



# **PERSONNEL POLICY AND PROCEDURES MANUAL**

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## PERSONNEL POLICIES AND PROCEDURES

### 1.01 Disclaimer

This manual is a general guide and the provisions of this manual do not constitute an employment agreement (contract) or a guarantee to continue employment. I understand that the City of Marshall reserves the right to change the provisions of the manual at any time. My continued employment will be deemed acceptance of any and all such changes.

This Policy is not an employment contract and nothing in these policies is intended to change or modify the “at-will” status of City employees or to create or confer any property rights or expectation of continued employment to any employee. The City of Marshall is an at-will employer. Any employee may be discharged or terminated for any reason or no reason, except those prohibited by federal or state law.

My employment is for no definite period and may, regardless of the date of payment of my wages and salary, be terminated at any time with or without cause, without any prior notice.

All employees are expected to become familiar with and adhere to all City of Marshall policies.

**I realize that as a condition of continued employment I am required to become familiar with the terms and provisions of these policies and procedures.**



## PERSONNEL POLICIES AND PROCEDURES

### 1.02 Mission

Amended 11.08.2023

#### ABOUT US

The City of Marshall is comprised of professionals that are experienced, dedicated and highly skilled. We are a values-driven organization that incorporates Compassion, Customer Service, Efficiency, Excellence and Innovation in everything we do. The City strives to promote a fun optimistic, and fulfilling environment that contains energy where team members are excited to work and serve the community.

The City of Marshall is dedicated to EMPOWERING our employees for a higher productive environment, improved work culture, and a place employees are proud to serve.

#### MISSION STATEMENT

The City of Marshall is dedicated to providing high quality services and preserving Marshall as a superior place in which we live, work and thrive.

#### VISION STATEMENT

The City of Marshall is safe, well maintained, responsive, innovative and financially sound community that celebrates families, businesses and an exceptional quality of life.

#### VALUE STATEMENTS

- Customer Service – Customer service is the foundation of our internal and external interactions, and we pride ourselves on being courteous, patient, humble and professional
- Excellence – Being clear about and striving to achieve the performance in all aspects of our work
- Honesty – Making ethical, transparent, and well-intentioned decisions and being upfront and forthcoming with information and insights.
- Innovation – We are willing to grow, explore new ideas, challenge the status quo, and are dedicated to continuous improvement.
- Efficiency – We are entrusted to use city resources efficiently and transparently. We are committed to providing the best and most valuable services to our residents.



## **PERSONNEL POLICIES AND PROCEDURES**

### **1.03 Purpose**

The purpose of the City of Marshall's Personnel Policies and Procedures is to provide for a consistent and equitable system of personnel management for the City. While these rules constitute a statement of policies and procedures, they are not intended to be all-inclusive and cover every conceivable personnel situation that might arise. Circumstances of any particular case or matter may warrant a deviation or exception in the application of these policies. Where such circumstances justify an exception, the City Manager, or his designee, may do so. Considerable latitude will be given to the City Manager, directors, and managers for administration of these policies within the framework outlined in these rules and regulations.

This Policy is not an employment contract and nothing in these policies is intended to change or modify the "at-will" status of city employees or to create or confer any property rights or expectation of continued employment to any employee. The City is an at-will employer.



## PERSONNEL POLICIES AND PROCEDURES

### 1.04 Authority

With the exception of matters reserved to City Council by statute or Charter, the general and final authority for conduct of municipal personnel affairs is vested in the City Manager, including appointments to positions and the establishment and maintenance of satisfactory standards of efficiency, welfare, supervision over all departments, officials and positions created and approved by the City Council. No City employee, manager, or representative of the City has any authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to this manual. Final authority, in the form of review and approval, resides with the City Manager with regard to all matters and subjects covered by these regulations, unless specifically delegated to various directors and/or other subordinates. This delegation may be either written or oral. The director of a department may establish policies and procedures for that department if the policies and procedures do not conflict with the *City of Marshall Personnel Policies and Procedures Manual*.

The fundamental objectives of good human resources administration sought by these policies are:

1. to provide consistent and equal opportunity to qualified persons to enter City employment on a basis of demonstrated merit, ability, and physical and moral fitness as ascertained through fair and practical methods of selection, free of personal and political considerations.
2. to promote and increase efficiency and economy in the service of the City.
3. to establish and promote high morale among City employees by providing a uniform personnel policy, opportunity for advancement, good working relationships, and consideration of employees' needs and desires.
4. to establish and maintain a uniform plan for evaluation and compensation based on duties and responsibilities relative to the positions in City service.
5. to develop a plan of recruitment, retention, and advancement that will make employment with the City attractive as a career and encourage each employee to render their best service to the City.



## PERSONNEL POLICIES AND PROCEDURES

### 1.05 Scope

These policies apply to and govern all employees of the City, except where state and federal law preempts the application of this Policy or where there are provisions to the contrary in state and federal law.

These policies supersede all existing personnel policies and are effective and binding on all employees regardless of hire date. Continued employment with the City following adoption of these policies constitute conclusive acceptance of the terms of the policies. This Policy is not an employment contract and nothing in this Policy is intended to change or modify the at-will status of city employees or to create or confer any property rights or expectation of continued employment to any employee. Disciplinary action herein is not exclusive and is provided for guidance only. Employment in a position, either regular or temporary, is not recognized as a vested right to be retained primarily because of appointment or possession, but only when the standard of performance justifies the continuance.

The failure of the City to follow or comply with any provision of these policies will not constitute grounds for nor form the basis of any action or cause of action, either civil or criminal, arising from employment with the City. The City reserves the right to change the provisions of these personnel policies and procedures at any time.



## **PERSONNEL POLICIES AND PROCEDURES**

### **1.06 Amendments**

The City Manager may change or amend these rules within Charter limitations and with approval of City Council, to the extent deemed necessary to more effectively promote the interests of the City. Any new rules, regulations or policies issued, in accordance with this Section, supersede these regulations and are fully binding on all employees. Any provisions, terms, or conditions described in these policies may be changed and continued employment with the City constitutes acceptance binding on all employees. Such new policies will, upon adoption, be set forth in writing and distributed to and/or made available to all employees. Amendments so made will be filed with Human Resources.



## PERSONNEL POLICIES AND PROCEDURES

### 1.07 Ethical Conduct

Every employee in the City's service is working for the good of all the people of Marshall. It must be the aim of the personnel of the City to constantly develop a high-performing municipal government. In so doing, much depends upon all the employees of the City. The behavior of each City employee should, at all times, promote the good will and trust of the public.

Each employee is expected to do their best to make the most ethical decisions while serving the residents of Marshall. The City employee core values of accountability, teamwork, integrity, and professionalism should always be applied to decisions.

Along with the application of core values in the decision-making process, other questions should include:

1. Is the action lawful?
2. Would my actions cause embarrassment to the City?
3. Is there justification for my action?

Note: When necessary, an employee may contact a supervisor for clarification and guidance.

Not only is it the duty of employees to behave in a manner that reflects well upon the City, employees must report any misconduct or unethical behavior. These reports should be directed to the employee's supervisor or to the City Manager or to his or her designee.

Each employee should have a thorough knowledge of their own job and should profess a profound respect for their work. The employee should be endowed with the spirit that the effort is of consequence and that the work is of worthwhile value.

While this Policy provides overall guiding principles with regard to the ethical conduct of employees, Section 7 of the Personnel Policies and Procedures Manual generally will be referred to when taking disciplinary action involving employee conduct.



## PERSONNEL POLICIES AND PROCEDURES

### 2.01 Employment Classification

The City will maintain standard definitions of employment and will classify employees in accordance with the following definitions:

**A. Full-Time Employees**

A full-time employee holds an authorized position budgeted for at least 2080 hours per fiscal year.

**B. Part-Time Employees**

A part-time employee holds an authorized position, budgeted for fewer than 1000 hours per fiscal year.

**C. Temporary/Seasonal**

A temporary/seasonal employee holds a job established for a specific period of time or for the duration of a project, season, or assignment. Note: Temporary employees may work various temporary assignments with the City and still retain temporary status.

**D. Exempt**

An Employee who is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) because he or she is classified as an executive, professional, administrative or outside sales employee, and meets the specific criteria for the exemption. Certain computer professionals may also be exempt.

**E. Non-Exempt**

An employee whose position does not meet Fair Labor Standards Act exemption tests and who is eligible for overtime compensation.



## **PERSONNEL POLICIES AND PROCEDURES**

### **2.02 Employee Relations**

High productivity and efficiency are a result of individual job satisfaction. To work together successfully, employees must realize that harmonious relationships are not entirely a matter of rules, but are the outgrowth of daily decisions and professional behavior.

Employees are expected to establish and maintain effective professional working relationships with fellow employees, supervisors, elected and appointed officials, citizens, consultants, contractors, and others doing business with the City.

To create a positive work environment, employees and supervisors shall communicate openly and directly. If employees have concerns, they are strongly encouraged to voice them openly and directly to their supervisor or department director.



## PERSONNEL POLICIES AND PROCEDURES

### 2.03 Equal Employment Opportunity

To help ensure that equal employment and advancement opportunities are available to all individuals, employment decisions at the City will be based upon merit, qualification, and abilities. This Policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training. The City does not discriminate in employment opportunities or practices on the basis of race, color, religion, gender, national origin, ethnic affiliation, age, disability, veteran status, or any other characteristic protected by law.

In accordance with the Americans with Disabilities Act (ADA), the City will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship.

In compliance with Genetic Information Nondiscrimination Act (GINA), the City prohibits discrimination and retaliation based on genetic information in employment opportunities or practices.

Employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring those issues to the attention of their immediate supervisor, department director, or the Human Resources department. Employees can raise concerns and make reports without fear of reprisal or retaliation. Anyone found to be engaging in discrimination or retaliation will be subject to corrective action, up to and including termination of employment.

The City will not tolerate derogatory remarks or actions by employees regarding race, color, religion, gender, national origin, ethnic affiliation, age, disability, veteran status, or any other characteristic protected by law.



## PERSONNEL POLICIES AND PROCEDURES

### 2.04 Nepotism

#### A. General

No employee may participate in the hiring of a relative, and no employee may work under the supervision of a relative. Additionally, two relatives shall not be employed in a full-time or part-time capacity in the same business unit unless approved in writing by the City Manager. As in all cases of employment with the City, the City reserves the right to transfer or reassign any employee at any time with or without cause.

#### B. Existing Relationships

Relatives employed in violation of this Policy as of the date of adoption of this Policy may remain employed in the same business unit so long as one relative does not, directly or indirectly, through promotion, transfer, or otherwise, supervise or have the opportunity to supervise the other relative, or so long as one relative does not occupy a position which has influence over the other's employment, promotion, salary administration, or other related management or personnel considerations.

#### C. Relative defined

For purposes of this provision, relative is defined as:

#### CONSANGUINITY (BLOOD)

| FIRST DEGREE | SECOND DEGREE | THIRD DEGREE        |
|--------------|---------------|---------------------|
| Father       | Brothers      | Uncles              |
| Mother       | Sisters       | Aunts               |
| Children     | Grandparents  | Nephews             |
|              | Grandchildren | Nieces              |
|              |               | Great-grandparents  |
|              |               | Great-grandchildren |

#### AFFINITY (MARRIAGE)

| FIRST DEGREE    | SECOND DEGREE          |                              |
|-----------------|------------------------|------------------------------|
| Spouse          | Sister-in-law          | (Both employee and spouse's) |
| Step-children   | Brother-in-law         | (Both employee and spouse's) |
| Step-parent     | Spouse's Grandparents  |                              |
| Father-in-law   | Spouse's Grandchildren |                              |
| Mother-in-law   |                        |                              |
| Son-in-law      |                        |                              |
| Daughter-in-law |                        |                              |

**D. Business Unit Defined**

For purposes of this provision, a business unit is considered to be each division within a department, wherein the nature of jobs within the division can function independently without being intertwined or closely dependent on jobs from another division. If a question arises with regard to whether a business unit conflicts with this Policy, the City Manager shall resolve such conflict by written determination.

Examples of multiple divisions that are considered to be so closely related as to form one business unit:

1. Police Administration, Patrol, CID and Special Services are considered to form one business unit; and
2. Fire Prevention, Suppression, and Emergency Medical Services are considered to form one business unit.

**E. City Council and City Manager** No person related within the consanguinity and affinity relationship to any member of the City Council or the City Manager shall be appointed to any office, position, or clerkship or other service of the City except if the individual is employed in the position immediately before the election or appointment of the Council Member or appointment of the City Manager to whom the individual is related and that prior employment is continuous for at least thirty (30) days if the Council Member or City Manager is appointed or six (6) months if the Mayor or council is elected. This Policy shall not apply, provided participation in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees. (Texas Government Code Chapter 573; Texas Local Government Code Chapter 171; Marshall Code of Ordinances Article VI, Section 127.)

**F. Supervision by Relatives** No employee shall be employed, promoted, transferred or reinstated in or to any position and shift where the employee will supervise directly or be supervised directly by any relative.

**G. Marriage** Upon marriage, where a situation of nepotism as defined by this Policy, is created, the situation of nepotism may be resolved within sixty (60) days by one of the employees' transfer or resignation from employment with the City.

**H.** The City has no desire to become involved in the personal lives of employees. Employee personal relationships, involving other employees, family members, or other individuals, on their personal time and off of City property are generally outside the City's area of responsibility. However, the City will become involved and will take appropriate action if:

1. problems resulting from such relationships manifest themselves on the job; or
2. a supervisor engages in such a relationship with a subordinate who reports directly and immediately to him/her, or the involved supervisor has influence over the other's employment, promotion, salary administration, or other relevant management or personnel considerations.

**I.** Employees must disclose to their manager or director when relationships change thereby creating a case of nepotism as stated above. The matter must be resolved by transfer, resignation

or termination, within a reasonable period of time, not to exceed six (6) months. The employees involved will be allowed to make the decision as to which employee will seek a transfer or be terminated.

- J. In all cases of employment with the City, the City reserves the right to transfer or reassign any employee at any time with or without cause.



## PERSONNEL POLICIES AND PROCEDURES

### 2.05 Personal Relationships

**Personal relationship** is defined as a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. Supervisors are strictly prohibited from having personal relationships with subordinates; dating or intimate, regardless of frequency. The City reserves the right to take prompt action if an actual or potential conflict of interest arises concerning individuals who occupy positions at any level (higher or lower) in the same line of authority that may affect employment decisions. If it has been determined that a supervisor is dating or intimate with a subordinate, the supervisor may be disciplined, up to and including termination. Any employee who is in violation of the personal relationship policy may be subject to discipline, up to and including termination.

Employees involved in a personal relationship with another employee may not occupy a position in the same department, work directly for, or supervise the employee with whom they are involved. The alternative for any employee determined to be in a personal relationship is for one or both employees to leave employment of the department.

Where a conflict or the potential for conflict arises because of a relationship between employees, even if there is no line of authority or reporting involved, the employees may be separated by reassignment or terminated from employment. If such a dating relationship is established after employment, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the department director or City Manager immediately. Failure to immediately disclose the relationship constitutes violation of the personal relationship policy. Where a conflict or potential conflict arises because of the relationship affecting employment, the individuals concerned will be given the opportunity to decide who is to be transferred to another position or terminated if no position is available. If that decision is not made within thirty (30) calendar days, management will decide who is to be transferred or, if necessary, terminated from employment.

#### **GRANDFATHER CLAUSE:**

The City is aware that, as of the above revision date of this Policy, a number of city employees are related, by blood or by marriage, to other city employees. These employees will be "grandfathered" under this Policy, meaning they will be permitted to continue their employment with the City as long as the requirements set out in Section 2.04 – Nepotism of this Policy are met. Please be informed that the above "grandfathered" provision is for family relationships as they exist as of the revision date of this Policy. Any future changes to the family relationship and/or employment status of the affected employee(s) will be governed by the requirements of this Policy.

#### **PERIODIC REVIEW:**

Periodically, the City Manager (or designee) will review the job descriptions and interrelationship between the affected jobs and determine whether they meet the requirements set out in Section 2.04 – Nepotism. If one or more of these requirements are not met, one or both of the affected employees must immediately seek a transfer to another position within the City for which he or she

is qualified and that meets the requirements of Section 2.04 – Nepotism. If a suitable transfer cannot be made within ninety (90) days, one or both of the affected employees will be required to resign from employment.



## **PERSONNEL POLICIES AND PROCEDURES**

### **2.06 Special Compensation**

The City recognizes that from time to time employees are requested to perform duties beyond the normal scope of responsibilities. Where this occurs, the City may offer special compensation to an employee in conjunction with the beginning of the extra assignment. The special compensation may take the form of financial benefit, additional time off, or other thing of value.

Nothing in the policy should be construed to be contrary to Texas case law and the Texas case law and the Texas Constitution prohibition against awarding such special compensation after the work is done. In all cases of special compensation, the special compensation will be agreed upon by the City and the employee prior to commencing that assignment.



## PERSONNEL POLICIES AND PROCEDURES

### 2.07 Employee Medical/Psychological Examinations

Applicants for specific jobs may be required to undergo and pass a pre-employment physical and/or psychiatric exam upon a conditional offer of employment. The examination will be conducted by a physician of the City's choice and paid for by the City. Employment will be contingent upon successful completion of the examination in a relation to the standards of fitness required by the essential functions of the position. Where conflicts of medical/psychological opinion occur, the decision of the City's appointed physician/psychologist or psychiatrist shall be final and binding.

A department director, with agreement of the Human Resources Manager, may require current employees to undergo a physical and/or psychological examination in order to determine fitness to perform the essential job functions for continued employment. Employees who are transferred, promoted, or demoted may be required to undergo an examination to ensure that they are capable of performing the essential job functions of the new position.

Any medical/psychological information concerning an employee will be maintained in separate, **confidential** medical files apart from regular personnel records in the Human Resources Department. Such records are not subject to Open Records Act. Only authorized employees may have access to such files. Any employee found to have discussed medical information about another employee with anyone else or to have released such information without authorization is in violation of this Policy and will be subject to corrective action, up to and including termination from employment.



## PERSONNEL POLICIES AND PROCEDURES

### 2.08 Mandatory Referral

If there is continuing or serious misconduct or disruptive behaviors by an employee, the department director may require a psychological evaluation of an employee. The employee may be referred to the Employee Assistance Program (*see Section 4.08 Employee Assistance Program*), health insurance provider, or another professional organization or individual for evaluation. If psychological evaluation and successful treatment are made conditions of continued employment, or if a corrective action is delayed or reduced contingent upon evaluation and successful treatment, then such referral is considered mandatory and full participation in the recommended course of action is required. Referral does not automatically preclude corrective action. Failure to fully participate will be cause to reinstate the original personnel action or to take the appropriate personnel action, up to and including termination.

All cases of mandatory referral shall be discussed with the Human Resources Manager or designated representative prior to referral. If the employee has sought treatment on his/her own initiative, then the Human Resources Manager or designee may require full disclosure and release of psychological information related to the recommended course of action and treatment or the City may refer the employee to another provider on a mandatory basis.



## PERSONNEL POLICIES AND PROCEDURES

### 2.09 Outside Employment & Business Interests

- A. Any outside employment, business interests or activities must not interfere with the employee's regular duties or constitute a conflict of interest.
- B. In no case should any employee hold a position of paid employment that conflicts with their work for the City.
- C. Employees must consider the potential for conflict of interest including, but not limited to:
  - 1. business and financial interests whether actual ownership, partial ownership or providing/receiving in-kind services;
  - 2. membership on committees of other organizations;
  - 3. consultant work;
  - 4. boards of directors;
  - 5. advisory groups; and
  - 6. business relationships with a local elected official.

When disclosing private interests, business interests, or conflicts of interest the employee must provide sufficient detail to the manager and director in order to determine if any conflict of interest exists.

- D. Employees will not engage in private business activities during their working hours and will not use City property, equipment, or facilities for such activities.
- E. An employee on FMLA leave, sick leave, disability leave, workers' compensation leave, or military leave will not engage in outside employment unless expressly authorized in writing in advance by the director and City Manager. A copy of the written approval will be sent to Human Resources.
- F. Violation of this Policy may result in disciplinary action up to and including termination.



## **PERSONNEL POLICIES AND PROCEDURES**

### **2.10 Job Posting**

#### **A. Job Posting**

Jobs will be posted on the official city website and on the job board outside City Hall. Each job posting will normally remain open for a minimum of one (1) week and will include the job title, department, job summary, essential duties, closing date, and minimum qualifications. In general, notices of job openings are posted although the City reserves its discretionary right not to post a particular opening.

#### **B. Applying for a job**

To apply for a posted position, an applicant shall submit a completed application online.

#### **C. Internal Applicants**

All employees, including part time and seasonal, may apply for internal job postings and will be subject to the same requirements and or tests (if applicable) as external applicants. An applicant's current supervisor may be contacted to verify performance, skills, and attendance, and the personnel file may also be reviewed. Staffing limitations or other circumstances that might affect a prospective transfer may be discussed. Employees who have been on corrective probation or have been suspended in the previous twelve (12) month period are not eligible to apply for posted jobs.



## PERSONNEL POLICIES AND PROCEDURES

### 2.11 Transfers

#### A. Types of Transfers

1. Lateral Move – Reassignment to a position of equal grade. The employee's salary will remain the same.
2. Voluntary Transfer – If transferring to a position with a lower pay grade, managerial discretion is allowed in determining whether or not an employee's salary is to be lowered, but the salary would not go below the minimum or above the maximum of the new grade. The hiring supervisor is responsible for ensuring that the employee is aware of what the salary would be prior to or at the time of the job offer. When an employee moves to a higher-level position, this is a promotion.
3. Interdepartmental Transfer – Transfers between two departments.
4. Intradepartmental Transfer – Transfers within a department.

#### B. Employees may be transferred between departments provided the following conditions are met:

1. Negotiations for transfer between departments will be handled through Human Resources, including disposition of comp time and holiday leave bank accruals.
2. Transfers to vacant positions will be considered in instances where better utilization of skills may be accomplished or improved morale might result.
3. Employees must notify their supervisor prior to making any contact, direct or indirect, with the prospective director.
4. Employees must meet minimum qualifications for the positions for which they are requesting transfer.
5. Employees must have completed 6 months in their current position and be in good standing.
6. Directors may authorize a transfer between their divisions without opening the position internally or externally.

#### C. Each employee moving from full-time, regular employment to part-time employment either within their own division or transferring to another will be paid their vacation, holiday, and comp time accruals by the division that paid their full-time wages.



## PERSONNEL POLICIES AND PROCEDURES

### 2.12 Americans with Disabilities (ADA)

The Americans with Disabilities Act (ADA) requires employers to reasonably accommodate qualified individuals with disabilities. However, the employer is not required to lower quality or quantity standards to make an accommodation. In addition, the employer is not required to provide personal use items such as glasses, contact lens, wheelchairs or hearing aids as an accommodation. The City of Marshall will comply with all Federal, State, and Local laws relating to the employment of applicants and employees with disabilities and reasonably accommodate qualified individuals with a disability so that qualified individuals with disabilities can perform the essential functions of the job in question.

An individual who can be reasonably accommodated for the job in question, without undue hardship, will be given the same consideration for that position as any other applicant or employee. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, in which the threat cannot be eliminated by reasonable accommodation, will not be hired. All employees are required to comply with safety standards. Any employee that poses a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regards to the employee's immediate employment situation.

#### A. Definitions

In implementing this Policy, the City of Marshall will be guided by the most recent applicable definitions stated in the ADA or in case law construing the ADA, and applicable state and local law. In the event of any conflict between the definitions in the ADA and the definitions in this Policy, the legal definitions will be prevailing.

The following discussion is provided for general guidance of applicants and employees in understanding the policy of the City of Marshall.

**“Disability”** refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. An individual who has such an impairment, has a record of such an impairment is also deemed a “disabled individual”. An individual may also be deemed “disabled” if that person is regarded as having such impairment. However, in the “regarded as” instance, the situation is more complicated. Under amendments to the ADA in 2008, if the condition is transitory and minor defined as:

1. Having an actual or expected duration of six (6) months or less, then the condition does not qualify as a disability.
2. Generally, ameliorative measures such as medications and medical devices, *will not* be considered in making a disability determination, although ordinary eyeglasses or contacts may be taken into consideration. So, for example, the mere fact that a person wears ordinary eyeglasses will not qualify that person as “disabled”. On the other hand, the fact that a person has a hearing aid or takes medications to address the impairment will not disqualify that person as being “disabled” if the person otherwise meets the definition of “disabled”.

3. **“Major life activity”** may include things such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating or working. A “major life activity” may also include bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems.
4. **“Direct threat to safety”** refers to a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.
5. A **“qualified individual with a disability”** refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.
6. **“Reasonable accommodation”** refers to making existing facilities readily accessible to and usable by individuals with disabilities, including but not limited to: job restructuring, part time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies, and similar activities.
7. **“Undue hardship”** refers to an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include: **(1)** the nature and cost of the accommodation; **(2)** the overall financial resources of the facility at which the reasonable accommodation is to be made; **(3)** the number of persons employed at that facility; **(4)** the effect on expenses and resources or other impact upon that facility; **(5)** the overall financial resources of the City; **(6)** the overall number of employees and facilities; **(7)** the operations of the particular facility as well as the entire City; **(8)** the relationship of the particular facility to the City. These are not all of the factors but merely examples.
8. **“Essential job functions”** refers to those activities of a job that are the core to performing the job in question and must be performed with or without an accommodation.

## **B. Administrative Procedures – How to request an accommodation**

An applicant and/or employee is fully responsible for providing the request for accommodation when needed. ***Request for ADA Accommodation Form*** may be found in the Human Resources department. Any request for accommodation must be reasonable, not cause an undue hardship or a threat to safety, and enable the applicant or employee to perform the essential functions of the position. Each request will be evaluated on the aforementioned criteria.

All requests are confidential. The review and coordination of any request for accommodation for a disability will be limited to those who have a right to know.

The Human Resources Department is responsible for implementing this Policy, including resolution of reasonable accommodation, safety, and undue hardship issues.

The Human Resources Manager is designated as the ADA Coordinator responsible for the receipt, review, and response of requests for accommodation from the applicant or employee. Additionally, the Human Resources Manager designee is also responsible for informing the

department director of the request and conducting the review with the appropriate staff, department and/or agency.

The applicant or employee will be provided the status of the request within five (5) working days. Extensions may be required contingent upon the complexity of the request. A need for extension will be provided in writing by the ADA Coordinator to the applicant or employee.

Should the applicant or employee disagree with the findings of the ADA Coordinator, the applicant or employee may appeal the decision of the ADA Coordinator within five (5) working days to the City Manager or designee. The request for appeal must be provided in writing. The decision of the City Manager or designee will be final.



## PERSONNEL POLICIES AND PROCEDURES

### 2.13 Probationary Period

- A. Every employee of the City must complete a probationary period.
- B. Definitions
  - 1. New Employee Probation – New employee probation is a period of three (3) months of duty following the first date of employment with the City, except for Police, Public Safety Communications and Fire employees whose period of probation is twelve (12) months.
  - 2. Disciplinary Probation – Any current employee who is failing to meet the expectations of the City or has violated City policies may be placed on disciplinary probation. This type of probation is generally utilized as part of the City's positive discipline plan. *See Section 8.01 Corrective Action for more information.*
  - 3. Promotional Probation – An employee who is promoted to a higher position is on probation normally for a period of three (3) months. If the employee is successful, the probation period ends. However, if the employee is not successful, the probationary period may be extended, the employee may be demoted to a position comparable to the position held prior to the promotion, or the employee may be terminated.
  - 4. Transfer Probation – Transfer probation is normally a period of three (3) months following the date of transfer. If the employee is successful, the probation period ends. However, if the employee is not successful, the employee may be demoted, disciplined, or terminated.
- C. Departments will use the probationary period to closely observe and evaluate the work of all newly hired employees. Departments will retain only those employees who meet an acceptable standard of work and behavior.
- D. An employee may be dismissed at any time during the probationary period for any reason or for no stated reason. A new employee failing probation will have no right of appeal except on grounds of employment discrimination. *See Section 8.03 Employee Appeal Procedures for more information.*
- E. City employees, who are promoted, will serve a three (3) month probationary period in their new position. The probationary period will not preclude the promoted employee from further promotion based upon the employee's merit and the needs of the department.



## PERSONNEL POLICIES AND PROCEDURES

### 3.01 Personnel Files

The City of Marshall maintains an official personnel file in the Human Resources on each employee including such information as the employee's job application, resume, performance evaluation form, change of status forms, and other employment records.

#### A. Restrictions & Confidentiality of File

Personnel files are the property of the City, and access to the information they contain is restricted. However, release of information contained in the personnel file is subject to the Public Information Act. Information contained in the personnel file, except information deemed confidential by law or other information that is excepted from disclosure under the Public Information Act, may be released pursuant to such act. Additionally, direct or hiring supervisors and management personnel of the City who have a legitimate reason may review information in a file. Medical records are maintained separate from the personnel file and will not be released to the public, unless required by law. An employee or former employee may choose not to allow public access to information that relates to the employee's home address, home telephone number, or social security number or that reveals whether the employee has family members, by signing a written non-disclosure form at any time of employment, termination, or retirement. An employee or former employee may also later choose to open or close access to such information.

#### B. Employee Access to File

Employees who wish to review their own file shall contact the Human Resources Department to schedule an appointment. With reasonable advance notice, employees may review their own personnel file in the Human Resources Department in the presence of a Human Resources employee. The employee may review the files and take notes or request copies of select pages but shall not add or remove anything from their personnel file.

#### C. Personal Data Changes

It is the responsibility of each employee to notify the Human Resource Department within one (1) week of any changes in personal data such as personal mailing addresses, telephone numbers, emergency contact, etc. For employees with dependent insurance coverage, the number and names of dependents must also be kept up to date.



## PERSONNEL POLICIES AND PROCEDURES

### 3.02 Employment Reference Checks

- A. To ensure that individuals who join the City of Marshall are well qualified and have a strong potential to be productive and successful, it is the policy of the City for the Department to check the employment references of the selected applicant prior to extending a job offer.
- B. The Human Resources Department is designated to respond to reference check inquiries from other employers. All calls, contacts, and written inquiries concerning current or former employees should be referred to the Human Resources Department.



## PERSONNEL POLICIES AND PROCEDURES

### 3.03 Performance Reviews

- A. Annual performance evaluations are performed around June of each year. Progress reports are performed as needed. This is an opportunity for supervisors and subordinates to discuss the past, present and future performance.
- B. An employee who is in need of further development should be placed on a performance plan and be reevaluated after a designated time span (to be determined by the supervisor). At that time, if the employee has improved to an acceptable level, another evaluation is completed and filed with Human Resources.
- C. A new employee should receive performance reviews during the fifth month of employment. Each employee should receive a minimum of one (1) evaluation a year.
- D. Employees cannot complain about or appeal an evaluation. If an employee does not agree with an evaluation, they have the opportunity to write a response that will be included with their evaluation and kept on file in Human Resources.



## PERSONNEL POLICIES AND PROCEDURES

### 3.04 Classification Compensation Guidelines

Movement between classifications can fall into different classes. These classes are defined below:

**A. Reclassification**

Reclassification is a title and/or grade change based on significant change or expansion of job responsibilities and duties, or as a result of market review. It is approved during the budget process and there is no change in the performance review date.

Reclassification is not an assessment of the personal merit or attributes of the employee. Neither a greater volume of the same work nor isolated occurrences of higher duties are justification for reclassification. Classification decisions are not based on an employee's job performance or a comparison to the volume of work that other employee perform.

**B. Lateral Transfer**

Lateral transfer is a transfer to another department within the same grade.

**C. Promotion**

Promotion is the assumption of expanded duties into a vacant position and higher pay grade. The wage increase would be the amount sufficient to reach the minimum of the wage range.

**D. Demotion**

Demotion is movement into a vacant position at a lower pay grade. At demotion, the wage will be adjusted to the new wage range.

Employees who promote to safety-sensitive positions are required to pass a drug test in accordance with *Section 8.06 Substance Abuse and Testing*. For an explanation of safety-sensitive positions, see *Section 9.02 Definitions*.



## PERSONNEL POLICIES AND PROCEDURES

### 3.05 Job Descriptions

- A. The City of Marshall makes every effort to create and maintain accurate job descriptions for all positions within the City. Each description includes the following sections: job summary, typical duties, knowledge, ability to, minimum qualifications, and work environment section.
- B. The City maintains job descriptions to aid in orienting new employees to their job, identifying the requirements of each position, establishing hiring criteria, setting standards for employee performance evaluations, and establishing a basis for making reasonable accommodations for individuals with disabilities.
- C. Existing job descriptions are also reviewed and revised to ensure that they are up-to-date and reflect changes. Employees are expected to help ensure that their job descriptions are accurate and current, reflecting the work being done.
- D. Employees must remember that job descriptions do not necessarily cover every task or duty that might be assigned and that additional responsibilities may be assigned as necessary. Employees may contact their supervisor or Human Resources with questions or concerns about the job description.



## PERSONNEL POLICIES AND PROCEDURES

### 3.06 Separation of Employment

Amended 11.08.2023

Separation of employment within an organization can occur for several different reasons. Employment may end as a result of resignation, retirement, release (end of season or assignment), reduction in workforce, or termination. When an employee separates from the City, their supervisor shall complete the *Supervisor's Checklist for Separated Employee* and the employee should contact Human Resources to schedule an exit interview, typically to take place on their last workday.

#### A. Types of Separation

##### 1. Resignation

Resignation is a voluntary act initiated by the employee to end employment with the City. The employee must submit a signed and dated letter of resignation or the *Voluntary Resignation Notice* providing a minimum of two (2) weeks' notice. If an employee does not provide advance notice, or fails to work the remaining two (2) weeks, the employee will not be eligible for rehire. The employee also will not be eligible to receive payout of accrued benefits, unless at the discretion of the department director and the City Manager a decision is made to pay all or a portion of accrued benefits to the employee in lieu of the two (2) week notice.

Any available leave may not be taken after a two weeks' notice has been given.

##### 2. Retirement

Employees who retire under TMRS are required to notify their department director and the Human Resources Department in writing at least one (1) month before planned retirement date. See *Section 4.06 TMRS Retirement Plan* for more information.

##### 3. Job Abandonment

Employees who fail to report to work or contact his/her supervisor for three (3) consecutive work days shall be considered to have abandoned the job without notice effective at the end of his/her normal shift on the third day. The supervisor or department director shall notify Human Resources at the expiration of the second work day and initiate the paperwork to terminate the employee. Employees who are separated due to job abandonment are ineligible to receive accrued benefits and are ineligible for rehire.

##### 4. Termination

Employees of the City of Marshall are employed on an at-will basis, and the City retains the right to terminate their employment at any time or for any or no reason, except as provided by federal and state law.

##### 5. Reduction in Work Force

An employee may be laid off because of changes in duties, organizational changes, lack of funds, or lack of work. Employees who are laid off may not appeal the lay-off decision through the appeal process.

**6. Release**

Release is the end of temporary or seasonal employment.

**7. Long Term Absence**

The City has an obligation to provide services to citizens. The City reserves the right to fill a position if an employee has been absent for work for more than 180 calendar days, for whatever reason, except as provided below. Brief appearances at work during an overall absence of 180 days will not prevent the City from filling the position if it is determined to be in the City's best interest. Likewise, any employee who reports to work (e.g., in a light duty capacity) but is unable to perform the essential duties of his or her actual position for a period of 180 days will be released from employment if it is unlikely, in a doctor's opinion, that the employee will be able to perform the essential functions of his or her position. Nothing in this Policy guarantees an employee's ongoing employment for 180 days (or for any other period of time) if it is determined that the employee will be unable to return to perform the essential job functions within a 180-day period. In other words, the City may elect to end the employee's employment before the expiration of 180 days if it is unlikely that the employee will be able to perform the essential job duties of his or her actual position at the end of 180 days. An employee who has a paid leave balance remaining at the end of 180 days may, at the City's option, extend his/her leave using any available paid leave balance up to a maximum paid absence of one year, or be terminated and paid for accrued leave balances according to *Section 5.01, Sick Leave* *Section 5.02, Vacation Leave*.

This Policy will be administered consistently with the City's obligations under the Americans with Disabilities Act, including considering extending leave as a reasonable accommodation.

**B. Out-Processing**

**1. Return of City Property**

The separating employee must return all city property at the time of separation, including but not limited to uniforms, cell phones, keys, and identification cards. Failure to return some items may result in deductions from final paycheck. See *Section 4.09 Uniforms* for additional information. An employee will be required to sign the *Separation Form* to deduct the costs of such items from the final paycheck.

**2. Exit Interview**

The separating employee shall contact the Human Resources Department as soon as notice is given to schedule an exit interview. The interview will be on the employee's last day of work or other day as mutually agreed upon.

**3. Final Paycheck**

Final paychecks, which may include applicable deductions and payouts, will be direct deposited.

**C. Termination of Benefits**

An employee separating from the City is eligible to receive benefits as long as the appropriate procedures are followed as stated above. Two (2) weeks' notice must be given and the employee must work the full two (2) work weeks.

**1. Vacation Leave:** Accrued vacation leave will be according to *Section 5.02 Vacation Leave*.

**2. Sick Leave:** Accrued sick leave will not be paid according to *Section 5.01 Sick Leave*.

- 3. Health Insurance:** Health insurance terminates the last day of the month upon termination date. See *Section 4.04 Consolidated Omnibus Budget Reconciliation (COBRA)* for information about continued health coverage.

**D. Rehire**

Former employees who leave the City in good standing and were classified as eligible for rehire may be considered for reemployment. An application must be submitted to the Human Resources Department and the applicant must meet all minimum qualifications and requirements of the position, including any qualifying exam, when required.

Supervisors must consult with the Human Resources Manager or designee prior to rehiring a former employee. Rehired employees begin benefits just as any other new employee.

Previous tenure will not be considered in calculating longevity, leave accruals, or any other city benefit.

**F. Bar from Employment**

An applicant or employee whose employment is terminated for violating a city policy or who resigned in lieu of termination from employment, due to a policy violation, will be ineligible for rehire. Employees who resign without giving a two (2) week notice and fulfilling their two (2) week notice will not be eligible for rehire.



## PERSONNEL POLICIES AND PROCEDURES

### 4.01 Health Insurance

#### A. Medical Insurance

##### 1. Employees

Full-time employees are eligible to participate in the City's group health/dental insurance plan. Coverage becomes effective 60 days after the date of hire. For details regarding the plans which are available, please consult the printed information available through the Human Resources Department. If the employee chooses a plan for which there is a cost to the employee, then the employee's portion of the premium will be withheld from the employee's paycheck. Should more than one health insurance plan be available to employees, the employee must choose among the plans at the time of the employee's hire, and the employee will be given an opportunity to choose among the available plans during the open enrollment time which occurs in the final quarter of each year.

##### 2. Dependents

If the employee chooses to purchase dependent coverage for his or her dependents, the employee's portion of the premium will be withheld from the employee's paycheck. When an employee enrolls for insurance with the City, or when a dependent becomes eligible for insurance (marriage, the birth of a child, or annual enrollment), the employee should immediately (within 30 days) inform Human Resources if he or she wants the dependent added for medical insurance coverage.

#### B. Dental Insurance.

Full-time employees are eligible to participate in the City's group health/dental insurance plan. Coverage becomes effective 60 days after the date of hire. For details regarding available dental insurance plans, please consult the printed information available through the Human Resources office. If the employee chooses a plan for which there is a cost to the employee, then the employee's portion of the premium will be withheld from the employee's paycheck. Employees may cover their dependents under their City dental insurance plan. If the employee chooses to purchase one of these plans for his or her dependents, the employee's portion of the premium will be withheld from the employee's paycheck. Should more than one health insurance plan be available to employees, the employee must choose among the plans at the time of the employee's hire, and the employee will be given an opportunity to choose among the available plans during the open enrollment time which occurs in the final quarter of each year.



## **PERSONNEL POLICIES AND PROCEDURES**

### **4.02 Life Insurance**

The City may pay for a life insurance and accidental death and dismemberment on each employee. Employees should consult with Human Resources for more information.

The City has elected to include a Supplemental Death Benefit under the Texas Municipal Retirement System (TMRS) plan. If an employee subscribing to the TMRS retirement plan dies while employed by the City, TMRS will pay the designated beneficiary or estate a benefit approximately equal to current annual salary plus any retirement benefits due.



## PERSONNEL POLICIES AND PROCEDURES

### 4.03 Workers' Compensation Insurance

- A. The City of Marshall complies with the Texas Labor Code in the provision of workers' compensation insurance coverage for its employees. This program covers an injury or illness sustained in the course of employment, subject to applicable legal requirements and workers' compensation guidelines. Workers' compensation insurance coverage begins immediately upon employment with the City.
- B. Employees who sustain work-related injuries or illnesses must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it must be reported. It is imperative that the supervisor then notifies Human Resources of the accident/injury.
- C. Neither the City nor the workers compensation insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's participation in an off-duty recreational, social, or athletic activity sponsored by the City or for outside employment.
- D. Time off on workers' compensation leave will not be counted as time worked for the purposes of determining overtime. FMLA will run concurrent with workers compensation absences. See *Policy 5.04 Family and Medical Leave for more information*.
- E. Employee contributions to TMRS may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave without pay status. It is the employee's responsibility to initiate such an arrangement by timely contracting Human Resources and completing the necessary paperwork.
- F. Employees must comply with the instructions and restrictions of the treating physician. Failure to comply may result in corrective action up to or including termination.

#### G. REPORTING PROCEDURES

1. When an accident/injury occurs, whether medical treatment is necessary or not, the employee must report the accident/injury to their supervisor.
2. The supervisor must then follow the steps below:
  - a. Verbally notify HR, if time permits, and obtain an authorization to treat at a city-approved facility, if needed. If the situation is a true life threatening emergency, please proceed immediately for care, without HR authorization.
  - b. Transport the employee for medical treatment to an approved city medical facility or contact emergency transportation if an employee is unable to drive.
  - c. If after normal operating hours, have the employee contact the Human Resource Director the following morning

- d. If the employee goes to the emergency room for treatment, ensure they follow up with a City-approved physician before returning to work.
- e. Have the employee complete the ***Employee Accident-Injury Form***.
- f. Bring all forms to Human Resources immediately upon completion but not later than the next business day.

For additional information on workers' compensation, visit the Texas Workers' Compensation Commission online at <http://www.tdi.gov/wc//indexwc.html> or contact Human Resources.



## PERSONNEL POLICIES AND PROCEDURES

### 4.04 Consolidated Omnibus Budget Reconciliation Act (COBRA)

COBRA gives employees and/or dependent(s) the opportunity to continue health insurance coverage under the City of Marshall's health plan when a *qualifying event* would normally result in the loss of eligibility. Some common qualifying events are resignation, termination of employment, death, reduction in hours, an employee's divorce or legal separation, or a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee or beneficiary will pay the full cost of coverage at the City's group rate plus an administrative fee. When a qualifying event occurs, contact the Human Resources Department to determine COBRA eligibility.



## **PERSONNEL POLICIES AND PROCEDURES**

### **4.05 Deferred Compensation Plan**

The 457 Deferred Compensation Plan has been established to provide full-time employees with a voluntary investment option designed to supplement the employee's income at retirement.

The 457 Deferred Compensation Plan permits full-time employees on a voluntary basis, to authorize a portion of their wage to be withheld, tax deferred, and invested. Eligible employees may enroll, make changes, or stop deductions at any time in the 457 Deferred Compensation Plan. Employees contribute up to a fixed amount that is set annually by IRS. Neither the deferred amount nor earnings on the investments are subject to current federal income tax. Various investment options are available to best meet individual retirement objectives.

For additional information, please contact the Human Resources Department.



## PERSONNEL POLICIES AND PROCEDURES

### 4.06 TMRS Retirement Plan

Participation in the Texas Municipal Retirement System (TMRS) system provides for monthly pension benefits at retirement.

#### A. Eligibility for Enrollment

At the time of employment, all eligible employees are enrolled in the TMRS pension plan. Employees in the following employment classification participate in TMRS:

- Full-time employees

#### B. Contributions

Contribution rates and other policies of the City's TMRS plan are determined by the City Council and are subject to change.

1. Contributions to TMRS are mandatory for eligible employment classifications described above.
2. Currently, the employee contributes 7% of their earnings each pay period. The contributions are tax deferred and made through payroll deduction. Vesting generally occurs five (5) years after the first contribution.
3. Currently, the City's contributions are approximately 2 to 1.

#### C. Interest Earnings

Employee deposits earn interest on an annual basis, credited to the employee's account each year on December 31st. Prorated interest occurs only during the year in which the employee retires.

#### D. Benefits at Retirement

1. Generally, employees may retire after 240 months (20 years) of TMRS credit, regardless of age. Military Service or previous government employment may contribute service credit toward earlier retirement.
2. TMRS benefits will be based on years of service, wage, the employee and city contributions to the account, and the retirement option selected.
3. Employees must contact the Human Resources Department at least one (1) month before the planned retirement date to allow for completion of paperwork.

#### E. TMRS Supplemental Death Benefits

The City of Marshall approved a Supplemental Death Benefit Option which provides a death benefit equivalent to the annual wage for current employees and \$7,500 for retirees of the City.

For additional information, please consult the TMRS Benefits Guide available online at <http://www.tmrs.com>.



## PERSONNEL POLICIES AND PROCEDURES

### 4.07 Tuition Reimbursement

This Policy encourages the voluntary pursuit of higher education by employees through the Tuition Reimbursement or Educational Assistance Advance Programs (hereinafter programs). Availability of these programs is subject to funds being allocated.

#### A. Requirements of the Tuition Programs

1. The programs are available to regular, full-time employees to improve qualifications in their present position and to prepare them for more responsibility with the City. The programs are not applicable to employees on new hire probation or on disciplinary probation or employees not recommended by their supervisor.
2. The programs are designed to encourage and assist individual employees to obtain a higher level of education with monetary assistance from the City. This assistance, as authorized and funded, would provide funds for the following educational pursuits: GED certifications, associate degrees, bachelor degrees, or graduate degrees. Employees utilizing the tuition programs may only receive up to one (1) of each degree. Doctorate degrees will not be reimbursed under these programs.
3. Employees must pursue a degree that directly relates to their present job or is applicable to another position within the City. Degree fields are limited to:
  - a. Undergrad Degrees  
Accounting, Business Administration, Civil Engineering, Computer Science, Economics, Emergency Management, Fire Science, Human Resources, Law Enforcement/Criminal Justice, Psychology, Sociology, or Urban Planning
  - b. Graduate Degrees  
Business Administration, Criminal Justice, Emergency Management, Fire Science, Human Resources, or Masters of Public Administration
  - c. Degree fields, other than those listed above, must be approved by the City Manager.
4. If an employee is eligible for scholarships or grants, the employee must utilize that funding first. The City will cover the remainder of the cost of tuition.
5. The programs are not applicable when an employee takes classes to obtain a certificate or license that is required by their present position or is needed to obtain incentive/certification pay. At the manager's discretion, these types of expenses should be covered by the division's training budget or by the employee directly.
6. The City will reimburse or advance funds for specific expenses, as authorized and funded. Supplies, travel, parking, and insurance are ineligible under both programs.

7. When entering either of these programs for the first time, employees are required to furnish Human Resources with a degree plan. Courses taken with a pass/fail option are ineligible under both programs.
8. Employees will only be offered a reimbursement or advancement for accredited courses and institutions. See Human Resources for a list of approved accreditation agencies. Each course must relate to the employee's area of responsibility or be part of an approved degree plan that is job related or would benefit the City.
9. The reimbursement or advancement amount will correspond to the exact dollar amount paid, but will not exceed \$1,000 per calendar year. This amount may also include fees for placement testing.
10. Courses must be taken on the employee's own time. Employees will not be permitted to attend courses during normal working hours unless pre-arranged with their manager.
11. Employees must submit a corresponding application to Human Resources prior to enrollment in order to be eligible for either program. Applications must be submitted each semester.
12. All participating employees in these programs must supply any documentation, as requested by the City related to costs, registration, and proof of participation. Failure to provide the requested documentation could result in termination of participation in either program and immediate repayment of any funds disbursed in accordance with that program.
13. Participants will be required to remain employed with the City (performing in a satisfactory manner), in a full-time position for two (2) years after receiving either a reimbursement or an advancement. Employees completing less than one (1) year of satisfactory performance in a full-time position with the City will be responsible for repaying 100% of the funds disbursed. Employees completing at least one (1) year and less than two (2) years of satisfactory performance in a full-time position with the City will repay 50% of the funds disbursed.

B. Tuition Reimbursement Program

1. Employees must attain a final course grade equivalent to "C" or better in each course to be eligible for reimbursement. Reimbursement will not occur for classes not completed successfully.
2. At the end of the course work, the employee must furnish Human Resources with evidence of satisfactory completion of approved courses with a passing grade of "C" or above along with detailed paid receipts for tuition and mandatory fees. This request should be made on the ***Tuition Reimbursement Request for Payment Form***. All required paperwork must be received prior to reimbursement. Information must be submitted within four (4) weeks of class completion for reimbursement to be made.
3. The City will not reimburse expenses for books under the Tuition Reimbursement Program.



## **PERSONNEL POLICIES AND PROCEDURES**

### **4.08 Employee Assistance Program**

The City of Marshall offers an Employee Assistance Program (EAP) to employees that provide confidential short-term counseling for employees and/or their dependent(s).

Areas for counseling include, but are not limited to, marital and family conflicts, drug and alcohol use, job or emotional stress, depression, and grief. Individual counseling for immediate family is available for up to six (6) sessions per incident per year at no cost. Consult your insurance material or Human Resources for the telephone number of the EAP.



## PERSONNEL POLICIES AND PROCEDURES

### 4.09 Uniforms

#### A. Uniforms

Employees who are required to wear uniforms will be provided uniforms, complete with required insignia, etc., upon employment in most departments or after probation in other departments. Employees who are furnished uniforms must wear the regulation uniforms while performing work for the City except when special circumstances or work conditions exist. Employees may not wear city uniforms for other than city work. However, uniforms may be worn to and from work, while performing specific assigned or approved functions, running errands during lunch periods, or with approval of their director.

#### B. Uniform Conduct

No employee, while wearing any city attire, shall purchase, possess, or consume alcoholic beverages in public. No uniformed employee shall use tobacco products while time spent in city-owned, rented, or leased vehicles or equipment. Police officers who have confiscated alcohol or tobacco products within the scope of employment are exempt from this Policy for that time period. See *Section 7.05 Tobacco Use* for more information.

#### C. Uniform Maintenance

The employee will be responsible for all cleaning and care of the uniforms, unless this service is provided under a lease agreement. City uniforms must be in good condition. The employee's immediate supervisor will determine whether an employee's uniform is clean and serviceable. Replacement uniforms will be furnished at the City's expense on an as needed basis and as funding allows. Supervisors are responsible for determining the need for uniform replacement. Uniforms damaged due to employee carelessness or negligence will be replaced at the employee's cost.

#### D. Uniforms at Termination

Employees who separate employment for any reason must return all uniforms and insignia issued by the City. Supervisors are responsible for the removal and return of all identifying patches and insignia. Employees must sign the *Wage Deduction Authorization Agreement* at the time the uniform(s) is/are issued. By signing the form, the employee agrees to return all city issued uniforms with city patches and/or insignia at separation of employment. Failure to do so may result in deduction from the final paycheck equal to the replacement value of the item(s) not returned.



## PERSONNEL POLICIES AND PROCEDURES

### 5.01 Sick Leave/Sick Leave Donation

Amended 11.08.2023

#### SICK LEAVE

Employees in regular full-time positions will be eligible for sick leave with full pay, on an eight (8) hour working day basis, accumulating 1.25 days for each full calendar month of employment so as to total 120 hours of sick leave each twelve (12) full calendar month's service. Sick leave will not be extended to temporary employees appointed to positions of limited duration, temporary employees appointed to positions required by seasonal activities, or employees appointed to positions on a part-time basis.

- A. Each full-time employee may accumulate any unused sick leave accrued at the rate of 4.61 hours per pay period. Sick time is accrued on the first paycheck of the month, following the month it is earned.
- B. Sick leave will accrue to a maximum of 720 hours (90 days) and will rollover from year to year. If an employee is over the maximum, their accrual will be frozen until the balance goes below the maximum of 720 hours.
- C. Fire shift personnel on 24-hour shift will use sick leave at a rate of 6.92 hours per pay period.
- D. Sick leave may be used after the completion of three(3) months of satisfactory full-time employment unless the probationary period has been extended due to a workers' compensation injury that makes the employee unable to perform the essential functions of their job.
- E. Police shift personnel will be paid up to 720 hours of accumulated unused sick leave upon separation from their employment.
- F. Fire shift personnel will be paid up to 1,080 hours of accumulated unused sick leave upon separation from their employment.
- G. When a non-civil service employee meets the following eligibility criteria, the employee may be paid up to 720 hours of accumulated unused sick leave upon retirement, if the employee
  - 1. completes required forms for service retirement either with the Texas Municipal Retirement System (TMRS) or the Marshall Firefighter's Relief and Retirement Fund (including disability retirements); and
  - 2. has combined 240 months of full-time service or age 60 after 5 years vested.
- If an employee has retired with the City, has received any part of the sick leave payment and decides to return to work for the City, they must complete an additional twenty (20) years of service to receive this benefit again.
- H. Other than as stated in Section G, unused sick leave will not be paid upon non-civil service employee separation or termination.

- I. Employees may be required to submit a physician's statement for any claimed illness or injury causing an absence from work. Directors are authorized to make any investigations of benefits claimed under this rule which they may deem necessary and to disapprove any claims not properly substantiated.
- J. Departments may require a return to work note if absences for personal or family illness or injury last more than three (3) calendar days.
- K. Sick leave may be granted for the following reasons:
  - 1. when an employee is incapacitated for the performance of duties due to illness, an on- or off- the- job injury or known foreseeable medical procedures.
  - 2. when an employee has been exposed to a contagious disease and presence on the job would jeopardize the health of others.
  - 3. when medical, to include appointments at the, dental, or optical examination or treatment is necessary. (Prior approval of the supervisor, manager, or director is required.)
  - 4. the serious illness or serious injury of an immediate family member that lives in your household. For the purpose of this policy immediate family member is defined by FMLA. An employee is ineligible for FMLA if sick leave is taken for unqualified family members. If an immediate family member does not live in your household you will need to fill out FMLA paperwork.  

Note: An employee may be required to present satisfactory proof of family relationship and/or satisfactory proof of a family member's illness, injury, and/or doctor/dentist appointment if the employee wishes to use accrued sick leave to care for a family member.
  - 5. Sick leave may be granted to either parent for the birth or adoption of a child.
- L. When an employee's accrued sick leave has been exhausted, any other accrued leave will be used as sick leave. When absence due to illness exceeds the total amount of paid leave earned and authorized, the pay of an employee will be discontinued. All accrued leave must be exhausted prior to taking unpaid leave. If an employee goes on unpaid status, which includes an unpaid workers' compensation leave of absence (whether leave is available or not), an unpaid or active military differential pay situation, a furlough leave of absence or catastrophic leave, sick leave will not continue to accrue until the employee returns to work.
- M. Employees are required to submit, upon return to duty, a request for leave voucher for approval of sick leave with pay. Directors will review and act as appropriate upon such request.
- N. Notice of absence due to illness or off -the- job injury must be conveyed to the employee's supervisor prior to the scheduled time for reporting on duty on the first day of such absence, unless authorized otherwise by the supervisor. The supervisor may require the employee to check in periodically during the absence. Failure to do so may result in an employee being placed on leave without pay or being terminated from employment.
- O. Separation of employment permanently cancels all sick leave accrued to an employee's record, and in the event of subsequent reemployment, such employee begins a new sick leave accumulation.
- P. Employees transferring between departments will keep accrued sick leave.

- Q. An employee on FMLA leave, sick leave, disability leave, or workers' compensation leave will not engage in outside employment as defined in the Outside Employment Policy (*see Section 2.11*) unless expressly authorized in writing in advance by the director and Risk Management. A copy of the written approval will be sent to Human Resources.
- R. An employee under suspension may not use sick leave during the suspension.
- S. Official records of employees' sick leave will be maintained in Human Resources.
- T. Frequent claiming of the benefits under this section may indicate an inability to successfully perform the position's essential job functions. Abuse/overuse of sick leave may constitute grounds for termination from employment or disciplinary action by the director. A medical examination to determine an employee's fitness for duty may be requested by the employee's supervisor or director. (*See Section 2.08*).
- U. Leaves of absence for any reason may not last longer than twelve (12) months. Any regular employee, who for a job-related injury or a combination of work-related injuries, sick related leaves of absence, modified duty, or Family and Medical Leave (FMLA) qualifying events, misses a total of twelve (12) months of work in a twenty-four (24) month period, will be separated from employment due to unavailability for work. The twelve (12) month period will be measured cumulatively during a twenty-four (24) month period, by the rolling-backward method, beginning with the first date of absence related to the illness or injury. Any employee so separated will be eligible for rehire as long as they have not withdrawn money from the established retirement plan and will be able to apply for any vacancies that may exist at any given time, depending upon qualifications and availability of job openings. If the employee has withdrawn money from the retirement system, the employee must wait twelve (12) months to reapply for a full-time position.

## **SICK LEAVE DONATION**

- A. An employee who has a personal or family medical emergency and who has exhausted all accrued paid vacation and sick leave may apply for a sick leave account.  
*A Medical emergency* is a medical condition of either the employee or the employee's *immediate family member* (*i.e.* spouse, child, parent) that is likely to require the employee to be absent from duty for a prolonged period and to result in a substantial loss of income because of the employee's lack of available paid leave.
- B. The employee must complete and file the ***Sick Leave Donation Request form*** with the Human Resources Manager, with a copy to the employee's Department Director. Within ten (10) days after receipt of the application, the account shall be established.
- C. Completed sick leave donation forms will be reviewed and approved by the Human Resources Department and the City Manager. A sick leave donation request form may be returned at any level where the Human Resources Manager or City Manager believes it to be either incomplete or in need of more information or clarification. If returned, the City Manager and/or Human Resources Manager must do so, in writing, and provide specific reasons for the return.
- D. Each level of review will take approximately two (2) workdays from the receipt with the goal being final approval within five (5) days.

- E. If approved, a “donated sick leave account” will be created and retained in the Human Resources Department. This file will be a record of the approval for donation, all time donated, and all time used from this account. Since it will contain personal medical information, it will be kept separate from personnel files.
- F. Employees must have at least 80 hours of accrued, unused sick leave, to donate sick leave to an employee who has been approved to receive such donations. Employees must maintain at least 80 hours accrued, unused sick leave of their own. Employees may not receive more hours than necessary to facilitate his or her return to work.
- G. Once donated, the donor may not reclaim or revoke the sick leave donated under any circumstances. Specifically, any sick leave donated that is not used, either in full or in part, will be cancelled and cease to exist for both the donor and the done. To donate sick leave, an employee must fully complete a ***Sick Leave Donation form*** for a specific donated sick leave account. Donors are advised that donated sick leave is not tax deductible.
- H. Provided an employee has been approved to receive donated sick leave and provided sick is donated to that employee's sick leave donation account, the donated leave will be available for use by the done for the sole purpose of dealing with the medical condition which qualified for the donation. Sick leave donation is limited to 12 weeks for all employees.
- I. All employees are cautioned to exercise care in utilizing sick leave donation. Employees are free to donate or not donate as they see fit. It is inappropriate to coerce donation of sick leave, to promise or exchange things of value for donation of sick leave, and to engage in job-related conduct that attempts to reward or punish on the basis of sick leave donation.
- J. All questions regarding this process should be directed to the Human Resources Department.



## PERSONNEL POLICIES AND PROCEDURES

### 5.02 Vacation Leave

Amended 1.23.25

Vacation leave with pay is available to eligible employees to provide opportunities for rest, relaxation, and personal pursuits. Paid time off for vacation leave will be counted as time worked for the purposes of determining overtime.

Eligible employee(s) classification for Vacation Leave:

- Full-time employees
- Full-time sworn public safety employees (Police & Fire)

#### A. Accrual

The amount of paid vacation leave that full-time employees receive each year increases with the length of their employment as shown in the following schedule:

1. **Full-time Employees** - Regular full-time employees, except those fire and police department employees discussed below, accrue annual vacation leave with pay from the date of employment at the following rates:

| Years of Service          | Vacation/Year           | Per Pay Period |
|---------------------------|-------------------------|----------------|
| Years 1-4                 | 10 8-hour days per year | 3.07 hours     |
| Years 5-9                 | 12 8-hour days per year | 3.69 hours     |
| After 10 years of service | 15 8-hour days per year | 4.615 hours    |

2. **Fire Department Personnel** – Fire department personnel on a 24-hour shift schedule accrue vacation leave as follows:

| Years of Service    | Vacation/Year            | Per Pay Period |
|---------------------|--------------------------|----------------|
| 1+ years of service | 15 12-hour days per year | 6.92 hours     |

3. **Police Department Personnel** - Police department personnel working other than a forty (40) hour, Monday through Friday schedule accrue vacation leave as follows:

| Years of Service    | Vacation/Year           | Per Pay Period |
|---------------------|-------------------------|----------------|
| 1+ years of service | 15-8-hour days per year | 4.615 hours    |

## **B. Accumulation**

For full-time non-civil service employees, vacation will accrue to a maximum of 240 hours and will rollover from year to year. If an employee is over the maximum, their accrual will be frozen until the balance goes below the maximum of 240 hours.

For civil service employees, there is no maximum accrual, however, the maximum amount of unused vacation that a civil service employee shall be allowed to rollover from year to year shall be no more than 240 hours for police shift personnel and 360 hours for fire shift personnel.

## **4. Scheduling and Using Accrued Leave**

Employees must submit a *Leave Request Form* to their supervisor to request vacation leave. Approval will be made based on a number of factors including business needs, staffing requirements, and seniority of employees. Employees are eligible to use vacation leave once the employee has completed their introductory period of three (3) months. Under no circumstances will vacation leave be granted in advance of accrual. Paid holidays occurring while an employee is on approved vacation will not be charged to vacation leave. “On-Call” or “Call Back” non-exempt employee’s vacation will be credited up to eight (8) hours for call out time worked.

## **5. Payment Upon Separation**

1. If an employee retires or resigns with a two (2) week notice and completes the two (2) weeks, the employee will be paid for accrued vacation time that has been earned through the last day of work.
2. If the employee quits without a two (2) week notice, or fails to work the full two (2) weeks after notice, no payment for accrued vacation leave shall be made.
3. If an employee leaves the city for any reason during the first year of employment, no payment will be made for vacation leave.
4. If an employee is terminated benefits will not be paid.



## PERSONNEL POLICIES AND PROCEDURES

### 5.03 Holiday Leave

Amended 1.23.2025

The following days are designated as official paid holidays for full-time City employees:

|                                     |                                      |
|-------------------------------------|--------------------------------------|
| New Year's Day                      | January 1                            |
| Birthday of Martin Luther King, Jr. | 3 <sup>rd</sup> Monday in January    |
| Presidents' Day                     | 3 <sup>rd</sup> Monday in February   |
| Texas Independence Day              | March 2                              |
| Good Friday                         | Friday before Easter Sunday          |
| Memorial Day                        | Last Monday in May                   |
| Emancipation Day                    | June 19                              |
| Independence Day                    | July 4                               |
| Labor Day                           | 1 <sup>st</sup> Monday in September* |
| September 11*                       | September 11                         |
| Veterans Day                        | November 11                          |
| Thanksgiving Day                    | Last Thursday in November            |
| Friday after Thanksgiving Day       | Last Friday in November              |
| Christmas Day                       | December 25                          |
| Floating Christmas Holiday          | Day determined each year             |

\*In compliance with the Texas Local Government Code Section 142.0013, covered shift firefighters shall receive a holiday designation as September 11 in lieu of Labor Day.

- A. Full-time employees will receive fourteen (14) paid holidays per year, defined as (112) hours per year.
- B. Civil Service shift personnel will receive their holiday hours at the beginning of the year. Police Department shift personnel shall receive (14) paid holidays per year, defined as 112 hours per year. Fire Department shift personnel shall receive (14) paid holidays per year defined as 168 hours per year. At the end of the year, all unused holiday hours will be paid out with no hours to be carried over unless the Department Director and the Finance Director determine that a department is unable to financially pay in which this case, the remaining hours will be banked to be used at a later date.

- C. An employee who is absent without leave, or without making advance arrangements on the working day immediately preceding or following a holiday, shall lose pay for the holiday as well as for the other day(s) off.
- D. Non-Civil Service Employees scheduled to work providing essential services on City-recognized holidays will be paid the number of hours worked for the holiday at their regular rate of pay, in addition to the hours worked. If a Department Director and the Finance Director determine that, a department is unable to financially pay its employees for the holiday hours worked, such employees' holiday hours will be banked for use at a later date.
- E. Employees that have banked holiday hours prior to the effective date of this Policy, will be allowed to use such hours and/or will be paid up to a maximum of 192 hours when leaving their employment with the City in good standing. Fire Shift Personnel will be paid up to a maximum of 288 hours when leaving their employment with the City in good standing.
- F. Department Directors may require necessary employees to work on a holiday in order to provide critical functions and services of their department. If an employee is scheduled to work on a holiday by his or her supervisor and fails to report for duty, without authorization of the supervisor, that employee will not be paid for the holiday or accrue holiday leave and may be subject to disciplinary action.
- G. If one of the above designated holidays falls on a Sunday, the following Monday will be observed as the holiday. When the holiday falls on a Saturday, the preceding Friday will be observed as the holiday.
- H. If one of the above designated holidays fall within an employee's vacation or sick leave shall not be deducted from the accrued vacation or sick leave.
- I. Employees cannot use accrued leave on a City paid holiday. If an employee is off on a holiday, the time must be recorded in the City's timekeeping system as a holiday.
- J. Seasonal, temporary, and other part-time employees will be paid their regular rates of pay on a holiday only if required to work.
- K. Should the City Council or City Manager declare special holidays, they will be observed in accordance with the provisions of this section.
- L. If an employee goes on unpaid status, which includes unpaid workers' compensation leave of absence (whether leave is available or not), unpaid military leave or military differential pay, a furlough leave of absence, or catastrophic leave, holiday time will not accrue until the employee returns to work.



## PERSONNEL POLICIES AND PROCEDURES

### 5.04 Family and Medical Leave Act (FMLA)

#### A. Eligibility

1. Employees who have completed one (1) year of service and have worked at least 1,250 hours in the preceding twelve (12) months prior to the start of FMLA leave are eligible for FMLA. All periods of absence from work due to military service is counted in determining an employee's eligibility for FMLA leave.
2. Family Leave has been expanded to provide Family and Medical Leave due to a call to active military duty. This benefit provides 12 workweeks of unpaid FMLA leave due to a spouse, son, daughter or parent being on active military duty or having been notified of an impending call or order to active military duty in the Armed Forces. Leave may be used for any "qualifying exigency" arising out of the service member's current tour of active military duty or because the service member is notified of an impending call to military duty in support of a contingency operation.
3. Employees who are off work in excess of five (5) consecutive days or more than two (2) fire shifts are eligible to be placed on family medical leave if they meet the below criteria. An eligible employee is entitled to twelve (12) weeks of unpaid FMLA leave for:
  - a. The birth of a child and to care for the newborn child within one (1) year of birth
  - b. The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one (1) year of placement;
  - c. To care for the employee's spouse, child, foster care, adult child, or parent who has a serious health condition;
  - d. A serious health condition that makes the employee unable to perform the essential functions of his or her job;
  - e. Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty".

**Exception:** Twenty-six (26) work weeks of leave during a single 12-month period is available to eligible employees to care for a covered service member with a serious injury or illness, incurred in the line of active duty, if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (*See below Military Caregiver Leave*).

#### B. Qualifying Exigency Leave

Eligible employees who are members of the Regular Armed Forces, National Guard, or Reserves are entitled to up to 12 weeks of leave because of "any qualifying exigency" arising out of the fact the spouse, son, daughter, foster child, or parent of the employee is on covered active duty (require deployment to a foreign country), or has been notified of an impending call to active-duty status, in support of a contingency operation. A qualifying exigency is defined as:

- Short-notice deployment
- Military events and related activities
- Childcare and school activities
- Financial and legal arrangements
- Counseling
- Rest and recuperation\*
- Post-deployment activities
- Parental care leave
- Additional activities not encompassed in the other categories, but agreed to by the employer and employee

\*The amount of time an eligible employee may take for Rest and Recuperation qualifying exigency leave is a maximum of 15 calendar days.

### **Required information for Certification of a Qualifying Exigency**

The City requires that the employee provide a copy of the covered military member's active duty orders and the Department of Labor (DOL) Certification of Qualifying Exigency for ***Military Family Leave Form*** to support request for qualifying exigency leave.

If requesting leave for Rest and Recuperation, a copy of the military member's Rest and Recuperation leave orders, or other documentation issued by the military setting for the dates of the military member's leave is required.

### **Military Caregiver Leave**

An eligible employee who is the spouse, son, daughter, foster child, parent, or next of kin of a covered service member of the Armed Forces, including National Guard and Reserve members, with a serious injury or illness incurred in the line of duty on active duty for which the service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, is entitled to up to 26 workweeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

The definition of covered service member includes covered veterans who are undergoing medical treatment, recuperation, or therapy for a serious injury or illness. A covered veteran is an individual who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

### **Serious injury or illness for a Current Service member**

A serious injury or illness means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. This includes illnesses that existed before the beginning of the member's active duty and were aggravated by service in the line of duty on active duty in the Armed Forces.

### **Serious Injury or Illness for a Covered Veteran**

A serious injury or illness for a covered veteran means an injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran, and is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; OR
- A physical or mental condition for which the covered veteran has received a VA Service-Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; OR
- A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; OR
- An injury, including a physiological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

### **C. Procedures**

1. In determining the amount of family medical leave available to an employee, the twelve (12) month period will be calculated as a "rolling" 12-month period measured backward from the date of any FMLA leave usage. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks (or 26 weeks provided in certain circumstances) which has not been used during the immediately preceding 12 months.
2. When spouses are both employed by the City, and the leave is taken due to a birth/adoption, the aggregate number of weeks is limited to twelve (12). For other qualifying family and medical leave events, each employee is entitled to leave as long as the total amount of leave taken during any twelve (12) month period does not exceed twelve (12) weeks or twenty-six (26) weeks, if applicable, for one employee.
3. Employees will first use sick leave, then vacation leave, then holiday bank leave (if applicable). When all leave is depleted, the employee goes into unpaid leave status. Benefit accruals, such as vacation leave, sick leave and holiday benefits will be suspended during unpaid leave and will resume upon return to active employment.
4. In cases where the employee is eligible for workers' compensation, family medical leave shall run concurrently. However, in this event, employees will not be required to use accrued leave.
5. The City complies with the confidentiality requirements of the Genetic Information Non-Discrimination Act (GINA).

### **D. Intermittent Leaves/Reduced Leave Schedules**

1. Requests for intermittent or reduced leave schedules involving the birth or placement of a child for adoption or foster care will be granted only in extenuating circumstances.
2. Intermittent or reduced leave schedules involving the need to care for a sick family member or for an employee's own serious health condition will be granted only when medically necessary.

3. Employees who request this type of foreseeable leave based upon planned medical treatment may be required to transfer temporarily to an available alternative position for which the employee is qualified.

#### **E. Notice Requirements**

1. When the need for leave is foreseeable based on the birth, adoption, or placement of a child, or on planned medical treatment, the employee requesting leave should give written notice to the Human Resources department not less than thirty (30) days before the date the leave is to begin. When the leave must begin in less than thirty (30) days, the employee should give notice for leave as soon as possible. In cases of a medical emergency or an unforeseen event, notice must be provided to Human Resources no later than two (2) working days after the event.
2. In cases when the employee requests leave for planned medical treatment, the employee should make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the City. The City reserves the right to request a second opinion or Certification of Medical Necessity as to the timing of the medical treatment with regards to work schedules.
3. Each department supervisor is responsible for notifying the Human Resources Department as soon as he/she is aware of circumstances that may cause an employee to be entitled to FMLA, even if the employee is utilizing paid vacation, sick or personal leave, or is out due to a work-related injury. An employee using sick leave should be reported to the Human Resources Department if it is anticipated that the duration of the illness will be more than five (5) consecutive full calendar days, or two (2) or more shifts for the Fire Department employees. Supervisors must inform Human Resources when the employee returns to work.
4. Failure to provide notice as required under this Policy may result in corrective action, up to and including termination. Nothing in this FMLA policy modifies or alters the City's policy regarding attendance. *See Section 8.09 Attendance & Punctuality* for additional information.

#### **F. Certification**

1. The City requires that requests for leave because of serious illness be supported by complete and sufficient certification from the appropriate health care provider. Sufficient certification must be submitted within fifteen (15) days of requesting the leave. *Medical Certification* forms may be obtained from the Human Resources Department.
2. Human Resources will notify the employee if the certification is not complete and the employee will be provided seven (7) calendar days (unless circumstances warrant more time) to remedy any deficiency in the certification.
3. The City does not seek and should not be provided genetic information. If an employee or applicant's genetic information is inadvertently received by the City, the City will not use genetic information for any employment decision or action.
4. Certification to support leave requests are valid only for the time specified by the physician. If additional time off is necessary at the end of the specified time, the employee is responsible for providing an updated certification form, completed by the health care provider, to Human Resources. In cases of ongoing intermittent leave,

medical certification is valid for one (1) year. Medical certification must be resubmitted each year to support the need for continued intermittent leave.

**G. Reinstatement**

1. At least two (2) working days in advance, the employee is to confirm the intended return to work date with his/her supervisor and must notify Human Resources.
2. Upon returning to work after leave for his or her own illness, the employee is required to provide fitness for duty certification to Human Resources.
3. If the validity of a certification or reinstatement is questioned, the City may require that a second opinion be obtained. If the first and second opinions differ, the City may require a third opinion be obtained. The employee and the City must agree upon a health care provider for the third opinion and this opinion shall be binding on both parties. The City shall bear the expense of second and third opinions.

**H. Benefits**

1. Employee health related benefit premiums will be paid for the duration of the FMLA at the same rate as is paid for active employees. The employee's dependent portion of the premium shall continue to be paid by the employee. For those employees who are taking leave without pay, the employee's dependent's portion of the premium payment(s) must be received in Finance by the 1<sup>st</sup> of each month or health coverage will be terminated.
2. Holidays will be paid in accordance with the Holiday policy. City holidays will be counted as part of the twelve (12) or twenty-six (26) weeks of family and medical leave, if the employee is on paid leave.

**I. Recordkeeping**

Family medical leave time will be tracked in 15-minute increments for payroll and compliance purposes. To determine entitlement for employees who work variable hours, the minimum hours required for eligibility is calculated on a pro rata or proportional basis by averaging the weekly hours worked during the twelve (12) weeks prior to the start of family and medical leave.

**J. Exempt Employees**

Paid leave accounts may be charged for less than one (1) full work day and the salary of an exempt employee may be docked for absences of less than one (1) full work day (if leave accruals have been exhausted). Salaried executive, administrative, professional and other employees of the City who meet the Fair Labor Standards Act (FLSA) criteria for exemption from overtime do not lose their FLSA-exempt status if pay is docked because of unpaid FMLA leave.

**K. Outside Employment**

Outside employment must be suspended if the employee is on restricted duty, workers' compensation leave, sick leave, military leave, leave without pay, or FMLA (*See Section 2.10 Outside Employment* for additional information).

**L. Responsibility of Human Resources**

The Human Resources Department is responsible for central administration of all requests for family and medical leave. HR reserves the right to designate an employee's absence as family and medical leave if it is determined that a qualifying event has occurred. HR may retroactively

designate the beginning date of FMLA to the beginning date of the employee's absence for the qualifying event.



## PERSONNEL POLICIES AND PROCEDURES

### 5.05 Personal Leave without Pay

The City of Marshall may allow a leave of absence without pay to eligible full-time employees who wish to take time off from work duties to fulfill personal obligations, subject to department workloads.

#### A. Eligibility

Eligible employees may request personal leave only after having completed one (1) year of service. Personal leave may be granted by the Department Director for up to a limit of twenty-two (22) working days, or 10 shifts for shift fire employees, in a calendar year.

#### B. Requesting Leave

Employees requesting Personal Leave without Pay must submit a *Leave Request Form* to their Department Director thirty (30) days in advance of the requested starting date. This requirement may be waived when circumstances do not permit such advance notice.

#### C. Approval Process

Requests for personal leave will be evaluated based on a number of factors including anticipated workload requirements and staffing considerations during the proposed period of absence. A request for personal leave which exceeds twenty-two (22) working days in one (1) calendar year requires the approval of the Department Director and City Manager.

#### D. Benefits While On Leave

Employees must make arrangements with the Human Resources Department to pay their share of insurance premiums if they wish to continue insurance benefits. Employees who have approved personal leave for more than twenty-two (22) working days will be placed on COBRA. See *Section 4.04 COBRA* for additional information. Benefit accruals, such as vacation, sick leave, and holiday benefits, will be suspended during the leave and will resume upon return to active employment.

#### E. Return from Leave

When personal leave ends, every reasonable effort will be made to return the employee to the same position, if available, or to a similar position for which the employee is qualified. In the event that circumstances do not permit the employee's return on the date established, a written request for extension must be submitted two (2) weeks prior to such date. If an employee fails to report to work promptly at the expiration of the approved leave period, the employee will be terminated.



## PERSONNEL POLICIES AND PROCEDURES

### 5.06 Military Leave

Amended 8.28.2025

The City of Marshall complies with Section 431.005 of the Texas Government Code, where a full-time employee who is a member of a reserve unit of the armed forces of the United States, engaged in authorized military training or duties authorized by proper authority, will receive pay for up to fifteen (15) working days in a federal fiscal year (October 1 – September 30). Military time will not count as time worked for the purposes of determining overtime.

#### A. Requesting Leave

Employees must provide a copy of orders and/or the annual drill schedule as soon as available. Employees must submit a **Leave Request Form** to their Department Director and the Human Resources Department as soon as possible and it should be accompanied by a copy of the order, directive, notice or other document requiring absence from scheduled work. Travel time included in the orders may be counted as military leave. Military leave will be granted without loss of seniority.

#### B. Using Military Leave

If the training exceeds fifteen (15) regularly scheduled working days in a fiscal year (October 1 through September 30) the employee may elect to use accrued vacation, comp time, or holiday leave before being placed on leave without pay.

- Non-Civil Personnel: 120 hours
- Police Shift Personnel: 180 hours
- Fire Shift Personnel: 360 hours

#### C. Active Duty Order

An employee who is a member of a reserve component of the armed forces and is ordered to full-time extended, active duty shall receive extended military leave of absence. If the employee's military pay is less than their City wage, they will receive the difference between the total of employee military pay (excluding meal payment) and their regular City wage for up to one (1) year.

#### D. Benefits While On Leave

Employees on extended military leave will not accrue sick leave, vacation leave, holiday leave, or benefits, nor shall they be eligible for performance-based merit increases.

##### 1. COBRA

The City's medical and dental insurance carriers exclude active military from insurance coverage, therefore employee group insurance ceases for the military member. Dependents may remain covered with the City's group insurance plans under the Consolidated Omnibus Budget Reconciliation Act (COBRA) for a period up to eighteen (18) months. For up to one (1) year, the City will continue to pay the amount of monthly premium as had been paid, if applicable, up to the date of extended leave. After one (1) year, the employee will be responsible for paying the full COBRA premium. It will be the employee's responsibility to

ensure that the employee portion of the premiums due are paid to the City and/or the insurance carrier(s) on a monthly basis. Alternatively, the employee may discontinue health benefits coverage during his or her absence. An employee who discontinues existing medical or dental insurance coverage while on military status may reinstate this coverage upon return to full-time City employment. Reinstate of this coverage must be made within 31 days of return to full-time employment by completing the appropriate enrollment forms available from the Human Resources Department. *See Section 4.04 COBRA* for more information.

## **2. TMRS**

According to the Texas Municipal Retirement System (TMRS) guidelines, an employee entering active service becomes an inactive participant. Upon return to full-time employment with the City, the employee may apply to TMRS for credit for military time served. The TMRS Supplemental Death Benefit does not cover employees on active duty. *See Section 4.06 TMRS* for additional information.

## **E. Return from Leave**

At the end of military duty, the employee shall report to work on the next scheduled work day unless a written request for an extension along with the number of days needed and extension is approved by the Department Director and the City Manager. Any missed increases will be granted upon return.



## PERSONNEL POLICIES AND PROCEDURES

### 5.07 Funeral/Bereavement Leave

A regular full-time employee, who experiences the death of an immediate family member, may be given funeral/bereavement leave of up to three (3) working days with pay per occurrence to be taken at the time of death. This time is to be computed as eight (8) hour days or a maximum total of 24 hours (36 hours for 24-hour Shift Firefighters). Any unused leave will not be banked for use later. Documentation will be at the discretion of the manager/director.

- A. Immediate family, for purposes of this Policy, includes all persons in the second degree by blood or first degree by marriage (*See Section 2.04*). If more than three (3) days are needed for members of the immediate family only, an employee may use accumulated sick leave for this purpose.
- B. Directors/managers may grant the employee vacation leave, flex time, and accumulated holiday time to attend a funeral of someone other than an immediate family member.
- C. An employee within the six-month probationary period may use funeral/bereavement leave but is not eligible to supplement leave with accrued leave.



## PERSONNEL POLICIES AND PROCEDURES

### 5.08 Jury and Witness Duty Leave

The City of Marshall encourages full-time employees to fulfill their civic responsibilities by serving on a jury and fulfilling witness duty, when required. Paid time off for Jury or Witness Duty Leave will be counted as time worked for the purposes of determining overtime, nor shall shift differential apply. Time spent in court by employees who are required to attend court in the course and scope of their job shall be counted as time worked for the purposes of determining overtime.

#### A. Jury Duty

Full-time employees qualify for paid jury duty leave. Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may arrange to accommodate their absence. Jury duty pay is a benefit that will be calculated on the employee's base rate of pay for the number of hours the employee otherwise would have worked on the day(s) of absence, with a maximum payment of eight (8) hours a day, or twelve (12) hours a day for shift workers. Employees are expected to return to work whenever the court schedule permits or if released from court with two (2) or more work hours still remaining left in the day.

#### B. Witness Duty

##### 1. Job Related

Part-time or full-time employees serving as a witness for a job-related event will receive paid time off for the period of witness duty. The subpoena must be shown to the employee's supervisor immediately upon receipt so that operating and schedule adjustments can be made to accommodate the absence. Absence due to job-related witness duty is counted as time worked. A copy of the subpoena will be placed in the employee file; except for police department work case load related subpoenas.

##### 2. Personal

Full-time employees who make a court appearance for personal reasons will be expected to schedule the time off in advance and take vacation, holiday, or leave without pay. Part-time employees who make a court appearance for personal reasons will be expected to schedule the time off in advance if on the scheduled workday.



## **PERSONNEL POLICIES AND PROCEDURES**

### **5.09 Voting Time Off**

The City of Marshall encourages employees to fulfill their civic responsibilities by voting in elections.

Generally, employees are able to find time to vote either before or after regular work hours. Department Directors and direct supervisors should encourage employees to use early voting in lieu of requesting special leave. If employees are unable to vote in an election during their non-working hours, the City will grant up to two (2) hours of paid time off to vote.

Employees should request time off to vote from their supervisor at least two (2) working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift or when the absence provides the least disruption. Voting time off will not be counted as time worked for the purpose of determining overtime.



## PERSONNEL POLICIES AND PROCEDURES

### 5.10 Administrative Leave

An employee who is suspected of a violation of state, federal, or local law; City ordinance, a City or departmental rule or regulation, or this Policy may be subject to corrective action up to and including termination, or may be placed on administrative leave with or without pay pending the outcome of any related administrative review, investigation and/or the imposition of management action.

Employees placed on paid administrative leave must comply with the following guidelines:

- Be available by phone during regular business hours of the department.
- Refrain from any conversation or contact with city employees regarding the administrative leave and its guidelines.
- Unless on business with the City, the employee may be asked to refrain from being on city premises or entering city facilities contingent upon the circumstances.

Failure to comply with the aforementioned guidelines may result in immediate corrective action, up to and including termination.



## PERSONNEL POLICIES AND PROCEDURES

### 6.01 Pay Periods

- A. As a condition of employment at the City of Marshall, appointed employees and trainees are required to participate in payroll direct deposit. This means that your pay will be deposited directly into your account at a participating banking institution each payday.
- B. Pay periods are bi-weekly, every other Friday. In the event the regularly scheduled payday falls on a holiday, employees will be paid the day before.
- C. The City's workweek begins at 12:00 a.m. on Saturday and ends at 11:59 p.m. the following Friday.
- D. For most employees, the pay period is made up of two, 40-hour work weeks or work cycles. Some Police and Fire Department personnel may have alternate work cycles that make up the pay period. The alternate work cycles must be in accordance with law and approved by the Department Director and Human Resources.
- E. All non-exempt, non-public safety employees must use the City provided time keeping system to record their hours worked and accrual usage.



## PERSONNEL POLICIES AND PROCEDURES

### 6.02 Overtime/Flex Time

Amended 1.23.2025

#### A. OVERTIME

Overtime compensations paid to all non-exempt employees in accordance with federal and state wage and hour requirements. Exempt employees are not paid overtime compensation.

##### 1. Eligibility for Overtime

- a. The City's work week begins at 12:00 a.m. on Saturday and ends at 11:59 p.m. the following Friday.
- b. Generally, except for Fire and Police Department shift employees, overtime pay for non-exempt employees is at the rate of 1-1/2 times the employee's regular hourly rate of pay for hours actually worked in excess of 40 hours in the City's workweek.
- c. For information on emergency call-backs on holidays, *see Section 6.04 On-Call/Emergency Call Back Pay*.
- d. Police officers and shift firefighter personnel have a different workweek schedule than the regular forty (40) hour work cycle. Fire and Police personnel are paid overtime based on the work cycle adopted by their Department under Section 207(k) of the Fair Labor Standards Act and Section 142.0015 of the Local Government Code.
- e. An employee's regular rate of pay includes all pay incentives, such as certification pay, longevity, and shift differential pay.

##### 2. Scheduling and Working Overtime

Overtime assignments will be distributed as equitably and practical to all non-exempt employees qualified to perform the required work. Refusal to accept an overtime assignment when reasonable notice has been given or an emergency exists, may be cause for discipline, up to and including termination.

All non-exempt employees must receive their supervisor's or Department Director's prior authorization before performing any unplanned overtime work. This means employees may not begin work prior to their scheduled workday, and may not continue working beyond the end of their scheduled workday, without prior authorization from the appropriate supervisor. Similarly, non-exempt employees may not work through their lunch break without prior authorization from the appropriate supervisor. The supervisor must approve any overtime before time worked is submitted for processing and payment. Non-exempt employees who work overtime without receiving proper authorization will be subject to corrective action, up to and including possible termination of employment.

3. **Time Worked**

Sick leave, bereavement leave, workers' compensation leave, military leave, administrative leave or any type of unexcused absence does not count toward the allowable number of hours worked in a work period. Vacation, holiday, and jury duty time will be used to count toward hours worked in a pay period.

4. **Exempt Employees**

Exempt employees are those who are not covered by the overtime requirements of the FLSA. Exempt employees are paid a base rate of pay, regardless of the number of hours worked. Accordingly, exempt employees are not entitled to overtime compensation for work performed beyond 40 hours in a workweek. Exempt employees are expected to put in the hours necessary to complete their assignments with an acceptable level of quality in a timely manner.

5. **Exempt Employees – Exception to Overtime Pay**

In the event of an emergency or disaster declared by the Mayor of the City of Marshall, salaried employees shall receive overtime salary in the amount of one and one-half times their hourly salary for each overtime hour worked.

In accordance with federal law, the City shall not make improper deductions from exempt employee's pay. Any exempt employee, who believes an improper pay deduction has been made, must immediately notify the Director of Human Resources. The City will promptly reimburse an exempt employee for any improper deduction(s) and will make a good faith commitment to comply in the future.

In the event city employees, whether exempt or non-exempt, are activated as part of a state or federal request for assistance they will be paid overtime at a rate and in a manner consistent with the most current state policy governing reimbursement for the position or capacity in which they have been activated. Time will begin when the leaving the station and will end when returning to the station. *(So long as, we are reimbursed by the State or Federal Government).*

**B. FLEX TIME**

In situations where overtime payment is not feasible due to budgetary constraints, the Department Director or supervisor must consider flexing the employee's work schedule in an effort to minimize the need for overtime compensation. Flexing must be completed within the same workweek (for general employees) or work cycle (for Police and Fire under the 207(k) exemption of FLSA) that the overtime was worked and must be accurately reflected on the affected employee's time record.



## PERSONNEL POLICIES AND PROCEDURES

### 6.03 Longevity Pay

Amended 11.08.2023

#### A. Eligibility

All full-time employees are eligible to begin receiving longevity pay when they have completed one (1) full year of employment from their date of hire.

#### B. Accrual

Accrual is at the rate of \$4.00 per month for each full year of service up to a maximum of 25 years or \$1,200.00.

#### C. Payment

Longevity payments will be issued once annually in the form of a check (direct deposited) usually during the second pay period in November. In order to receive longevity pay, the employee must be employed on the date of issuance of the longevity check.

#### D. Upon Change of Employment Status or Separation

If employee changes from full-time to part-time status, longevity pay will cease. If employee is rehired by the City, longevity will start from the current new hire start date.



## PERSONNEL POLICIES AND PROCEDURES

### 6.04 On Call/Emergency Call Back Pay

The below applies to both On Call and Emergency Call Back

- A. An employee who is called back to work outside his or her normal work schedule shall be paid for the time worked or a minimum of two (2) hours, whichever is greater.
- B. Department directors shall establish reasonable, maximum response times (between 15 and 60 minutes) for their departments.
- C. An employee who is called back to work will be paid for travel time to and from work.
- D. An employee who is called back a second time within two (2) hours of the last call back will be considered still "on the clock," and will be entitled to additional time if the second call back keeps the employee working beyond the initial two (2) hours.

#### Emergency Call Backs

An emergency call back is defined as an unscheduled request made by an appropriate management official for an employee to return or report to work due to unforeseen or emergency circumstances after leaving the building or work location at the end of their regular shift and before the beginning of the next regularly scheduled shift.

Emergency call backs will be considered overtime. Justification must be provided to the department director to validate that the call back is an emergency.

#### On-call Call Back

An on-call employee is the employee designated to be contacted if a situation arises after normal work hours. Compensation for on-call employees will be paid a prearranged sum per day while on call. Time worked while on call will be calculated at the employee's regular rate of pay.

Overtime compensation is applicable only when total hours worked exceeds the regular full-time work cycle, including Holiday. For example, if an on-call employee is called back to work on a holiday week, even though an employee has not exceeded 40 hours at work, the time will be considered time and a half for the overtime hours worked. (See Section 6.02 Overtime for additional information).

Employees who are on-call must adhere to all city policies, including *Section 8.06 Substance Abuse and Testing*. Any variance from such policies may result in corrective action up to and including termination.



## PERSONNEL POLICIES AND PROCEDURES

### 6.05 Car Allowance

Amended 11.08.2023

If approved in the current budget, the City may pay a monthly car allowance for certain positions. If a car allowance is approved, the Employee must have an acceptable driving record, and a copy of their current insurance certificate must be on file in the Human Resource Department. An employee receiving a vehicle allowance will only be paid the current mileage reimbursement for travel in excess of 120 miles round trip. Employees who receive a car allowance must also follow the city's travel and training guidelines.

The allowance will be paid by direct deposit on the first check of the month for the previous month. The amount will be pro-rated for the time the employee has been in the position the first/last month with the City of Marshall.

The City Manager may terminate car allowances at any time.



## PERSONNEL POLICIES AND PROCEDURES

### 6.06 Compensation

The Policy serves as the values for establishing salary and benefits administration and maintenance guidelines.

All employees hired with the City of Marshall will be hired at the minimum range unless justification is provided to warrant hiring at a higher rate of pay. With justification, it must be approved by the City Manager prior to any job offer.

The City's compensation philosophy provides a common understanding and consensus regarding the underlying tenets of a compensation system. A compensation philosophy that underlies the compensation system consists of two components, the guiding principles and the key objectives. Together, the components form the basis of a long-term compensation philosophy and serve as the values for establishing the salary and benefits administration and maintenance guidelines.

#### Guiding Principles

1. The City of Marshall recognizes the value of our employees, which includes both new and current dedicated employees. The City of Marshall will pay on a competitive basis and target the market mean (average) of appropriate benchmark surveys that include both public and private sector organizations for all positions.
2. The City of Marshall is committed to the fair and equitable administration of the compensation system. The compensation system for the City of Marshall will be easy to understand and effectively communicated to all employees.
3. The Human Resource Department of the City of Marshall will continually monitor and evaluate the compensation system to ensure management is fully aware and sensitive to relevant market fluctuation(s) and/or movement(s).



## PERSONNEL POLICIES AND PROCEDURES

### 7.01 Safety

#### A. Report of Accident

The City will take all practical steps to eliminate or reduce an employee's exposure to accidental injury or to conditions that would be injurious to his or her health. In the case of accidents resulting in injury, employees must immediately complete a ***Report of Employee Injury/Accident/Incident Form*** and submit the form to their immediate supervisor. The supervisor must then submit the form to Human Resources.

#### B. Safety Training

Employees and supervisors receive periodic workplace safety training through city-initiated risk/safety procedures. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards. A safety advisory group has been established to assist in these activities and to facilitate effective communication between employees and management about workplace safety and health issues.

#### C. Reporting Unsafe Acts

Employees shall cooperate with the City by observing reasonable safety regulations and working in a safe manner. Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards, cause hazardous or dangerous situations, fail to report, or, where appropriate, correct such situations, may be subject to corrective action, up to and including termination of employment.

#### D. Safety Suggestions

Some of the best safety improvement ideas come from employees. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor, another supervisor or manager, or bring them to the attention of Human Resources. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of reprisal.



## PERSONNEL POLICIES AND PROCEDURES

### 7.02 Internet

The City of Marshall relies on its computer resources to conduct business efficiently through access to information and communication via Internet and electronic mail (email).

#### A. No Expectation of Privacy

1. **THERE IS NO EXPECTATION OF PRIVACY IN THE USE OF THE CITY'S COMPUTER SYSTEM OR ANYTHING CREATED, STORED, SENT, OR RECEIVED BY THE USER.**
2. All Internet and e-mail communications sent through, received, or stored in the city-owned system are the property of the City. Additionally, the City has the unilateral right to access all stored electronic communications. Access to the Internet with the assistance of city owned equipment is a city privilege. All Internet and e-mail activity must be in compliance with this Policy and other applicable policies, procedures, and rules.
3. In order to protect its interests, the City retains the right to monitor all of its electronic communications systems at its discretion and as allowed by law. By using these systems, employees consent to monitoring by the City. *Any information transmitted, received, or stored on the City's equipment is public property and subject to disclosure and public access as provided by law.*
4. The City's right to access e-mail messages, including sites reviewed on Internet, may occur under the following circumstances:
  - i. Upon an employee's departure or absence from the City, the user's mail may be accessed to save or review those messages that pertain to city business and as necessary to locate information;
  - ii. If required by law;
  - iii. When information is present which indicates improper use of the Internet or e-mail;
  - iv. When necessary to investigate a possible violation of a city policy or a breach of the security of the electronic mail system;
  - v. For mechanical and service quality control as well as for compliance with this Policy;
  - vi. For all stored communications.
5. The contents of electronic mail/Internet access files or data may be disclosed without the permission of the user. Any individual using the City's e-mail system has no expectation of privacy in any e-mail message that the individual may generate or receive, including personal messages (if any). At any time an employee's department director or manager, Director of Information Technology, or any other appropriate person selected by the City

Manager or their designee, in consultation with Human Resources, may review an individual's messages or sites.

6. The City reserves the right to monitor all traffic on the network, including sites accessed, content examined and time spent. Individuals must not use computers or networks in such a way that would disrupt or impair the use by others or be contrary to any city policy. No employee shall use the Internet or e-mail to present his or her views, ideas, questions, or actions as representing the City unless doing so in an official capacity and authorized by the City Manager or his/her designee.

## **B. Inappropriate Use**

1. Users may not use the City's computer resources for personal use which interferes with job performance.
2. Users are prohibited from the creation, transmission, review, or storage of inappropriate email or internet content, including, but not limited to:
  - i. Material that is of a sexual or offensive nature.
  - ii. Material that promotes hatred, harassment, illegal activity, or discrimination that may be related, but not limited to gender, sexual orientation, race, religion, national origin, age, political belief, physical attributes, disability, or information regarding an employee's health status without their permission.
  - iii. Material that is fraudulent, embarrassing, profane, obscene, intimidating, defamatory, or otherwise inappropriate.
  - iv. Material that causes interference to the network such as viruses or hacking.

***Note:*** The above section, i-iv, does not apply to storage for spam control.

3. Users may not use the City's computer resources for activities including, but not limited to:
  - i. Downloading software and/or other electronic files from Internet sources unless necessary for city business
  - ii. Downloading software in violation of copyright law
  - iii. Downloading and/or sharing music or movies
  - iv. Downloading games, playing computer games, playing interactive internet games, or introducing or playing software via CD or diskette
  - v. Downloading, logging on, and/or utilizing any Instant Messaging or Chat Room programs for personal use
  - vi. Dissemination of confidential or legally protected information
  - vii. Communications that compromise the integrity of the City and its business in any way
  - viii. Non-city, commercial, or personal advertisements
  - ix. Online gambling
  - x. Re-posting personal communications, including the sender's email address, without the author's prior consent

- xi. Looking or applying for work or business opportunities other than internal city postings
- xii. Jokes, chain letters, personal business operations, or political material
- xiii. Frivolous messages
- xiv. Communications that use someone else's name
- xv. Communications sent city-wide that do not directly relate to the administrative processes of the City
- xvi. Accessing personal use e-mail accounts

4. Users encountering or receiving any material information in violation of this Policy shall report the incident to their immediate supervisor. Any questions regarding the use of internet access or the e-mail system shall be discussed with a supervisor, who may obtain further information from the Information Technology Department.

## **C. Internet Use**

### **1. Security**

The Internet is not a secure network; thus, employees shall assume that all Internet activities are public. The City is not responsible for material viewed by users.

### **2. Accessing the Internet via Modem**

To ensure security and avoid the spread of viruses, accessing the Internet directly by modem is strictly prohibited unless the computer in use is not connected to the City's network. Internet access through a computer attached to the City's network is through an approved Internet firewall and thereby authorized.

## **D. Electronic Mail Use**

### **1. Communicating Information**

The content of all e-mails shall be prepared with the same level of accuracy and professionalism as other official city communications. Users must use the same care in drafting e-mails and other electronic documents as they would for any other written communication.

### **2. Public Records and E-mail Retention**

Employees are responsible for deleting unnecessary mail items from the email system. Employees are also responsible for retaining e-mails of enduring value in accordance with the City's retention schedule. Any email items that need to be retained should be saved as a file or printed if necessary. An alternative to the above is to archive e-mails of enduring value on the employee's hard disk. If this approach is taken, employees become responsible for ensuring that backup copies are made on a regular basis.

Employees who have subscribed to list-services should request to be removed from such lists before terminating employment with the City. Messages sent to all e-mail users should be restricted to information that will have a direct impact on employees and/or the employee work area (i.e., power outages, interruption of services, etc.).

### **3. Non-City Property**

The contents of city related electronic mail, files, or data may be viewed, copied or disclosed by the City without the permission of the user. Any individual, using a non-city

owned computer or electronic device for city business has, no expectation of privacy in any e-mail message or other document that the individual may generate or receive if the e-mail message or document relates to city business.

#### **E. Password Protection**

The City's automated information systems are a valuable asset and must be protected from unauthorized access. Accordingly, users are required to observe the following guidelines when using city computers whether at a work location or when assigned equipment is used at home:

1. Passwords must be used to access the City's network.
2. Passwords must be used to access computers that are used by multiple users or computers that are used at home or for travel.
3. Passwords should not be frivolous: i.e., names, birth-dates, addresses, or easily remembered sequences (111111, 1123456, etc.).
4. Passwords should consist of at least 8 characters, with a mixture of letters, numbers, and special characters.
5. Passwords should be changed at a minimum every 90 days.
6. Passwords must not be written down, stored around the computer, or stuck to the monitor or desktop.
7. Passwords must never be disclosed to an unauthorized person. The department director may designate a person to maintain a list of passwords for occasions when access to a departmental computer is required, such as when the person to whom the computer is assigned is unavailable. If for some reason the user must disclose a password to an unauthorized person, it must be changed immediately.
8. Computer equipment assigned for home use is not to be used by non-city personnel.
9. Computers that are logged on should be put in password protect mode when left unattended, especially if in a public place. If accessing the City's email system from a remote location, precaution must be taken that such access is not available for non-authorized users (e.g., using password memory facilities, shortcuts, auto-fill capabilities).

#### **F. Police Department Investigations**

This Policy does not apply to police department legitimate case load investigations.

#### **G. Corrective Action**

Computer access is a privilege that may be revoked at any time. Employees violating this Policy will be subject to corrective action, up to and including termination. It is every user's duty to utilize the City's computer resources responsibly, professionally, and ethically.



## PERSONNEL POLICIES AND PROCEDURES

### 7.03 Telephone and City Issued Wireless Telephone Devices

Telephones in city offices are intended to be used for official city business. Any personal calls shall be kept to a minimum and shall not interfere with the operations of the employee's work or department. If an employee's supervisor determines that this privilege of telephone use is being abused or is interfering with department operations, this privilege may be restricted or removed.

#### **WIRELESS DEVICES:**

##### **A. Assignment**

1. It is the policy of the City to provide wireless telephones to designated employees in order to improve productivity, enhance customer service to citizens and/or to enhance public safety services.
2. It is also the policy of the City to maintain the right to access and disclose any and all messages communicated through electronic means when city-owned equipment is used. Regardless of the intent of the message (business or personal), any employee involved has no right to privacy, or to the expectation of privacy, concerning the content of any message or the intended destination of any message.

##### **B. Authorized Usage**

1. City-owned wireless telephones are intended for and expected to be used for city business. Minimal personal usage is permitted as long as the personal use is reasonable and prudent.
2. Employees should not use wireless telephones to discuss confidential or sensitive information because wireless telephone conversations are not secured.

##### **C. Eligibility Criteria**

Employees eligible for assignment of city-owned wireless telephones are those designated by the City Manager and/or department directors, including (but not limited to):

1. Employees who are frequently in a vehicle who must conduct city business by telephone while in the field and it can be shown that cost savings and customer service efficiency will be realized through use of such devices;
2. Employees who have a critical need to maintain accessibility with other departments, managers, city management staff and/or public officials, in order to ensure uninterrupted customer service and/or the integrity of the organization; public safety positions and vehicles in order to provide immediate and direct telephone communications with citizens, outside agencies cooperating in operations, or other resource entities outside of city government and to provide for communications which may be inappropriate for mobile radios;
3. Employees involved in the City's emergency response plan; and

4. Department directors and employees who have a responsibility for responding to the public.

## **D. Responsibilities**

### **A. City Manager**

The City Manager is responsible for final approval on all requests for wireless telephone devices once the request has been approved by the appropriate department director.

### **B. Department Directors**

Department Directors will be responsible for:

- a. Approving request for wireless telephones from their respective subordinates;
- b. Ensuring that requests are in conformance with the procedures outlined herein, or that exceptions are justified;
- c. Ensuring that all persons assigned a city-owned wireless telephone are provided access to a copy of this Policy and procedure and that the employee is in compliance with it;
- d. Conducting periodic inventories of wireless telephones with their respective departments to ensure accountability;
- e. Conducting annual reviews of assigned devices to determine if such assignments continue to be justified;
- f. Informing appropriate employees responsible for city communications of all reassignments of wireless telephones;
- g. Reviewing the monthly bill, collecting funds from department employees, and forwarding those funds to the Finance Department to reimburse the City for any chargeable personal calls or text messages appearing on the bill.

### **C. Employees**

Employees who are assigned the use of city-owned wireless telephones are responsible for:

- a. Ensuring the physical security of such devices. In case of negligence, the employee will be responsible for reimbursing the City any cost incurred in replacement or repair of the phone;
- b. Ensuring that all communications on such devices are kept to the briefest duration possible;
- c. Keeping personal communications to a minimum;
- d. Ensuring that any personal use does not detract from the employee's availability for completion of assigned duties;
- e. Being available to receive calls or mobile data messages while working or on-call;
- f. Using good judgment while speaking or sending mobile data messages, as all phone records are subject to Open Records Request;
- g. Not using the telephone by sending or reading mobile data messages while driving a City vehicle. Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions;

- h. Providing the appropriate employees/supervisor notification of any repair, lost, stolen or damaged equipment;
- i. Surrendering a city-owned phone upon request of a department director, regardless of the reason.

**D. Reimbursements**

- a. Users must review their monthly billing statement for accuracy, annotate the bill of any personal call or text charges that incur additional cost to the City, and submit payment to the designated department cashier. If there is no department cashier, payment shall be submitted to the Finance Department.

**E. Procedure**

To request wireless telephone usage, the employee must make a request in writing to the department director. A determination will be made certifying whether or not cellular technology is an appropriate communication device for the situation and must be approved by the department director and the City Manager. Every employee utilizing wireless telephones shall be required to sign the ***City-Issued Wireless Device Acknowledgement Form*** regarding this Policy, which verifies that the employee has read and understands the obligations.

Inappropriate use of cellular phones shall be reported to the respective department director and/or immediate Supervisor. Any employee violating this Policy is subject to corrective action, up to and including termination.



## PERSONNEL POLICIES AND PROCEDURES

### 7.04 Meal and Rest Period

#### A. Meal Period

Meal periods shall be determined by supervisors with the approval of the department director to accommodate operating requirements. Meal periods will not be counted as time worked for the purposes of determining overtime with the exception of essential personnel approved by the department director.

#### B. Rest Period

If authorized by an employee's supervisor, employees may be allowed two (2) 15-minute rest periods during the day. Such rest periods shall be considered a privilege, not a right, and shall never interfere with proper performance of the work responsibilities and work schedules of each department. If possible, rest periods will be provided in the middle of work periods. Rest periods may not be combined or taken at the start or the end of an employee's workday, or be used to extend meal periods. Since this time is counted and paid as time worked employees must not be absent from their workstations beyond the allotted rest period time.



## **PERSONNEL POLICIES AND PROCEDURES**

### **7.05 Tobacco Use**

In keeping with the City's intent to provide a safe and healthful work environment, smoking and the use of smokeless tobacco products (*e.g.* chewing tobacco, snuff, vapor e-cigarettes, etc.) are prohibited in city buildings and other facilities, in city owned buildings or municipal buildings, or in city-owned, rented, or leased vehicles or while using city equipment.

Employees may use tobacco products outdoors on their rest breaks outside of the buildings at least thirty (30) feet of any entrance or in designated smoking areas or during their meal periods. Smoke breaks which are excessive in frequency or length will be treated as an attendance issue. No employee shall use tobacco products while making public contact.

Employees may be allowed to smoke during their break or meal period only in designated areas by their department director. Designated areas are restricted to outside only and within thirty (30) feet of any entrance.

**Willful or repeated violations of this Policy will result in appropriate corrective actions.**



## PERSONNEL POLICIES AND PROCEDURES

### 7.06 Temporary Restricted Duty

It is the goal of the City, with the cooperation of all departments, to locate and assign restricted duty, when necessary and feasible, to employees who are temporarily restricted from performing their regular job as a result of work-related or non-work-related injury or illness. Temporary restricted duty opportunities will return employees to a meaningful assignment as soon as possible when they are unable to perform the full essential functions of their positions (with or without reasonable accommodation) due to the injury or illness.

#### A. Restricted Duty Work Assignment

1. An employee will be considered for a restricted duty assignment when he or she can perform work of a restricted nature, as opposed to their normal range of duties.
2. The City reserves the right to require an employee to be medically released with no restrictions before returning to full duty. Restricted duty assignments must be coordinated with the Human Resources Department.
3. Restricted duty assignments must be existing duties consistent with normal operations of the division or department. An employee assigned restricted duty assignments may be assigned duties in several departments. These restricted duties assignments must not be created specifically for an individual employee. If no assignment is available, the employee must stay home until released to full duty.

#### B. Procedures

The following procedures apply when an employee is released for restricted duty and provides a Physician's Restricted Duty Recommendation to his/her supervisor and the Human Resources Department.

1. Within one (1) working day of receiving a Physician's Restricted Duty Recommendation, the employee forwards it to the Human Resources Department.
2. For a work-related injury only, if a restricted duty assignment is not available in the department of origin, the Human Resources Manager or designee will review the limitations/restrictions provided by the physician and determine an appropriate assignment based on the restrictions noted by the physician and the employee's abilities to perform the work.
3. If an employee with a work-related injury is assigned to restricted duty in another department, the department of origin continues to pay the employee's wage at the employee's regular pay rate regardless of the nature of the restricted duty assignment.
4. An employee unable to return to regular duty on the original date indicated by the treating physician must provide an updated Physician's Restricted Duty Recommendation prior to the originally estimated date of return to regular duty.

### **C. Additional Provisions**

1. The restricted duty assignment shall not exceed ninety (90) working days in a one (1) year period.
2. Extensions beyond ninety (90) working days must be authorized by the City Manager's Office and the Human Resources Manager upon recommendation of the department director and receipt of proper documentation to indicate the need for extension.
3. An employee's refusal to perform a task consistent with the medical restrictions will be interpreted as a violation of city policies. The employee will leave the work site, will be placed on leave without pay, and may be subject to corrective action. The employee may be ordered to be re-evaluated in order to determine their ability to perform available restricted duty tasks.
4. An employee on restricted duty may be assigned several types of work at various locations and times necessitated by changing medical restrictions or by completion of available work of a particular type.



## PERSONNEL POLICIES AND PROCEDURES

### 7.07 Take-Home Vehicle

This Policy is intended to ensure the safety and well-being of city employees, to facilitate the efficient and effective use of city resources; to minimize the City's exposure to liability, to monitor the use of city-owned vehicles, and to comply with Internal Revenue Service regulations relating to city vehicle usage.

#### A. Assignment of Take-Home Vehicle

A take-home vehicle may be assigned to an employee for any of the following reasons:

1. When taking home a city-owned vehicle serves a valid public purpose.
2. When the employee responds to frequent emergency calls from home or is on call-back or standby status.
3. When the responsibilities of the position require the person be available to respond to situations with the necessary specialized equipment and/or skill that requires the City vehicle for transportation

#### B. Take-Home Vehicle Authorization Procedure

The assignment of city take-home vehicles to employees shall require the approval of council, based on the recommendations from the employee's department director and the City Manager, employee will need to complete a ***Take Home Vehicle Request Form***. If a vehicle is assigned pursuant to this Policy, only the employee who was granted approval is authorized to operate the vehicle without written approval. The following criteria will measure an employee's need for take-home vehicle authorization:

1. All employees that take city vehicles home must live within twenty (20) minutes or less of the job site where the employee is stationed for the purposes of responding to emergencies. Exceptions to this rule will be granted at the discretion of the City Manager. Continued take-home vehicle authorization will be based on the number of actual back to work trips made. If the number of after-hours back to work trips is low, take-home authorization may be discontinued.
2. Positions that utilize a take-home vehicle will be reviewed on an annual basis and will require authorization by the department director and/or the City Manager.
3. The City reserves the right to review the continuing need for any vehicle assignment and withdraw or reassign such vehicle at any time.
4. City vehicle usage will not be negotiated as part of an employment package without prior approval from the City Manager.

### **C. Use of Take-Home Vehicles**

Authorized personnel who utilize take-home city vehicles will adhere to good stewardship practices and common sense pertaining to responsible use of the vehicles. Employees who use take-home vehicles must adhere to the following general instructions:

1. Employees are prohibited from transporting non-city business related persons in any city take-home vehicle.
2. In no case shall a city vehicle be used while purchasing, transporting, or consuming alcohol, unless in the course of an investigation that involves alcohol.
3. Aside from providing services and conducting business, take-home vehicles may be used for commuting and de minimis personal errands during workdays, pursuant to Internal Revenue Service (IRS) regulations. An Employee may utilize their vehicle for lunch and/or break time purposes during workdays as long as it is within reasonable distance from the employee's place of work that day and approved by their supervisor. These regulations may be amended by the IRS from time to time.

### **D. City Vehicle Requirements**

The following requirements are applicable to both take-home and non-take-home City vehicles:

1. Only city employees are authorized to operate city vehicles.
2. All operators of city vehicles shall possess a valid Texas driver's license.
3. All drivers and business travelers must wear seat belts and obey all traffic laws.
4. All city vehicles must be operated in the manner prescribed in applicable State laws and city ordinances.
5. Employees are strictly prohibited from operating a city vehicle while under the influence of alcohol or illegal drugs and are likewise prohibited from operating a city vehicle while using a prescription, over-the-counter or non-prescribed medicine which may impair their ability to safely operate a motor vehicle.
6. Employees may not use the telephone, send, or read mobile data messages while driving a city vehicle. Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions. The only exception is public safety employees, water, streets, code enforcement, and parks and recreation employees only when conducting official city business.
7. Employees are responsible for notifying the City within twenty-four (24) hours if their license is suspended, according to *Section 8.08 Minimum Driving Standards*. It is the responsibility of the employee to ensure that all city issued vehicle insurance documentation and registration be in the vehicle at all times. In the case of an accident, the employee driving a city-owned vehicle shall immediately notify the nearest police department to report the accident. Copies of the completed accident report shall be forwarded to the employee's department director and the Human Resources Department. Department directors are required to notify Human Resources Manager of any vehicular accidents in their department in order to file and distribute insurance claims.

8. Employees must comply with all preventative maintenance programs required by the City. Further, all employees driving city vehicles are required to report and explain any and all abnormalities noticed by the driver to their supervisor immediately. By agreeing to use a city-owned vehicle, the employee agrees to keep city vehicles current on all maintenance and necessary work.
9. Vehicles shall be kept free of litter and debris. The physical appearance of the vehicle must create a good impression of the City.
10. City vehicles and heavy equipment shall be inscribed in accordance with Chapter 721, Texas Transportation Code. Any tampering or removal of the inscription will result in corrective action.
11. Employees assigned to a city vehicle will be required to sign a form indicating that they have read and will comply with the rules and provisions in this Policy, as well as *Section 8.08 Minimum Driving Standards*.
12. Employees who have driving responsibilities are subject to the Motor Vehicle Regulations as stated in *Section 8.08 Minimum Driving Standards*.

Employees who do not comply with the provisions of this Policy shall be subject to corrective action up to and including termination.



## PERSONNEL POLICIES AND PROCEDURES

### 7.08 Notification of Closure/Delays

#### A. Notification of City Closures/Delays

In the event the City Manager or designee determines that city offices must be closed due to inclement weather or other disaster, the City Manager, or designee, will notify all department directors. Department directors will in turn notify their respective staff.

#### B. Non-Emergency Personnel

When conditions are such that the City Manager, or designee, declares city offices officially closed, all regularly scheduled full-time and part-time, non-emergency personnel scheduled to work will be excused for the day without penalty or loss of pay. The Closure Day will not count as time worked for the purpose of determining overtime. If the City Manager, or designee, declares a delayed opening or early closing, non-exempt employees will be paid for actual time worked.

#### C. Emergency Service Personnel

Certain emergency service personnel will be required to work even when city offices are declared closed. Emergency personnel are non-exempt personnel who are needed in order to provide basic services during city-observed holidays, inclement weather, or other declared disasters.

The responsibility for designating those emergency service personnel rests with the department director and will include certain utility, street, parks and recreation employees. Such employees shall be provided with a replacement day-off within 90 days from the declared Closure Day. It will be the responsibility of the department director to coordinate such replacement days off.

#### Public Safety Personnel:

Due to the nature of positions with the Police and Fire Departments, employees who support 24/7 operations within both departments are expected to report to work as scheduled, regardless of inclement weather or other disaster and are not eligible for the replacement day off. If extenuating circumstances are present, employees must contact their supervisor prior to the start of their shift to discuss further. The employee's supervisor will be responsible for determining the appropriate action.

Employees not scheduled to work, but are called in to assist will receive overtime as per the Emergency Call Back Policy (*Section 6.04*).

#### D. Use of Official Closure Day

1. **Personal Illness:** Employees who would have used a sick day due to illness may use the Closure Day in lieu of taking a sick day.
2. **Out on Family Medical Leave:** If an employee is out on Family Medical Leave (FMLA), the Closure Day will not be counted as a Family Medical Leave day.
3. **While on Vacation:** Employees who scheduled vacation that fell on the Closure Day may use the Closure Day in lieu of taking a vacation day.

4. **While on Unpaid Leave of Absence:** Employees on approved personal leave of absence without pay will not be granted the Closure Day.

**E. Inclement Weather Conditions without Official Notification**

If city offices are not officially declared to be closed due to inclement weather or other disaster, all employees are expected to make every effort to arrive at work, regardless of weather conditions. However, if an employee feels that driving conditions would constitute a danger to their life and/or property, they may elect to come in later than normal. If conditions do not improve, they may elect to use a day of their vacation. If vacation time is not available, employee may request the day off without pay. Employees must contact their supervisor before the workday begins in any of the above situations.

**F. Emergency Response and/or Disaster Preparedness/Recovery**

In the event of a disaster, employees who perform emergency work due to any form of major disasters such as flooding, tornado, hurricanes, or other form of force majeure, fire management assistance declarations, preparation and/or recovery efforts, whether local or in response to a State or Federal deployment, employees either Exempt or Non-Exempt will be paid for their time worked regular and on overtime.



## PERSONNEL POLICIES AND PROCEDURES

### 7.09 Identification (ID) Card

As part of the United States Homeland Security Initiative, as well as satisfying the City's goal to provide a safe and secure environment to work, city employees are required to carry city-issued ID cards. By carrying ID cards, employees will be a part of this nationwide initiative as well as helping the City attain this goal.

This Policy applies to all full-time employees, except those in the Police and Fire Department. The Fire and Police Departments have individual policies consistent with their departmental security regulations.

#### **A. Reasons for Carrying/Wearing and ID Badge**

1. Provides better security by more easily identifying people in authorized and unauthorized areas.
2. Makes it easier for customers to identify the City employee with whom they are communicating.
3. Offers instant visual recognition that an individual is a legitimate employee of the City.
4. Gives employees in city facilities an opportunity to reasonably question anyone not carrying/wearing an ID badge.
5. May deter potential wrongdoers who prefer to operate in an environment where their presence will go unchallenged.
6. Serves as proof of an individual's status as an employee of the City.

#### **B. ID Badge Responsibilities**

1. Employees must carry or wear the ID badge at all times when working for the City, both in city buildings or in the field.
2. The ID badge will be displayed in plain view in a professional, business-like manner. Field workers have the option of a wallet ID badge that shall be kept with them while working in order to produce it if requested.
3. The badges are the property of the City, and any employee who alters or intentionally mutilates the badge, uses the badge of another employee, or allows his/her badge to be used by another employee is subject to corrective action.
4. Any transfer, falsification, or forgery of a city ID badge is a violation of city policy and may result in corrective action. In addition, fraudulent or illegal use of the City ID badge may result in criminal and/or civil charges.
5. The use of stickers or other items affixed to city ID badges is prohibited.
6. Each employee is responsible for the care, safekeeping, and use of his/her ID badge.
7. The City reserves the right to modify or revoke the badge at anytime.

8. The badges will be returned to Human Resources upon separation of employment.

**C. ID Badge Replacement**

1. No person shall possess more than one (1) city ID Badge. If a badge is lost and a replacement badge issued, and then later the original is found, one (1) shall be returned to Human Resources.
2. One replacement badge will be provided; however, the employee will be required to pay a charge for each additional badge required due to loss, misplacement, breakage, etc. Exception: If the badge needs to be replaced due to normal wear and tear on the job, no charge will be assessed.



## PERSONNEL POLICIES AND PROCEDURES

### 7.10 Workplace Monitoring

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

#### A. Telephone

Employees who regularly communicate with citizens and customers may have their telephone calls and conversations monitored and/or recorded. Telephone monitoring is used to identify and correct performance problems through targeted training, if needed. Improved job performance enhances our citizens' and customers' image of the City as well as their satisfaction with our service.

#### B. Video Surveillance

The City may conduct video surveillance of non-private workplace areas. Video monitoring is used to identify safety concerns, maintain quality control, detect theft and misconduct, and discourage or prevent acts of harassment and workplace violence.

#### C. Computer Resources

The City owns the contents of all files stored on its systems, all information within application files, and all messages transmitted over its systems. The City reserves the right to monitor any and all aspects of its computer system by human and/or automated means without prior notification to employees.

#### D. Inspections

Lockers, vehicles, offices, desks, file cabinets, and other city property used by employees are subject to inspection by a department director or designee at any time.



## PERSONNEL POLICIES AND PROCEDURES

### 7.11 Workplace Violence Prevention

The City of Marshall is committed to maintaining a safe work environment free of workplace violence, and therefore has a zero tolerance policy regarding violence.

#### A. Zero Tolerance

If an employee engages in any violence in the workplace, or threatens violence, employment may be terminated immediately. No talk of violence or joking about violence will be tolerated.

**Violence** includes physically harming another, shoving, pushing, harassing, intimidating, coercing, brandishing weapons, and threatening or talking of engaging in those activities at any time, including off-duty periods. It is the intent of this Policy to ensure that everyone associated with the City, including employees, customers, and citizens, never feel threatened by an employee's actions or conduct.

#### B. Violent Conduct

All employees, including supervisors and temporary employees, shall be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, "horseplay," or other conduct that may be dangerous to others.

#### C. Reporting Violence

Threats of (or actual) violence, both direct and indirect, must be reported as soon as possible to the immediate supervisor or any other member of management and the local Police Department. This includes threats by employees, as well as threats by customers, vendors, solicitors, or other members of the public. When reporting a threat of violence, the employee must be specific and detailed as possible.

Suspicious individuals or activities must also be reported as soon as possible to a supervisor. An employee must not be placed in peril. If an employee sees or hears commotion or a disturbance, they must not try to intercede or investigate what is happening.

The City encourages employees to bring their disputes or differences with other employees to the attention of their supervisors or Human Resources before the situation escalates into potential violence.

#### D. Zero Tolerance

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



## PERSONNEL POLICIES AND PROCEDURES

### 7.12 Possession of Weapons

- A. No employee, including employees licensed to carry a handgun, will possess any weapon at any City worksite.
- B. Exceptions:
  - 1. A certified peace officer does not violate this section by the possession of a weapon while at a City worksite as long as the peace officer's possession of the weapon is in the course and scope of their job as a certified peace officer with the City of Marshall and is not in violation of state or federal law.
  - 2. An employee does not violate this section by the possession of a weapon while at a City work site as long as the weapon remains inside a vehicle that is not owned, leased, or otherwise controlled by the City and the employee's possession of the weapon is not in violation of state or federal law.
  - 3. An employee does not violate this section by possession of a dart gun, air-powered rifle, or a bite prevention stick while at a City worksite if possession of the dart gun or bite prevention stick is approved by the director and does not otherwise violate state or federal law. A dart gun, air-powered rifle, or bite prevention stick may be used solely in the course and scope of employment of an animal control officer employed by the City.
  - 4. A code enforcement officer holding a certificate of registration does not violate this section by the possession of a club while at a City worksite as long as the code enforcement officer's possession of the club is in the course and scope of their job as a certified code enforcement officer with the City of Marshall and is not in violation of state or federal law.
- C. This Policy is subject to the provisions of state and federal law.



## PERSONNEL POLICIES AND PROCEDURES

### 7.13 Security Access

In a public building there is a need to balance the accessibility and use of facilities with the need to provide a safe and secure environment. Convenience must sometimes be compromised in order to maintain security. Each city employee must share in the responsibility to assure security for employees and property.

- A. The City maintains a locking system for the protection of its employees, facilities, property, and information. All locks, keys, and access codes are the sole property of the City of Marshall and will be issued to employees based on their need for access. The City reserves the right to change locks, keys, and access codes as needed. All keys must be returned to the City upon termination of employment. Employees exiting city buildings at the end of the business day shall ensure that all exterior doors are locked using the key(s) assigned.
- B. Security codes shall be changed at the discretion of the City Manager or designee. Visitors and non-employees in city buildings must remain in public access areas unless accompanied into an employee only area by a city employee. City employees shall not reveal security codes to anyone other than another employee. Revealing a security code to a non-employee may result in corrective action.
- C. No unauthorized person shall make, duplicate, possess, or use keys to city premises without authorization. No person may transfer any city key from an individual entrusted with its possession to an unauthorized person or be in unauthorized possession of a city key. No person shall replace without permission, damage, tamper with, or vandalize any city lock or security device.
- D. All losses and theft of city keys are to be reported to the City Manager's office. The request to replace lost or stolen keys shall be accompanied by a written explanation describing the facts surrounding the loss, particularly the location of the loss and what doors the keys open. Based on the factors involved, a decision will be made to replace the keys or have the locks re-keyed. The individual whose keys were lost shall assume the cost of replacement keys. The department shall assume the cost of re-keying. The fees for key replacement will increase with subsequent losses by the same individual.



## PERSONNEL POLICIES AND PROCEDURES

### 7.14 Social Media Policy

Amended 11.08.2023

#### A. Use of Social Media on Behalf of the City

The City Council and the City Manager have an overriding interest and expectation in deciding who may "speak" and what is "spoken" on behalf of the City on social media sites. This Policy establishes guidelines for the use of social media. The City Manager or his designee shall approve what social media outlets may be suitable for use by the City and its departments.

1. All official City presences on social media sites or services are considered an extension of the City's computer information network and are governed by and subject to the City's policy on "Internet Access and Electronic Mail Policy" contained in this Policy.
2. The City Manager, or their designee, will review all department requests to use social media sites.
3. Departments that use social media are responsible for complying with applicable federal laws and City policies. This includes adherence to established laws and policies regarding copyright, records retention, the Texas Public Information Act, the First Amendment of the U.S. Constitution, privacy laws and information security policies established by the City.
4. Employees must abide by all federal and state law and policies of the City with regard to information sent through the internet. City social networking sites are subject to the Texas Public Information Act, Federal e-discovery rules, and the City's records retention schedules that apply to social networking content. Records required to be maintained pursuant to a relevant records retention schedule shall be maintained for the required retention period in a format that preserves the integrity of the original record and is easily accessible using the usual or approved City platforms and tools.
5. All social network sites and entries shall clearly indicate that any content posted or submitted for posting are subject to public disclosure.
6. The City reserves the right to restrict or remove any content that is deemed in violation of this Policy or any applicable law as well as material that is contrary to promoting the City's mission or reflects negatively on the City.
7. Each City social networking site shall include an introductory statement which clearly specifies the purpose and topic of the blog and social network site. Where possible, social networking sites should link back to the official City internet site for forms, documents, and other information.
8. City social networking content containing any of the following forms of content shall not be allowed for posting. Examples include but are not limited to:
  - a. Comments not topically related to the particular site or blog article being commented upon;
  - b. Profane language or content;

- c. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
- d. Sexual content or links to sexual content;
- e. Solicitations of commerce;
- f. Conduct or encouragement of illegal activity;
- g. Information that may tend to compromise the safety or security of the public or public systems;
- h. Content that violates a legal ownership interest of any other party;
- i. Information or references to the personal addresses, personal telephone numbers, personal e-mail addresses, family members or other personal information of City officials or City employees;
- j. Commercial promotions or spam; or
- k. Organized political activity.

9. All social networking sites shall clearly indicate they are maintained by the City and shall have City contact information prominently displayed.

10. Where applicable, City security policies including, but not limited to, information technology security policies shall apply to all social networking sites and their contents.

11. Employees representing the City government via social media outlets must conduct themselves at all times as a representative of the City and in accordance with the City's Personnel Policy Manual. Employees using social media sites, whether as a manager or as a responder to a posting, will follow these guiding principles:

- a. Employee should maintain transparency by using his/her real name and job title, and by being clear about his/her role in regards to the subject.
- b. Employee will make it clear to readers when he/she is writing about a topic for which he/she is not the City's expert.
- c. Keep postings factual and accurate. If a mistake is made, admit to it and post a correction as soon as possible.
- d. Reply to comments in a timely manner, when a response is appropriate. When disagreeing with others' opinions, keep responses appropriate and polite.
- e. Post meaningful, respectful comments that are on topic.
- f. Understand that postings are widely accessible, not retractable, and will be around for a long time so consider content carefully.
- g. Ensure your comments do not violate the City's privacy, confidentiality, and applicable legal guidelines for external communication. Never comment on anything related to legal matters, litigation or any parties with whom the City may be in litigation, without the appropriate approval.
- h. The legal right to publish others' material, including photos and articles pulled from other sites, must always be obtained prior to posting. Do not publish photos taken while on the scene of any incident. Respect brand, trademark, copyright, fair use, disclosure of processes and methodologies, confidentiality, and financial disclosure

laws. When using material from copyright-free sources, include appropriate attributions.

## **B. Employee Personal Use of Social Media**

An employee's use of social media, both on and off duty, must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City or violate any City policy. The intent of these standards is to regulate the creation and distribution of information concerning the City, its employees, and citizens through the use of social media and social networking. Protecting the City's reputation and ensuring that an employee's communication with people outside the City is positive not only reflects positively on the employee as an individual, but also on the City.

Personal use of the City's internet is a privilege and carries responsibilities requiring responsible and ethical use. The City may monitor an employee's access, use, and postings to the internet, with cause, to ensure compliance with internal policies, support the performance of internal investigations, assist management of information systems, and for all other lawful purposes. The City expects all employees to follow the guidelines below when posting information on the internet, regardless of use on or off duty. This Policy encompasses social media and social networking.

This Policy should be read and interpreted in conjunction with other City policies including, but not limited to, policies prohibiting harassment, discrimination, offensive conduct, or inappropriate behavior and the City's Electronic Communications policy.

This Policy is not intended to infringe on employee rights. It is not intended to preclude or dissuade employees from engaging in any activities that are protected by state or federal law (including the National Labor Relations Act) such as discussing wages, benefits, or terms and conditions of employment or raising complaints about working conditions for their own benefit or for the benefit of their coworkers.

## **C. Employee Guidelines**

1. Any blogging or posting information on the internet must comply with the City's guidelines (as listed below) regardless of where the blogging or posting is done.
2. Blogging, or posting information of a personal nature on the internet, is prohibited during work hours except during a break. Employees may not engage in social networking while using any of the City's electronic resources, with the exception of the City's WIFI system. Never disclose any confidential information concerning another employee of the City in a blog or other posting to the internet. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.
3. Employees are encouraged to act responsibly on and off duty and to exercise good judgment when using social media.
4. Do not post information on the internet that could adversely impact the City and/or an employee of the City. Respect coworkers and the City. Do not put anything on your blog or post any information and/or pictures on the Internet that may defame, embarrass, insult, demean, or damage the reputation of the City or any of its employees.

5. Do not put anything in your blog or post any information and/or pictures that may constitute violation of the City's Harassment policy.
6. Do not post any pornographic pictures of any type that could identify you as an employee of the City.
7. Do not post pictures of yourself or others containing images of City uniforms or insignia, City logos, City equipment or City work sites that will reflect negatively on the City.
8. Do not permit or fail to remove postings violating this Policy even when placed by others on the employee's blog. Recognize that postings, even if done off premises and while off duty, could have an adverse effect on the City's legitimate business interests.
9. Individual supervisors do not have the authority to make exceptions to these guidelines.

No form of social media is considered private or confidential even if password protected or otherwise restricted. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed, or received through its communications systems or equipment at any time with cause.

**D. Prohibited applications on City Equipment per SB 1893.** The up-to-date list of prohibited technologies is published at <https://dir.texas.gov/information-security/prohibited-technologies>. The following list is current as of January 23, 2023.

- Alipay
- ByteDance Ltd
- CamScanner
- Kaspersky
- QQ Wallet
- SHAREit
- TikTok
- VMate
- WeChat
- WeChat Pay
- WPS Office
- And any subsidiary or affiliate of an entity listed here

**E. Prohibited Hardware/Equipment/Manufacturers**

- Huawei Technologies Company
- ZTE Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company
- SZ DJI Technology Company
- Hytera Communications Corporation
- Any subsidiary or affiliate an entity listed above.

## **F. Discipline**

1. Employees found in violation of any provision of this Policy may be subject to corrective action up to and including termination of employment. Where laws are violated, the City may pursue criminal and/or civil action against the employee.
2. All Department Directors are responsible for their subordinates' compliance with the provisions of this Policy and for investigating non-compliance.
3. Internet user account and password access may be withdrawn without notice if an employee violates this Policy.



## PERSONNEL POLICIES AND PROCEDURES

### 7.15 Breastfeeding Policy

The City of Marshall supports breastfeeding mothers by accommodating the mother who wishes to express breast milk during her workday when separated from her newborn child.

#### A. Eligibility

Employee who is breastfeeding.

#### B. Benefit

1. An employee lactation room will be provided in the City Hall building as a private place for employees who are breastfeeding to express milk during work hours.
2. Each City-owned facility has space available for expressing breast milk. The department director and a Human Resource representative will designate a private room, other than a restroom, which is free from intrusion in other City buildings for employee use as the need arises.
3. Access to a nearby, clean, safe water source and a sink is available for washing hands and rinsing out any needed breastfeeding equipment. Sinks and water supplies are available in any City restroom or breakroom located within each City facility.
4. Access to hygienic storage in the workplace for the mother's breast milk will be provided. Shared refrigerators are available in each City-owned facility. Employees using the refrigerator shall clearly mark their stored belongings with their name.
5. Reasonable, unpaid break time for an employee to express breast milk for her nursing child.

#### C. Requesting Breaks

The Employee is responsible for coordinating with her manager reasonable break times to express milk.



## PERSONNEL POLICIES AND PROCEDURES

### 7.16 Personal Identity Information (PII) Security Notification, and Confidentiality

The City of Marshall recognizes the importance of maintaining the confidentiality of Personal Identity Information (PII) and understands that such information is unique and sensitive to each individual. The PII covered by this policy may be obtained from various individuals performing tasks on behalf of the City including employees, applicants, vendors, independent contractors, and any PII maintained on its database.

All City departments which encounter PII have the delegated authority for developing and implementing procedural guidance for ensuring that their departmental responsibilities under this Policy are communicated and enforced appropriately.

#### A. PII Retention

The City understands the importance of minimizing the amount of PII data it maintains and retains such PII only as long as necessary. The City Secretary's office is responsible for maintaining organizational record retention procedures, which dictate the length of data retention and data destruction methods for both hard copy and electronic records.

#### B. PII Training

All new hires who may have access to PII are provided with introductory training regarding the provisions of this policy, a copy of this policy, and implementing procedures for the department to which they are assigned. Employees in positions with regular ongoing access to PII or those transferred into such positions are provided with training reinforcing this policy as well as procedures for the maintenance of PII data and shall receive annual training regarding the security and protection of PII data and City proprietary data.

#### C. PII Audit(s)

The City conducts annual audits of PII information maintained by the City in conjunction with fiscal year closing activities to ensure that this policy remains strictly enforced and to ascertain the necessity for the continued retention of PII information. Where the need no longer exists, PII information will be destroyed in accordance with protocols for destruction of such records and logs maintained for the dates of destruction. The audits are conducted by Finance, IT, Human Resources, as well as other departments which may have access to PII under the auspices of the City Attorney.

#### D. Data Breaches/Notification

Databases or data sets that include PII may be breached inadvertently or through wrongful intrusion. Upon becoming aware of a data breach, the Finance Director or his/her designee

will notify all affected individuals whose PII data may have been compromised. The notice will be accompanied by a description of action being taken by the City to reconcile any damage as a result of the data breach. Notices will be provided as expeditiously as possible and in no event be later than the commencement of the payroll period after which the breach was discovered.

The City Attorney will handle breach notifications(s) to all governmental agencies to whom such notice must be provided in accordance with time frames specified under these laws. Notices to affected individuals will be communicated by Human Resources after consultation with the City Attorney and within the time frame specified under the appropriate law(s).

## **E. Data Access**

The City maintains multiple IT systems where PII data may reside. Thus, user access to such IT systems is the responsibility of the IT department. The IT department has created internal controls for such systems to establish legitimate access for users of data, and access shall be limited to those approved by IT. Any change in vendor status or the termination of an employee or independent contractor with access will immediately result in the termination of the user's access to all systems where the PII may reside.

## **F. Data Transmission and Transportation**

1. City Premises Access to PII: The Finance, Human Resources, IT, and other departments with access to PII have defined responsibilities for on-site access of data that may include access to PII. IT has the oversight responsibility for all electronic records and data access capabilities. Finance and Human Resources have the operational responsibility for designating initial access and termination of access for individual users within their organizations and providing timely notice to IT.
2. Vendors: The City may share data with vendors who have a business need to have PII data. Where such inter-company sharing of data is required, the IT department is responsible for creating and maintaining data encryption and protection standards to safeguard all PII data that resides in the databases provided to vendors. Approved vendor lists will be maintained by the Finance department, and Finance has responsibility to notify IT of any changes to vendor status with the City.
3. Portable Storage Devices: The City reserves the right to restrict PII data it maintains in the workplace. In the course of doing business, PII data may also be downloaded to laptops or other computing storage devices to facilitate City business. To protect such data, the City will also require that any such devices use IT department approved encryption and security protection software while such devices are in use on or off City premises. The IT department has responsibility for maintaining data encryption and data protection standards to safeguard PII data that resides on these portable storage devices. Employees utilizing portable storage devices must:
  - a. Share the responsibility for protecting the security of the equipment from unauthorized users.
  - b. Be aware of and follow appropriate security provisions concerning logging on or off City computer systems and networks.

- c. Maintain the confidentiality of their password and of all data that is placed on or deleted from a City computer. It is particularly critical that employees not divulge their passwords to anyone.
- d. Report all security breaches, including compromised passwords, to their supervisor.
- e. Secure such devices when not in use to prevent unauthorized access or theft.

4. Off-Site Access to PII: The City understands that employees may need to access PII while off site or on business travel, and access to such data shall not be prohibited, subject to the provision that the data to be accessed is minimized to the degree possible to meet business needs and that such data shall reside only on assigned laptops/approved storage devices that have been secured in advance by the IT department.

## **G. Regulatory Requirements**

It is the policy of the City to comply with any international, federal or state statute and reporting regulations. The City has delegated the responsibility for maintaining PII security provisions to the departments noted in this policy. The city attorney shall be the sole entity named to oversee all regulatory reporting compliance issues. If any provision of this policy conflicts with a statutory requirement of international, federal or state law governing PII, the policy provision(s) that conflict shall be superseded.

## **H. Employee Recourse**

If an employee has reason to believe that his or her PII (please refer to what constitutes PII) data security has been breached or that City representative(s) are not adhering to the provisions of this policy, an employee should contact an HR representative.

## **I. Confirmation of Confidentiality**

All City employees must maintain the confidentiality of PII as well as City proprietary data to which they may have access and understand that such PII is to be restricted to only those with a business need to know.

## **J. Violations of PII Policies and Procedures**

The City views the protection of PII data to be of the utmost importance. Infractions of this policy or its procedures will result in corrective actions under the City's discipline policy and may include suspension or termination in the case of severe or repeat violations. PII violations and corrective actions are incorporated in the City's PII onboarding and refresher training to reinforce the City's continuing commitment to ensuring that this data is protected by the highest standards.



## PERSONNEL POLICIES AND PROCEDURES

### 8.01 Corrective Action

It is the policy of the City of Marshall that employees comply with certain standards of behavior and performance and where noncompliance is corrected in a manner that protects the dignity of employees. Corrective action is considered a dimension of performance evaluation and employee development. It is a corrective process to help employees overcome work-related shortcomings, strengthen work performance, and achieve success. The following corrective actions are merely suggestions. Each corrective action will be tailored to fit the specific offense or violation and may take into consideration the specific situation and previous performance record of the individual involved.

#### A. Reasons for Action

Corrective action may be taken for an employee's failure to maintain minimum performance standards as corrective action for misconduct or for an employee who is experiencing a series of unrelated problems involving job performance or behavior. Unrelated performance problems may be considered separately unless the effect of the performance deficiencies has a cumulative effect on the employee's overall performance.

#### B. Documentation

Supervisors are expected to document corrective action using the *Counseling/Disciplinary Form*. The documentation should contain a description of the behavior that prompted the discipline, the action taken, and how the employee's conduct must change, including time frames, as necessary. Every corrective action taken shall be recorded so as to provide documentation that rules are enforced equitably and in accordance with stated policy without regard to race, gender, national origin, disability, age, religion, or any other characteristic provided by law. All corrective documentation shall be sent to Human Resources to be kept in the employee's personnel file.

#### C. Procedure

The City reserves the right to exercise any of the corrective options up to and including termination of an employee. Repeating or jumping a step or moving to immediate discharge may be appropriate depending on the circumstances and management's judgment.

**Below are examples of the levels of discipline:**

##### 1. Verbal Warning

A verbal warning is best suited for a minor rule infraction or incident of substandard performance. It is usually the first step in the corrective action process to bring attention to the existing performance, conduct, or attendance issue. The supervisor should discuss with the employee the nature of the problem or violation of city policies. The supervisor is expected to clearly outline expectations and steps the employee must take to improve

performance or resolve the problem. A *Counseling/Disciplinary Form* detailing the event shall be signed by the employee and the supervisor and submitted to Human Resources within five (5) business days. A memo may be prepared by the supervisor if needed and attached to the *Performance Correction Notice*. A copy must be kept in the employee's personnel file in Human Resources.

## **2. Written Reprimand**

A written reprimand is a higher form of discipline that is a more formal documentation of the performance, conduct, or attendance issues and consequences. A *Counseling/Disciplinary Form* detailing the event and clearly outlining expectations and steps the employee must take to improve performance or resolve the problem shall be signed by the employee and the supervisor and submitted to Human Resources within five (5) business days. A memo may be prepared by the supervisor if needed and attached to the *Counseling/Disciplinary Form*. A copy of the written reprimand must be kept in the employee's personnel file in Human Resources.

The immediate supervisor will meet with the employee and review any additional incidents or information about the performance, conduct, or attendance issues as well as any prior relevant Performance Improvement Plans. Management will outline for the employee the consequences if he/she continues to fail to meet performance, conduct, or attendance expectations. A notification outlining that the employee may be subject to additional discipline up to and including termination if immediate and sustained corrective action is not taken may also be included in the reprimand.

## **3. Delay of Step Increase**

A department director may authorize a delay of a scheduled step increase as a corrective measure or for unsatisfactory performance. The supervisor and employee will create a *Performance Improvement Plan*. A copy of the written notice of delay of step increase, which indicates the date when the step increase will be re-evaluated, and the Performance Improvement Plan must be submitted to Human Resources within five (5) business days and kept in the employee's personnel file. If the employee meets the required performance standards upon re-evaluation, the employee may be eligible to receive an increase consistent with their performance level if annual increases are budgeted. The increase shall not be retroactive.

## **4. Corrective Probation**

The purpose of corrective probation is to allow the employee a stated period of time to demonstrate improvement on a specific problem or problems specified at the time the employee is placed on corrective probation. A Performance Improvement Plan that includes a statement of the problem, action steps to achieve necessary improvement, length of probation period, and information concerning further corrective action that could result from failure to show improvement shall be signed by the employee. Corrective probation shall not exceed one year in duration and may be used in conjunction with a suspension after a serious or repeated violation. No merit increases or promotions will be authorized during corrective probation. A copy of the corrective probation memo must be submitted to Human Resources within five (5) business days and kept in the employee's personnel file in Human Resources.

## **5. Suspension**

A department director may authorize suspension without pay for up to 120 hours in a single calendar year with the approval of Human Resources. Suspensions over 120 hours shall require the written authorization of the City Manager. Employees, in all suspensions, shall be given written notice of the reasons for the suspension. The notice shall document the offense and the alternatives upon return to work are either immediate improvement or termination. Suspensions shall be signed by the employee, the supervisor, department director, and Human Resources Manager and must be submitted to Human Resources within five (5) business days and kept in the employee's personnel file.

**a. Suspension during Criminal or Civil Proceedings**

During investigation, hearing, or trial of an employee on any civil or criminal charge, the employee may be placed on administrative leave with or without pay, for the duration of the proceedings, (whenever such suspension would be in the best interest of the City). The department director will issue an administrative leave memo, have the employee sign and forward to Human Resources Department where the Human Resources Manager will sign. A copy must be kept in the employee's personnel file in Human Resources. This is not a corrective action but merely a status until the results of the investigation, hearing, or trial is obtained.

**6. Demotion**

A Department Director may demote an employee for reasons which include, but are not limited to, a violation of rules or policies or repeated refusal or inability to improve performance. Demotions may be permanent or for a predetermined period of time and may be used in conjunction with a corrective probation. Corrective demotions may be accompanied by a reduction in wage, if appropriate. Employees shall be given written notice of the reason(s) and duration of the demotion, and in the case of a temporary demotion, the Performance Improvement Plan required for the employee to be reinstated to the former position. A copy of the written notice of demotion must be submitted to Human Resources within five (5) business days and kept in the employee's personnel file in Human Resources.

**7. Administrative Leave**

Administrative leave can be used for corrective purposes, decision making leave, a cooling off and/or transition period.

**8. Termination**

Employees may be terminated at any time. Termination is normally taken when other Corrective actions have been utilized, but performance has not changed or when an employee has committed a major violation or exhibited behavior that is unacceptable to the City. Termination shall be approved by Human Resources and the City Manager. Employees who are terminated are not eligible to receive unused benefits except for accrued vacation leave. A copy of the termination letter must be reviewed and approved by Human Resources before proceeding with the termination. A copy of this letter will be kept in the employee's personnel file in Human Resources.

**D. Corrective Action and Performance Evaluation**

Employee(s) on probation or suspension are not eligible for a merit increase. After the employee is removed from Corrective status, the employee may be eligible to receive an increase consistent with their performance level if annual increases are budgeted. The increase shall not be retroactive.

Nothing in this policy provides any contractual rights regarding employee discipline or counseling nor should anything in this policy be read or construed as modifying or altering the employment-at-will relationship between the City of Marshall and its employees.



## PERSONNEL POLICIES AND PROCEDURES

### 8.02 Employee Conduct and Work Rules

All employees are expected to conduct themselves both on and off the job in accordance with the standards set forth in this policy and are expected to exemplify conduct that is lawful and professional. Employees conduct, on or off the job, should instill public confidence and trust and should not bring the City into disrepute. An employee's off-duty behavior must maintain the expected ethical and conduct standards and not discredit or adversely impact the City's image or public trust. Compliance with these standards of conduct is a condition of employment.

The following work rules relating to personal conduct are intended to provide minimum guidelines for employee conduct and work performance and to inform employees of prohibited conduct. Engaging in one or more of the following forms of prohibited conduct may result in corrective action up to and including termination.

Each employee has a duty to report to a supervisor, department director, or to the Human Resources department any employee conduct that such person believes is a violation of the law, constitutes a misuse of City funds or assets, or represents a danger to public health and safety. An employee will not be subject to corrective action or reprisal for bringing forward, in good faith, allegations of wrongdoing in accordance with this policy.

The following is a non-exclusive list of examples of employee conduct for which an employee may be disciplined. The City has the right to exercise any corrective options as the situation may warrant.

- A. Unsatisfactory attendance** is exemplified by, but is not limited to, the following violations:
  - 1. Unexcused absence or tardiness;
  - 2. Failure to give notice of an absence or tardiness to the supervisor before the start of their work day, or as may be prescribed by departmental policy;
  - 3. Separate absences or days of tardiness which exceed the average absences or days of tardiness of the employee's work group and which lack sufficient justification;
  - 4. Absence or tardiness that causes significant curtailment or disruption of services without sufficient justification; or
  - 5. Abuse of leave, such that the employee's absence from the workplace renders the employee unable to perform the essential functions of the job at a satisfactory level, except as covered by the Family and Medical Leave Act.
- B. Excessive use of sick leave** may constitute grounds for the assumption of the department director that the physical condition of an employee is below the standard required for the employee to perform the essential functions of the job. Failure to provide a physician's certification will be deemed a violation of City Policy and subject to discipline action. Refer to *Section 5.01 – Sick Leave* for more information.

- C. **Abandonment** occurs when an employee deliberately and without authorization is absent from the job or refuses a legitimate order to report to work for two (2) consecutive workdays. The employee is deemed to have abandoned his/her job and shall be terminated.
- D. **Inability to come to work** occurs when an employee is absent due to an extended illness or injury after all eligible leave has been exhausted except when the employee's absence is covered by the Family and Medical Leave Act.
- E. **Inability or unwillingness to perform assigned work satisfactorily** is exemplified by, but is not limited to, the following violations:
  1. Failure to follow routine written or verbal instructions;
  2. Arguing over assignments or instructions; or
  3. An accumulation of other deficiencies indicating the employee's continuing failure to adequately perform in a productive, efficient, and competent manner.
- F. **Indifference toward work** is exemplified by, but is not limited to, the following violations:
  1. Inattention, inefficiency, loafing, sleeping, carelessness, or negligence;
  2. Reading unauthorized material, playing games, watching television, movies or accessing unauthorized internet sites, unauthorized e-mail usage, or otherwise engaging in entertainment while on the job and/or in view of the public;
  3. Excessive failure to remain at one's work station without notifying his/her supervisor, leaving work without permission, or taking excessive time or more time allowed for eating or break periods;
  4. Smoking or using tobacco products in other than designated areas;
  5. Performance of personal business during working hours;
  6. Interference with the work of others; or
  7. Discourteous or irresponsible treatment of the public or other employees.
- G. **Sabotage** is exemplified by, but is not limited to, the following violations:
  1. Deliberate damage to or destruction of City equipment or property;
  2. Defacing of City property;
  3. Unauthorized alteration, removal, destruction, or disclosure of City records;
  4. Advocacy of or participation in unlawful trespass or seizure of City property;
  5. Encouraging or engaging in slowdowns, sit-ins, strikes, or other concerted actions or efforts to limit or restrict employees from working;
  6. Encouraging City employees to disobey provisions of these rules and regulations, the City Charter, City Ordinances, or other laws;
  7. Interference with the public use of or access to City services, properties, or buildings; or
  8. Threats to commit any act of sabotage as defined in this subparagraph.
- H. **Safety and workplace violations** is exemplified by, but is not limited to, the following violations:
  1. Failure to follow City or departmental safety rules and regulations;

2. Failure to use required safety apparel and/or (PPE) Personal Protective Equipment;
3. Removal or circumvention of a safety device;
4. Lifting in a manner which may cause injury;
5. Operations of a vehicle or other equipment in an unsafe, negligent, or careless manner;
6. Smoking in a prohibited area;
7. Endangering of one's own safety or that of others by careless or irresponsible actions or negligence;
8. Failure to report an on-the-job injury, vehicle accident, or unsafe working condition;
9. Failure of a supervisor to remove from the workplace or to assist to a safe location an employee whose mental capabilities are impaired due to injury, illness, alcohol or drug use, or emotional distress;
10. Sharing a City key, identification card, building entry code, or security badge with another employee or third-party;
11. Use of another's computer sign-on or computer access code(s) or providing an individual's sign on or computer access code to a third party without proper authorization to gain access to the City's computer network or access to confidential or privileged information;
12. Reading another employee's mail, correspondence, or email without express permission, except as otherwise authorized by personnel policy;
13. Listening to another employee's voicemail without express permission, except as authorized by the personnel policy; or
14. Failure to maintain a driving record acceptable to the City.

**I.** **Dishonesty** is exemplified by, but is not limited to, the following violations:

1. Acceptance of money or anything of value from a person subject to the regulatory decision or supervision of the employees;
2. Cheating, forging, or falsification of official City reports or records;
3. False reporting of the reason for a paid leave of absence;
4. Failure to accurately record time records, or recording the time of another employee; or
5. Any other falsifying action detrimental to the City, City employees, or others.

**J.** **Theft**, regardless of the item value, is exemplified by, but is not limited to, the following violations:

1. Unauthorized taking of City property, City supplies, or the property of others for personal use;
2. Unauthorized use of City or employee funds;
3. Using or authorizing the use of City equipment, supplies, or employee services for other than official City business, including the unauthorized use of long distance or pay telephone services (including "900" toll calls); or
4. Using or authorizing the use of City equipment or employee services without proper authority.

**K.** **Insubordination** is exemplified by, but is not limited to, the following violations:

1. Willful failure or refusal to follow the specific orders or instructions of a supervisor or higher authority; or
2. Pursuit of a denied request to a higher authority without revealing the lower level disposition provided that:
  - a. If the employee believes an instruction or order is improper, he should request an interpretation of the next higher level of authority; or
  - b. If the employee believes the instruction or order, if followed, would result in physical injury to the employee or others, or damage to City equipment, the employee should request approval by the next higher level of supervision before performing the work, unless the danger complained about is inherent to the job.

**L.** **Abuse of drugs or alcohol** is exemplified by, but is not limited to, the following violations:

1. An employee is judged unable to perform duties in an effective and safe manner due to:
  - a. ingestion, inhalation, or injection or application of a substance on/or into the human body; or
  - b. ingestion of an alcoholic beverage;
  - c. An employee possesses or ingests, inhales, or injects into his/her body drug:
    - i. during working hours and lunch periods;
    - ii. in a City vehicle;
    - iii. on City property; or
  - d. An employee possesses or ingests an alcoholic beverage:
    - i. during working hours and lunch periods;
    - ii. in a City vehicle; or
    - iii. on City property except at an authorized City event.

**M.** **Disturbance** is exemplified by, but is not limited to, the following violations:

1. Fighting or boisterous conduct;
2. Deliberate causing of physical injury to another employee or citizen;
3. Harassment or intimidation;
4. Unnecessary disruption of the work area;
5. Use of profane, abusive, threatening, or loud and boisterous language;
6. Sexual harassment;
7. Spreading of false reports; or
8. Other disruption of the harmonious relations among employees or between employees and the public.

**N.** **Unauthorized use of City property** is exemplified by, but is not limited to, the following violations:

1. Intentional, careless, or negligent damage or destruction of City equipment or property;

2. Waste of materials or negligent loss of tools or materials;
3. Improper maintenance of equipment;
4. Damage caused by use of tools or equipment for purposes other than that for which the tool or equipment was intended; or
5. Unauthorized internet or e-mail usage.

**O.** **Misconduct** is any criminal offense or immoral conduct, during or off working hours, which, on becoming public knowledge, could have an adverse effect on the City or the confidence of the public in City government. “Criminal offense” means any act constituting a violation of law and/or resulting in charges being filed, indictment, arrest, conviction or confinement.

Employees must notify their immediate supervisor and the supervisor will notify the Human Resources Manager within 24 hours of any arrest, charge, indictment or driver’s license suspension/revocation, whether related to on-duty or off-duty events. Employees may be transferred, demoted or terminated if it is determined by the City in an administrative review that the criminal offense is inappropriate for the position or might otherwise compromise the public trust or confidence in the City government.

In determining whether the criminal offense is inappropriate for the position in question, the City will consider, but is not limited to, the following factors:

1. Nature of the position;
2. Nature of the offense;
3. Severity of the offense;
4. Security of other employees and/or citizens;
5. Disruption of the workplace; or
6. Violation of public trust.

**P.** **Disregard of public trust** is any conduct, during or off working hours, which, on becoming public knowledge, could impair the public’s confidence or trust in the operation of City government.

**Q.** **Failure to report a violation** is exemplified by, but not limited to, failure to report to the proper authority any known violation described in the subsections.

**R.** **Failure maintain competency:** An employee shall maintain sufficient competence to properly perform his/her duties and to assume the responsibilities of his/her position. He/she shall direct and coordinate his/her efforts in a manner that will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the City. The fact that the employee was deemed competent at the time of employment shall not preclude a judgment of incompetence as the result of job performance deficiencies. Apart from, or in addition to, other methods of proof of incompetence, such as failure to achieve and maintain acceptable job proficiency and to accept and execute duties, responsibilities, instructions, and orders with minimum supervision, a written record of repeated corrective actions for infractions of policies, rules, regulations, manuals, or directives, or repeated adverse counseling reports and/or evaluations reflecting need for improvement or indicating performance inadequacies, will be considered *prima facie* evidence of incompetence.

**S.** **Discrimination:** No employee shall discriminate against any individual on the basis of race, color, creed, religion, gender, national origin, age, disability, or physical handicap.

- T. Professional appearance:** An employee shall maintain a neat, well-groomed appearance and style of his/her hair and wear his/her uniform or other apparel in accordance with individually established departmental standards.
- U. Labor organizations:** No employee shall engage in any form of unauthorized labor organization or political association activities while on duty or on City property. An employee shall have the right to join labor organizations, but nothing shall compel the City to recognize or to engage in collective bargaining with any such labor organizations.
- V. Membership in unlawful groups:** No employee shall be or become a member with intent to further its aims of any organization, association, movement, or group which advocates or approves the commission of acts of force or violence to deny others their rights under the Constitution of the United States or which seeks to alter the form of government of the United States by unlawful means.
- W. Criminal or traffic violations:** Employees shall notify their immediate supervisor of criminal violations, any arrest, indictment or convictions within five (5) calendar days of such criminal violation, arrest, indictment or conviction. Employees who operate City vehicles or equipment are required to notify their supervisor immediately of all traffic violations, excluding parking violations of any conviction therefore.
- X. Civil lawsuit:** Employees shall notify their immediate supervisor of any civil lawsuit that is brought against them.
- Y. Confidentiality and use of information:** No employee shall make known any information concerning the progress of an investigation, a known or reported law violation, a condition against which action is to be taken at a future time or any proposed law enforcement action to any person not authorized to receive it. An employee shall treat the official business of the City as confidential and shall disseminate information regarding official business only to those for whom it is intended in accordance with established City procedures and consistent with Public Information Act. An employee may remove or copy official records or reports from a City office only in accordance with established procedures and with the approval of the applicable department director. An employee shall not promise confidentiality or divulge the identity of a person giving confidential information except when authorized by proper authority and necessary in the performance of their work. Further, an employee shall not use information gained from any City information system for anything other than official City business.
- Z. Administrative review or internal investigation:** An employee shall fully cooperate and is required to answer all questions truthfully and with full disclosure. Any employee failing or refusing to cooperate in an investigation will be subject to corrective action up to and including termination.



## PERSONNEL POLICIES AND PROCEDURES

### 8.03 Employee Appeal Process

An employee who wishes to appeal a corrective action may do so by following the procedure below. Written notification of the appeal of a Corrective action must be presented to the following supervisory and management personnel in the order indicated.

#### A. Step One – Appeal to Department Director

A written appeal shall be presented to the department director within seven (7) City business days of the corrective action taken. The department director will notify the Human Resources Manager that an appeal has been received. The department director will review the facts and will render a written decision within five (5) City business days, or if the department director is absent or is to be absent, within five (5) City business days of returning to work. The department director will forward copies of the decision to the employee and the Human Resources Department.

#### B. Step Two – Appeal to City Manager

In the event the decision of the department director is eligible to be appealed, and is requested, the City Manager shall hear the appeal within five (5) City business days of the request, unless the date is extended by mutual agreement between the employee and the City Manager. The City Manager reserves the right to appoint one or more designees to hear an appeal in his/her stead at any time during the appeal procedure. Representation by an attorney shall be permitted. The employee, the employee's own attorney (if applicable), the department director, the City Attorney, and witnesses shall have the opportunity to be present at the hearing before the City Manager and answer questions addressed by the City Manager, and to present their side of the issue.

The City Manager shall have the absolute right to determine the case on the merits. The City Manager shall render a written decision to the employee and department director within five (5) City business days of the conclusion of the appeal hearing. The decision of the City Manager is final.



## PERSONNEL POLICIES AND PROCEDURES

### 8.04 Grievance

Grievance policies and procedures empower employees by ensuring that their voices are heard. A formal process improves employee morale, relieves immediate supervisors of ongoing disputes, and helps to ensure that disagreements or other problems are addressed in a prompt and orderly fashion.

The scope of a grievance is limited to the inappropriate or inconsistent application of a written policy.

No employee will retaliate against a grieving employee.

#### A. FILING THE GRIEVANCE

An employee who believes to be the subject of a grievable act is strongly encouraged to discuss the matter with an immediate supervisor – minimally, in an informal manner. If the immediate supervisor cannot resolve the employee's concerns, the employee may pursue filing a formal grievance in accordance with this policy. Nothing shall preclude the employee from filing a formal grievance initially.

An employee desiring to file a grievance must either use the *Employee Grievance Form* or complete a memorandum similar in structure to the grievance form. The grieving employee may attach documents the employee feels is pertinent to the grievance.

#### B. INVESTIGATING THE GRIEVANCE

Any person who is responsible for receiving and responding to a grievance should interview the grieving employee and other applicable employees and review as many relevant documents as necessary in order to thoroughly respond.

#### C. THREE STEPS OF THE GRIEVANCE PROCESS

##### 1. Step One – Immediate or Designated Supervisor

The grieving employee must present the written grievance to the immediate or designated supervisor within ten (10) City business days of:

- a. The grievable act; or
- b. The application of policy; or
- c. When the employee learned of the grievable act.

Each department is responsible for designating the applicable supervisor for Step One.

Once received, the supervisor shall provide a written response to the grieving employee within ten (10) City business days of receiving the grievance. Employees who attempt to grieve a non grievable act will receive notice that the grievance is dismissed and will receive a copy of this grievance policy for guidance.

Grieving employees who are dissatisfied with the immediate or designated supervisor's decision may appeal the decision in writing to the department director within five (5) City business days after receiving the supervisor's decision.

**2. Step Two – Department Director**

The department director will schedule a meeting with the grieving employee and provide a written response to the grievance within ten (10) City business days of receiving the grievance request.

Grieving employees who are dissatisfied with the department director's decision regarding the grievance may appeal the decision in writing to the City Manager within five (5) City business days of receiving the Department decision.

**3. Step Three – City Manager**

The City Manager will schedule a meeting with the grieving employee within ten (10) days of the request. A written response to the grievance will be provided to the employee within ten (10) City business days of meeting with the employee. The decision of the City Manager is final.

**4. Step Four – Grievance Against City Manager**

An employee who believes to be the subject of a grievable act by the City Manager must file said grievance with the Mayor or City Attorney.



## PERSONNEL POLICIES AND PROCEDURES

### 8.05 Drug Free Workplace

In compliance with the Omnibus Drug Free Work Place Policy Act of 1988, the City of Marshall shall make a good faith effort to take those steps required by the Act to ensure the safety of its employees, volunteers, citizens, and the general public by providing a workplace that is drug free.

The City strictly prohibits the unauthorized use, sale, purchase, possession, distribution, dispensation, manufacture or transfer of controlled substances, as that term is defined by applicable state and federal laws, while on or in City property or other work sites where employees may be assigned, in City owned vehicles, in or on City equipment and machinery, or in personal vehicles while conducting City business.

Employees, volunteers, or contractors convicted with violations related to controlled substances under state and federal law or who plead guilty or no contest to such charges must inform the City Manager's Office and the department director within five (5) City business days of such conviction or plea. Employees who operate City vehicles or equipment and receive a DWI or DUI will be placed on unpaid administrative leave pending the outcome of the charge(s). Upon conviction for a DWI or DUI, employee will be terminated.

Any employee found in violation of this Policy will be terminated and any volunteer found in violation of this Policy will be released from volunteer service with the City.



## PERSONNEL POLICIES AND PROCEDURES

### 8.06 Substance Abuse and Testing

Amended 11.08.2023

This Policy applies to all employees of the City. This Policy also applies to all potential employees who have received a tentative offer of employment based on successfully completing and passing the controlled substance and alcohol screens of the City.

#### A. Purpose

The City of Marshall is a drug-free workplace. The manufacture, distribution, possession, use, or consumption of controlled substances or alcohol on the job or being under the influence of controlled substances or alcohol on the job may create serious risks for the involved employee, fellow employees, the City, and the general public. This Policy assists in the reduction of such risks. The City acknowledges that its success now, as well as in the future, is dependent upon the well-being of its employees. Accordingly, it is the City's right, obligation, and intent to maintain a safe working environment for all of its employees to protect City property, equipment and operations and to fulfill its obligations to the general public.

Notice: It is a Class B misdemeanor offense to use any substance or device designed to falsify drug test results under this Policy. It is a Class B misdemeanor offense to deliver, possess, or manufacture with intent to deliver a substance or device designed to falsify drug test results of an employee or co-worker under this Policy.

#### B. Policy Administration

1. Human Resources will coordinate the implementation of this Policy. Human Resources will be responsible for reporting the conviction of an employee for any drug or alcohol related criminal offense occurring in the workplace within ten (10) days of learning of such conviction to the agency or agencies with which the City has such an obligation.
2. It is the responsibility of all department directors, managers and supervisors to act in accordance with and to enforce this Policy.

#### C. Employee Responsibilities

If an employee, at any time, believes another employee has entered City property or reported to work in an unfit condition because of the use of controlled substances or alcohol, the employee observing must report this to a supervisor or Human Resources. If an employee has knowledge of drug abuse or alcohol use while at work but fails to report it, the employee with that knowledge can be disciplined up to and including termination.

1. **Prohibitions** – The use, consumption, possession, purchase, distribution or sale of a controlled substance or alcohol while on City business or on City property, except for prescribed medications with prior supervisory notification, will subject the employee to disciplinary action up to and including termination. Prohibited activities include:
  - a. reporting for duty or remaining on duty having used or using alcohol.

- b. reporting for duty or remaining on duty having used or using any controlled substance except when the use of such controlled substance is prescribed by a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely and successfully perform the essential functions of the job.
- c. refusing to submit to a controlled substance or alcohol test required by post-accident, reasonable suspicion, random, or follow-up testing requirements.

2. **Medication Disclosure** – It is the employee's responsibility to disclose to their supervisor in writing prior to the workday or shift of any prescription or over-the-counter medication that may inhibit the employees' ability to perform job duties in any way. If the medication is considered a controlled substance as defined in Section 9.02, documentation from a physician on a medication exception form must state medication will not affect the employee's ability to perform job functions. If the medication is considered to be a maintenance medication for treatment of a condition that requires narcotics or barbiturates (taken on a routine basis), the form must be updated by the physician as changes occur.

3. **No Exception** – There will be no exception to the prohibition of being on City property or acting on City business while using or possessing a controlled substance or alcohol unless specified by this Policy.

4. **Medication Exception** – Exceptions to the use of controlled substances while on City business or on City property may be granted if:

- a. the controlled substance is prescribed as a medication for the user by a licensed physician.
- b. the medication is being used in the manner for which it was intended.
- c. the employee's ability to safely and successfully perform the essential functions of the job is unaffected by use of the medication.
- d. the employee's supervisor is notified in advance by the employee that the employee will be using the medication.

5. **Off Duty Conduct** – The City reserves the right to take disciplinary action, up to and including, termination in the event an employee's off-duty involvement with controlled substances or alcohol is damaging to the City's reputation or business or is inconsistent with the employee's job duties or when such off-duty conduct results in impairment of the employee's job performance.

- a. Any employee charged with, convicted of, or pleading guilty to a criminal drug statute violation will notify his or her supervisor no later than 24 hours afterward and in writing no later than five (5) days following such occurrence. For purposes of this Policy, a plea of nolo contendere will be considered a plea of guilty.
- b. Any employee convicted of or pleading guilty to a criminal drug statute violation will be subject to timely disciplinary action, up to and including termination.

6. **Searches** – When reasonable cause exists, the City reserves the right to conduct unannounced searches for unauthorized substances anywhere on City property, including, but not limited to, lockers, desks, file cabinets, and employees' personal vehicles parked on City parking lots. Personal property on City premises will be subject to such searches. All such searches will be authorized and conducted under the direction of the City Manager or designee. Employees who refuse to cooperate during such unannounced

searches will be subject to disciplinary action up to and including termination. Body searches of employees will not be conducted by City personnel other than by law enforcement officers in the performance of their official duties.

#### **D. General Procedures**

1. **Hiring** – Offers of employment with the City will be tentatively based on successfully completing and passing the controlled substance and alcohol screens. Any offer of employment will be nullified if the employee is found to be engaging in the use of controlled substances or the abuse of alcohol unless such controlled substance is prescribed for the user by a physician. In that instance, the controlled substance must be used for the purpose intended, and the employee must be able to safely and successfully perform the essential functions of the position.
2. **Screening Required** – Within twenty-four (24) hours of receiving a tentative job offer, the incoming employee is required to consent to and pass controlled substance and alcohol screens in order to successfully complete the employment process.
3. **Procedures for Testing Employees** – Section E of this Policy describes the City's controlled substance and alcohol screening procedures. Section F addresses additional regulations and procedures applicable to employees in Department of Transportation (DOT) safety-sensitive positions. All screenings for alcohol, with the exception of testing of a severely injured employee for whom special testing procedures may apply, will be conducted by breath or urine (non-DOT) alcohol testing with certified equipment by a certified technician.
4. **Testing of Employees** – Current employees will be tested for controlled substance and alcohol use under the following circumstances and with the prior approval of the employee's supervisor:
  - a. in the event of the involvement of an employee in a vehicular or equipment accident on the job or on/to City property, whether actively or passively involved; or in the event an employee sustains an injury on the job or on City property. If an injury is severe enough to warrant emergency care and hospitalization, a departure from regular testing procedures may be required. It will be the supervisor's responsibility to ensure that testing follows City procedure as stated in Section E of this Policy. The employee may not be tested if there was no injury or significant damage (less than \$2500) and if not deemed necessary by two supervisors or one manager who have completed the requisite drug and alcohol awareness training and have completed the observation checklist.
  - b. when the involved employee's behavior or work performance gives reasonable suspicion to believe the involved employee is affected by the use or ingestion of a controlled substance or alcohol.
  - c. to comply with local, state or federal government laws, ordinances or regulations.
  - d. to comply with the City's policy with regard to random testing.
  - e. when occupying safety-sensitive positions that require random testing according to DOT guidelines or in accordance with these policies.
5. **Occasions for Required Testing**

- a. During the employment process prior to reporting for duty – before an incoming employee performs City functions, the employee must submit to controlled substance and alcohol testing. The controlled substance and alcohol screening will occur after a conditional offer of employment.
- b. Post-Accident – required immediately after any accident involving a citizen or a citizen's property. Also, testing is required immediately after an accident where sustained damage is in excess of \$2500 as detailed in Section D(4)(a) within this Policy.
- c. Random – when contacted by the supervisor or a designated Human Resources employee in compliance with DOT or City policies.
- d. Reasonable Suspicion – a supervisor must require an employee to take a test if the supervisor has reasonable suspicion to believe the employee under the influence of controlled substances or alcohol. Two supervisors or one manager is required to make the observations necessary to require the drug or alcohol test. The supervisor making the decision must have had the requisite alcohol and drug training. A written record of the observations will be kept in Human Resources.
  - i. If controlled substance and alcohol testing is not administered within two hours of the observation, a written record must be kept stating the reasons for the delay. If it is not administered within eight (8) hours, the supervisor must cease attempts to administer the test and prepare a written record stating the reasons for not testing which will be maintained in Human Resources.
  - ii. All supervisors will receive a minimum of two (2) hours of controlled substance and alcohol abuse training.

## 6. Failing a Test

- a. For incoming employees, failure to consent to or pass the required controlled substance and alcohol screening will be considered grounds to void the tentative job offer. Further, individuals failing a controlled substance and/or alcohol screen after a tentative job offer will not be reconsidered for employment for a period of twelve (12) months. Individuals refusing to take a controlled substance and alcohol screen or tampering with the screen, after a tentative job offer will not ever be considered for employment with the City.
- b. Employees with positive findings (i.e. substance abuse screen results that report the presence of legal or illegal drugs or narcotics including controlled substances or alcohol, otherwise not explained by prescription medication) shall be subject to remedial and/or disciplinary action

For the first time positive drug screen result, the following disciplinary actions are imposed:

- i. A five (5) day suspension without pay
- ii. A mandatory EAP referral
- iii. The employee must produce a negative undiluted screen at his/her expense, before returning to work from the five (5) day suspension

Discipline for a second positive finding is termination.

7. **Refusal to Test** – An employee who refuses to undergo a controlled substance or alcohol screening in accordance with this Policy will be treated as if the employee failed the required test. If the employee tampers with the screen, the employee will be terminated.

**E. Confidentiality of Results** – All controlled substance and alcohol screening results will be the private and confidential property of the City and will not be shared with anyone except the employee, City supervisory staff with a demonstrated need to know such information, those required by a court order, DOT mandate, or to legally protect the City or required by statute

**Controlled Substance and Alcohol Screening Procedures**

The following procedures will be observed in the administration of the controlled substance and alcohol screening process:

1. **Employee Responsibility** – When required to submit to a controlled substance and alcohol screening the employee will:
  - a. follow all directions given by their supervisor, Human Resources and the testing facility personnel.
  - b. present identification containing a photograph and will, if physically able, complete and sign a test authorization form and other paperwork required by the medical facility.
  - c. provide a breath sample in accordance with established procedures as required by the medical facility.
  - d. provide the medical facility a urine specimen to be divided into two (2) samples.
  - e. initial each specimen collection bottle or other similar documentation to accompany the specimen.
  - f. along with the attending nurse, initiate “chain of custody” by signing and dating the Chain of Custody Form and witness the processing of the sample containers.
  - g. where the employee's injuries prevent ordinary sample techniques, submit to a substitute sample technique such as blood sampling and testing.
  - h. speak to the Medical Review Officer (MRO) or designee.
2. **Medical Facility Responsibility** – The medical facility will:
  - a. perform alcohol testing for all employees in accordance with city, state, and federal guidelines. Breath alcohol testing will be performed with certified equipment by a certified technician.
  - b. perform controlled substance testing for all employees in accordance with city, state and federal guidelines.
  - c. immediately implement the steps necessary to ensure test confirmation when initial test results are positive.
  - d. perform the collection of an employee's urine sample for controlled substance screening and, when applicable, the actual initial controlled substance test following the collection of specimen steps listed below:
    - i. Place one (1) specimen with the original copy of the Test Requisition Form in a tamper proof chain of custody pouch if forwarding to another facility for testing. Chain of custody will be maintained internally if the medical facility performs the initial screening.
    - ii. When necessary, release the patient's first specimen to a courier to deliver directly to a nationally certified testing facility.

- iii. Retain the second urine specimen (labeled as original specimen) for a minimum of two (2) weeks as a backup in the event of contamination of the first sample in transit or any other need for a second examination of the patient's specimen.
- e. for all non-DOT positions, complete an initial controlled substance screening of the specimen. The initial test will be completed in accordance with state and federal guidelines. Should this test be positive, a confirmation test, the Gas Chromatography/Mass Spectrometry (GC/MS) test, will be completed by a nationally certified testing facility.
- f. ensure that the following substances are included in the controlled substance testing process:

|                           |                     |
|---------------------------|---------------------|
| Amphetamines              | Barbiturates        |
| Benzodiazepines           | Opiates             |
| Tetrahydrocannabinol(THC) | Cocaine Metabolites |
| Phencyclidine (PCP)       | Propoxyphene        |

- g. where the employee's injuries prevent ordinary sample techniques and testing, initiate a substitute sample technique, such as blood sampling and testing.
- h. when conducting testing for non-DOT positions, contact the appropriate City representative as soon as possible, but in no event later than twelve (12) hours after receipt of the employee's specimen, with initial test results and, if required, within three (3) business days after receipt of the employee's specimen by the testing facility that will administer the test confirmation.
- i. when coordinating testing for DOT safety-sensitive positions, contact the appropriate City representative within three (3) business days after receipt of the employee's specimen with initial test results and, if required, within 48 hours after the request for test confirmation.
- j. at all times, maintain confidentiality of test results.

3. **Human Resources Responsibility** – Human Resources will:

- a. select the medical facility or facilities that will conduct collections and screenings.
- b. require that a Consent Form for Controlled Substance and Alcohol Testing be read and signed prior to sending the employee and/or applicant for testing.
- c. receive the screening results from the medical facility. Human Resources will not contact the division until it has been notified as to the final results.
- d. resolve concerns regarding the medical results of a positive test by contacting the MRO and clarifying any medical questions, disagreement or uncertainty.
- e. based on test results, advise the appropriate supervisor:
  - i. whether or not to continue the employment process for an incoming employee.
  - ii. the impact of the results of the test for a current employee.
- f. when necessary, inform the incoming employee:
  - i. of unacceptable test results and, if requested, provide further information regarding positive test results.
  - ii. that unacceptable test results dictate that the prospective employee is ineligible for hiring for a period of twelve (12) months from the date of testing.

- g. ensure confidentiality of test results by:
  - i. restricting information regarding employee tests results to Human Resources and those with a demonstrated need to know such information, unless legally required to do otherwise.
  - ii. maintaining test results in a secure area of Human Resources.
- 4. **Supervisory Responsibility** – The supervisor will:
  - a. have completed the requisite alcohol and drug awareness training every three (3) years.
  - b. follow the controlled substance and alcohol testing procedures.
  - c. ensure that once the testing process is initiated, the employee is:
    - i. prohibited from working or continuing to work, if the test is a result of reasonable suspicion.
    - ii. not allowed to drive or operate any City motor vehicle, if the test is a result of reasonable suspicion or post-accident test.
    - iii. provided transportation to the designated medical facility.
  - d. immediately provide Human Resources with the identity of the employee who is being tested and why.
  - e. not discuss employee testing with other City employees, except on a “need-to-know” basis. Unless legally required, no other individuals will be advised of test results.
- 5. **Consequences of Test Results** –The following guidelines will be used to determine acceptability of test results and procedures to be observed when an employee's controlled substance or alcohol screening results are unacceptable.
  - a. All unacceptable alcohol screening results are:
    - i. based upon levels established by the Department of Transportation.
      - (a) Breath alcohol test measures between 0.00 and 0.02 will be considered passing.
      - (b) Breath alcohol test measures greater than 0.02 will be unacceptable and rated failing.
  - b. When alcohol screening results are unacceptable:
    - i. Human Resources will notify the supervisor of results.
    - ii. The supervisor will determine appropriate disciplinary action based on the following guidelines:
      - (a) Breath alcohol test measures greater than 0.02 up to but not including 0.04:
        - (1) employee will be sent home on administrative leave without pay for a minimum of 24 hours and must re-test prior to returning to duty.
        - (2) breath alcohol test measures greater than 0.02 at re-test require disciplinary action, up to and including termination.
      - (b) Breath alcohol test measures of 0.04 or greater require disciplinary action up to and including termination.

- iii. The employee may request a blood alcohol test to confirm breath alcohol test results; however, it must be requested at the time of the breath alcohol testing.
- c. All unacceptable controlled substance screening results are:
  - i. based upon established levels of intoxication and reported as a pass/fail.
  - ii. automatically reviewed by the MRO. The MRO or designee will contact the employee to discuss any extenuating circumstances that may exist prior to making a final determination.
- d. When controlled substance results are unacceptable:
  - i. Human Resources will notify the supervisor of initial and confirmed test results.
  - ii. The supervisor will:
    - (a) immediately put the employee on administrative leave with pay until written results of the test confirmation are received by Human Resources.
    - (b) upon receipt of positive confirmation result, determine appropriate disciplinary action.

## **F. Safety-Sensitive Positions**

1. All employees who occupy positions that require a commercial driver's license and the operation of a commercial motor vehicle (a driver of any vehicle in which weight exceeds 26,000 pounds, even on an occasional basis), and the performance of one or more safety-sensitive functions as defined herein, are delegated by DOT guidelines to follow these established standards, in addition to standards set forth in the City's Controlled Substance and Alcohol Abuse Policy. If this Policy conflicts with DOT regulations in any way, the DOT regulations will govern. Human Resources will assist directors in identifying covered positions.

Additional Prohibitions – In addition to prohibitions set forth elsewhere in this Policy, employees in DOT safety-sensitive positions are prohibited from: being on duty or operating a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.

2. **Random Testing** – In addition to those testing requirements set forth in this Policy, the following requirements will apply to all City employees occupying DOT safety-sensitive positions.
  - a. Tests will be unannounced and spread throughout the year.
  - b. A valid random selection method, chosen by Human Resources, will be used.
  - c. During each calendar year, employees in DOT safety-sensitive positions will be tested for alcohol and controlled substances at a percentage mandated by current DOT guidelines.
3. **Additional Testing Requirements (Promotional Testing)**

- a. Employees already occupying DOT safety-sensitive positions who seek promotions or transfers into other safety-sensitive positions will be required to submit to controlled substance and alcohol testing as a condition of transfer or promotion upon selection. An employee who has been tested within the last twelve (12) months prior to the promotion or transfer will not be required to be tested.
    - b. Employees not occupying DOT safety-sensitive positions who seek promotions or transfers (including reclassifications) into safety-sensitive positions will be required to submit to controlled substance and alcohol testing upon selection.
- 4. **Changes in Job Status** - In the event of promotion, transfer, demotion, reclassification, or other change of job status, the employee's supervisor must notify Human Resources of the employee's change of job status and whether or not the employee will occupy a DOT safety-sensitive position.
- 5. **Record Requirements** - In addition to maintaining records regarding testing facilities, procedures, and results, Human Resources will:
  - a. prepare an annual calendar year summary of the results of its testing program of DOT safety-sensitive positions, and maintain it for a minimum of five (5) years.
  - b. if presented with written authorization from an employee or past employee who is occupying or has occupied a safety-sensitive position, in accordance with DOT regulations, release information regarding the individual's participation in the City's controlled substance and alcohol testing program.

## **G. Employee Assistance Program**

It is the City's desire to provide assistance to those employees who voluntarily request assistance with a personal controlled substance or alcohol dependency problem.

- 1. The employee is responsible for acknowledging a substance abuse problem and for seeking and accepting counseling or rehabilitation assistance before it impairs performance, conduct, or jeopardizes continued employment.
- 2. An employee with a substance abuse problem must first directly contact Human Resources, or be referred to Human Resources by a supervisor. Human Resources will refer the employee to a substance abuse professional for evaluation and appropriate treatment.
- 3. When appropriate treatment dictates that the employee enter into a substance abuse treatment program, the employee will be permitted to enter a City-approved program one (1) time without endangering the employee's job, provided all prescribed treatment programs are followed. This option is not available, however, in lieu of disciplinary action for employees who are detected abusing or in possession of controlled substances or alcohol while on City business or on City property or who report to work in an unfit condition because of such abuse.
  - a. Some of the cost of the treatment may be covered by the City's health insurance plan. When possible and appropriate, an employee may be referred to out-patient treatment programs. During time off for participation in the EAP, an employee may use accrued vacation leave, sick leave, family and medical leave, or for those employees ineligible for family and medical leave, take up to 30 days' time off without pay authorized in accordance with City policies.





## PERSONNEL POLICIES AND PROCEDURES

### 8.07 Return to Work Requirements

Amended 11.08.2023

After an employee has had a first occurrence positive drug/alcohol test, except as otherwise provided in these rules, he/she will be suspended for up to five (5) work days (forty(40) hours). With the approval of the department head, and depending upon the substance consumed, the employee may remain off up to 20 work days to assure a clean drug screen when returning to work. The employee should be advised that a second drug test will result in termination.

Before returning to work the employee MUST complete the following:

- A.** Take, pay for, and pass a return to work drug test. This must be done at an approved location by the Human Resources Department.
- B.** Schedule and complete an appointment for an EAP assessment. This cannot occur until the return to work drug test is complete and all the results are back. Employee should call Human Resources to schedule an appointment.
- C.** If the employee's return to work drug test is positive for drugs or alcohol, he will be terminated.
- D.** If the employee does not complete the return to work drug test and the EAP assessment within the five (5) day (forty (40) hours) suspension, he will remain in unpaid status until complete. The employee may not return to work until both the drug test and the EAP appointment have been completed.
- E.** In no event will an employee be allowed to remain off duty and away from work for longer than twenty (20) work days (one hundred sixty (160) hours), he/she will be considered to have abandoned his/her job and will be terminated accordingly.
- F.** The employee should be relieved of his/her driving responsibilities until receiving a negative drug results, to avoid all safety hazards.
- G.** If the employee is deemed positive he/she should be relieved of his or her duties and removed from City property until a pre disciplinary hearing; a second drug test which is negative, referred to the HR Director, and completes a mandatory EAP visit.



## PERSONNEL POLICIES AND PROCEDURES

### 8.08 Harassment and Discrimination

It is the policy of the City of Marshall to prohibit any form of harassment, discrimination or retaliation of employees, applicants or members of the public. The City maintains a strict policy that harassment whether sexual, racial, ethnic or religious in nature or directed toward towards one's age, gender, genetic information, or disability status is not acceptable in the workplace and will not be tolerated. All employees, including managers, supervisors and representatives of the City are expected to refrain from exhibiting any unwelcome behavior or displaying conduct toward any other employee, applicant or members of the public which could be interpreted as harassment.

Equal employment opportunity has been, and will continue to be, a fundamental principle at the City of Marshall, where employment is based upon personal capabilities and qualifications without regard to race, color, gender (sex), age, national origin, disability, genetic information, or any other protected characteristic established by law. This policy of equal employment opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, benefits, termination, and all other terms and conditions of employment. The City prohibits and will not tolerate any such discrimination, harassment and/or retaliation.

The City is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the City expects that relationships among persons in the workplace will be business-like and free of bias, prejudice, and harassment. This policy is not to be construed to prohibit the City from establishing bona fide occupational qualifications that relate to physical or mental capabilities required to perform a job.

Allegations of inappropriate behavior, harassment, discrimination and/or retaliation will be promptly investigated by the Human Resources Manager or designee.

#### A. Definitions of Harassment

##### 1. Sexual Harassment

For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, non-verbal or physical conduct of a sexual nature when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or such conduct has the purpose or effect of unreasonable interference with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may include a range of subtle, not so subtle, or overt behaviors and may involve individuals of the same or different gender.

These behaviors may include, but are not limited to:

- a. Unwanted sexual advances or requests for sexual favors;
- b. Unwelcome, sex-oriented kidding, jokes or innuendo;
- c. Use of sexual profanity or other verbal abuse of a sexual nature;
- d. Subtle pressure or overt demand for sexual activity;
- e. Commentary about an individual's body, sexual prowess, or sexual deficiencies;
- f. Insulting or obscene teasing, comments, or gestures;
- g. Leering, catcalls, staring at a person's body;
- h. Physical contact such as patting, pinching or repeatedly brushing against another's body;
- i. Display or circulation in the workplace of sexually suggestive objects, pictures, or calendars featuring persons in sexually suggestive or submissive poses (including transmission and/or receipt of information through email); or
- j. Dancers/strippers on City property, and any other physical, verbal, or visual conduct of a sexual nature

## **2. Harassment of Discrimination on the Basis of a Protected Characteristic**

Under this Policy, ***harassment*** is verbal, non-verbal or physical conduct that denigrates or shows hostility or aversion toward an individual based on race, gender, color, religion, national origin, age, disability, or any other characteristic protected by law, and that:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- b. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- c. Otherwise adversely affects an individual's employment opportunities.

***Harassing or discriminatory conduct*** includes, but is not limited to:

- a. Epithets, slurs, or negative stereotyping;
- b. Threatening, intimidating, or hostile acts;
- c. Denigrating jokes, and display or circulation in the workplace of written or graphic material that belittles or shows hostility or aversion toward an individual or group (including transmission or receipt of information through email); or
- d. Individual or group behavior that excludes and/or disrespects other employees; or behavior that undermines an employee's integrity, credibility, work performance or potential for promotion.

## **B. General Provision**

### **1. Scope**

This policy applies to all applicants, employees, elected officials and representatives of the City and prohibits harassment, discrimination, and/or retaliation by fellow employees, supervisor, manager, director and/or representative of the City or by individual(s) not directly connected to the City such as an outside vendor, consultant, or customer.

### **2. Prohibited Conduct**

Conduct and behavior described above in the definitions of sexual harassment, gender-based harassment, and harassment or discrimination based on a protected characteristic are prohibited in the workplace or in any work-related setting outside the workplace, such as business trips, business meetings, and business-related social events.

### **3. Prohibition of Retaliation**

Retaliation is prohibited against any individual who reports inappropriate behavior, discrimination or harassment, or who participates in an investigation of such reports by filing, testifying, assisting or participating in an investigation. Retaliation against an individual is a violation of policy and will be subject to Corrective action up to and including termination.

### **4. Prevention**

It will be the ongoing responsibility of the department director and/or his/her representative(s) to maintain a professional, positive and productive work environment for all employees that is free of inappropriate behavior, harassment, discrimination and retaliation. Directors, managers and supervisors must monitor the workplace for any inappropriate sexual displays, comments or behavior and take immediate action. This responsibility includes discussing and enforcing this policy and administrative procedures with all employees, and assuring them that they are not required to endure insulting, degrading or exploitative treatment.

## **C. Complaint Procedure**

- 1. Reporting: Inappropriate behavior, harassment or discrimination:** City employees are to report all incidents of inappropriate behavior, harassment, discrimination, and/or retaliation promptly, regardless of the offender's identity or position. The City has developed a ***Discrimination and/or Harassment Complaint Form*** that may be used to file a complaint or the allegations may be provided verbally to the immediate supervisor, department director or the Director of Human Resources or designee. Individuals who believe they have been a recipient of harassment, discrimination or retaliation should immediately report the behavior or incident to their immediate supervisor, department director, or Director of Human Resources or designee. Individuals are not obligated to follow the chain of command and may report allegations or incidents directly to the Director of Human Resources or designee. The Director of Human Resources and the manager or supervisor of the employee are both responsible for notifying each other when an allegation or incident has been reported or a complaint filed. Information disclosure will be limited to those who have a right to know and/or those who are necessary to facilitate review, investigation and/or resolution of the matter. A supervisor's failure to immediately notify Human Resources and/or the Director of the department regarding a harassment, discrimination or retaliation complaint may result in Corrective action.

- a. Accusation Disclosure:** If allegations are made to anyone other than the Human Resources Manager or designee, the matter must be immediately referred to Human Resources or the appropriate department director. If the Director of Human Resources is initially notified of allegations of inappropriate behavior, harassment, discrimination or retaliation, Human Resources will immediately notify the appropriate Department Director. All reports of inappropriate behavior, harassment, discrimination or retaliation shall be immediately reviewed on an individual basis considering the record as a whole on the totality of the circumstances, such as the nature of the behavior and the context in which the alleged incidents occurred. If

harassment, discrimination and/or retaliation is determined, prompt corrective action will be taken.

- b. ***Employee Responsibility:*** Any Employee who experiences unwelcome, inappropriate or offensive behavior shall make it clear where possible that such behavior is offensive to them. Avoid letting such behavior pass without comment. Any employee who feels that they are a recipient of inappropriate behavior, harassment, discrimination and/or retaliation has the responsibility to immediately report the facts of the incident (s) to their immediate supervisor, department director or the Director of Human Resources or designee. This includes employees who think that they are direct recipients of the alleged behavior and also those who believe that they have witnessed harassment, discrimination and/or retaliation of another employee or applicant. Employees are not obligated to follow the chain of command and have the option to report the incident (s) directly to the Director of Human Resources or designee. All incidents of harassment, discrimination and/or retaliation are to be promptly reported. Failure to fulfill this obligation could affect the timely internal resolution of an employee's allegations.
- c. ***Early Reporting and Intervention*** have proven to be the most effective method of resolving actual or perceived incidents of harassment, discrimination and/or retaliation. Therefore, while no fixed reporting period has been established, the City strongly urges the prompt reporting of concerns or complaints in order that rapid and corrective action can be taken. The City will make every effort to stop inappropriate, harassing, and discriminatory and/or retaliatory behavior before it becomes severe or pervasive however, can only do so with the cooperation of Directors, managers, supervisors and employees. The availability of this reporting procedure does not preclude employees who believe they are subject to inappropriate, harassing, discriminatory and/or retaliatory behavior from promptly advising the offender that his/her or her behavior is offensive/unwelcome and requesting that the offensive behavior be discontinued.

## **2. Administrative Review and Investigation**

- a. All allegations of inappropriate, harassing, discriminatory and/or retaliatory behavior observed or reported by an employee shall be reviewed immediately by the Director of Human Resources or designee to determine the level of administrative review and/or investigation based on the nature of the behavior and the context in which the alleged incident(s) occurred. The Director of Human Resources or designee shall inform the employee of his or her findings and/or recommendations.
- b. ***Processing:*** Should the Human Resources Manager determine from the administrative review that a full investigation of the alleged incident(s) is warranted, the Director of Human Resources or designee shall notify the department director of his/her intent to commence a full investigation. Within five (5) work days after the notification to the department, the recipient and respondent (accused) and any witnesses shall be notified of the pending investigation and its administrative guidelines. The recipient and respondent shall receive a written copy of the allegations or administrative review containing the allegations. If the respondent cannot be reached, the written allegations will be forwarded by certified mail to the most recent personnel address.

- c. ***Allegation Response:*** The respondent may respond to the allegations in writing within five (5) work days upon receipt of the written allegations. The respondent may also elect to respond to any other significant new information or allegations that arise during the investigation process.
- d. ***Administrative Leave:*** When warranted, the department director may recommend that the respondent and/or recipient be placed on administrative leave during the investigation process. The department director and Director of Human Resources shall mutually agree on such action.
- e. ***Allegation Discussion:*** If appropriate, investigators will meet with the respondent's department director to discuss the allegation.
- f. ***Determination Filing:*** Within ten (10) work days of the investigation conclusion, the city attorney and the respondent's department director will be provided with a determination as to the validity of the complainant's allegations and whether Corrective action is warranted.
- g. ***Complaint Withdrawal:*** The complainant may withdraw complaints at any time. The City may still pursue an investigation, however, and determine whether Corrective action is warranted.

Any reported allegations of harassment, discrimination, or retaliation will be reviewed and/or investigated promptly, thoroughly, and impartially, regardless of when it was reported. The administrative review and/or investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. Confidentiality will be maintained throughout the administrative review and/or investigatory process to the extent consistent with adequate investigation and appropriate corrective action. Employees are required to assist fully in any administrative review or investigation process.

An employee's intentions are not a factor in considering alleged harassment behavior. If the effect of an employee's behavior upon another employee has a hostile, offensive, or intimidating effect upon that employee, there is a possibility that harassment or discrimination may be present.

### **3. Corrective Action**

- a. ***Corrective Action Decisions:*** Within ten (10) work days of a determination of violation of City policy relative to harassment, discrimination or retaliation, a Corrective action decision will be made by the department director in consultation with Human Resources and the city attorney. Extensions may be approved by the Director of Human Resources or designee. Corrective actions and applicable appeals must be in accordance with established City Corrective Actions. (Note: A transfer of the recipient may be considered only upon the complainant's request and/or approval.)
- b. ***Written Notifications:*** The recipient and the respondent will be provided written notification of the department director's decision. The City Manager and those deemed as appropriate will receive copies of the decision correspondence.
- c. ***Department Director Respondents:*** If the Department Director is the respondent, the appropriate actions will be taken by the City Manager.

Misconduct constituting harassment, discrimination, or retaliation will be dealt with promptly and appropriately. Responsive action may include, for example, training, referral to coaching, monitoring of the offender and/or corrective action such as warning, reprimand, withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, temporary suspension without pay, or termination, as the City deems appropriate under the circumstances.

If an employee making a complaint does not agree with its resolution, the employee may appeal to the Deputy City Manager or designee. Individuals who have questions or concerns about these policies shall confer directly with their supervisor, department director, or a member of the Human Resources Department.

Finally, this policy and its administrative guidelines shall not, and may not, be used as a basis of excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussion in order to avoid allegations of harassment. The policies of the City prohibit disparate treatment on the basis of gender or any other protected characteristic, with regard to terms, conditions, privileges, and perquisites of employment. The prohibitions against harassment, discrimination, and retaliation are intended to complement and further this policy and its administrative guidelines, not form the basis of an exception to these.

#### **4. Records**

All records concerning harassment, discrimination or retaliation complaints, administrative review and/or investigations are to be kept in a separate, confidential locked file in Human Resources. Access shall be approved by the Human Resources Manager or designee. Records concerning subsequent corrective or corrective actions shall be kept in the regular personnel files.



## PERSONNEL POLICIES AND PROCEDURES

### 8.09 Minimum Driving Standards

This policy shall apply to: City employees whose position requires the operation of a City vehicle or motorized equipment;

- City employees who must maintain a current and valid Texas Commercial Driver's License (CDL) as a condition of employment; or
- Applicants, including current employees, for positions which require the operation of City vehicles or motorized equipment.

The Human Resources Department shall conduct periodic Motor Vehicle Record (MVR) checks on all employees subject to this policy. Under no circumstances shall an Occupational Driver's License or similar license be deemed appropriate for operating City vehicles or motorized equipment.

Applicants for a position requiring a valid driver's license must possess a valid driver's license at the time of application. An applicant with a Motor Vehicle Record that indicates a pattern of violations may not be considered for employment. After the effective date of this policy, an employee who no longer has a current, valid, and appropriate license, and whose position requires the operation of a City vehicle or motorized equipment, shall be removed from driving status and will be terminated.

#### A. Consequences

Employees subject to this policy who are convicted of a Driving While Intoxicated (DWI) or Driving Under the Influence of (DUI) will be terminated, although the City may also take corrective action prior to conviction. Corrective action for all other violations that add up to 10 points by the *Motor Vehicle Standard (Appendix D)* will be based on evidence of arrest or basis of citation and may disqualify the employee from all driving and/or operation privileges and subject them to corrective action up to and including termination. Removal of driving privileges or corrective action may occur while an employee is waiting for adjudication. Determination for removal of driving privileges and/or corrective action while waiting for adjudication shall be made by the department director in concurrence with the Human Resources Manager on a case-by-case basis.

An employee subject to this policy who is involved in an accident in a City vehicle may immediately be subject to drug and alcohol testing as well as a Motor Vehicle Record check. In addition, the City may review and consider an employee's entire driving history at any time, to determine if further corrective action is appropriate based on a pattern of violations/accidents. The City may impose discipline and/or disqualify an employee from all driving and/or operation privileges in situations where an employee has accumulated fewer than 10 points in 3 years. Such decisions will be made jointly by the department director, Human Resources Manager, and City Manager or designee. Nothing herein shall be construed to limit a department from setting higher standards as needed to meet the particular needs of that department.

Employees hired prior to the effective date of this policy and who would become ineligible to operate City vehicles upon the adoption of this policy may be disqualified from driving privileges. This decision will be made on a case-by-case basis upon the recommendation of the department director, Human Resources Manager, and City Manager.

## **B. Notifications**

Employees subject to this policy shall notify their department director by the end of the department's next working day when:

1. They are arrested and charged with DWI, DUI, or any other serious moving violation that would result in a 10 point violation by the Motor Vehicle Standard;
2. They have their driver's license suspended, canceled, or revoked;
3. When their license expires without immediate renewal; or
4. When an Occupational Driver's License or similar license has been issued to them.

Failure to report such information by the end of the next working day shall result in corrective action up to and including termination, unless there are extenuating circumstances.

As required by the U.S. Department of Transportation, employees who are required by the City to hold a Commercial Driver's License (CDL) as a condition of employment must notify the City within thirty (30) days of a conviction for any traffic violation (except parking violations), even if the violation did not occur while operating a commercial vehicle. The form titled ***Employer Notification of Traffic Violation (CDL)*** must be used for such notification to the City and must be submitted to the department director.



## PERSONNEL POLICIES AND PROCEDURES

### 8.10 Attendance and Punctuality

Dependability, attendance, punctuality, and a commitment to do the job right are essential at all times. Employees are expected to report for work promptly and to work all scheduled hours and any required overtime. Excessive tardiness and poor attendance disrupt workflow and customer service and will not be tolerated.

An employee must notify their supervisor as far in advance as possible or no later than one (1) hour before the scheduled start time if late or absent or as directed by departmental rules. This policy applies for each day of absence. A record of absenteeism and tardiness shall be kept by the supervisor. Unauthorized or excessive absences or tardiness may result in corrective action, up to and including termination. An absence is considered to be unauthorized if the employee has not followed proper notification procedures or the absence has not been properly approved.

Employees who are absent from work for three (3) consecutive days, without giving proper notice, will be considered to have abandoned their job. For more information, *see Section 3.06 Job Abandonment*.



## PERSONNEL POLICIES AND PROCEDURES

### 8.11 Dress Code and Personal Appearance

Grooming, appearance, and personal cleanliness contribute to the morale of all employees and impacts the perception that the public and residents have of the City of Marshall. Both, an employee's appearance and conduct can create a positive or negative impression on our organization and culture. During business hours or when representing the City, all employee are expected to present a clean, neat, and tasteful appearance.

City uniforms or apparel with City and/or department logo will not be worn while engaging in other employment. Employees wearing uniforms or city/department apparel shall not purchase, possess or consume alcoholic beverages or engage in any acts that would not reflect favorably upon the City (gambling, political campaigning etc.).

No City uniform or apparel with City and/or department logo shall be donated to charity. Before discarding an old uniform, the City logo should be cut off the clothing and shredded to prevent unauthorized use.

The City envisions a work environment where employees may dress comfortably and appropriate for work. Employees are expected to demonstrate good judgement in choosing attire that is appropriate for work to perform their job duties in a safe, considerate and professional manner at all times.

#### A. Dress Code

##### 1. Appropriate Business Attire

All clothing must be neat, clean, in good condition, fit properly and be appropriate for the duties of the position. A shirt, sweater, blouse, with the City logo is acceptable.

##### 2. Inappropriate Business Attire

Inappropriate business attire includes, but is not limited to:

- a. Suggestive attire (for example; sheer, low cut, revealing tops; miniskirts (skirt that is more than two inches above the knee). Strapless/backless attire, including: muscle shirts, halter tops, tank tops, sundresses without a cover or jacket);
- b. Overalls, sweat/wind suits (shirts, jackets or pants);
- c. Flip-flops, house shoes, footies;
- d. Tight pants, leggings, or wearing tights in place of pants;
- e. Shorts, unless they are part of an approved uniform and worn with a shirt that identifies the employee as a city employee or as approved by the department director as special circumstances warrant; or
- f. Clothing not properly laundered or not in good condition (e.g. having tears or holes).

### **3. Dress Code Exceptions**

The Dress Code applies only to those employees who are not required to wear a City uniform. Some departments may have an alternate dress code. Unusual circumstances as approved by the supervisor, such as weather conditions, special work assignments, medical reasons, worksite conditions and/or unusual working hours or situations, may be sufficient reasons to grant an exception to the dress code.

### **4. Additional Provisions**

More traditional business attire may be appropriate for certain meetings and/or presentations either inside or outside City offices. Department directors and supervisors have the responsibility to inform their employees of appropriate attire when meeting the general public or any other time the director may deem it is necessary.

## **B. Personal Appearance and Grooming Standards**

Without unduly restricting individual tastes, the following personal appearance examples are not permitted:

1. Hairstyles are expected to be professional, neat, properly groomed and in good taste. Long hair, jewelry and clothing should be worn in a manner that does not pose a safety hazard while working;
2. Offensive body odor and poor personal hygiene;
3. Torso body piercing with visible jewelry or jewelry that can be seen through or under clothing must not be worn during workhours;
4. Offensive and/or distracting tattoos/body art or brands may not be visible through clothing; or
5. Intentional body mutilation or piercing that are excessive or eccentric is not permitted. Some examples include a split or forked tongue, eyebrow, tongue, scalp, forehead piercing or foreign objects inserted under the skin to create a design or pattern.

## **C. Enforcement**

The City's goal is to provide a workplace environment that is comfortable and inclusive for all employees. However, employees who fail to wear appropriate attire or follow grooming standards that are appropriate in the workplace will be addressed on an individual basis rather than subjecting all employees to more stringent restrictions. Managers or supervisors are expected to inform employees in private when they are violating the workplace attire and grooming standards. Employees who knowingly and consistently fail to comply with this policy or with direction from their manager or supervisor will be subject to disciplinary action, which may include being sent home, and under such circumstances, nonexempt employees will not be paid for work time missed, and exempt employees will be required to make up the work time missed.

Questions/complaints about proper attire should be directed to the department director of the employee in question. The department director has the final authority to determine the appropriateness of the employee's attire.



## PERSONNEL POLICIES AND PROCEDURES

### 8.12 Political Activity

It is the policy of the City of Marshall to encourage its employees to fully exercise their constitutional rights as citizens to vote and participate in political activities; however, employees are subject to the restrictions contained herein on political activity, except as may be otherwise provided by law.

No employee while in uniform or during work hours, or while on City property shall take an active part in a political campaign for an elective position of the City or other publicly elected office. For purposes of this Policy, an employee takes an active part in a political campaign if the employee:

1. Makes a political speech;
2. Distributes a card or other political literature;
3. Writes a letter;
4. Signs a petition;
5. Actively and openly solicits votes;
6. Makes public derogatory remarks about a candidate for an elective position of the City or other publicly elected office; or
7. Solicits or accepts campaign contributions for a candidate or a political action committee.

No employee shall hold any publicly appointed position or office that would conflict with his or her position with the City.

No employee shall use their official City title or position to engage in political activities.



## PERSONNEL POLICIES AND PROCEDURES

### 9.01 Media Relations

The City of Marshall seeks to inform its residents, businesses, and visitors by engaging in pro-active communications. The news media and the City both play important roles in keeping the communities they serve informed. The City is committed to maintaining an ongoing positive and dynamic working relationship with the media. The City recognizes the time constraints facing the media and will strive to respond to information requests in an open, helpful, and prompt manner.

#### A. Types of Media Communication

This Policy covers all communication to the news media including: news releases, media advisories, formal statements, interviews, press conferences and briefings, letters to the editor, , technical announcements, and other information or material given to a news media representative, a collective term that includes, but is not limited to reporters, editors, and writers for newspapers, magazines, scientific journals, trade publications, radio or television stations or networks, online news services, and any other electronic or print media related to news distribution that could serve as an information outlet.

#### B. Media Relations

1. The City Manager's Office will coordinate media relations activities for the City and act as the official news source and principal contact for all communication between the City and media representative.
2. Unless otherwise authorized, the City's spokespersons are:
  - Mayor
  - City Manager
  - Public Relations Representative; as designated by the City Manager
3. Media representatives are asked to place their requests through the City Manager's Office in order to expedite a prompt and coordinated response.
4. Department directors or their designee have the authority to communicate with the media within areas of their responsibility and expertise. Other staff should refer media requests to their department director or City Manager's Office without comment.
5. The City Manager's Office must be notified of all potentially sensitive, contentious, or controversial media inquiries with respect to City activities. The City Manager's Office will promptly identify the appropriate spokesperson and arrange for an interview or statement.
6. The City will endeavor to provide open and equal access to all news media and will respect the exclusivity of a story initiated by individual media representatives.

#### C. Responding to Media Inquiries

The City Manager's Office is the City's primary media contact. If employees receive an inquiry from the media, such as reporters, editors, or researchers, for an interview, to provide statistics,

or write an article on behalf of the City, employees should get the reporter's name, phone number(s), deadline, and an idea of his/her area of interest. Before responding, the employee should refer the inquiry to the City Manager's Office. This enables the City Manager to determine which individual in the City should respond to the inquiry, to make certain that consistent information is being disseminated, to stay abreast of areas of media interest, and to prepare for future inquiries.

**D. City Initiated Information**

Most proactive media contact is initiated through the City Manager's Office. This includes issuing press releases, media advisories, and personal contacts with reporters and editors for coverage. Departments seeking publicity for events or activities should submit the information to the City Manager's Office no less than 24 hours before distribution or as much in advance as possible to ensure the best media coverage of their activities. Departments should not initiate news media contact before notifying the City Manager's Office.

**E. Opinion Pieces and Letters to the Editor**

It is recognized that all employees have the right to their personal points of view regarding any issue. However, personal points of view may conflict with the City's official policy. Therefore, City employees who write letters to the editor of any newspaper may not use official City stationary. If an employee chooses to identify himself or herself as a City employee in any personal communication to the editor, he or she must include language which states the views set forth in the letter do not represent the views of the City, but rather, are the employee's personally held opinions. Similar disclaimers must be present even if an employee addresses a public meeting, participates in a radio talk show, or is interviewed for a radio or television program, unless the employee is officially representing the City. Employees who are representing the City in any of the above formats must identify themselves as an official spokesperson for the City.

**F. Litigation, Personnel, and Election Issues**

Inquiries regarding election and campaign issues, pending litigation, matters involving a significant exposure to litigation, and certain personnel-related information should be referred to the City Manager's Office.

**G. Public Safety Issues**

The Police and Fire Departments can generate a high volume of media calls, and should have a designated media spokesperson that follows specific guidelines when releasing information. All information released to the media by the Police and Fire Departments must be provided immediately to the City Manager's Office, who should be contacted at the time of major incidents. Media calls to other City staff regarding a Police or Fire issue should immediately be referred to the Police or Fire Department and Public Relations Manager.

**H. Crisis or Emergency Issues**

Timely release of breaking news and information during crises, such as natural disasters or personnel tragedies, often requires swift publication and/or dissemination of information in support of public confidence. The department director may issue a brief statement or media advisory to the news media in place of a news release. In such cases, the department directors must provide the City Manager's Office with copies of any such release of information concurrent with its release to the news media.



## PERSONNEL POLICIES AND PROCEDURES

### 9.02 Definitions

- A. Reference to any person in these policies by use of the masculine/feminine gender is for purposes of grammatical clarity only, and should not be construed to exclude either gender.
- B. Titles utilized herein will not govern, limit, modify, or affect the scope of meaning or intent of any provision.
- C. Any provision contained herein that is found or determined to be illegal, incorrect, or inapplicable will not affect the validity of the remaining contents.
- D. The words and terms used in these policies will have the meaning indicated as follows (unless the context in which the word is used clearly indicates otherwise):

**Address** means the street and number, city, state and zip code of a location and/or the post office box mailing address, if applicable.

**Administrative Leave** means an authorized absence with pay or without pay with manager or director approval.

**Article** means an original posting of content to a City social media site by a City employee.

**Blog** (an abridgment of the term web log) means a website with entries of commentary, descriptions of events, or other material such as graphics or video.

**Business / Financial Interest** exists when an employee owns 10% or more of the voting stock or shares or \$15,000.00 or more of the fair market value of a business entity.

**Business day** means any day the City is open to conduct normal business. For the purposes of this policy, it does not include the day the grievance is filed and the day the written response is given.

**Business network** such as LinkedIn® or user groups of a business nature, area network or process that is established to build mutually beneficial relationships with other business people and potential clients. A business network can also serve as an alliance of like-minded individuals with a common problem or interest. For the purposes of this policy, an approved business network is not considered a social network.

**Child:** A biological, adopted, or foster child, stepchild, legal ward, or child of a person standing in loco parentis (in place of parent) who is either under age 18, or age 18 or older and requires active assistance or supervision to provide daily self-care. A biological or legal relationship is not necessary.

**City** means the City of Marshall.

**City Vehicle** means any vehicle designed to carry a driver and/or passengers in order to conduct City business. This will include privately owned/leased vehicles operated for the conduct of City business and motorized equipment such as a tractor, loader, etc.

**City Work Site** means (1) any City building or other real property owned, leased, or otherwise controlled by the City of Marshall; (2) any location at which a City employee is assigned to work; and (3) any vehicle or other equipment owned, leased, or otherwise controlled by the City.

**Comment** means a response to a City article or social media content submitted by any person or entity.

**Computer resources** refer to the city's entire computer network. Computer resources include, but are not limited to, host computers, file servers, fax servers, web servers, workstations, stand-alone computers, laptops, smartphones, tablets, software, data files, and all internal and external computer and communications networks (i.e. Internet, computer online services, value-added networks and e-mail systems) that may be accessed directly or indirectly from or through the city's computer network.

**Conflict of Interest** exists when the private interests and public obligations of a person in an official position become divergent.

**Content** includes, but is not limited to, articles, comments, photograph(s), video(s), other image(s) or hyperlinks(s) to another site.

**Contract Employee** means an employee who has contracted with the City to perform a specific task at a set rate of compensation. This employee usually works their own hours, utilizing their own equipment, and the job is temporary and not regular in nature.

**Controlled Substance** means any drug or controlled substance for which the manufacture, distribution, possession, sale, or consumption is illegal, or a prescribed or over-the-counter drug which is legally obtained but not being used for its intended purpose, or a prescribed or over-the-counter substance which is legally obtained and used for its intended purpose but the use of which causes the employee to be impaired or in an unfit condition. The definition of controlled substance includes, but is not limited to, all controlled substances, drugs, chemical precursors, simulated controlled substances, volatile chemicals, abused glues, aerosol paints, and marijuana as those terms are now or will hereafter be defined in Title 6, Chapters 481-485 of the Texas Health and Safety Code, or any successor Code thereto. *See Sections 8.05-8.06* for more information.

**De Minimis** means a minimal amount of personal use of city-owned vehicles, as defined by the Internal Revenue Service regulations.

**Demotion** means an assignment of an employee from a position in one classification to a position in another classification having a lower pay grade.

**Department** means a major functional unit of City government.

**Director** means any person, appointed by the City Manager with approval of City Council, who is responsible for the administration of a department, as identified on the City organizational chart.

**Division** is a functional unit of a department as identified on the City organizational chart.

**Driver's License** means the permit issued by the State of Texas allowing an individual to operate vehicles within the state.

**Driving Records** include the complete driving history of an employee for the previous three (3) years, as can be discerned from any official records or by self-disclosure during the hiring process.

**Election** includes primary, special, and general elections.

**Electronic Mail (E-mail)** is the network of computer hardware and software that permits the sending and receiving of electronic messages from one personal computer user to another. In the

context of this policy, e-mail transmissions include transmissions that travel via the Internet, as well as transmissions that travel via the city's wide area network only.

**Eligible Family Member:** Employee's child, stepchild, foster child, adult child, parent, stepparent, and spouse.

**Employee** means any person employed and paid a salary or wages by the City, and includes a person employed on a temporary or part-time basis, but does not include an independent contractor, contract employee, a member of an appointed board or commission, or a member of the City Council.

**Ethical Conduct** is action that is guided by a set of moral principles or values governing an individual or group.

**Exempt Employee** means any management, supervisory, professional, or administrative employee whose position meets specific tests established by the Fair Labor Standards Act and state law and is exempt from overtime pay requirements.

**Flex Time** is defined as a flexible schedule agreed upon by the employee and the employee's manager or supervisor that serves as an alternative method of accruing overtime. Flex time is accrued at a rate of one times the pay and is available for both exempt and non-exempt employees. Flex time must be taken in the same work period that the overtime is accrued. *See Section 6.02 for more information.*

**Full-Time Employee** means any employee regularly scheduled to work forty (40) hours or more per work period in an authorized, budgeted position.

**Grade** means a division of a salary and classification schedule with specified rates and/or ranges of pay into which a job or position is classified according to factors outlined in the City's Position Analysis Questionnaire (PAQ) or any other instrument currently utilized in the classification process.

**Grievable Act** means conduct that constitutes an unequal and/or unlawful treatment, interpretation and/or application of City or departmental policies, procedures, or practices; and retaliation.

**Grievance** means a formal, written claim for a grievable act.

**Grieving Employee** is an employee who files a grievance.

**Gross Misconduct** means acts of gross misconduct that are intentional, wanton, willful, deliberate, reckless, or in deliberate indifference to an employer's interest or known standard.

**Harassment** is any unwelcome conduct that is based on race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. *See Section 8.07 for more information.*

**Health Care Provider:** A doctor of medicine or osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner and nurse midwife, clinical social workers and physician assistants, and Christian Science practitioner. The health care provider must be certified/licensed to practice in the state in which treatment is being administered.

**Hire Date** is the date an employee begins working for the City.

**Holiday Pay** is full-time pay received for working a City-designated holiday for full-time employees.

**Instant Messaging and Chat Rooms** refers to Internet-based real-time interactive communication using any Instant Messaging or Chat Room software installed on the computer or downloaded from the Internet.

**Internet access** is defined as the ability for any personal computer to connect to the world-wide network of computers known as the Internet, and to access Internet-based applications such as the World Wide Web, File Transfer Protocol, Newsgroups, Gopher, Telnet, and Wide Area Information Services.

**Job** means a collection of tasks, duties and responsibilities regularly assigned to and performed by an individual or individuals.

**Link** means referral to other information at a different location on the Internet via hyperlink.

**Manager** means any person appointed by a director who is responsible for the administration of a division, as identified on the City organizational chart.

**Manual** means these personnel policies.

**Marked vehicle** is a city-owned vehicle which is clearly identified for use in city operations and business.

**Medical Review Officer (M.R.O.)** means a licensed physician with knowledge of substance abuse disorders and training to interpret and evaluate confirmed positive test results, who is responsible for receiving laboratory results generated by the City's Controlled Substance and Alcohol Screening Program. *See Section 8.06* for more information.

**Merit** means character or conduct deserving reward, honor, or esteem.

**Military Leave** means any authorized absence of an employee for active or reserve duty or training in the United States armed forces.

**Modified Duty Assignments** means temporary work assignment for those employees injured on the job.

**Month** means one (1) calendar month.

**Motorized Equipment** includes, but is not limited to, backhoes, bulldozers, mower tractors, loaders, graders, and similar equipment.

**Motor Vehicle Accident** means an incident involving a motor vehicle in which there is a collision and/or contact.

**Moving Violation** is a violation of any law relating to the operation of a motor vehicle, other than parking. (Example: speeding, running a stop sign or signal, failure to yield.).

**Non-Grievable Act** is something that an employee may not submit a grievance. Examples include but are not limited to:

- Job or duty assignments;
- Work schedules and shift assignments;
- Staffing levels;
- Corrective matters;
- Performance reviews/quarterly conversations

**Non-Exempt Employee** means any employee whose position does not meet Fair Labor Standards Act exemption tests and who is eligible for overtime compensation.

**Non-Preventable Accident/Injury** is an incident in which the employee: 1) has not violated a traffic law; 2) has not violated a safety rule or department procedure; or 3) has done everything reasonable to avoid the accident.

**Occupational License** is a temporary driver's license issued by the Texas Department of Public Safety after the appropriate judge of a court has signed a petition/court order determining essential need of a person to operate a motor vehicle in performance of their occupation or for transportation to and from the place at which a person practices their occupation.

**On-Call** means the time spent by employees, usually off the working premises, in their own pursuits, where the employee must remain available to be called back in to work on short notice if the need arises. This is not considered time worked and is not compensable. *See Section 6.04* for more information.

**Overtime** is defined as those hours worked, by non-exempt employees during any Fair Labor Standards Act-defined work period, which normally exceeds forty (40) hours specified for such work period. (Overtime is defined separately for shift personnel within the Fire Department, as per 29 U.S. Code § 207(k).) *See Section 6.02* for more information.

**Parent** means a biological parent of an employee or an individual who stood in place of a parent to an employee when the employee was a child.

**Part-Time Employee** means any employee regularly scheduled to work less than forty (40) hours per work period in an authorized, budgeted position, usually less than 1,000 hours per year.

**Pay Period** means a fourteen (14) day work cycle. For Fire shift personnel it means a fifteen (15) day work cycle.

**Personal Identity Information (PII):** Unique personal identification numbers or data, including:

- Social Security Numbers
- Employer Identification Numbers
- Driver's license number
- Date of birth
- Corporate or individually held credit or debit transaction card numbers (including PIN or access numbers) maintained in organizational or approved vendor records PII may reside in hard copy or electronic records; both forms of PII fall within the scope of this policy.

**Physician or Licensed Physician** means any physician licensed by the appropriate state medical licensing board.

**Policy** is a plan or course of action, of a government or business designed to influence and determine decisions and actions; a course of action, guiding principle, or procedure considered to be expedient, prudent, or advantageous.

**Political Activities** are activities conducted in the furtherance of nonpartisan or partisan elections and/or of legislative or executive actions by a governmental body. *See Section 8.11* for more information.

**Preventable Accident/Injury** is an incident in which an employee 1) violates a traffic law, and that violation causes or contributes to the accident; 2) violates a safety rule or departmental procedure, and that violation causes or contributes to the accident; or 3) commits an act that could have reasonably been avoided, thus preventing the accident.

**Promotion** means an assignment of an employee from a position in one classification to a position in another classification having a higher pay grade.

**Reasonable Suspicion** means the belief that an employee has violated the alcohol or drug prohibitions, based on specific observations concerning the appearance, behavior, speech, or odor of the employee.

**Reduced Leave Schedule:** A leave schedule that reduces the usual number of hours per workweek or per workday of an employee.

**Regular Employee** means an employee who is either full-time or part-time and who is off new hire probation. This does not include seasonal and temporary employees.

**Retirement Date** means the day an eligible employee officially separates from City employment and becomes entitled to receive retirement benefits.

**Safety-Sensitive Position** means a job in which the employee is responsible for his or her own or other people's safety. It also refers to jobs that would be particularly dangerous if performed under the influence of drugs or alcohol.

**Separation** refers broadly to the process of managing the termination of employment whether voluntary or involuntary.

**Serious Health Condition:** A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than five (5) consecutive work days or more than two (2) fire shifts combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Restorative dental surgeries after an accident or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness or allergies may be serious health conditions, but only if all the conditions of this section are met.

Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave.

**Sexual Harassment** means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if: 1) submission to the advance, request, or conduct is made a term or condition of an individual's employment either explicitly or implicitly; 2) submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment; 3) the advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or 4) the advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment. *See Section 8.07 for more information.*

**Social media** is a category of internet-based resources that integrate user generated content and user participation. These include, but are not limited to:

- Social networking sites (i.e., Facebook®, Google®)
- Microblogging sites (i.e., Twitter®)

- Photo and video sharing sites (i.e., Flickr®, YouTube®).
- Blogs; and
- News sites (i.e., Reddit®, Digg®).

**Social networking** is the practice of expanding one's business and/or social contacts by making connections through clubs, organizations, phone contacts, written correspondence or through web-based applications.

**Spouse** means a husband or wife, as the case may be, including individuals in lawfully recognized same-sex and common law marriages and marriages that were validly entered into outside of the United States, if they could have been entered into in at least one state.

**Supervisor** means any person, regardless of job title, who is responsible for directing the work of others.

**Suspension** is when an employee is temporarily removed from their position without pay for a specific time. *See Section 8.01* for more information.

**Take home Vehicle** is a city-owned vehicle which is assigned to a specific position with take-home responsibilities.

**Temporary Employee** means any employee appointed to any of the following: 1) an assignment of job scheduled to last less than six (6) months; 2) a position funded under a federal employment and training program as a participant meeting federal eligibility requirements, but not including administrative or staff positions; 3) a cooperative work-study program with an educational institution; 4) a seasonal position, even though the assignment may last more than six (6) months; 5) any assignment of less than a full calendar year, which is repeated from year to year, even though the assignment may last more than six (6) months; or 6) a position which, by City policy and practice, is intended to give introductory work experience to a person preparing for entry into the work force.

**Termination** means the loss of a job due to disciplinary action or any action initiated by the employer.

**The Texas Public Information Act** provides that all information that the city is required to assemble, collect and maintain under a law or ordinance or in connection with the transaction of official business is public information subject to disclosure to the public unless otherwise exempted from disclosure by the Act or other law.

**Transfer** means any change of an employee from one position to another position in a classification having the same pay grade. *See Section 2.12* for more information.

**Twelve (12) month period** means, for the purpose of figuring Family and Medical Leave, a rolling twelve (12) month period measured backward from the date leave is taken.

**Unfit Condition / Impaired** means the employee's behavior and/or ability to work is affected by a controlled substance or alcohol, or the combination of them, in any detectable manner. *See Section 8.06* for more information.

**Unmarked Vehicle** is a city-owned vehicle which is not easily identified as used by a city employee. Examples of such vehicles would be those used in fire and/or police criminal investigation and by detective personnel.

**Users** are all employees, volunteers, city council members, and other persons that are authorized to use the City's computer resources, with the exclusion of public computers.

**Vendors:** Individual(s) or companies that have been approved by the Finance Department as a recipient of organizational PII and from which the finance department has received certification of

their data protection practices conformance with the requirements of this policy. Vendors include all external providers of services to the City and include proposed vendors. No PII information may be transmitted to any vendor in any method unless the vendor has been pre-certified for the receipt of such information.

**Weapon** means any instrument specifically designed, made, or adapted for the purpose of inflicting serious bodily injury or death, including, but not limited to, clubs, explosives, firearms, handguns, illegal knives, crossbows, bows and arrows, throwing stars, zip guns, and artificial knuckles. *See Section 7.12 for more information.*

**Work Period** means a fixed, recurring period as follows: 1) forty (40) hours per week, this is defined as Monday 12:00 a.m. to Sunday 11:59 p.m., for most regular full-time employees; 2) certified Fire Department shift personnel will average fifty-six (56) work hours per week and 120 hours over a fifteen (15) day work cycle as defined by 29 U.S. Code § 207(k); but, 3) a director may alter the work period to meet the departmental needs, if the change does not violate state or federal law.

**Workday or Working Day** means any one shift during which a division is open for business or on which an employee is scheduled to work. For the purposes of this policy manual, a workday means an eight (8) hour period.

## **Employee Acknowledgement of Receipt of Handbook**

My signature below indicates that I agree to read the Personnel Policy and Procedure Manual and abide by the standards, policies, and procedures defined or referenced in this document.

The information in this Personnel Policy and Procedure Manual is subject to change. As the City provides updated policy information, I accept responsibility for reading and abiding by the changes. I understand that no modifications to contractual relationships or alteration of at-will relationships are intended by this Handbook.

I understand that nothing in this Manual is intended to confer a property interest in my continued employment with the City. I understand that I have an obligation to inform my supervisor and the Human Resources Department of any changes in personal information, such as phone number, address, etc. I also accept responsibility for contacting my supervisor or the Human Resources Department if I have questions or need further explanation.

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Printed Name

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Signature

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Date