writing, by the City Manager. The privilege of a take-home vehicle may be revoked by the Department Director at his/her discretion.

Assignment of take-home vehicles will be limited to those employees who have job duties that require them to be on twenty-four-hour call, conduct City business on a frequent basis before and after normal working hours and where coming to work to pick up a City vehicle would not be appropriate or practical.

Permission for the assignment of a take-home vehicle shall be granted and authorized by the Department Director. Any employee assigned a take-home vehicle shall have the additional responsibility of always being available for service when they are off-duty, unless prior arrangements have been made with the employee's Department Director. Employees are responsible for proper reporting of use and mileage as required by the Finance department for IRS compliance purposes.

City vehicles and equipment shall be used for official purposes only. Personal and social uses of any nature, including transporting passengers who are not directly involved in official City business, are prohibited.

Any exceptions based on the nature of the duties'/position to this rule must be recommended by the Department Director and approved in advance, in writing, by the City Manager.

The following conditions and regulations will govern the use of City vehicles by employees who are authorized to take City vehicles home:

- 1) All precautions shall be taken to ensure the safety and security of City vehicles. This includes, but is not limited to, locking all doors and/or compartments;
- 2) All vehicles must be properly parked in accordance with applicable laws and ordinances. When at a residence, the vehicle will be parked in the driveway or garage;
- 3) Avoid situations that would give rise to a legitimate complaint from neighbors, such as blocking streets, driveways, or alleys;
- 4) No person other than the City employee will be allowed to operate or drive the City vehicle;

- 5) Employees will not use City vehicles to haul or tow anything other than City equipment needed in the performance of their duties;
- 6) Employees will not possess, purchase, or be under the influence of drugs or alcoholic beverages while operating City vehicles;
- 7) Employees will not use any tobacco products in City vehicles;
- 8) While operating a City vehicle the employee and any passengers in the vehicle must wear seat belts as prescribed by state law;
- 9) Employees may not text or use hand held devices while operating a City owned, or leased vehicle in motion.

### ***Chapter 6. Section 6b: Use of Personal Vehicle on City Business***

Employees who use personal vehicles on City business must adhere to the following standards:

- Notify the immediate supervisor in the event of an accident;
- All personal vehicles used while conducting City business must be operated in the manner prescribed in applicable State laws, City ordinances and City policies;
- No employee shall operate a personal vehicle under his/her control for the conduct of City business in a hazardous, unlawful, or reckless manner;
- While operating a personal vehicle within the course of their job duties, the employee and any passengers in the vehicle must wear seat belts as prescribed by state law;
- The operator of a personal vehicle on City business shall remain constantly aware of the public perception of, and expectation of, driver courtesy from all drivers of City vehicles;
- Employees may not text or use hand held devices while operating a personal vehicle while conducting City business.

### ***Chapter 6. Section 6c: Vehicle Allowances or Mileage Reimbursement***

Vehicle allowances are approved by the City Manager and are paid to the employees through the payroll system. Vehicle allowances do not apply to travel greater than a 75-mile radius of Baytown. Mileage reimbursement at the Internal Revenue Service (IRS) rate applies to destinations outside of the 75-mile radius.

City employees may receive a mileage reimbursement as compensation for using their personal vehicle for authorized City business. City employees will be reimbursed at the prevailing federal per mile rate. The IRS provides the mileage rate for business use of a vehicle using the Vehicle-Cents-Per-Mile Valuation Rule. Employees may be required to use a pool vehicle (if available) when it is more cost effective.

City employees who receive a vehicle allowance will not use a City vehicle in lieu of their personal vehicles unless 1) the employee's personal vehicle is temporarily out-of-service due to mechanical reasons, 2) the employee is traveling to a work site with another employee who would normally drive a City vehicle to that site, 3) three (3) or more City employees are traveling together to the same location/work site and the vehicle(s) of the employee(s) receiving a vehicle allowance or mileage reimbursement cannot accommodate the total number of passengers, or 4) in other situations as approved by the City Manager.

An employee using a City vehicle under the preceding conditions is not required to reimburse the City a portion of his/her vehicle allowance if the City vehicle is utilized for less than a week. However, an employee using a City vehicle or whose personal vehicle is out of service longer than a week may receive a pro-rated vehicle allowance based on each day the City vehicle is driven.

## **Chapter 6. Section 7: Motor Vehicle Check and Driver Eligibility**

It is the City's policy that the City will perform a current three-year motor vehicle record check at the time of hire and on a routine basis for employees applying for or occupying a job which entails operation of a City vehicle or the use of personal vehicles within the course of their job duties. These requests are made as permitted by Sec. 411.135 of the Texas Government Code. Records will be reviewed according to the Operator Standards listed below by the Human Resources Department to ensure that employees who operate City vehicles can be expected to operate those vehicles safely and responsibly, and uphold the City's image and its obligations to its citizenry.

### **NEW EMPLOYEES**

Upon review of the applicant's driving record, the Human Resources Department will assign a driver rating to the prospective employee. A satisfactory rating is necessary for employment in a position that entails operation of a City vehicle. An unsatisfactory driving rating will not necessarily preclude employment in other positions that do not require use of a City vehicle or personal vehicle. If it is determined that an applicant has falsified any information on the motor vehicle record check form or has altered their driving record in any way, their application will be voided in its entirety. Persons hired for a job which entails operation of a City vehicle or the use of personal vehicles within the course of their job duties who do not possess an appropriate and valid Texas Driver's License must obtain one within 30 days after being hired.

Applicants for positions who have already obtained their commercial driver's license (CDL) and have applied for a position that requires they have or obtain their CDL will have an electronic check of their driving record conducted in the Federal Motor Carrier Safety Administration's (FMCSA) Drug & Alcohol Clearinghouse, as required of employers of CDL drivers per 49 CFR § 382.701. Refusal to consent electronically to the check will prevent the applicant from moving forward in the hiring process. Applicants cannot be in a status prohibiting them from performing safety-sensitive functions.

### **CURRENT EMPLOYEES**

Each year employees who currently operate City vehicles or use their personal vehicle within the course of their job duties will be subject to an annual driving record check. The Human Resources Department will annually obtain every employee's driving record from the Texas Department of Public Safety or the appropriate out-of-state agency if the employee has lived in the state for fewer than three years. As with new hires, the employee's record will be reviewed and given a rating that will determine whether or not the employee will be allowed to operate City vehicles. Any employee involved in an accident while on City business may immediately be subject to a driving record check. The following provisions will apply:

- An unsatisfactory rating will prohibit an employee from operating a City vehicle or their personal vehicle in the course of their work, but will not otherwise affect their employment with the City unless their primary job task is the operation of a vehicle. In the instance of an unsatisfactory rating, the Department Director or supervisor will meet with the employee to discuss the impact of the rating and appropriate action will be taken. If driving is an essential function of the position, the employee will be removed from the position.
- Authorized personnel who have had their license suspended or revoked will automatically be suspended from driving City or personal vehicles in the course of their job duties. If the employee receives a car allowance, it will be suspended until their license is reinstated.
- Failure to inform the supervisor of a citation for a traffic offense, an automated red light notice violation, or license suspension (including commercial Driver's License) may result in disciplinary action, up to and including termination.

In addition to the annual Texas Department of Public Safety driving record check, all employees required to have or obtain their CDL as a condition of their employment must consent to an annual electronic check of their driving record conducted in the FMCSA's Drug & Alcohol Clearinghouse. The driving record check in the FMCSA's Drug & Alcohol Clearinghouse will be conducted annually. Any employees found to be in a "Driver Prohibited" status will be removed from all safety sensitive functions and the Department Director or supervisor will meet with the employee to discuss the impact of their status and appropriate action will be taken, up to and including termination.

**OPERATOR STANDARDS**

The driving records of applicants and current employees in positions requiring the operation of City vehicles or use of personal vehicles within the course and scope of their duties will be reviewed in terms of the following in order to determine driving eligibility. They shall not be eligible if their total number of points accumulated over the three years covered by the record check equal six (6) or more.

<b>Violation</b>	<b>Points</b>
License suspension or revocation	6
Driving while intoxicated or under the influence of narcotics	6
Any serious violation such as reckless driving, endangerment, or racing	6
Any speeding violation	2
Any chargeable bodily injury accident	2
Any chargeable property injury accident	2
Any standard moving violation	2

Points are only recorded in the case of a conviction or guilty plea. If a defendant is found not guilty of a violation, no points will be recorded.

**REINSTATEMENT OF DRIVING ELIGIBILITY**

If an employee's driving record improves enough over time (such as the offenses pass out of the three-year record), the employee will again be allowed to operate City vehicles or will again be able to use personal vehicles within the course of their job duties.

The Director of Human Resources, at the request of the Department Director, may reinstate the employee's driving privileges if the Department Director so chooses after reviewing the employee's work history, overall driving record, or make reinstatement conditional upon the outcome of any court case stemming from the employee's violation. This decision will be made on a case-by-case basis and driving privileges will not be reinstated simply because a request is made by the Department Director.

**TRAFFIC CITATIONS**

An employee operating a City vehicle or a personal vehicle shall notify his/her supervisor within 72 hours in the event of receiving a traffic citation. However, the City is not responsible for the payment or defense of such a citation. The severity of a citation and/or the frequency of receiving citations may result in disqualifying an employee from operating City vehicles or equipment, as determined by Human Resources and the Department Director. Failure to report a citation or disqualification from driving may result in disciplinary action, up to and including termination, if driving is an essential function of the employee's job.

## **AUTOMATED RED LIGHT AND TOLL ROAD ENFORCEMENT**

If a particular community has an established Automatic Red-Light Enforcement Program and/or has Toll Roads and an employee receives an automated red-light enforcement notice of violation or a Toll Road violation in a City vehicle, the employee will be responsible for the payment of the civil penalty for such violation. The employee shall notify his/her supervisor within 72 hours in the event of receiving notice.

If the employee fails to take care of the notice of violation within 60 days, the employee will be disqualified from operating City vehicles and/or equipment until such notice has been resolved. The employee may also be subject to further disciplinary action up to and including termination. If the employee is terminated or leaves employment before the violation is cleared, the amount of the citation will be withheld from their last paycheck.

## **USE OF ELECTRONIC COMMUNICATIONS DEVICES**

All City employees are expected to drive with safety as their first consideration. This includes driving safely and using caution while operating cellular telephones, electronic paging devices, radios, and/or other wireless personal communication devices.

Employees using personal vehicles on City business or authorized personnel operating a City vehicle should restrict use a cellular phone for talking, shall not text or engage in other internet use while the vehicle is in motion. Even if the employee is using a hands-free device, conversations should be limited and the driver should safely pull off the road to participate in a conversation. Public safety personnel are exempt from the restrictions of using electronic communication devices (i.e., MDT's).

## **PERSONAL USE OF CITY VEHICLES**

An employee who has a take-home vehicle will have an assessment, as set by the Federal government each year, added to their taxable income for each day of use. The assessed amount is added to the employee's taxable income only for the purpose of calculating the tax liability. The employee assigned the use of a take-home vehicle will be responsible for the tax on the assessed amount. This assessment will be handled through the payroll process.

### ***Chapter 6. Section 8: Electronic Mail***

This policy sets forth the regulations concerning the generation, access and inspection of records using the City's electronic mail system ("email").

## **INTENDED USAGE**

For all electronic communications made in connection with the transaction of official City business, employees must use only their designated City e-mail account, and not use a personal (or other non-city) email account whenever feasible. This is to ensure that all information regarding the transaction of official business involving public information is open and available to members of the public as required by the Texas Public Information Act ("TPIA"). In the event City employees must utilize a personal (or other non-city) email account when conducting official City business, the communications, including (but not limited to) email messages, images, and attachments, should be forwarded to their designated City email account as soon as possible.

Email should be related to the City's business; however incidental and occasional personal use of email is permitted. Such messages will be treated no differently from other messages and will be subject to disclosure, that is, messages are public records subject to the TPIA. The best guide is not to include in an email anything you would not want included in a City file available for inspection by others.

The following uses require the prior written approval of the employee's Department Director:

- Using hardware, related computer equipment or unlicensed software for email not owned or purchased by the City;

- Except as authorized in this policy under “Access”, reading email of another employee without prior written approval; or
- Encrypting any email message without first depositing the encryption key with the ITS Department and the employee’s immediate supervisor.

## **PROHIBITED USES**

The following uses of email are expressly prohibited:

- Intercepting, eavesdropping, recording, or altering another person’s email message
- Adopting the identity of another person on any email message, attempting to send email anonymously, or using another person’s password
- Misrepresenting one’s affiliation on any email message
- Sending or receiving software in violation of copyright law
- Using email in a manner that is disruptive or offensive to others or that could be harmful to workplace morale
- Using email to display or transmit:
  - Sexually explicit images, messages, or cartoons
  - Communications containing ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, religious or political beliefs, or
  - Messages containing vulgar language or threats of violence
- Using email to solicit or to address others regarding commercial, religious or political/social causes, or for any other solicitations that are not related to work.

## **ACCESS**

Generally, all email messages are records of the City and the City has the right to access the contents of any email communications transmitted through its system. Supervisors may review the email communications of their employees for any reason, including, but not limited to, determining whether there have been any breaches of security, violations of City policy or misuse on the part of the employee.

Employees are required to protect the integrity of the City’s confidential information. Therefore, employees must exercise a greater degree of caution in transmitting confidential information through the email system than through other means of communication. Confidential information should never be transmitted or forwarded to other employees inside the City who do not have a need to know the information. Messages sent via the email system shall have a confidentiality legend in all capital letters in a form similar to the following:

**THIS MESSAGE CONTAINS CONFIDENTIAL INFORMATION OF THE CITY OF BAYTOWN.  
UNAUTHORIZED USE OR DISCLOSURE IS PROHIBITED.**

All suspected intrusions or unauthorized access by unauthorized persons or employees are to be reported to a Department Director.

## **DISCLOSURE**

The City may disclose any information sent to or received by City employees via the City’s email system for any business purpose. The City reserves the right to disclose any email message to law enforcement officials as well as to the general public.

## **RETENTION**

City employees must comply with the City's Records Management Program. This program outlines the rules and procedures by which employees are to operate as it relates to the maintenance, retention and disposition of official City records.

## **DISCIPLINARY ACTION**

Any violations of the City's policy on email use or retention will result in appropriate disciplinary action, up to and including termination. In addition, violations of this policy may be referred for criminal prosecution, where appropriate.

### ***Chapter 6. Section 9: Software Compliance Policy***

This policy was developed to maintain compliance with U.S. Copyright laws and to protect the integrity of the computer environment for viruses, and applies to all employees.

The City licenses the use of copies of computer software from a variety of companies. The City does not own the copyright to this software or its related documentation and except for a single copy for backup purposes or unless expressly authorized by the copyright owner(s), employees do not have the right to reproduce it for use on more than one computer. With regard to software usage on local area networks, employees shall use the software only in accordance with the license agreement.

Employees are not permitted to install their own copies of any software onto the City's machines. Likewise, employees are not permitted to copy software from the City's computers or to install such software on home or any other computers unless such installation is in accordance with the applicable licensing agreement and has been previously authorized by a member of the Information Technology Services (ITS) Department.

Employees are not permitted to download, install, or use TikTok or any other social media application or service banned by Tex. Gov't. Code § 620 on any City owned or leased electronic device. Exceptions apply for providing law enforcement OR developing or implementing information security measures.

Any employee, learning of any misuse of software or related documentation within the City, shall notify his/her supervisor who shall notify the Director of Information Technology Services or designee.

Any employee, who knowingly makes, acquires, or uses unauthorized copies of computer software licensed to the City or who places or uses unauthorized software on the City's premises or equipment shall be subject to disciplinary action, up to and including termination.

The Director of Information Technology Services or designee reserve the right at any time to conduct audits of any or all of the City's computers to ensure that the City is in compliance with all software licenses.

### ***Chapter 6. Section 10: Use of Intranet and Internet Services***

The City's connection to intranet and internet services exist to facilitate the official work of the City by enhancing the efficient exchange of information and the completion of assigned responsibilities. Intranet and internet connections and services provided by the City are not intended for personal use. Such use is expressly subject to all auditing, disclosure and monitoring rights of the City. Employees having access to these connections and services must comply with this administrative rule and all other applicable rules, guidelines, procedures, and policies.

## **CONDITIONS OF USE**

Intranet and internet users are required:

- To respect the privacy of other users. For example, users shall not intentionally seek information on, obtain copies of, or modify files or data, belonging to another user without such user's explicit permission.
- To respect the legal protection provided to programs and data by copyright and licensing laws.
- To protect data from unauthorized use or disclosure as required by Federal, State, or local laws.
- To respect the integrity of computing systems. For example, users shall not use or develop programs that harass other users, infiltrate a computer or computing systems, and/or damage or alter software components of a computer or computing system.
- To safeguard their accounts and passwords. Accounts and passwords are normally assigned to single users and are not to be shared with any other person without authorization from the Director of Information Technology Services or his authorized representative; and
- To report any observations of attempted security violations, unacceptable uses, or violations of this policy to the user's Department Director. Employees that are uncomfortable in discussing observations or possible violations with the Department Director, or if the Department Director is not available, may report the alleged act to the Human Resources Department.

The following uses of the City's intranet and internet services are expressly prohibited:

- Uses prohibited by law
- Viewing or transmission of threatening, obscene or harassing materials or correspondence
- Solicitation or viewing of sexually explicit videos, images, messages, materials, books, magazines, jokes, cartoons, while on City time, City property, or City equipment
- Unauthorized distribution of City information
- Intentional interference with or disruption of network users, services or equipment
- Uses furthering private purposes, such as private advertising of projects or services
- Solicitation for religious and political causes, or other causes unrelated to official City business, and
- Any activity meant to foster personal monetary gain

This administrative rule is intended to be illustrative of the range of acceptable and unacceptable uses of the intranet and internet services and is not necessarily exhaustive. Questions about specific uses related to security issues not enumerated and reports of specific unacceptable uses should be directed to the Department Director.

### **CITY'S AUDIT, DISCLOSURE, AND MONITORING RIGHTS**

The following outlines, in general, the City's audit, disclosure, and monitoring rights concerning its employees in the use of the City's intranet and internet system:

- No employee shall have any expectation of privacy in the information accessed or transmitted through the City's intranet and internet system and all may be subject to disclosure.
- The Director of Information Technology Services or designee shall have access to all mail and user access requests, and shall monitor messages as and when requested by a Department Director or directed by the City Manager.
- The City shall have the right at any time to log network use, to monitor the file server space utilized by each user and to delete employees' files if file server space allotments have been exceeded.

The Director of Information Technology Services and Department Director together shall have the right to remove or limit usage on the intranet.

## **DISCIPLINARY ACTION**

The City will review alleged violations of this policy on a case-by-case basis. Any violations of this policy shall result in appropriate disciplinary action, up to and including termination.

In addition, violations of this policy may be referred for criminal prosecution, where appropriate.

### ***Chapter 6. Section 11: Social Media Policy***

The purpose of this administrative rule is to ensure proper use of social media technologies by City of Baytown employees, volunteers, and agents. Third-party social media platforms are effective resources for sharing information and outreach with the community and have become valuable resources for obtaining feedback and facilitating a two-way dialogue with residents, stakeholders, and visitors. All such platforms are components of the City of Baytown's communication strategy and are governed by this administrative rule, which is designed to provide standards and procedures for the appropriate use of social media for City business. As such, the City owns all social media accounts and content regardless of which department or employee creates the account and posts the content.

This rule does not apply to use of personal social media accounts by City employees outside of their job scope and responsibilities. However, individuals must exercise good judgment when using personal social media outlets to not bring negative publicity or discredit to the City. This rule also does not apply to law enforcement personnel acting in an undercover capacity for the purpose of a criminal investigation.

## **RESPONSIBILITY**

The use of social media platforms for conducting City business must be approved by the Public Affairs Director (PAD) or designee in order to ensure compliance with records control schedules and overall communication strategies. The exception is law enforcement acting in an undercover capacity. The PAD is the coordinating authority for approval, auditing, and governance of City social media accounts.

- The PAD, or designee, oversees final approval on requests for City social media accounts. The Director will also designate staff responsible for administrative functions (Administrator), including assisting with managing records retention and audit schedules. The PAD may choose to contract with a third-party vendor to assist with records retention and Public Information Requests (PIR) on behalf of City departments. All departments using social media must have their content archived under the same City account, as designated by the PAD. It is also the responsibility of the PAD or designee to:
  - Evaluate emerging social media platforms;
  - Develop best practices and conduct training;
  - Promote coordinated messaging;
  - Update this policy as needed and maintain the City Social Media User Manual;
  - Review and make recommendations for the creation of new City social media accounts; and
  - Perform regular audits of and recommendations for existing accounts.

It is the responsibility of each City department to ensure City social media accounts conform to specific requirements for account administration. Department Directors are responsible for ensuring employees adhere to this policy when creating and managing City social media accounts. Each department's

designated staff is responsible for complying with this policy as well as the City Social Media User Manual.

The Department Records Administrator is responsible for ensuring all City social media content is retained according to their department's records retention schedule. All City social media account users are responsible for staying informed regarding City policies related to this activity.

## **RECORDS RETENTION**

All applicable City of Baytown policies, procedures, and administrative bulletins governing employee conduct and communications apply in the administration of this rule. In addition, requirements of the Texas Public Information Act must be met when managing City social media accounts. City social media content must be retained per the City's Records Retention Schedule. If a City Department wants to use polling or other features on social media platforms, the records generated would follow the retention schedules. For additional guidance for records retention, contact the City Clerk's Office, and for more resources about contributing to and managing City social media accounts, please see the City Social Media User Manual.

## **PRIVACY AND SECURITY**

The City has the right to monitor content before it is posted on all social media outlets and accounts of the City. The City reserves the right to remove content that is in violation of the law and/or this policy. Social Media activities are not a secure means of communication. Users do not have an expectation of privacy under this policy.

## **APPROPRIATE USE GUIDELINES**

The lines between public and private, personal and professional can become blurred in online social networks. With that in mind, below are guidelines for use by City employees when utilizing social media.

### ***Chapter 6. Section 11a: Use of Social Media at Work***

Social media access and use involving City equipment and resources are subject to the City's Information Technology policies. City employees, volunteers, and agents will act in a professional manner by:

- Identifying themselves by name and as an employee of the City of Baytown unless prohibited by policy or rules, such as with Public Safety personnel.
- Using only appropriate language and images that are not foul, derogatory, disrespectful, inaccurate, threatening, or considered harassment.
- Using this method of communication in a productive and informative manner.
- Being aware that what is written or posted by way of photographs or audio files will not only reflect on the individual and department, but also on the Elected Officials and employees of the City.
- Using caution and care so that no use of social media results in damage to the organization or reputation of anyone within the City of Baytown.
- Not providing confidential information including names, or using such material as part of any content added to a site.
- Not commenting on business partner or vendor practices or services or using such as part of content added to a site.
- Not providing information related to pending business decisions that would compromise negotiations or including such as part of content added to a site.

- Being aware that any and all content added to a site is subject to Texas State Law, including the Texas Public Information Act and the Local Government Records Act, and relevant City records retention schedules. This requires that nothing posted should be deleted, unless otherwise required by law, since it may be subject to discovery in legal cases nor should users be blocked from City social media accounts. Suspicious activity should be reported directly to the social media platform.
- Being aware of the instant and wide accessibility and long-term nature of online posts.
- Not directing any online users to sites which are not viable, ethical, legal and moral or sites that would violate any administration directives/policies such as those for political activity; fraud, waste, or abuse; or outside employment.
- When representing the City in an official capacity, employees are responsible for the content they publish on blogs, wikis, or any other form of user-generated media. Employees should assume communications are in the public domain, available for publishing or discussion in all forms of media.
- Respecting copyright, fair use, and financial disclosure laws. Always protect sensitive information, such as personally identifiable information.

### ***Chapter 6. Section 11b: Use of Social Media at Home***

While the City of Baytown encourages its employees to enjoy and make good use of their off-duty time, certain activities on the part of employees may become a concern if they have the effect of impairing the work of any employee; harassing, demeaning, or creating a hostile work environment for any employee; disrupting the smooth and orderly flow of work within the office; or harming the goodwill and reputation of the City among its citizens or in the community at-large. In the area of social media, employees may use such media in any way they choose as long as such use does not produce adverse consequences. There is no expectation of privacy when using City equipment to access personal social media accounts. The City may monitor use of social media sites accessed using City equipment. For this reason, the City of Baytown reminds employees that the following guidelines apply in their use of social media while off duty:

- Information that is published on such personal online sites should never be attributed to the City of Baytown and should not appear to be endorsed by or originated from the City of Baytown.
- Employees engaging in social media platforms should not use their city email account or the City's name, logos, pictures of the employee in a City uniform, incorporate the City in their identity (e.g., username, "handle," screen name, or profile picture), nor should they speak as a representative of the City of Baytown.
- Any person identified as an employee of the City of Baytown on a publicly accessible site is expected to maintain a positive online image that is consistent with the City's goals and objectives.
- Employees who choose to list their work affiliation on professional networking sites should conduct all communication on that network in a professional manner.
- Individuals contributing commentary to a blog or other social media site who identify themselves as a City employee are asked to provide a clear disclaimer that the views expressed are the author's alone, and do not represent the views of the City of Baytown.
- Employees should be mindful that connections made with other City employees on personal social networking sites may have an impact on working relationships, whether or not an individual chooses to associate their employment with the City in their personal online networking activity.

## **ENFORCEMENT**

Violations of this rule may result in immediate revocation of any or all electronic communications access and user privileges and may be grounds for disciplinary action up to and including termination. Certain violations could result in civil or criminal liabilities for the user.

## **SOCIAL MEDIA RESOURCES**

Social Media User Manual.

Social Media Resource Request Form.

### ***Chapter 6. Section 12: Telephone Use***

The City's telephones are for conducting necessary City business. Long distance calls in any department may be made only by personnel authorized by the respective supervisor and may be made only for official City business.

Personal telephone calls by an employee are permitted on a limited basis. Use to the point of interference with performance of job duties may result in disciplinary action. Employees are required to report and reimburse the City for any personal long-distance calls made on City phones, including City cellular phones.

## **CITY CELLULAR TELEPHONE**

The City provides cell phones and cellular service to personnel to assist in providing efficient service delivery to the citizens of Baytown. The necessity of each cell phone is reviewed as changes to the responsibility of a position occur. The Department Director is responsible for evaluating and monitoring cell phone usage in his/her department.

All city-issued cell phones should be used for work-related purposes and employees should limit personal use. If personal use causes additional charges to the City, these charges shall be passed down to the employee.

## **CITY'S AUDIT, DISCLOSURE, AND MONITORING RIGHTS**

The following outlines, in general, the City's audit, disclosure, and monitoring rights concerning its employees in the use of the City's cell phones and cellular service:

- No employee shall have any expectation of privacy in the information accessed or transmitted through the City's cell phones and cellular service and all may be subject to disclosure.
- The Director of Information Technology Services or designee shall have access to all cell phones and cellular service use, and shall monitor use and messages as and when requested by a Department Director or directed by the City Manager.

The Director of Information Technology Services and Department Director together shall have the right to remove or limit usage of cell phones and cellular service.

## **DISCIPLINARY ACTION**

The City will review alleged violations of this policy on a case-by-case basis. Any violations of this policy shall result in appropriate disciplinary action, up to and including termination.

In addition, violations of this policy may be referred for criminal prosecution, where appropriate.

## **Chapter 6. Section 13: Personal Appearance**

Employees must, at all times, dress appropriately and professionally and present a clean and neat appearance while at work and while representing the City or conducting City business. The City allows business casual dress in the work place year-round, in accordance with this policy. Department Directors and supervisors are responsible for enforcing this policy in their respective departments in order to maintain acceptable dress and appearance. To that end, Department Directors may determine and enforce guidelines for workplace-appropriate attire and grooming for their areas; guidelines may limit natural or artificial scents that could be distracting or annoying to others.

Employees must remember that they are professionals 100% of the time and are dressing for business, not for pleasure. Attire must always reflect a professional business attitude and presence.

### **GUIDELINES**

All employees shall be groomed and dress appropriately for their positions and avoid dress that has the potential to reduce workplace safety or distracts from the delivery of services.

For all uniformed employees, uniforms must be clean, wrinkle-free, not torn or frayed. They are to be worn during working hours only or as otherwise authorized or directed and shall not be altered except to fit properly.

Non-uniformed office employees shall dress within the standard business casual parameters which include, but are not limited to, the following:

- Clothing that is clean, wrinkle-free, and not torn or frayed
- Dress slacks or pants
- Buttoned shirts, polo or sport shirts
- Skirts and dresses of the proper, business length
- Blouses, sweaters and shirts that are not too tight or revealing.

Dress standards exclude the following:

- T-shirts, shorts, skorts, tank tops and spaghetti-strap blouses unless covered by a sweater or coat
- Clothing with inappropriate wording, pictures, logos or graphics; unclear or obscene messages or that endorses alcohol, tobacco products, drugs, pornography, or offensive material of any kind
- Pants and skirts worn below the waist that reveal skin or undergarments
- Denim, jeans and cargo pants (except as provided below)
- Sweat shirts or suits
- Inappropriate shoes such as flip flops, athletic shoes (unless approved), and slippers.

Non-uniformed field employees shall dress in clothing that is clean, wrinkle-free according to departmental guidelines. Clothing and shoes must not be torn or frayed, and be within safety parameters.

### **EXCEPTIONS**

The following may be treated as exceptions to the rules when approved in advance by the City Manager or designee, or Department Director:

- Special occasion days (as designated by the City Manager)

- Days when an employee will be required to engage in physical activity, etc.
- Days when an employee is under a temporary disability, and
- During a special event hosted by the employee's department or the City.

On Casual Fridays, denim that is clean and wrinkle-free, not torn, frayed or faded, and athletic shoes may be worn. Tops should still comply with the standard business casual parameters and not include clothing that is normally excluded. Uniformed employees are not included in Casual Fridays.

Regardless of any exception which may be applicable, employees who have meetings or special events where they represent the City are expected to dress in business attire appropriate to their departmental function.

The City recognizes the importance of individually held religious beliefs to persons within its workforce and will reasonably accommodate an employee's religious beliefs in terms of workplace attire unless the accommodation creates an undue hardship. Accommodation of religious beliefs in terms of attire may be difficult in light of safety issues for employees. Those requesting a workplace attire accommodation based on religious beliefs should be referred to the Human Resources Department.

## **COMPLIANCE**

Management personnel at all levels are expected to coach and enforce acceptable dress as they would any employee-related issue. Violations of the policy can range from inappropriate clothing items to offensive perfumes and body odor. If an employee comes to work in inappropriate dress, the employee will be required to go home, change into proper attire or properly groom, and return to work. If an employee's poor hygiene or use of too much perfume/cologne is an issue, the supervisor should discuss the problem with the employee in private and should point out the specific areas to be corrected. If the problem persists, supervisors should follow the normal corrective action process. Any employee sent home pursuant to this administrative rule will not be compensated for such time away from work.

### ***Chapter 6. Section 14: Substance Abuse Policy***

The City recognizes that employee substance abuse can have a serious, adverse impact on its ability to deliver quality services to its citizens, and the general health, welfare, and on the safety of its employees and the public. It is the City's responsibility to ensure public trust and in doing so must implement comprehensive safety measures that protect the well-being of its employees and citizens.

This policy provides guidance to all employees and supervisors concerning the City's position on the use of alcohol and controlled substances and their effect on the workplace. The policy establishes a testing program designed to detect on-the-job alcohol use and off-the-job alcohol use resulting in on-the-job impairment. Drug screening, to detect all use of illegal drugs, is also part of the testing program. Additionally, this policy provides standards for those City employees who are required to have a Commercial Driver License (CDL) for the scope of their job and/or are in safety-sensitive positions. These classes of employees are subject to drug and alcohol testing rules established by the Federal Regulations.

It is the policy of the City that employees are prohibited from manufacturing, using, possessing, selling, distributing, consuming or transporting any controlled substances and/or any alcoholic beverages or intoxicating substances on City property or at any time when conducting City business.

It is the policy of the City to have zero-tolerance in the case of employees with confirmed positive tests for drugs or alcohol, and to deny employment to applicants with confirmed positive tests. This policy applies to all employees.

## DEFINITIONS

- *Adulterated Tests* – Results that occur when an agent is added to the urine sample by the donor in an attempt to prevent detection of drug use.
- *Alcohol or Alcoholic Beverages* – Any beverage containing more than one-half of one percent of alcohol by volume either alone or when diluted.
- *Alcohol Testing* – Testing for blood alcohol content by an intoxilizer instrument device operated pursuant to State law.
- *City Premises* – All City facilities, property, parking lots, leased space, and City provided motor driven equipment/vehicles.
- *Consent* – A form of authorization completed by an applicant or an employee consenting to a drug and/or alcohol test and /or retest and permitting the release of test results to designated City officials.
- *Controlled Substance or Illegal Drug* – Any drug that the manufacture, distribution, dispensing, possession, use, sale, or consumption of which is illegal. This includes a prescribed or over-the-counter drug which is legally obtained but is not being used for its intended purpose, or the use of which causes the employee to be under the influence, or in an impaired condition. A controlled substance is also abusable glue, aerosol paint, or any similar substance or inhalant the use of which causes the employee to be under the influence or in an impaired condition. Steroids will be considered a controlled substance or illegal drug unless prescribed by a physician and used according to the prescription. If there is reason to believe that an employee is under the influence of steroids, they will be tested under the reasonable suspicion section of this policy.
- *Drug Paraphernalia* – Any item used for the preparation, administering, transferring, or storing of a controlled substance, or any item designed for such use.
- *Drug Test* – The collection of a urine specimen by trained personnel, laboratory analysis of that specimen by Enzyme Immunoassay (EMIT) screening, and confirmation of drug-positive EMIT tests using gas chromatography/mass spectrometry (GC/MS) methods and procedures, or other medically acceptable technology deemed appropriate by the City.
- *Legal Drug* – A drug that has been obtained legally by prescription from a medical practitioner.
- *Medical Review Officer (MRO)* – A licensed physician responsible for receiving laboratory results generated by the employer or testing entity's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other relevant biomedical information.
- *Prescription* – An order by a practitioner to a pharmacist for a controlled substance for a particular patient that specifies: the date of issue; the name and address of patient; the name and quantity of the controlled substance; and directions for the use of the drug.
- *Safety-Sensitive Function* – A position that usage of drugs or alcohol could impair the employee's ability to perform assigned duties in which the impairment of such mental or physical condition creates or could create a safety hazard that has caused or could cause injury or harm to the employee or other employees or citizens or damage to property.

Examples of "safety-sensitive" positions include, but are not limited to:

- a) positions involving the use of a vehicle and/or motorized equipment, such as cars, trucks of any size, tractors, mowers, trimmers, trash compactors, saws, and drills as an incidental (10% of time or yearly average of 8 hours per pay period) or as a primary duty (more than 50% of the time)

- b) positions using a deadly weapon
  - c) positions with access to controlled substances and/or hazardous materials/chemicals as defined by the Texas Department of Health
  - d) positions falling under the Department of Transportation (DOT) rules and regulations
  - e) police and fire civil service personnel
  - f) parks leisure services positions involving regular contact with children or elderly adults, and lifeguards
  - g) designated field personnel in water/wastewater utilities, electric utility, streets, traffic, solid waste, and parks maintenance.
- *SAMHSA-certified laboratory* – A laboratory certified for forensic drug testing by the Substance Abuse and Mental Health Services Administration.
  - *Split Sample* – One specimen from one individual that is separated into two specimen containers.
  - *Under the Influence/Impaired Condition* – A situation where an employee’s behavior and/or ability to work is affected in any detectable manner by alcohol and/or a controlled substance. An employee who tests positive will be presumed to be under the influence of drugs or alcohol or in an impaired condition. The City will use a ten (10) panel drug screen along with a test for steroids, when required for reasonable suspicion.
  - *Under the Influence of Alcoholic Beverage* –
    - Not having the normal use of physical faculties by reason of introduction of alcohol into the body, or
    - Having an alcohol concentration equal to or greater than 0.02 grams of alcohol per 100 milliliters of blood, or
    - Having an alcohol concentration equal to or greater than 0.02 grams of alcohol per 210 liters of breath.
  - *Zero-Tolerance* – Immediate dismissal from employment due to a positive drug or alcohol test.

**PROHIBITED CONDUCT**

The City will not hire an applicant who is under the influence of alcohol and/or one who tests positive for a controlled substance.

City employees shall not:

- Report to a work site or work under the influence of alcohol or any controlled substance, subject to the exceptions of prescriptions, which are prescribed to the employee while under the care of a physician and used as directed, and over-the-counter drugs used according to the label which do not interfere with job performance.
- Work or act in the scope of employment with the City while under the influence of alcohol or with controlled substances, subject to the exceptions of prescriptions, present in their systems, on their persons, in City vehicles or on City premises. This includes any off duty use of controlled substance or misuse of alcohol that results in a positive drug or alcohol screen pursuant to these procedures.
- Possess or have in their control any controlled substance or open container of alcohol while on duty, on City premises, or while acting in the course and scope of their employment. Possession of alcohol or a controlled substance which is manifested and/or transported as part of the employee’s duties is not prohibited.

- Use alcohol within four (4) hours prior to performing any safety-sensitive function, or during eight (8) hours following an accident or until undergoing a post-accident test, as outlined in United States Department of Transportation regulations.
- Manufacture, distribute, dispense, possess, use or transfer alcohol, controlled substances or drug paraphernalia on any City work site or in a City vehicle.
- Use alcohol or illegal drugs while wearing a City uniform or any apparel item with the City logo, when in public.
- Use, at any time, a controlled substance obtained without a valid prescription.

The use of marijuana in any form or fashion is strictly prohibited by this policy. Pursuant to the Drug-Free Workplace Act, the City requires employees to notify his/her supervisor of any criminal State or Federal drug statute convictions no later than five (5) days after the conviction.

## **REASONS FOR DRUG AND/OR ALCOHOL TESTING**

The City may require an alcohol and/or controlled substance test for the following reasons:

- Pre-employment
- Move from a “non-safety” position to any “safety-sensitive” position
- Reasonable suspicion
- Post-Accident (motor vehicle accident or injury)
- Random

### ***Chapter 6. Section 14a: Pre-employment Testing***

One phase of processing an applicant for employment with the City is a physical examination including a drug screen. All findings will be evaluated by the City designated medical provider and/or MRO. All applicants are notified that they will be required to submit to and pass a physical which includes a controlled substance screening as a prerequisite to employment.

Applicants who refuse to consent to testing, who fail to appear at the City designated medical provider’s office or at the designated collection site within the specified time, or who fail to provide an unaltered, unadulterated specimen, shall have their hiring process terminated and their conditional offer of employment shall be withdrawn.

In the event results are positive, employment will be denied. The applicant does not have the right to have the sample re-tested.

Current employees who are currently not performing safety sensitive functions but are conditionally offered a transfer into safety-sensitive functions will be tested prior to the formal job offer. The employee should not perform safety-sensitive functions prior to the negative test results being returned to the Human Resources Department.

### ***Chapter 6. Section 14b: Random Testing***

Federally Regulated Random testing in response to DOT 49 CFR regulations requires that all employees required to have a commercial driver’s license (CDL) be subject to random drug and alcohol testing in accordance with the Federal Department of Transportation regulations and guidelines.

All classified civil service personnel and municipal employees in safety sensitive positions shall also be subject to random drug and alcohol testing. Questions concerning whether a specific position is safety sensitive should be addressed to the Human Resources Department.

Employees who are not in safety sensitive or CDL positions will not be subject to random testing unless subject to other areas of this policy.

The selection of employees for random drug testing shall be made by a random computer selection process. Human intervention in this process shall be limited to the programming of the computer. An individual may be randomly selected more than once or not selected at all during the annual period.

The supervisor of the employees selected for a random test shall be notified by the Human Resources Department. The employee shall immediately report, barring unavailability, to the City medical provider's office to proceed with the testing procedure. Employees notified for testing will not be allowed to leave the worksite without a supervisor or take leave from work prior to reporting for testing.

The Department Director or designee shall determine whether an employee is unavailable. The Department Director or designee shall not, under any circumstances, notify employees they have been selected for random testing until they are available to report to the City medical provider's office. If an employee is unavailable, the Department Director or designee shall notify the Human Resources Department immediately. All reasons for unavailability shall be documented at that time. The Director of Human Resources shall have final authority in resolving any question over any employee's availability for testing.

If an employee selected is unavailable for testing due to vacation, medical leave, authorized City leave or travel requirements, and is randomly selected for testing, the employee will not be subject to testing until the next random testing period.

Employees selected for random testing must provide an adequate specimen within three (3) hours after notification. If the employee is unable to provide an adequate specimen, a physician will conduct a medical examination to determine if there is a legitimate medical reason the sample cannot be obtained. The information from the examination will be provided to the MRO and he/she will determine the final conclusion. If it is determined that there is no legitimate medical reason for the inability to provide a sample, the employee will be considered to have refused a test.

#### ***Chapter 6. Section 14c: Reasonable Suspicion***

An employee shall be tested for alcohol and/or controlled substance use if there is a reasonable suspicion the employee is under the influence of alcohol and/or a controlled substance. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- A pattern of abnormal or erratic behavior or rapid mood changes, not attributed to other factors;
- Information provided by a reliable and credible source or information which is independently corroborated;
- Direct observation of drug use, possession of alcohol, controlled substances and/or drug paraphernalia in the workplace;
- Presence of the physical symptoms of alcohol and/or controlled substance use, such as smell of an alcoholic beverage, poor coordination or reflexes, significant confusion, glassy or blood shot eyes, slurred speech;
- Engaging in unprovoked, unexplained, aggressive, violent or threatening behavior not attributable to other causes;
- Deteriorating work performance, attendance or tardiness problems not attributable to other factors;
- Any evidence that an employee has tampered with a previous drug and/or alcohol test.

If the supervisor has reason to believe that the employee is using, consuming or under the influence of alcohol and/or a controlled substance, the supervisor will stop all safety sensitive functions (including

the operation of City vehicles) and then notify the Department Director or designee immediately for confirmation purposes. Reasonable suspicion is determined by the supervisor in conjunction with the Department Director or designee, and the Director of Human Resources or designee.

Supervisors must complete the Reasonable Suspicion Checklist documenting the reason for the reasonable suspicion testing request. Within two (2) hours, a copy of the document will be given to the employee. Employees shall be escorted to the alcohol/controlled substance screening collection site by appropriate supervisory personnel or other departmental authority. Any employee subject to a reasonable suspicion test shall be removed from duty pending the results of the test. No testing will be conducted without the written approval of the department director or designee in collaboration with the Human Resources Director or designee. The employee shall be placed on administrative leave with pay pending the results.

#### **Chapter 6. Section 14d: Post-Accident Testing**

All employees are required to test post-accident or injury regardless of safety violation. Employees who sustain an on-the-job injury shall be required to submit to alcohol and/or controlled substance testing as soon as practical following an accident that requires medical attention from a physician or emergency treatment provider, or an accident in which safety regulations, orders, or protocol are violated.

Drug testing shall not be required for employees who sustain on-the-job injuries if the employee sustains an injury due to the intentional conduct or deliberate acts of another individual, is exposed to an infectious disease, sustains an environmental injury such as insect bites/stings or heat related injuries/illnesses, has an allergic reaction to poisonous plant (such as poison oak or poison ivy), or is involved in an animal attack.

Employees, who are involved in an at-fault motor vehicle accident or cause property/equipment damage, shall be required to submit to alcohol and/or controlled substance testing. The employee will also submit to testing when involved in an accident while participating in a controlled driving training such as police or fire emergency driving classes. Finally, the employee will submit for testing when involved in an accident that causes loss of human life or bodily injury to a person who, as a result of the injury, receives medical treatment.

It is the employee's responsibility to contact his/her supervisor immediately, unless incapacitated, after an accident has occurred so that appropriate action can be taken. Failure to report an accident will result in disciplinary action up to and including termination. The employee's supervisor will notify the Risk/Safety Manager as soon as reasonably possible but no later than the next business day.

All testing should be conducted immediately, if there are no incapacitating injuries. If the tests are not conducted within two (2) hours after the accident occurs, a memo from the Department Director explaining why the tests were not performed will be submitted to the Director of Human Resources or designee. If the injuries are incapacitating and require emergency care, the Emergency Room will be asked to run a blood sample. If an employee is not tested at the time of the accident, the Human Resources Department may require the individual to report to the City designated medical provider's office to have the test performed.

An employee may be permitted to operate a motor vehicle or any equipment while waiting for test results if there is no indication that it would present a danger to the health, safety, or welfare of the public, co-workers, or the employee.

#### **Chapter 6. Section 14e: Responsibilities**

All employees are required to attend training and to read and discuss the City's Substance Abuse Policy or any substance abuse educational materials provided by the City. Each individual must understand the impact of prohibited substance abuse on personal health, safety and the work environment, as well as, the signs and symptoms that may indicate potential substance abuse. Employees must acknowledge form stating that they have read and understand the written policy on substance abuse.

Employees must immediately report any accident to the supervisor or designee, as referenced in *Administrative Rules, Chapter 5, Section 7: Workers' Compensation Policy* and *Administrative Rules, Chapter 6, Section 14d: Post-Accident Testing*. Employees must also report any use of medication to his/her supervisor, Department Director, or Risk Manager that he/she is taking that could impair his/her ability to perform his/her job duties, including but not limited to the operation of vehicles or motorized equipment.

## **SUPERVISORS**

All supervisors will receive training addressing the physical, behavioral and performance indicators of drug and alcohol misuse. The supervisor will determine if reasonable suspicion exists to warrant drug and/or alcohol testing; detailing in writing, the specific facts, symptoms, or observations which form the basis for reasonable suspicion. The supervisor will inform the Department Director or designee and the Risk Manager of all relevant facts and circumstances supporting a decision not to test post-accident in a timely manner.

The supervisor has the responsibility to notify the Human Resources Department if any person or employee is injured in an accident, or property damage is sustained to City or a citizen's property.

The supervisor is responsible for implementing disciplinary action against employees who violate this policy.

## **DEPARTMENT DIRECTORS**

The Department Director will notify employees in their department who are in safety sensitive functions and CDL positions that they are subject to random drug testing. The Director will ensure accurate documentation of all instances of testing and reasons for non-testing and ensure the employee is accompanied by a supervisor to the City medical provider's office in post-accident, random, and reasonable suspicion situations. In the event an employee is unavailable to undergo random testing procedures, the Director will provide the determination concerning this, and the Director will assist in authorizing reasonable suspicion testing based upon review of all available information.

The Department Director is responsible for implementing disciplinary action against employees who violate this policy.

## **HUMAN RESOURCES DEPARTMENT**

The Human Resources Department is required to administer and provide training on the Substance Abuse Policy, to administer and coordinate the Employee Assistance Program (EAP), and to advise and refer employees with alcohol and/or a controlled substances problem(s) to the EAP. The department identifies safety sensitive positions and notes on job descriptions which safety sensitive positions are subject to random testing.

Human Resources is responsible to administer and coordinate alcohol and controlled substance testing of applicants and employees, to notify departments when employees are selected for random screens and to notify and consult with employees and departments regarding results of employee alcohol/controlled substance screening and test results. Human Resources will notify applicants of a job disqualification upon failure of an alcohol/controlled substance screen. Human Resources will ensure that the substance abuse violations of CDL drivers are reported in the Federal Motor Carrier Safety Administration's Drug & Alcohol Clearinghouse in compliance with DOT 49 CFR.

### ***Chapter 6. Section 14f: Alcohol and/or Controlled Substance Testing Procedure***

Under the reasonable suspicion or post-accident testing provisions, employees shall be tested as soon as possible but no more than two (2) hours after the event, accident, or a circumstance for which testing is required.

For random testing, the test must occur within the work shift for personnel on days and within the next day for personnel on evenings or nights. The employee must be taken to the City medical provider's office for testing within one (1) hour of receiving notification from his/her supervisor.

Supervisors shall accompany the employee to the City medical provider's office, during business hours, and to the emergency room, between 5 pm and 8 am on weekdays and 24-hours on weekends, to have a reasonable suspicion test performed.

Refusal to provide the sample as required under this section will result in automatic termination of an employee from employment or rejection of a job applicant.

All positive results will be confirmed by Gas Chromatography/Mass Spectrometry (GC/MS) which is the most sophisticated and accurate method of testing.

If a drug screen tests positive, the City appointed MRO will contact the employee to discuss alternate medical explanations for any positive test result, and then determine reportable results of drug and alcohol screening. If the employee is taking a prescription medication, he/she must produce proof of a valid current prescription within 24 hours of request. Proof may include the prescription bottle with the label, a copy of the prescription, or a letter from the physician dispensing the medication. If the MRO determines there is a legitimate medical reason for a positive test result, the result shall be reported as negative. If the employee fails to respond to the MRO's request for information within three (3) days, the sample will be considered to be positive. The results will be released to the Director of Human Resources or designee within three (3) business days after the MRO's receipt of the results. In the event an applicant is confirmed with a positive test result, the applicant will be denied employment with the City. Any applicant denied employment due to a positive alcohol and/or controlled substances must wait one (1) year before applying for another position within the City. An employee who has a confirmed positive drug screen will be terminated. All breath samples with an alcohol concentration of 0.02 grams or greater will be considered a positive test and employees will be terminated.

The appropriate Department Director or designee will be verbally notified of the test results on the screened employee.

If the employee is subject to the United States Department of Transportation rules on safety sensitive positions, if more stringent, those rules will take precedence over the rules in this policy pertaining to testing and detectable limits.

## **PRESCRIPTIONS AND OVER THE COUNTER MEDICATIONS**

Prescriptions medications are prohibited except when all of the following conditions are met:

- The prescription drug(s) are prescribed by a licensed physician for the person in possession of the drug(s);
- The prescription has been prescribed or approved within the last twelve (12) months by a physician licensed to practice medicine in the U.S. or its territories for the person possessing the drug or medication;
- The drug(s) or medication(s) are ingested or administered only in the prescribed or recommended therapeutic dosages;
- The employee must be able to produce evidence of a valid prescription written within the last twelve (12) months to a MRO as requested.

For safety sensitive positions, the employee must obtain a written statement from the provider indicating whether or not the employee may perform safety sensitive functions while on the medication or other controlled substances and the employee taking the drug or medication has informed his/her supervisor, Director and Risk Manager that he/she is taking a medication that could impair his/her ability to perform his/her job duties, including but not limited to the operation of vehicles or motorized equipment. The employee may be temporarily reassigned to a non-safety sensitive function until the prescribing

physician and the City medical provider permits the safety sensitive function to resume. If no non-safety sensitive work is available, the employee may be required to utilize sick leave with or without pay.

The City at all times reserves the right to have a designated City medical provider determine if a prescription drug (or over-the-counter medication) produces hazardous effects and may restrict the job duties performed while using any drug or medication accordingly.

## **CONFIDENTIALITY**

The City and its employees shall keep all information obtained in conjunction with the screening tests confidential to the maximum extent possible. Unless prohibited by law, this does not preclude sharing of screen results with the employee's supervisor, Department Director, or other management officials of the City on a need-to-know basis.

Screening test results will not become a part of the employee or applicant's personnel file. All test results shall be maintained in the City's designated medical provider's files.

In the event a third-party requests reference information regarding a City applicant, current or former employee, the alcohol and/or controlled substance screen results shall NOT be communicated, unless compelled by law.

Any employee who violates this confidentiality requirement will be subject to disciplinary action.

## **REFUSAL TO TEST**

Refusal to provide the sample required to perform the urinalysis or blood test or failure to submit to an alcohol screen at the request of the City under this section will be considered a positive test result and will result in termination.

## **EMERGENCY CALL-BACK AND ON CALL**

Employees subject to continuous emergency call-back are required to declare to their supervisors at the time of call-in, any use of alcohol or drugs including prescribed medication that might affect their ability to perform under an emergency situation. Employees on standby status are potentially required to be actively working, therefore an employee on standby is prohibited from consuming alcoholic beverages or using drugs which may impair his/her performance.

If an employee, who is potentially on call, receives a request to respond and they have consumed alcoholic beverages or a controlled substance, then they are responsible for notifying their supervisor that they cannot respond due to the circumstances. If they respond under the influence, then they are in violation of this policy and will be tested. If an employee is taking prescription medication that may impair his/her performance when called back to work, he/she should notify his/her supervisor.

The supervisor shall determine if the employee is fit to work and in what capacity.

## **CONFERENCES**

Employees attending training or conferences may participate in social functions associated with the conference and are prohibited from consuming alcohol while in a City uniform or apparel with the City logo displayed. Employees who consume alcohol shall follow the law and are prohibited from operating a City-owned, City-leased, or City-rented vehicle.

## **REHABILITATION AND SELF-REFERRAL**

The City encourages employees and dependents to seek voluntary treatment for substance abuse problems through the Employee Assistance Program (*Administrative Rules, Chapter 5, Section 1b: Discretionary Benefits*). Disciplinary action will not be taken against employees who voluntarily identify themselves as having a drug or alcohol problem and obtain counseling and rehabilitation. An employee may not make a self-referral in order to avoid a potential drug or alcohol test or disciplinary action.

An employee who self-refers into a rehabilitation program will be required to enter into an agreement with the City, which will include submitting to additional drug/alcohol screens at any time for the next 60 months. If the employee subsequently tests positive for drugs or alcohol, he/she will be subject to immediate termination.

### **Chapter 6. Section 15: Suspected Misconduct and Dishonesty**

Like all organizations, the City is faced with risk from wrongdoing, misconduct, dishonesty and fraud. As with all business exposures, the City must be prepared to manage these risks and their potential impact in a professional manner. The impact of misconduct and dishonesty may include the actual financial loss incurred, damage to the reputation of the City organization and its employees, negative publicity, the cost of investigation, loss of employees, damaged relationships with contractors and suppliers, litigation, and damaged employee morale.

The City's goal is to establish and maintain a business environment of fairness, ethics and honesty for its employees, its citizens, its suppliers and anyone else with whom the City has a relationship. The City is committed to the deterrence, detection and correction of misconduct and dishonesty, and as such this policy applies to all employees. The discovery, reporting and documentation of such acts provide a sound foundation for the protection of innocent parties, the taking of disciplinary action against offenders up to and including termination, the referral to law enforcement agencies when warranted by the facts, and the recovery of assets.

For purposes of this policy, misconduct and dishonesty include, but are not limited to:

- Acts which violate the City's Personnel Policy and Administrative Rules;
- Theft or other misappropriation of assets, including assets of the City, its customers, suppliers or others with whom the City has a business relationship;
- Misstatements and other irregularities in City records, including the intentional misstatement of the results of operations;
- Forgery or other alteration of documents;
- Fraud and other unlawful acts.

The City specifically prohibits these and any illegal activities in the actions of its employees.

### **REPORTING**

It is the responsibility of every employee to immediately report suspected misconduct or dishonesty to his/her supervisors and/or the Director of Human Resources or designee. If the employee is unable to report suspected misconduct or dishonesty to his/her immediate supervisor, the next level of management should be informed and/or the Director of Human Resources or designee. Supervisors, when made aware of such potential acts by subordinates, must immediately report such acts to their Directors and/or the Director of Human Resources or designee. Any reprisal is strictly forbidden against any employee or other reporting individual because that individual, in good faith, reported a violation.

The person receiving the report of suspected misconduct or dishonesty will take initial steps to examine the issue and determine if illegal, immoral or unethical activity has taken place. If the issue raised is process or work related it may be able to be handled within the Department, and this feedback and associated action plan(s) shall be shared with the reporting individual.

In the event that the examination supports suspected misconduct or dishonesty, and therefore warrants further investigation, the reporting individual will be asked to complete the **City of Baytown Complaint Form**. The form will be provided to the Director of Human Resources or designee, with the information provided to be used for investigative purposes.

Due to the important yet sensitive nature of the suspected violations, effective professional follow up is critical. Managers, while appropriately concerned about “getting to the bottom” of such issues, should not in any circumstances perform any investigative or other follow up steps on their own. Concerned but uninformed managers represent one of the greatest threats to proper incident handling. All relevant matters, including suspected but unproven matters, should be referred immediately to the Director of Human Resources or designee.

Work related issues are dealt with through the chain of command within a Department, with conduct, work standards, job duties and work product the sole responsibilities of the Department.

The Director of Human Resources or designee can provide guidance and suggestions to assist an employee or supervisor unsure of appropriate steps to take to resolve a work place issue.

### **ADDITIONAL RESPONSIBILITIES OF SUPERVISORS**

All employees have a responsibility to report suspected violations. However, employees with supervisory and quality control review responsibilities at any level have additional deterrence and detection duties.

Specifically, personnel with supervisory or quality control review authority shall become aware of what can go wrong in his/her area of authority and put into place and maintain effective monitoring, review and control procedures that will prevent acts of wrongdoing. Further, the supervisor will put into place and maintain effective monitoring, review and control procedures that will detect acts of wrongdoing promptly should prevention efforts fail.

Accountability for the effectiveness of these additional responsibilities cannot be delegated and will remain with the Department Director. Assistance in effectively carrying out these responsibilities is available upon request through the Director of Human Resources or designee.

### **RESPONSIBILITY AND AUTHORITY FOR FOLLOW UP AND INVESTIGATION**

The Director of Human Resources or designee has the primary responsibility for all investigations involving the City. The Director of Human Resources or designee may request the assistance of any other department, such as the Police Department or City Attorney’s office, in any investigation, including access to the Finance Department’s periodic examinations and evaluations of internal controls. In the case of an alleged criminal act, the Police Department shall have primary responsibility for investigations.

Any investigation shall also have free and unrestricted access to all City records and premises, whether owned or rented, and the authority to examine, copy and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities (whether in electronic or other form) without the prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of investigative or related follow up procedures (*Administrative Rules, Chapter 6, Section 4: Search of City Property/Premises Policy*).

All investigations of alleged misconduct and dishonesty will be conducted in accordance with applicable laws and City policies, administrative rules and procedures.

## **REPORTED INCIDENT FOLLOW UP PROCEDURE**

Care must be taken in the follow up of suspected misconduct and dishonesty to avoid acting on incorrect or unsupported accusations, to avoid alerting suspected individuals that follow up and investigation is underway, and to avoid making statements which could adversely affect the City, an employee, or other parties.

Accordingly, employees and others must immediately report all factual details of the incident. The Director of Human Resources or designee has the responsibility for follow up and, if appropriate, investigation of all reported incidents, and there will be no communication with the suspected individuals or organizations about the matter under investigation until necessary. In appropriate circumstances and at the appropriate time, the Director of Human Resources or designee will notify the City Manager and the Chief of Police or their designees. Further, all inquiries from an attorney or any other contacts from outside of the City, including those from law enforcement agencies or from the employee under investigation, should be referred to the City Attorney's office and/or the City Clerk's office, whichever is appropriate under the Texas Public Information Act.

Investigative or other follow up activity will be carried out without regard to the suspected individual's position, level or relationship with the City.

### ***Chapter 6. Section 16: Audio Recording Devices in the Workplace***

No employee shall use any audio recording device in the workplace or while acting in his/her official capacity, without the knowledge of everyone present, except as authorized in this policy.

#### **PERMISSIBLE USES:**

The following are appropriate uses of recording devices in the workplace:

- to record meetings pursuant to the Texas Open Meetings Act;
- to record meetings as part of an employee's assigned duties, including, but not limited to, recordings taken for code or law enforcement purposes; and
- to record meetings and/or conversations if:
  - all participants to the conversation are notified of the use of the recording device prior to the use and
  - notice to all participants to the conversation is included as part of the recording.

#### **IMPERMISSIBLE USES:**

The following are inappropriate uses of recording devices in the workplace and violate this policy:

- to use recording devices outside of the permissible uses set in this policy; or
- to allow or arrange for others, including non-employees, to record conversations and/or meetings involving City business other than in the permissible uses established in this policy.

#### **VIOLATION OF POLICY:**

The City will review all alleged violations of this policy on a case-by-case basis. Any violations of this policy shall result in appropriate disciplinary action, up to and including termination. Additionally, violations of this policy may be referred for criminal prosecution.

### ***Chapter 6. Section 17: Reduction in Workforce (RIF)***

Although the potential need for a reduction in force can occur at any time, it will normally arise during the budgetary planning for the following fiscal year which occurs in the spring of each year. When the

City Manager determines that the City's financial projections indicate that revenues will not sustain the current level of staffing and that the situation may persist beyond the next fiscal year, she/he will consult with the department Directors and the City Council concerning the financial situation.

As the first step in dealing with the reduction in force, the City Manager will provide a funding target to each Department Director based upon an evaluation of the projected revenues for the upcoming fiscal year by funding source, the City's existing level of services and the priorities of the City Council. With these expenditure targets the Department Director will consult with the City Manager to develop a departmental list of priorities that will allow the department to meet its basic mission, fund necessary equipment and supplies, and function within the level of expenditures projected.

As referenced in the *Personnel Policy, Chapter 8, Section 3: Reduction in Force*, the City will consider all alternatives, such as, but not limited to, wage and hiring freezes, early retirement programs, salary reductions, transfers to new positions within the City organization, and shifts to part-time work as methods to solve the financial crisis. If these steps do not generate sufficient reductions in expenditures to meet the funding target, the City will identify employees for involuntary separation based on their history of disciplinary action, most recent performance evaluations, combination thereof, and/or length of employment.

## **FINAL PAYMENTS**

Final payments for terminated employees will be based upon the City's existing payment of accrued leave time policies for employees separating from the City. Texas Municipal Retirement System (TMRS) withdrawals will be made in accordance with TMRS regulations and will be handled by TMRS personnel. The City of Baytown also provides COBRA (Consolidated Omnibus Budget Reconciliation Act of 1986) to all former eligible employees and dependents. This provides employees leaving the City with a temporary extension of group insurance benefits. This benefit option is at the employee's expense. For further details, see *Administrative Rules, Chapter 5, Section 1c: Consolidated Omnibus Budget Reconciliation Act (COBRA)*.

## Chapter 8. Separation From Employment

### Chapter 8. Section 6: Retirement

Eligible employees may be separated by retirement in accordance with the requirements established by the Texas Municipal Retirement System (TMRS).

### Chapter 8. Section 6a: Retirement Gift Program

The City of Baytown desires to honor and reward employees who spend their career serving the Baytown community. One of the ways we seek to reward an employee is by providing a parting gift at retirement.

Retirement is defined, per the City of Baytown Personnel Policy – Ch. 8, Sec.6, as: Eligible employees may be separated by retirement in accordance with the requirements established by the Texas Municipal Retirement System (TMRS).

In efforts to fairly reward employees based on their years of service to the City of Baytown, the following guidelines will be used when issuing a parting gift upon retirement:

- a. All employees who retire from the City of Baytown are eligible for a plaque displaying their name, department, and years of service. An employee may opt out of receiving this gift.
- b. All employees who retire from the City of Baytown are eligible for a VISA gift card in the following amounts based on their years of continuous service:

<b>Years of Service</b>	<b>Gift Card Amount</b>
30+	\$1,000
Less than 30	\$750
Less than 25	\$500
Less than 20	\$250
Less than 15	\$175
Less than 10	\$100

A celebration may be hosted by the employee's department. The use of City funds must be approved by the Assistant City Manager or City Manager prior to planning the celebration. Any additional costs for the celebration will be funded through voluntary donations.

An employee may only receive one retirement parting gift and City funded celebration even if they have multiple tenures with Baytown.