

ORDINANCE NO. 4078

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, ADOPTING THE GENERAL GOVERNMENT POLICIES AND PROCEDURES MANUAL WITH AMENDMENTS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE OF APRIL 1, 2010.

WHEREAS, pursuant to the City's Charter, Article IX-A, Section 6, the Human Resources Department presented the Personnel Board with the General Government Policies and Procedures Manual (Manual) with amendments on November 11, 2009; and

WHEREAS, the Personnel Board voted to recommend the adoption of the Manual with amendments; and

WHEREAS, the City Manager presented the recommended Manual with amendments to the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Council of the City of Mesquite hereby adopts the General Government Policies and Procedures Manual with amendments, attached hereto as Exhibit "A," as recommended by the Personnel Board and presented by the City Manager.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

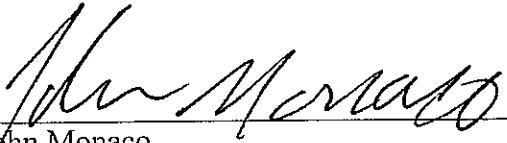
SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That the policy and procedures contained in the General Government Policies and Procedures Manual are not intended to create contractual rights between the City of Mesquite and its employees.

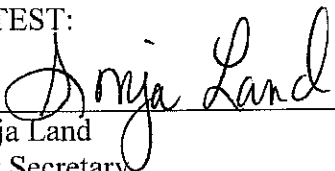
SECTION 5. That upon passage of this ordinance all employees of the City of Mesquite shall be notified of the manual and all amendments made herein to the General Government Policies and Procedures Manual.

SECTION 6. That the ordinance and the referenced manual shall become effective on and after April 1, 2010.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on the 1st day of March, 2010.



John Monaco
Mayor

ATTEST:


Sonja Land
City Secretary

APPROVED:


B. J. Smith
City Attorney

MESQUITE

T E X A S

Real. Texas. Service.

**GENERAL GOVERNMENT
POLICIES AND PROCEDURES
MANUAL**

Issued - April 1, 2010

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CHAPTER I POLICIES AND PROCEDURES

I. POLICY MANUAL

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

II. PURPOSE OF THIS MANUAL

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

III. MANUAL REVISIONS

Proposed manual revisions will be prepared by the Human Resources Director and referred to the Personnel Board who will make its recommendations. The City Manager will present the revisions to the City Council, and the Council may, by ordinance, adopt them with or without changes.

IV. OBJECTIVES

The objectives of this manual are as follows:

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

V. HUMAN RESOURCES DIRECTOR

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

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

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CHAPTER 1 POLICIES AND PROCEDURES

VI. HOURS SCHEDULED TO WORK

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

VII. UNCLASSIFIED APPOINTMENT

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

Officers, employees, members of boards or other persons who are appointed by the City Council.

Directors of departments or organizational equivalents.
Assistant City managers.
Deputy City managers.
Seasonal employees.
Part-time employees.

VIII. CLASSIFIED APPOINTMENT

All positions not designated as unclassified. Members of the classified service may appeal to the City's Trial Board for a review of human resources actions as set forth in the City's disciplinary policy.

IX. EMPLOYMENT CATEGORIES

1. Probationary Appointment

- a. Employees who have yet to successfully complete their original probation period and who regularly work not less than 40 hours per workweek.

- b. Eligible to receive full benefits as specified herein.

2. Regular Full-Time Appointment

- a. Employees who have successfully completed their original probation period and who regularly work not less than 40 hours per workweek.
- b. Eligible to receive full benefits as specified herein.

3. Part-Time Appointment

- a. An "At-Will" appointment who regularly works less than 40 hours per workweek.
- b. May receive limited benefits based on the number of hours worked.

4. Seasonal Appointment

- a. An "At-Will" appointment for a specified period of time, normally less than one year.
- b. May receive limited benefits based on the number of hours worked.

X. POLITICAL ACTIVITY

Except as otherwise provided by laws, employees will refrain from using their positions for or against any candidate for public office. Employees shall not directly or indirectly coerce, attempt to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization or person for political purposes. No employee may seek or hold an appointive or elective City office. No employee may seek or hold an office of

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public trust or partisan office in any jurisdiction where such service would constitute a conflict of interest with City employment, with or without remuneration. If an employee decides to seek or assume such office, then that person shall resign from City service or will be dismissed for failure to do so.

XI. AGE REQUIREMENT

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

XII. SCOPE

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

XIII. PERSONNEL BOARD

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

XIV. RESERVATION OF RIGHTS

The City reserves the right to interpret, change, rescind or depart from the policies contained in this manual in whole or in part. Nothing contained in this policy shall be construed as creating or constituting a contract with any employee, whether expressed or implied

¹ Human Resources Director is a title that replaces Personnel Director. See Article IX - A, Sec. 3-Charter of the City of Mesquite, Personnel Director.

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CHAPTER 2 EMPLOYEE RECORDS

I. EMPLOYEE RECORDS

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

II. OFFICIAL PERSONNEL FILE

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

III. EMPLOYEE PRIVACY

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

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

IV. CONFIDENTIAL MEDICAL RECORDS

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

V. PERSONNEL FILE REVIEW

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

VI. DUPLICATION OF RECORDS

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

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CHAPTER 2
EMPLOYEE RECORDS

VII.
CURRENCY OF RECORDS

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

1. Home address.
2. Primary phone number.
3. Beneficiary status.
4. Name.
5. Social security number.
6. Drivers license number or type of license.

VIII.
CONFIDENTIALITY OF RECORDS

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

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CHAPTER 3 GENERAL PROVISIONS

I. UNAUTHORIZED ELECTRONIC SURVEILLANCE, EAVES-DROPPING AND TAPE RECORDING

1. **General Policy:** It shall be a violation of City policy for employees to engage in unauthorized electronic surveillance, eavesdropping or secret tape recording by use of an electronic recording device of any communications between or among employees or elected representatives of the City of Mesquite.

2. **Definitions:**

a. Electronic Eavesdropping is defined as the unauthorized, electronic recording by use of an electronic recording device of any communications made by employees of the City of Mesquite without the knowledge of the person making such communications.

b. Communications include, but are not limited to, statements made during meetings, hearings, conferences, counseling or conversations between employees or elected representatives.

Communications also means telephonic communication, including cellular or mobile phone communications.

c. Electronic Recording and Photographic Devices including any device capable of recording audio, video or images.

d. Employee includes full- and part-time, volunteer and seasonal employees.

3. **Exceptions: Fire and Police** - It shall not be a violation of this policy for employees of the Fire and Police Departments to electronically record communications with or among employees or citizen contacts as necessary in the course and scope of conducting official business.

4. **Authorization:** The City Manager is authorized to take whatever action is necessary to maintain good order within the organization.

5. **General:** This policy does not preclude the tape recording of such communications when all parties to the communication are aware of the fact that the communication is being recorded.

II. ELECTRONIC MAIL AND INTERNET

1. **Purpose:** The purpose of this policy is to provide guidance to the employees of the city of Mesquite concerning their use of the Internet and e-mail. Access to the Internet and use of e-mail are City resources, which are provided to enable City employees to work more efficiently and effectively. All City of Mesquite employees provided with or authorized to use e-mail and Internet are ~~is~~ responsible for ensuring that the City's e-mail and Internet system is used properly and in accordance with this policy.

2. **Authorized Users:** Department directors are responsible for determining which positions

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require access to e-mail and Internet.

3. Use Policies:

a. Internet and e-mail is intended to be used for City business; however, limited personal/non-business use of e-mail and the Internet is acceptable, as long as it does not violate any of the usage restrictions or policies and does not interfere with the employee's job responsibilities.

b. Employees shall not share their passwords with others, except for business reasons within their department as determined by the department director.

c. Utilization of the entire e-mail directory or using the "everybody" function for personal use must be approved by a department director or the City Manager's office.

d. Prohibited uses of e-mail and Internet includes, but are not limited to,

(1) Downloading of software products from Internet sites without prior approval of the Information Technology Department .

(2) Creating, transmitting or storing material that is threatening, obscene, sexually explicit, pornographic or which may constitute intimidating, hostile or offensive material on the basis of sex, race, color, religion,

national origin, age or disability. The City's policy against sexual or other harassment applies fully to this policy.

(3) Engaging in illegal, fraudulent or malicious conduct.

(4) Obtaining unauthorized access to any computer or data system.

(5) Using another individual's account or identity without explicit authorization.

(6) Sending chain letters or unauthorized solicitations.

(7) Conducting activity associated with outside employment or business.

(8) Conducting political campaigns.

4. Employee Property and Privacy:

a. All Internet and e-mail communications sent through, received or stored in the City-owned system are the property of the City of Mesquite.

b. The City reserves the right to monitor e-mail and Internet usage to assure that its resources are being used for the purposes permitted by this policy.

c. Employees do not have a personal privacy or property right in any matter created, received or sent using the e-mail or Internet.

d. The City reserves the right to access, retrieve, read and delete any communication that is

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- created, sent or received using the City's e-mail or the Internet to assure compliance with this and other policies.
- e. Any employee who becomes aware of misuse of the e-mail or Internet system shall promptly contact their supervisor.
 - f. No e-mail message, relating to City business, containing a citizen's e-mail address should be forwarded to another individual outside the City. This information is not subject to disclosure to the Public Information Act, and permission must be obtained from the sender prior to forwarding the information. This provision does not apply to e-mail addresses of contractors, vendors or others engaged in business activity with the City.
5. **Confidentiality:**
- a. Due to the inherently unsecured nature of e-mail and potential for unauthorized interception, City employees must use caution in the transmission and storage of confidential or restricted information. Employees, officers and officials of the City should refrain from using e-mail to communicate confidential or sensitive information among other employees, officers, officials or legal counsel of the City when another more secure method of communication is available. Confidential information on the e-mail system should be

protected and should not be disclosed to unauthorized employees or recipients.

- b. Computers or terminals shall not be left unattended in a state which affords inappropriate access to records of the City, allows unauthorized users access to the e-mail or Internet or otherwise compromises security.
6. **Retention of Records:**
- a. E-mail created in connection with the transaction of official City business should be treated as any other record and retained according to the appropriate record retention rules.
 - b. Destruction of e-mail that fits the criteria for public records should be performed in accordance with the policies of the Records Management Committee.

III. SEARCHES

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

IV. REPORTING OF ARRESTS AND CONVICTIONS

An employee shall notify their direct supervisor of any charge, complaint, conviction, probation,

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adjudication or deferred adjudication of a class A or class B misdemeanor and/or felony within five (5) working days of the incident. The supervisor will contact the Human Resources Director or designee to determine the appropriate action.

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

V. COMMUNICATIONS POLICY

Employees shall not respond to media inquiries about City operations. All media inquiries made to employees should be reported to their supervisor immediately.

VI. EMERGENCY OPERATIONS POLICY

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

1. Upon activation of the "Emergency Operations Policy", City of Mesquite employees are expected to be able and willing:
 - a. To be "On-Call" via page or phone and subject to reporting for duty.

- b. To work extended hours beyond the normal shift.
- c. To work shift hours different from the normal practice.
- d. To perform duties different from the normal practice.
- e. To work under the direction of different supervisors.
- f. To work in different departments.
- g. To operate under procedures and policies that may have to be suspended or amended by Department Directors to cope with unusual situations.

VII. PERSONAL APPEARANCE AND DRESS POLICY

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

Each department may determine its definitions of acceptable appearance standards balanced by public impression, comfort and safety. Departments requiring uniforms shall establish their own proper dress policy to supplement overall appearance requirements of the City. City uniforms shall not

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be worn when the employee is off duty unless authorized by the department head or City Manager.

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

**VIII.
SMOKING POLICY**

Employees shall not smoke in or around any City building in violation of any department policy, City ordinance or state and federal law. Smoking will not be permitted in any City-owned vehicle at any time.

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CHAPTER 4 EMPLOYMENT POLICIES

I. EQUAL EMPLOYMENT OPPORTUNITY AND AMERICANS WITH DISABILITIES ACT

1. **Equal Employment Opportunity:** The City of Mesquite is committed to equal employment opportunity for all employees and applicants for employment. Discrimination against any person in recruitment, examination, appointment, training, promotion, discipline, pay or any other aspect of personnel administration is prohibited. This includes discrimination because of race, color, creed, national origin, religion, sex, age, disability, veteran's status or genetic information.
2. **Americans with Disabilities Act:** To the extent reasonably possible, the City will accommodate individuals with disabilities in the application, hiring and employment process. Reasonable accommodation is available to all employees and applicants, so long as the accommodation does not create an undue hardship for the City and can be provided without posing a substantial or imminent safety risk to the employee, coworkers or public. Individuals with disabilities requiring accommodations should notify the Human Resources Department in writing and provide medical documentation. Applicants or employees wishing to complain about the denial of reasonable accommodation or other disability-related discrimination should follow the same procedures outlined by the City for harassment or discrimination complaints in

accordance with Chapter 17-Harrassment, Discrimination and Retaliation, Sec. V. Such individuals will not be subject to retaliation for requesting accommodation or because of complaints about the denial of reasonable accommodation.

II. APPLICANT DEFINED

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

III. NEPOTISM RESTRICTIONS

1. The City will not hire, staff, transfer or promote to any regular position:
 - a. An applicant/employee who is related within the second degree by marriage or within the third degree by blood¹ to any employee where both positions report within the same division or organizational equivalent as defined and identified by each department director and approved by the City Manager.
 - b. An applicant/employee who is related within the second degree by marriage or within the third degree by blood to any employee where such appointment would place the

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- applicant/employee within the relative's immediate supervisory chain of command.
- c. An applicant who is related within the second degree by marriage or within the third degree by blood to the Mayor, City Manager or any member of the City Council.
 - d. An applicant/employee where any familial relationship exists and a close working relationship is required between the positions, where there exists a potential for a conflict of interest between the positions or where the existence of the familial relationship between the positions is deemed not in the best interests of the City of Mesquite by the City Manager.
2. In addition to the above, the City's Police or Fire Department will not hire to any regular position an applicant who is the parent, step-parent or spouse of any current employee in the same department.
 3. Nepotism restrictions do not apply to employees classified as seasonal, except as set forth in the City Charter.

¹ See relationship chart at the end of this chapter.

IV. FORMER EMPLOYEES

Former employees of the City shall not be given consideration for re-employment unless special circumstances warranting such

consideration exist in the opinion of the City Manager.

V. REJECTION OR DISCONTINUATION OF PROCESSING

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

1. **Impairment:** Inability of the applicant to perform the essential duties of the job due to medical, psychological or physical impairments, even with reasonable accommodations.
2. **Minimum Requirements:** Failure to meet the minimum requirements for the position as prescribed by the Human Resources Director.
3. **Falsification, Deception, Fraud:** Falsification of any material fact or any attempt to practice deception or fraud by the applicant on the application and/or supplements during interviews with any representative of the City, during examinations or during any phase of the employment process.
4. **Nepotism:** Failure to disclose familial relationships are grounds for disqualification and/or discharge.
5. **Incomplete Processing or Documentation:** Failure to report for interviews or examinations and failure to provide information or

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- documentation requested by the City.
6. **Closing Date:** Failure to submit an application or job bid by the posted closing date.
 7. **Driving Record:** Failure to meet the City's driving requirements for those positions which require the operation of equipment in the performance of their duties. See Chapter 13.X.5. "Grounds for Automatic Disqualification for Initial Appointment" and Chapter 13.X.6. "Grounds Which May be Cause for Disqualifications for Initial Appointments."
 8. **Criminal History:** Conviction, deferred adjudication or placement on probation for a felony or crime other than traffic violations where such history represents a risk to the City of Mesquite or where such history is in conflict with the responsibilities and duties of the job.
 9. **Neglect of Debts:** Failure to pay or neglect of just debts.
 10. **Previous Employment History:** Although not intended to be an exhaustive list, examples for grounds of rejection or discontinuance of processing of a job candidate include, but are not limited to, the following:
 - a. Involuntary termination from previous employer(s) for inadequate performance of duties.
 - b. Misconduct.
 - c. Job abandonment.
 - d. Attendance-related problems.
 - e. Insubordination.
 - f. Fighting.
 - g. Violation of safety rules.
 - h. Theft of employer property.
 - i. Using, soliciting or possessing alcohol or drugs while at work.
 11. **Work Schedule:** Inability or unwillingness of the applicant to work the required work schedule.
 12. **Work History:** History of instability as evidenced on the completed application and supplements.
 13. **Incomplete Application:** Failure to complete the application and supplements in the manner prescribed.
 14. **Examinations:** Inability to pass all required examinations.
 15. **Character:** Unsatisfactory character, unlawful activity or unethical behavior.
 16. **Public Safety:** Due to the high level of public trust, the high expectations of the public, the need for continued public confidence in the City's public safety agencies and the heavy responsibility for the safety of lives and property, grounds for rejection or discontinuance of processing of a public safety job applicant will be more comprehensive than those of other City personnel. Those additional grounds for rejection or discontinuance of a public safety applicant will include, but not be limited to, the following:
 - a. Prior illegal activity, whether detected or undetected, whether prosecuted or unprosecuted, whether convicted or unconvicted, whether completed, attempted or a conspiracy including, but not limited to:

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

VI. DUAL EMPLOYMENT

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

VII. VACANCIES

1. **Requisition for Job Applicants:** Departments will notify the Human Resources Department of vacancies by submitting a completed Requisition for Job Applicants form. Submission of a requisition shall occur as soon as the department is aware of a need to fill a position. Departments requesting a change in a position's job requirements must submit a written request for a job audit to the Human

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- Resources Director to the job being posted.
2. All recruitment activities should be coordinated through the Human Resources Department.
 3. **Job Posting:** The Human Resources Department will distribute Job Opportunities announcements among appropriate City facilities. Departments are responsible for providing a bulletin board or posting area to ensure that employees receive proper notification of job opportunities. Job Opportunities postings for the general public will be posted and applications accepted for a period of time that ensures that an adequate number of applicants have been recruited. Internal job opportunities will be posted and job bids accepted for a period of time sufficient to allow qualified employees to apply. In the event of an emergency, after three days the Human Resources Director may close positions without notice and cease acceptance and review of applications for positions as deemed necessary, even if the job posting notice originally indicated that job applications would be accepted for a longer period of time.

VIII. EMPLOYMENT APPLICATIONS

1. **Proof of Employment Eligibility and Identity:** In compliance with the Immigration and Reform Control Act of 1986, the City shall employ only American citizens and aliens who are authorized to work in the United States. All persons hired by the City shall be required to show proof of employment eligibility and identity as a condition of employment.
2. **Submitting Applications:**
 - a. The Human Resources Department accepts applications and resumes only for posted vacancies.
 - b. Resumes will be accepted for purposes of initial consideration for General Government positions.
 - c. All applicants must complete a City of Mesquite Application for Employment prior to beginning employment. The responsibility to review, screen, track and distribute applications rests with the Human Resources Department.
 - d. **Job Bid**
Applicants currently employed with the City must complete and submit to Human Resources a job bid/application prior to the posting deadline. It is the responsibility of the employee to update their employee file in the Human Resources Department to reflect their current qualifications for the position being sought. Applicants not meeting the required qualifications shall not be referred to the department for consideration.
3. **Hard to Fill Positions:** The Human Resources Department may identify hard to fill positions where resumes will be accepted even if a vacancy does not exist. Acceptance of a resume does not confer applicant status nor constitute an agreement by the City to notify the job

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seeker.

4. Acceptance of Applications:

a. Incomplete Applications

Applications and supplements must be completed in full; incomplete applications and supplements will not be considered for employment. An application is considered incomplete:

- 1) If responses have not been provided to all entries on the employment application and supplements.
- 2) If the job seeker has not signed and dated all designated areas.
- 3) If necessary diplomas, licensure, certification or other requested documents have not been furnished.

b. Property of City

Once application, supplement or any other documentation is submitted to the Human Resources Department for employment consideration, it becomes the property of the City of Mesquite.

c. Information Verification

The Human Resources Department may, at its discretion, contact an applicant or any relevant source to obtain information omitted from the application. All information provided is subject to verification and investigation.

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

X. APPLICANT TESTING

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

XI. APPLICANT PROCESSING

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

IX. VERIFICATION OF MINIMUM QUALIFICATIONS

XII.

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CHAPTER 4 EMPLOYMENT POLICIES

EMPLOYMENT INTERVIEWS

The hiring department shall adhere to the following guidelines:

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

XIII. POSITION APPOINTMENTS

1. **Job Offers:** All applications received by the departments should be considered for employment prior to an individual being given a conditional offer of employment. Only an individual who has completed the pre-employment process, as prescribed in Chapter 4, may be given a conditional offer of employment. All job offers are conditioned upon the applicant passing all required medical examinations, drug tests, reference checks and background investigations.
2. **Physicals:** The Human Resources Department shall designate the

proper procedures for scheduling of physicals, monitoring and disseminating results and approving/ disapproving hiring decisions.

3. **Payroll:** The hiring department is responsible for completing status change, payroll and personnel forms on all employee actions. The appropriate forms shall be forwarded to the Human Resources Department by the effective date of the action. No department may place an individual on payroll that has not successfully completed processing by the Human Resources Department.
4. **Orientation:** The Human Resources Department shall be responsible for developing and conducting a general employment orientation for all new employees with the City of Mesquite. Departments are responsible for developing and conducting department-specific orientations that can cover departmental policies and procedures.
5. **Employee Identification:** Employees may be required to be photographed and fingerprinted, at the City's expense, for identification purposes.

XIV. RESIDENCY REQUIREMENTS

To the extent permitted by federal and state law, the City Manager may...

1. Designate certain positions where it is appropriate that the incumbents assume residency within the Mesquite city limits.
2. Establish rules governing response time for certain positions that may be subject to

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CHAPTER 4 EMPLOYMENT POLICIES

- standby duty or immediate response capability.
3. Require any employee hired or transferring into a position with residency or response requirements to comply with the established standards prior to completion of the probationary period.
 4. Require any employee subject to residency or response requirements to remain in compliance with these restrictions during the term of their employment with the City of Mesquite.
- b. In Writing with Signed Release: Upon receipt of a properly written release, the Human Resources Department may release job-related information deemed legal and appropriate by the Human Resources Director.
 - c. Refusal to Furnish: The Human Resources Director may decline to furnish employment not required by law.

XV. EMPLOYEE REFERENCES

1. **General Policy:** It is the policy of the City of Mesquite to respond factually and accurately to properly submitted requests for employment information.
2. **Employment Information:** All written or phone requests for employment information or verification for current, retired or terminated employees, received by a department, supervisor or employee shall be referred to the Human Resources Department.
 - a. **By Phone:** Responses to phone requests will be limited to information which is job-relevant and verifiable by proper documentation contained in the employee's official Human Resources Department file. This would include the following: dates of employment; positions held; pay grade minimum and maximum at separation; reason for separation as stated on the Separation Request Form.
3. **Personal References:** Personal references may be provided by an employee as long as references are not on City stationery, not signed with the individual's title or position and do not contradict information documented in the employee's Human Resources Department file.
4. **Recordkeeping:** A copy of all written requests for information, authorization to release and information provided will be maintained by the Human Resources Department.
5. **Eligibility for Rehire:** The City does not make a determination upon termination regarding an employee's eligibility for rehire. All prior employees are eligible to submit an application through the normal application process (Reference Section 4.IV, Former Employees).

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CHAPTER 5 EXAMINATION

I. EXAMINATION AUTHORITY

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

II. EXAMINATION METHODS

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

1. **Written Examinations:** Written examinations may be given to assess the applicant's knowledge, skill or aptitude in the field for which the test is being administered.
2. **Applications and Supplements:** Applications may be rated using training, education, experience, work history and other job-related information which demonstrates the applicant's qualifications for the position. Ratings may be based upon information contained in the application and/or supplements, follow-up

contact with the applicant and other investigations as deemed necessary.

3. **Interviews:** Interviews may be conducted in person, by video or via telephone using one or more interviewers. Candidates may be rated on the information conveyed in the interview process.
4. **Oral Examination:** Oral examinations may be administered to assess knowledge or skills which are not readily demonstrated through use of a written examination or where necessary to reasonably accommodate disabled applicants.
5. **Performance Examinations:** Performance examinations may be given to assess an applicant's knowledge, skill, ability or aptitude in performing job-relevant tasks. Performance examinations will be used only where consistent with business necessity and will be narrowly tailored to measure only the ability to perform the essential functions of the position being applied for.
6. **Biographical Inventories:** Questionnaires utilizing biographical information may be used in rating an applicant's qualifications.
7. **Background Investigations:** Background investigations may include, but are not limited to, previous employer references, personal references and any other job-related contacts and questions which enable adequate assessment and/or verification of the applicant's qualifications.
8. **Drug Testing:** Drug testing of applicants who have been made a contingent offer of employment

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CHAPTER 5 EXAMINATION

- shall be conducted in accordance with established policy based upon the provisions of City of Mesquite Ordinance No. 2652.
9. **Medical, Psychological, Physical, Testing:** Applicants who have been made a contingent offer of employment shall be required to successfully complete a medical and physical examination prior to appointment. Additional testing may be required to determine the applicant's suitability for employment.
10. **Other:** Any other examination which serves to further demonstrate the qualifications of the applicant may be utilized as deemed necessary by the Human Resources Director.
- Mesquite and are not subject to review.
4. When feasible, the most efficient and accurate method of examination scoring will be used.
5. Applicants who do not meet the minimally required score on examinations shall not be referred to the hiring supervisor.
6. Examination results may be furnished to the hiring supervisor, but an individual applicant's examination results may not be disclosed to other applicants.

III. EXAMINATION PROCEDURES

1. The Human Resources Director shall establish procedures pertaining to the administration of examinations such as:
- Applicant admission to exam sites.
 - Failure to report for examination.
 - Exam failure and re-testing and other relevant procedures.
2. The Human Resources Director shall not permit testing of any applicant who does not meet the minimum requirements of the position prior to taking the examination.
3. Examinations or their administration are not appealable. All examinations and answer sheets are the property of the City of

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CHAPTER 6 PROBATIONARY PERIODS

I. PURPOSE OF PROBATIONARY PERIOD

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

II. COMPLETION OF PROBATIONARY PERIOD

1. **Probationary Full-Time Employees:** All newly hired probationary full-time employees will serve a period of original probation of six (6) months. Employees serving an original probation are considered "at will" and may be terminated without cause or appeal at any time. Employees promoted while serving an original probation will have their original probationary period extended for a period of six (6) months from the date of promotion, during which time the employee shall remain "at-will."

Subject to review and approval by the Human Resources Director, an employee's probationary period may be extended for a period not to exceed ninety (90) days. (Fire and Police commissioned personnel are governed by the probation provisions of the Texas Local Government Code, Chapter 143.)

2. **Part-Time Employees:** All newly hired part-time employees shall serve a probationary period of six months. Part-time employees are always "at will" and may be terminated without cause or appeal at any time during their employment with the City.
3. **Seasonal Employees:** Seasonal employees do not serve a probationary or introductory period. Seasonal employees are always "at will" and may be terminated without cause or appeal at any time during their employment with the City.
4. **Transfer/Promotion/Demotion Probation:** Full-time employees who are promoted, given a lateral transfer or demoted will serve a probationary period of six (6) months. Subject to review and approval by the Human Resources Director, an employee's probationary period may be extended for a period not to exceed ninety (90) days. Employees failing a transfer probation may, at the City's discretion, be considered for transfer to a vacant position for which they meet the minimum qualifications. Employees serving a transfer, promotion or demotion probation who fail to successfully complete probation, where other employment with the City is not feasible or available, will be given a disciplinary termination.
5. Part-time employees who are promoted or transferred to a full-time position will serve a probationary period as described in Section II.1 above.

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CHAPTER 6 PROBATIONARY PERIODS

III. EVALUATIONS

Evaluations shall be conducted as set forth in Chapter 17. Regardless of when the probationary evaluation is completed, employees shall not be deemed to have completed the probationary period until so certified by the department. Departments will document in writing and submit to the Human Resources Department all probationary performance decisions on the form and in the manner prescribed by the Human Resources Department

IV. JOB BIDDING

Except when approved by their department director and Director of Human Resources, employees serving a probationary period are not eligible to bid for another position with the City until successful completion of their mid-probationary evaluation. Employees who wish to submit a job bid must successfully complete all required testing in order to be referred to the hiring supervisor for consideration. Employees promoted or transferred while serving an original probation will have their original probationary period extended for a period of time of six (6) months from the date of the promotion during which time the employee shall remain at-will.

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CHAPTER 7 PROMOTION/TRANSFER/DEMOTION

I. INTERNAL PROMOTION/TRANSFER/DEMOTION

1. **Internal Posting:** Departments may request that the Human Resources Department post a vacancy for internal applicants, thereby restricting consideration to current City employees. Internal postings shall be handled in accordance with the provision of Chapter 4.
2. **Performance Evaluations and Employment Records:** Performance evaluations and employment records shall be reviewed when considering applicants for vacancies.
3. **Notice Period:** An employee selected for a new position must provide at least two weeks' notice to the releasing department, except where both departments agree on a different notice period.
4. **Selection:** The Human Resources Department shall ensure that all provisions of this manual are followed when filling a vacancy. The Human Resources Director shall assist supervisors in selecting the best methods for testing and evaluating an applicant's minimum qualifications.

II. PROMOTION

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

1. **Definition:** When an employee accepts greater job responsibility and receives a change from a pay grade with a lower midpoint to a pay grade with a higher midpoint.

2. **Compensation:** Promoted employees shall be placed at the minimum of the new pay grade or receive the equivalent of a 5% increase, whichever is greater, unless such increase would place the employee above the pay grade maximum, in which case the employee will be placed at the pay grade maximum for the new position.

III. TRANSFER

1. **Definition:** A transfer is an assignment of an employee from one position to another, not involving promotion or demotion. A transfer may be for administrative convenience or upon the written request of the employee to any vacancy for which the employee meets the minimum qualifications.
2. **Interdepartmental Transfers:** The City Manager has the authority to make interdepartmental transfers for administrative convenience. Transfers for administrative convenience may include moving personnel to and from positions in different classifications. Transfers to a lower classification shall be treated as an involuntary demotion.
3. **Intradepartmental Transfers:** Intra-departmental transfers within the same classification must be approved by the department head.
4. **Qualifications:** Transfers shall not be allowed unless the employee fully meets the minimum requirements of the job description and successfully completes all required testing.

IV.

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CHAPTER 7 PROMOTION/TRANSFER/DEMOTION

DEMOTION

1. **Defined:** A demotion is defined as the voluntary or involuntary movement of an employee from a pay grade with a higher midpoint to a pay grade with a lower midpoint.
2. **Disciplinary Demotions:** A disciplinary demotion will be handled in conformance with procedures in Chapter 8.IV.1.d.
3. **Voluntary Demotions:** A voluntary demotion must be requested in writing. Employees requesting a voluntary demotion must meet all of the testing and job requirements for their new position. The decision to grant a voluntary demotion rests with the City.
 - a. Except where otherwise approved by the City Manager, voluntary demotions will require an appropriate salary reduction to be determined by the department head and Director of Human Resources.
 - b. The demoted employee's salary should not be greater than the maximum of the lower pay grade.
4. **Involuntary Demotions:** Involuntary demotions may or may not require a salary reduction and will be reviewed on a case-by-case basis by the department head and Director of Human Resources.

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CHAPTER 8

CODE OF CONDUCT, RULES OF BEHAVIOR, DISCIPLINARY ACTIONS AND SEPARATIONS

I. STANDARDS OF CONDUCT

Standards of Conduct (Taken from Chapter 2, Art. IV, Sec. 2-123 of the City Code. The Code of Conduct contains references to Council, Officer and Board and Commissions that have been omitted herein. Places where such have been omitted are indicated as [omitted].)

1. No [omitted] employee of the city shall:
 - a. Accept any gift or favor from any person that might reasonably tend to influence him in the discharge of his official duties or grant in the discharge of his official duties any improper favor, service or thing of value.
 - b. Grant any special consideration, treatment or advantage to any citizen, individual or group beyond that which is available to every other citizen, individual or group.
 - c. Disclose information that could adversely affect the property, government or affairs of the City, nor directly or indirectly use any information gained by reason of his official position or employment for his own personal gain or benefit or for the private interest of others.
 - d. Engage in any outside activities which will conflict with, or will be incompatible with, the duties assigned to him in the employment of the City or reflect discredit upon the City or in which his employment in the City will give him an advantage

over others engaged in a similar business, vocation or activity.

- e. Transact any business on behalf of the City in his official capacity with any business entity with which he is an officer, agent or member or in which he owns a substantial interest. In the event that such a circumstance should arise, then he shall make known his interest, [omitted] and turn the matter over to his superior for reassignment, state the reasons for doing so and having nothing further do with the matter involved.
- f. Accept other employment or engage in outside activities incompatible with the full and proper discharge of his duties and responsibilities with the City or which might impair his independent judgment in the performance of his public duty.
- g. Receive any fee or compensation for his services as an [omitted] employee of the City from any source other than the City except as may be otherwise provided by law. This shall not prohibit his performing the same or other services for a private organization that he performs for the City if there is no conflict with his responsibilities.
- h. Represent, directly or indirectly, or appear in behalf of private interests of others before any agency of the City or any of its agencies.

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- i. Use his official position to secure special privileges or exemptions for him or others.
2. The provisions of subsection (I) of this section shall not be deemed to deny to such party any right or privilege guaranteed by law or the federal and state constitutions. Where the advocacy of a right or privilege, however, is compatible with the position held by the advocate, such party shall make an election so that his position with the City and his advocacy will not be incompatible. Where the advocacy of a right or privilege is occasional and infrequent or involves little or no discretion, the advocate shall abstain from any action as an [omitted] employee that would reasonably appear to influence the outcome of the matter, such as voting on the matter, sitting on a board or tribunal charged with deciding the issue when the issue is to be decided, or in the case of an employee, personally processing the matter. Where the advocacy of the right or privilege is usual and frequent or can reasonably be expected to arise in due course of one's occupation or profession, then such [omitted] employee shall remove himself from his position as may be incompatible until such position of incompatibility ceases to exist.
3. The failure of any [omitted] employee to comply with or who violates one (1) or more of the standards of conduct pursuant to this division, which apply to him, shall constitute

grounds for expulsion, reprimand, [omitted] or discharge, whichever is applicable. In the case of an employee of the City, not a member of the Fire Department or Police Department subject to V.T.C.A. Local Government Code, Chapter 143, disciplinary action and appeals therefrom shall be in conformance with procedures established by City charter and personnel rules and regulations, and in actions involving members of the Fire Department or Police Department covered under V.T.C.A. Local Government Code, Chapter 143, appeals shall be in conformance with the procedures established in that statute. [omitted] The decision of these bodies shall be final in the absence of bias, prejudice or fraud.

II. GROUNDS FOR DISCIPLINARY ACTION/TERMINATION

Grounds for disciplinary action/termination include, but are not limited to, the following. The City reserves the right to determine the degree of violation and take appropriate action to maintain the functions and order of the organization.

1. **Attendance:**
 - a. Abuse of approved leave.
 - b. Tardiness.
 - c. Failure to report to work without timely notification.
 - d. Failure to follow procedures for requesting or using leave.
 - e. Unauthorized absence from work site.
 - f. Job abandonment (absence for two consecutive

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- working days without providing notice).
- g. Violations of departmental attendance policy.
- h. Other actions that constitute unsatisfactory attendance.
- 2. **Unsatisfactory Job Performance:**
 - a. Neglect of duty.
 - b. Loafing.
 - c. Carelessness.
 - d. Lack of initiative.
 - e. Lack of cooperation.
 - f. Failure to remain at work station.
 - g. Sleeping or otherwise being inactive during working hours.
 - h. Performing or conducting personal business during working hours.
 - i. Abuse of eating and/or rest periods.
 - j. Interfering with work of others.
 - k. Discourteous treatment of the public or other employees.
 - l. Failure to exercise good judgment in the performance of the job.
 - m. Failure to take the necessary steps to protect assets or employees.
 - n. Inability to perform the duties of the job.
 - o. Inefficient or unproductive behavior.
 - p. Violation of departmental work rules.
 - q. Deliberate or careless damage to property or equipment.
 - r. Unsatisfactory quality or quantity of work.
 - s. Inability to work effectively with other employees.
 - t. Inability to adjust or adapt to changing work requirements.
 - u. Failure to make requested changes in job performance.
 - v. Repeated disciplinary action for minor infractions of policy or procedure.
 - w. Incurring an expense or liability for the City without proper authorization.
 - x. Other acts unsatisfactory job performance.
- 3. **Failing to Follow Instructions/Insubordination:**
 - a. Failure or refusal to perform assigned work or fully comply with instructions or orders as requested by appropriate authorities.
 - b. Failure or refusal to fully cooperate with official internal investigations.
 - c. Acts of defiance towards a superior including, but not limited to, arguing about assignments, talking back, walking away from or ignoring superior while being addressed or deliberate attempts to undermine or put the supervisor in a false light.
 - d. Other acts that reflect the failure to follow instructions/insubordination.
- 4. **Violation of Safety Rules:**
 - a. Smoking in prohibited areas.
 - b. Unauthorized removal of safety guards, fire extinguishers or other equipment designed to

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- protect employees or equipment.
 - c. Failure to use safety equipment or to follow safety practices or rules.
 - d. Careless, neglectful or improper use of tools or equipment.
 - e. Causing injury or damage to person or property through negligence or deliberate action.
 - f. Causing a chargeable accident or injury.
 - g. Failure to report maintenance deficiencies or properly maintain equipment.
 - h. Operating equipment in an unsafe manner.
 - i. Violation of traffic laws pursuant to Chapter 13.X.
 - j. Violation of any of the policies and/or procedures of Chapter 13 relating to on-the-job injuries or illness, regardless of the employee's eligibility for salary supplement including, but not limited to:
 - 1) If an employee fails or refuses to comply with the instructions or advice of a treating physician to improve his/her condition.
 - 2) If an employee fails to keep the immediate supervisor informed on a weekly basis as to the status of the injury when off work.
 - k. Failure to report an on-the-job illness/injury as required by Chapter 13.
 - l. Failure to report an accident or incident involving City vehicles or City equipment as required by Chapter 13.
 - m. Other acts reflecting the violation of safety rules.
5. **Dishonesty:**
- a. Stealing or taking City property or property of other employees without prior authorization.
 - b. Misuse of funds or property.
 - c. Misrepresentation or knowingly providing false information.
 - d. Cheating.
 - e. Providing false or misleading information or omitting material information during course of an official investigation.
 - f. Forging or otherwise falsifying official reports, records or documents.
 - g. Misusing paid leave.
 - h. Unauthorized use of official documents or information.
 - i. Releasing or making known, in any manner, confidential information without authorization.
 - j. Failure to properly account for City documents or property.
 - k. Misuse or usurpation of authority, employee identification or business card.
 - l. Duplication, removal or destruction of documents or property without authorization.
 - m. Other acts reflecting dishonesty.
6. **Conduct Prejudicial to Good Order:**
- a. Fighting or using profane, abusive or threatening language.

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- b. Using unnecessary loud or boisterous language.
 - c. Offensive or lewd conduct.
 - d. Spreading false reports or otherwise disrupting the harmonious relations of the workplace.
 - e. Possession of unauthorized firearms or lethal weapons on the job.
 - f. Behavior causing disruptions in the workplace.
 - g. Threatening another in a manner reasonably likely to cause the person to believe bodily injury will be inflicted on the person or a member of his family or friends or damage will be done to the person or person's family or friend's property.
 - h. Intentionally destroying or threatening destruction of City or another's property.
 - i. Making harassing or threatening phone calls to another.
 - j. Stalking or conducting unauthorized surveillance on another.
 - k. Other acts reflecting conduct prejudicial to good order.
7. **Alcohol or Drugs:** Violation of the City's Controlled Substance and Alcohol Abuse and Testing Policy (Chapter 16).
8. **Unlawful Conduct:**
- a. Conviction or disposition other than acquittal, including probation or deferred adjudication, of any criminal offense, except Class C misdemeanor traffic offenses, will be determined pursuant to Chapter 13.X.
 - b. Engaging in any unlawful activity.
 - c. Failure to report any arrest, indictment, conviction, probation, adjudication or deferred adjudication of a class A or class B misdemeanor and/or felonies within five (5) days of the incident.
 - d. Other acts of unlawful conduct.
9. **Conduct Inconsistent With Interests of the City of Mesquite:**
- a. Any violation of the City Charter, Civil Service Rules and Regulations, City and departmental policies and directives, Standards of Conduct or other policies addressed in this manual.
 - b. Actions which demonstrate disloyalty to the goals and objectives of the City.
 - c. Acting in a manner onsite or offsite as to impugn or embarrass the City.
 - d. Engaging in any activities or actions showing a lack of good moral character.
 - e. Indecent, provocative or offensive behavior.
 - f. Other acts inconsistent with the interests of the City of Mesquite.
10. **Solicitation:**
- a. Solicitation of funds or anything of value for personal profit from either employees or the public during work hours.
 - b. Solicitation of funds or anything of value from either employees or the public during work hours without prior authorization.

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- c. Solicitation of other employees for membership in employee organizations during work hours.
 - d. Using the City's name or position to promote personal business.
 - e. Other acts of solicitation not consistent with the performance of work-related duties.
11. **Financial Obligations:**
- a. Disruption in the workplace resulting from failure to pay just debts and obligations.
 - b. Other types of neglect related to failure to pay financial obligations which disrupt the workplace.
12. **Personal Appearance:**
- a. Failure to dress appropriately and in good taste in relation to assigned job duties.
 - b. Failure or refusal to wear assigned uniforms in the manner prescribed.
 - c. Failure to dress appropriately in accordance with City and departmental policies.
13. **Acceptance of Gifts:** (See also Standards of Conduct, Section A.1.)
- a. Accepting significant gifts or gratuities from individuals or firms with which the City does business or an individual or firm seeking City business.
14. **Harassment, Discrimination and Retaliation:**
- a. Violating the City's Harassment Discrimination and Retaliation policy in any manner.
 - b. Failure to cooperate in the conduct of an investigation of harassment, discrimination and retaliation.
15. **Political Activity:**
- a. Using one's position or personal influence for or against any candidate for public office.
 - b. Dressing in uniform (shirt, pants, coats, hats, patches, etc.) that would identify one as a City employee while engaging in any type of political activity
 - c. Directly or indirectly coerce, attempt to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization or person for political purpose.
 - d. Seek or hold an office of public trust or partisan office in any jurisdiction, with or without remuneration, where such service would constitute a conflict of interest with City employment.
 - e. Engage in any other type of political activity that may be in conflict with the interests of the City of Mesquite.
16. **Secondary Employment:**
- a. Engaging in activities related to secondary employment during normal duty hours or perform secondary employment or activities related to secondary employment that would reflect unfavorably upon the City or impair performance of job duties.
 - b. Using City facilities, equipment, supplies or

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- time for engaging in secondary employment.
- c. Using information gained during employment for personal profit or gain.
17. **Dereliction of Duty:**
- a. Failure to observe and give effect to the policies of the organization.
- b. Failure to report or document violations of policy or procedure.
- c. Other acts reflecting dereliction of duty.
18. **Unauthorized Electronic Surveillance, Eavesdropping and Tape Recording:** Violation of the City's Unauthorized Electronic Surveillance, Eavesdropping and Tape Recording policy (Chapter 3, I).
19. **Electronic Mail and Internet:** Violation of the City's Electronic Mail and Internet policy (Chapter 3, II).

III. GROUNDS FOR NON-DISCIPLINARY TERMINATION

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

1. **Failure to Maintain Minimum Job Requirements:** Failure to maintain or secure licenses or certifications required as a condition for performing the job.
2. **Probationary Period:** Failure to successfully complete probationary period.

3. **Layoff:** A reduction in authorized positions as described in Chapter 8.V of this manual.
4. **Paid and Unpaid Leave Exhausted:** Upon exhaustion of injury leave, injury absence, available modified duty and all sick leave, vacation leave or unpaid leave, the employee will be given a non-disciplinary termination.

IV. DISCIPLINARY ACTION

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

1. **Types of Disciplinary Action**
- a. **Oral Warning:** The oral warning is a conference, discussion, talk or any other form of oral communication between a

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supervisor and employee in which the intent is to correct unsatisfactory job performance or conduct. Supervisors will document in their files oral warnings given to their employees, citing at a minimum the date of warning, content of the warning and expected action to be taken by the employee to avoid further disciplinary action.

- b. Written Reprimand: The written reprimand is used to document, in writing to the employee, the unsatisfactory job performance or conduct that has been demonstrated by the employee. The employee will be requested to sign the reprimand. If the employee refuses, the supervisor present shall document on the reprimand that the employee was given the opportunity to sign but refused. The employee shall be given a copy of the supervisor's signed, written reprimand.
- c. Suspension Without Pay: Suspension without pay is used when an employee's unsatisfactory job performance or conduct requires more severe disciplinary action than a written reprimand. A suspension must be no less than one full workday and no more than twenty working days for any single disciplinary incident. Employees on disciplinary suspension without pay may not use compensatory, vacation or

sick leave to recuperate the lost time.

- d. Disciplinary Demotion: A disciplinary demotion is the reduction of an employee's pay grade as a result of action initiated by the City. Disciplinary demotion should only be considered as an appropriate form of action when the employee's job performance or conduct is unsatisfactory in the current position and it is determined that the employee should be retained in a lower graded position.
 - e. Termination: Termination is an involuntary discharge from the City. Terminations may be for disciplinary or non-disciplinary reasons.
2. Filing of Disciplinary Actions: A signed copy of all reprimands, suspensions, disciplinary demotions and terminations shall be promptly submitted to the Human Resources Director for inclusion in the employee's Human Resources file and may only be removed by court order, or in accordance with VTCA Local Government Code Chapter 143, where applicable.
 3. Affect of Disciplinary Termination on Benefits: Employees terminated as a result of disciplinary action are leaving "not in good standing" and are not eligible for payment of separation benefits (vacation and sick leave).
 4. Notice of Disciplinary Action
 - a. Procedural Due Process: Prior to suspension, disciplinary demotion or

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- disciplinary termination employees shall be notified of the department's intentions, the basis for the proposed action and shall be allowed an opportunity to respond to the official making the disciplinary decision.
- b. To Employee: All employees who are reprimanded, suspended, disciplinarily demoted or terminated will be given written notification of the grounds for the disciplinary action, the acts or actions alleged to be in violation of the grounds for the disciplinary action, the consequences of any future violations of policy (except in cases of termination) and any right of appeal.
- c. Technological developments that reduce staffing requirements.
- d. To accomplish economic or staffing efficiency.
- e. Privatization of services/contracting out.
- f. Requirements of state and/or federal laws.
2. **Retention Criteria:** The initial consideration shall be to maintain the level of service necessary to operate the City. Thereafter, the following factors shall apply in determination of which employees shall be subject to layoff:
- a. Degree of organizational impact as evidenced by employee's knowledge, skills and abilities, productivity and job performance.
- b. Employee's length of service in the position, in the department and with the City.

3. **Notice of Layoff:** Employees subject to layoff will be given two weeks' notice.
4. **Recall and Severance Pay:** The City makes no provision for recall or severance pay for the classified service.
5. **Benefits:** A layoff is considered a non-disciplinary termination. Employees will receive all termination benefits for which they are eligible, as provided by policy.
6. **Re-employment:** Employees subject to layoff may make application with the Human Resources Department, through the normal employment process, for consideration for current vacancies. Employees who have been subject to layoff will be required to meet all of the

V. LAYOFF POLICY

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

1. **Basis:** The City reserves the right to determine the number and type of personnel required to maintain the functions of the organization. The following are illustrative, but not all inclusive, of the basis for a layoff:
- a. A discontinuation of or reduction in demand for service.
- b. A change in level or source of funding.

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qualifications for the position for which they are applying.

7. **Fire and Police State Civil Service:** Employees covered under Fire and Police State Civil Service are governed by the provisions of Chapter 143 of the Local Government Code.

VI. ADMINISTRATIVE LEAVE

An employee may be placed on administrative leave with or without pay to permit the City to conduct an administrative inquiry regarding allegations of unacceptable or unlawful conduct as set forth in Chapter 8.II.

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

VII. APPEAL FROM DISCIPLINARY ACTION

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

1. **Employee Appeals**
 - a. **Time Limitations:** The time limitations regarding

an employee's actions are mandatory and jurisdictional. Failure to comply with the time limits by the employee shall result in loss of appeal rights. All time limits begin the day after notification of the appealable action. An employee's appeal must be received during normal business hours (8 a.m. to 5 p.m.) in the Human Resources Department within ten calendar days after the date of notification to the employee of the appealable action.

b. Appeal Process:

- 1) It is the responsibility of the Human Resources Director to administer and coordinate the provisions of these policies and ensure compliance with established procedures.
- 2) The employee's appeal must be in writing on the Appeal of Disciplinary Action to Trial Board form provided by the Human Resources Director.
- 3) All appeals must be signed and dated by the employee. The Human Resources Director may not process an unsigned or incomplete appeal.
- 4) To be complete, the appeal must state:
 - i) The action being appealed;
 - ii) Why employee feels the action

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- should be modified; and
- iii) The remedy sought by employee.
- 5) Once filed, the scope of the appeal may not be expanded or amended.
- c. Appeal Exclusions: The Human Resources Director may not process an appeal:
- 1) Which questions the wisdom or advisability of any policy, procedure or directive; or
 - 2) Which has been rendered moot by existing law.
- d. Appeal Retraction: An appeal may be withdrawn at any time by written request of the appellant.
- e. Reimbursement of Legal Fees and Damages Prohibited: Employees are not entitled to seek reimbursement of any legal fees or seek damages other than back pay and benefits in connection with a Trial Board appeal.
- f. Hearings Private: Unless otherwise requested in writing by the appellant at the time of filing of the appeal, the appeal shall be closed to the public.
- consider appeals from disciplinary action for suspension, involuntary demotion or disciplinary termination and which do not question the wisdom or advisability of any policy, procedure or directive.
3. Board Administrator: The City's Human Resources Director shall serve as administrator and coordinator for the Trial Board. The Human Resources Director will provide all necessary assistance to the Trial Board not in conflict with these policies.
4. Rules of Procedure: The Trial Board shall adopt rules of procedure that, at a minimum, shall contain the following:
- a. The Trial Board rules of procedure may not supplant or conflict with established City policy.
 - b. The Trial Board may not consider appeals that question the wisdom or advisability of established City policy, procedure or directive.
 - c. The Trial Board may not render a decision that would serve to amend or modify any classification or compensation structure, benefit program or countermand any established City policy, procedure or directive.
 - d. The Trial Board may not interpret or consider issues or questions of law, but will adhere solely to the review of facts presented during the hearing relating to the disciplinary action taken.
 - e. The Trial Board may not consider claims for reimbursement of any legal

VIII. TRIAL BOARD

1. Membership: The Trial Board shall be comprised of the three members of the Personnel Board. Personnel Board members will also serve as Civil Service Commissioners.
2. Jurisdiction Restricted: The Trial Board may only

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

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CHAPTER 9 CLASSIFICATION SYSTEM

I. CLASSIFICATION PLAN

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

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

II. CLASSIFICATION PLAN ADMINISTRATION

1. **Responsibility**
 - a. The Human Resources Department may initiate job analysis studies to determine that classification qualifications and pay grades are current and appropriate.
 - b. All assignment of positions of official classifications and pay grades shall be based on analysis conducted and analyzed by the Human Resources Department.
2. **Job Descriptions**
 - a. The Human Resources Department shall prepare job descriptions based upon information gathered from incumbents, supervisors and other

relevant sources. Department supervisors shall review job descriptions in their area of responsibility. All changes to job descriptions shall be approved by the department director and the Human Resources director.

- b. Job descriptions shall outline the knowledge, skills and abilities required for the position, minimum qualifications for adequate performance of the position, identify the essential job functions and other pertinent job information. The information in the job description is not inclusive of every duty performed by the employee but rather a descriptive representation of the position's major job functions.

3. **Classification of Newly Created Positions**

- a. Department heads are responsible for submitting a written request for a job audit of newly created positions to the Human Resources Director. The department will submit a comprehensive description of the projected position's responsibilities with the request.
- b. Once a newly created position has been filled, a second review of the position shall occur six (6) months to one (1) year after the incumbent's date of hire to ensure that the job description accurately

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- reflects the duties and responsibilities of the position.
- c. New positions, for which an existing classification does not exist, may be submitted for budget purposes with an estimated pay grade and title. However, the final pay grade and job classification will be determined by the City Manager as a result of the Human Resources Department's job analysis and evaluation.
4. **Reclassification Due to Job Duties and Responsibilities of Existing Positions**
- a. Supervisors or managers who consider a position to be improperly classified due to changes in duties and responsibilities may submit a request for a job analysis study to their department director. If the department director finds that the request has merit, a written request to conduct a job analysis study may be submitted to City management for consideration. With City Management approval, the Human Resources Department will conduct a job analysis regarding the changes in duties, responsibilities, knowledge, skills, ability and minimum requirements. If based on the job analysis Human Resources recommends a grade change, City Management approval is required to implement the change.
 - b. Where reclassification results in lowering the position's grade, the current incumbent may be provided the opportunity to accept reassignment to a vacant position in the same department. Otherwise, the incumbent shall accept the lower classification with the lower classification's pay grade.
 - c. Where reclassification results in moving the position's grade upward, the incumbent must meet all minimum qualifications of the job classification.
 - d. The decision to modify, create or abolish a position or classification is the exclusive prerogative of the City Manager and is not subject to appeal.
5. **Reclassification Due to Salary Market Adjustment**
- a. A salary market adjustment is defined as a change in a position's pay grade to reflect competitive salaries in the market. In conjunction with the annual budget process the HR department will conduct an annual salary survey to measure salary competitiveness with select metroplex cities and the City of Mesquite. Reclassifications may occur as a result of the annual salary survey.
 - b. Supervisors or Managers who consider a position to be noncompetitive with the market may submit a request for a salary survey to their department

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director. If the department director finds that the request has merit, a written request to conduct a salary survey study may be submitted to City Management for consideration. With City Management approval, the Human Resources Department will conduct a salary survey study to measure salary competitiveness with select metroplex cities and the City of Mesquite. If based on the salary survey Human Resources recommends a grade change, City Management approval is required to implement the change.

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CHAPTER 10 COMPENSATION POLICIES

I. COMPENSATION DEFINITIONS

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

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10. **Business Hours of the City:** The hours during which City offices and departments shall be open for business shall be determined by the City Manager.

II. DETERMINATION OF FAIR LABOR STANDARDS ACT STATUS

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

III. OVERTIME

1. **Policy:** For all employees except firefighting and emergency medical service personnel, overtime is defined as time paid at a rate of 1-1/2 times an employee's hourly rate for paid hours in excess of forty (40) hours in a particular workweek pursuant to FLSA regulations. Firefighting and emergency medical service personnel assigned to a twenty-seven (27) day work period shall be paid on an overtime basis for time worked in excess of 204 hours within the work period. The one-half time provisions permitted under the FLSA shall apply. Overtime shall be considered as authorized when submitted in compliance with this chapter and applicable departmental regulations.
2. **Hourly Rate:** The hourly rate for purposes of calculating

overtime includes base pay, longevity pay and all other pay as required by the FLSA.

3. **Authorization:** When practical, in the judgement of the department head, employee work schedules should be adjusted to reduce the necessity of overtime. Nonexempt employees must receive prior written approval from the department's designated official prior to working overtime. Posted schedules or written departmental policy governing authorization of overtime shall be considered prior written approval. Working unauthorized overtime by nonexempt employees shall be considered grounds for disciplinary action.

4. **Compensatory Time**

- a. **Comp Time:** Nonexempt employees, except firefighting and emergency medical service personnel, who work authorized overtime may be compensated for that time by receiving compensatory time off at the rate of 1-1/2 hours of compensatory time for every hour of authorized overtime worked. However, the City may at any time, in its sole discretion, substitute payment for overtime at 1-1/2 times the employee's regular rate for compensatory time off, either in whole or in part.

- b. **Comp Time Accrual in Public Safety Jobs:** Firefighting and emergency medical service personnel will receive payment for overtime at the rate of 1-1/2 times their regular

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- rate and are not eligible for compensatory time without prior department head approval. Nonexempt employees engaged in public safety activities, emergency response activities or seasonal activities that are eligible for compensatory time may accrue up to eighty (80) hours of compensatory time off, after which overtime will be paid at 1-1/2 times the employee's regular rate.
- c. Comp Time Accrual in General Government Jobs: All nonexempt employees eligible for compensatory time will receive payment for overtime at 1-1/2 times their regular rate after they have accrued eighty (80) hours of compensatory time off.
- d. Payment for Accrued Comp: Payment for accrued compensatory time may be made at any time, at the City's sole discretion and shall be paid at the regular rate earned by the employee at the time payment is made.
- e. Comp Payment Upon Termination: Upon termination of employment, nonexempt employees will be paid for unused compensatory time at a rate of compensation not less than the higher of:
- 1) The average regular rate received by the employee during the three-year (3) period immediately prior to termination, or
 - 2) The final regular rate received by the employee.
- f. Exempt Employees: Employees who are exempt from the Fair Labor Standards Act are not entitled to automatically accrue compensatory time.
5. When Overtime/Compensatory Time is Granted
- a. Comp Time Over 40 Hours: Comp time may be granted to nonexempt employees for all paid hours over forty (40) in a workweek. Averaging of hours worked over two (2) workweeks is not acceptable and violates the Fair Labor Standards Act. Comp time shall be accrued on the regular payday for the period in which the workweek ends unless the correct amount of comp time cannot be determined until some time after the regular pay period has been processed.
- b. Overtime Payments: Temporary or seasonal, nonexempt employees whose hours worked per workweek exceed forty (40) hours shall receive overtime pay for the hours worked in excess of forty (40) for that workweek.
6. Use of Compensatory Time
- a. Authorizing Comp Time: A non-exempt employee who has accrued compensatory time may request the use of compensatory time off at any time. The department shall grant the use of compensatory time as requested by the employee unless the

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- employee's absence from work would be unduly disruptive of departmental operations.
- b. Disciplinary Actions: Nonexempt employees on disciplinary suspension without pay may not use accrued compensatory time to recuperate the time lost due to the disciplinary suspension.
7. Mandatory Payment for Compensatory Time
- a. At Termination: See Chapter 10.III.3.e.
- b. Promotions: Nonexempt employees who are promoted or reclassified into an exempt position shall continue to be allowed to use any previously accumulated compensatory time which was gained while employed in a nonexempt status until all time has been depleted subject to Chapter 10.III.3.d.
- Upon termination, unused compensatory time will be paid in conformance with Chapter 10.III.3.e.
8. Exempt Employees: All full-time employees of the City classified as exempt are paid on a salaried basis, regardless of hours worked and are not subject to overtime. The inclusion of an hourly rate in the compensation plan does not designate an employee as being paid on an hourly basis under applicable wage and hour laws, but merely is an accounting convenience.
9. Discretionary Time of Exempt Employees: Exempt employees are expected to perform a

function that is not strictly defined by an established number of hours. Exempt employees, who in the opinion of the department director, have worked beyond a normal workweek may be granted discretionary time off in accordance with the procedures below.

- a. Eligibility: Exempt employees may be eligible for accumulated discretionary time.
- b. Use of Discretionary Time: Exempt employees may take discretionary time off within a reasonable period following their requests. Discretionary time off must not unduly interrupt departmental operations and must have supervisory approval.
- c. Unused Discretionary Time: Exempt employees will not be paid for accumulated unused, discretionary time upon termination.
- d. Recordkeeping and Administration: Department heads/division managers are responsible for discretionary time records and policies for use of discretionary time for their exempt employees.

IV. RECORDKEEPING

1. Record Keeping
- a. Department Responsibilities: Each department is responsible for ensuring that complete records are maintained of actual hours worked by all nonexempt employees for a

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period of three (3) years. Records should contain employee's:

- 1) Full name, home address including zip code, date of birth (if under age 19) and occupation.
 - 2) Hour and day when workweek begins.
 - 3) Beginning and ending time for each work day.
 - 4) Total hours worked each workday and workweek.
 - 5) Total daily or weekly straight-time earnings.
 - 6) Regular, hourly pay rate for any week when overtime is worked.
 - 7) Total overtime for the workweek.
 - 8) Deductions from or additions to wages.
 - 9) Total wages paid each pay period.
 - 10) Date of payment and pay period covered.
- b. FLSA Regulations: FLSA regulations require maintenance of complete records as follows for all exempt employees:
- 1) Full name, home address including zip code, date of birth (if under 19), sex and occupation in which employed.
 - 2) Time of day and day of week on which the employee's workweek begins.
 - 3) The basis on which wages are paid in sufficient detail to permit calculation for each pay period of the

employee's total remuneration for employment, including fringe benefits and perquisites.

- c. Records: Records must be accurate and available upon request by the Human Resources Department.
- d. Supervisor's Responsibilities: Supervisors of nonexempt employees are responsible for monitoring each subordinate's hours worked for each workweek and ensuring that the employee is properly compensated.
- e. Employee's Responsibilities: All employees are responsible for accurately reporting their hours worked each day on their timesheets.

V. OTHER PAYROLL TIME DEFINITIONS

1. Leave Time
 - a. General Government Employees: Paid leave time, such as vacation, holidays, sick leave or workers' compensation will be considered as hours worked for purposes of determining eligibility for overtime payment.
 - b. Firefighting and Emergency Medical Service Personnel: Time not actually worked will not be considered as hours worked when calculating FLSA overtime payment for Section 207(k) firefighting and emergency medical service personnel assigned to shift duty.
2. On-Call Time: Employees who are "on-call" are free to use

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- their time effectively for their own purposes as long as they leave word with the appropriate supervisory officials as to where they can be reached, are able to respond within a reasonable and acceptable time and are physically able to perform the duties assigned to their position. As such, on-call time is not compensable unless an employee is actually called to work, and on-call time that is not worked will not be included for purposes of calculating overtime. An employee who is free to perform personal activities but is required to be available to summons via pagers, phone or radio is not working while on call.
3. **Waiting Time:** Employees who arrive at work before their scheduled hours, unless working approved overtime, are not eligible for compensation for that period of time. Supervisors are responsible for ensuring that employees do not perform work outside their scheduled work hours without prior approval. Disciplinary action may be taken against employees and/or supervisors who fail to comply with scheduled hours of work.
 4. **Rest Periods:** At the discretion of the department head, employees may be granted two (2) fifteen-minute (15) paid rest periods each day. Rest period schedules shall be granted by the department. Rest periods may not be combined with the normally scheduled meal period for purposes of extending the meal period. Employees who do not receive rest periods may not alter their normal workday by leaving early and/or arriving late.
 5. **Inactive Hours:** An employee shall not receive pay for inactive hours. Inactive hours are those hours that the employee was regularly scheduled to work but does not work due to inclement weather, equipment breakdown or other sufficient reasons as determined by the department head. The employee must be completely relieved of duty and allowed to leave the worksite by permission of a supervisor.
 6. **Meal Periods:** Uninterrupted meal periods of at least 30 minutes, during which an employee is completely relieved from duty, are not compensable and will not be included in hours worked for purposes of calculating overtime. However, if an employee is required by his/her supervisor to work during the meal period, he/she will be compensated.
 7. **Travel Time**
 - a. Between Home and Work Site: Under ordinary circumstances, time spent by an employee traveling between home and work and returning home is not compensable. However, if an employee has gone home after completing a day's work and is subsequently called out on an emergency, time spent traveling to and from the location where work is performed will be compensable.
 - b. One Job Site to Another: Time spent traveling from one job site to another

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job site during the workday is compensable. When an employee is required to travel out of town for one day, time spent traveling from home to the point of departure is not compensable, but all other travel time is compensable. Where employees travel overnight on business, travel time during normal working hours, on non-working days as well as regular working days, is compensable. Time spent traveling outside of regular working hours is not compensable and will not be included in hours worked for purposes of calculating overtime.

8. Training Time

a. Exclusion Criteria: Time spent by employees in training programs, lectures and safety meetings is not counted as working time if:

- 1) It occurs outside the employee's regular working hours.
- 2) Attendance is voluntary.
- 3) The employee does no productive work while attending.
- 4) The program, lecture or meeting is not directly related to the employee's job.

Moreover, even if all of the above requirements are not met, attendance outside of regular working hours at specialized or follow-up training, required by the law of a higher level of

government, will be considered non-compensable and will not be included in hours worked for purposes of calculating overtime.

b. If Training Required: Training must be considered hours worked if the employee is required to attend by the City or approved by their supervisor.

c. Self-Development Excluded: Training may not be considered hours worked if the employee, on his/her own initiative, attends an independent school, college, meeting or independent trade school after work hours.

9. Volunteer Service: Employees perform unpaid volunteer service for the City when the following criteria are met:

a. The service is for civic, charitable or humanitarian reasons without promise or expectation of compensation in the form of paid expenses, benefits or fees to perform services.

1) The services are offered freely without coercion.

2) The services performed are not services the employee normally performs for the City.

VI.

PAY PLAN ADMINISTRATION

The Human Resources Department shall be responsible for the administration and maintenance of the City's Pay Plan. The City's Pay Plan includes merit increases, pay grades, salary ranges and other

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compensation items. The Pay Plan is subject to revision each fiscal year through the budget process.

1. Pay for New Employees

- a. Hiring Salary: All new employees shall be employed at minimum rate of pay for the position's current grade. Department directors may request a variance in writing to the City Manager's Office.
- b. Merit Increase: Employees are eligible for annual merit increases based on the date of hire. The employee will be evaluated annually and Supervisors will discuss the employee's progress on performance reviews.

2. Pay for Promotions/Reclassifications

- a. Promotions: When an employee accepts greater job responsibilities and receives a change from a pay grade with a lower midpoint to a pay grade with a higher midpoint.
- b. Reclassifications: A reclassification may occur when there is a major change in duties and/or responsibilities of an individual's job.
- c. Eligibility for Salary Increase: Promoted or reclassified employees are eligible for a 5% salary increase or the new grade's minimum salary, whichever is higher. Employees will be evaluated annually and eligible for a merit increase based on the date of the promotion.

3. Pro-Rated Merit Increase:

Upon promotion or lateral transfer, individuals whose

last review was three months or more prior to lateral transfer or promotion may be eligible to receive a pro-rated merit increase based on the number of months since last review date. The Pro-Rated Merit increase is given before the promotion increase is calculated. A new performance review by the outgoing supervisor is required to determine eligibility for a pro-rated merit increase.

3 month	= 25% of eligible merit increase
4 month	= 33% of eligible merit increase
5 month	= 42% of eligible merit increase
6 month	= 50% of eligible merit increase
7 month	= 58% of eligible merit increase
8 month	= 67% of eligible merit increase
9 month	= 75% of eligible merit increase
10 month	= 83% of eligible merit increase
11 month	= 92% of eligible merit increase

4. Pay Upon Demotion

- a. Disciplinary
Employees who are demoted for disciplinary reasons shall receive a salary decrease commensurate with the degree of pay grade change.

Employees will be evaluated annually and eligible for a merit increase 12 months from date of demotion.

- b. Voluntary and Involuntary (Not Disciplinary)
 - 1) Maximum Pay: Regular full-time employees who take a voluntary

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demotion or receive an involuntary demotion as the result of an interdepartmental transfer for administrative convenience may have their pay reduced within the pay range of the new grade. Except where approved by the City Manager, the employee's pay shall not exceed the highest salary in the new pay grade. The performance review date shall not change for voluntary or involuntary demotions.

5. Out-of-Class Pay

- a. Minimum Increase: Any regular full-time employee who is assigned temporarily to work in a regular full-time position with a higher pay grade midpoint than his or her own shall be eligible for a 5% salary increase or the new grade's minimum salary, whichever is higher.
- b. Minimum Time Period: An employee temporarily assigned to serve in a higher-level position must actually perform the full range of duties of the higher-level position and perform the position's duties for two (2) or more work days in a work week to be eligible for out-of-class pay. Once eligible, all days worked in the higher classification shall be compensated at out-of-class rate. The two-day (2) period does

not apply to employees subject to provisions of the Texas Local Government Code, Chapter 143.

- c. Maximum Time Period: No employee shall be allowed to work in a higher classification for more than thirty (30) consecutive calendar days. Department head requests for extended out-of-class pay shall be in writing and referred to the Human Resources Director who shall analyze the request and recommend appropriate action to the City Manager. Employees subject to provisions of the Texas Local Government Code, Chapter 143, shall not be subject to the thirty-day (30) maximum restriction.
 - d. On-the-Job Training: Employees performing the duties of a higher classification for purposes of on-the-job training are not eligible for out-of-class pay.
 - e. Positions Excluded: The positions of City Manager, Assistant City Manager, City Council-appointed positions and Department Directors or their organizational equivalents are excluded from out-of-class pay provisions.
 - f. Prior Authorization: All job assignments requiring out-of-class pay require prior authorization of the department head.
- ### 6. Training and Incentive Pay
- a. Minimum Requirements Excluded: Training and incentive pay shall not be paid for certifications,

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licensures, etcetera, which are minimally required qualifications of the position as specified in the official job description.

- b. Implementation Approval: Department head requests to implement training and incentive programs shall be in writing and referred to the Human Resources Director who shall analyze the request and recommend appropriate action to the City Manager.

7. Longevity Pay: All regular full-time employees who have completed a full continuous year with the City are eligible to participate in the City's longevity program. Longevity pay increases are calculated on the first day of the employment anniversary month. Changes in employment status from part-time or seasonal to a full-time probationary appointment shall be treated as a new hire and subject to the same procedures. Longevity pay shall be earned as follows, commencing with such employee's employment anniversary date:

<u>Number</u>	<u>of</u>	<u>Years</u>	<u>Employed</u>
			<u>Longevity</u>
			<u>Amount</u>
One	through	four	years: \$4/month for each year of service
Five	through	nine	years: \$6/month for each year of service
Ten	through	fourteen	years: \$8/month for each year of service
Fifteen	or more	years:	\$10/month for each year

of service up to a 25-year maximum

8. Holiday

- a. Eligibility: Only employees in full-time positions are eligible for paid holidays. Holiday pay shall be received for those holidays officially observed by the City.
- b. Absences: A new employee whose first scheduled day is the day after a holiday shall not be paid for that holiday. An employee must work the day before and the day after the holiday to receive holiday pay. Employees in an authorized paid leave status will receive holiday pay.
- c. Working on Holiday: As many employees as possible shall be given each holiday off without loss of pay. Employees who, because of the nature of their work cannot be given time off shall, at the discretion of the department head, receive holiday time in addition to their regular rate of pay for the actual time worked or have their holiday rescheduled at a later date.
- d. Alternate Holidays: Employees wishing to observe religious holidays not officially observed by the City shall, at their option and with the approval of the department head, be given time off without pay or the time charged to their accrued

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- vacation or compensatory time.
- e. Termination: An employee who is terminating employment and whose last day as a paid employee is the day before a holiday, shall not be paid for that holiday. An employee whose last day is on that holiday shall not receive holiday pay unless they actually work on that holiday.
- f. Official Holiday: The day the City observes the holiday shall be considered the "holiday" for all City employees.
- g. On Regular Day Off: If an employee's regular day off falls on a holiday, the department may compensate the employee in one of the following ways:
- 1) The employee may be paid an additional eight (8) hours.
 - 2) The employee may schedule another day off from their regular assigned work schedule.
- h. Disciplinary Action: Employees who are off without pay due to a disciplinary suspension shall not receive holiday pay. Employees who are off without pay, for any reason, the day before or the day after the holiday shall not receive holiday pay or accrue holiday pay.
- i. Determination of Other Compensation Issues: Questions regarding compensation that are not covered by the above regulations shall be referred in writing to the Human Resources Director for determination.
9. **Emergency Call-Back Pay**
- a. Defined: Defined as times when a nonexempt employee is called back to work after/before regular working hours or required to work a double shift due to the absence of another employee.
- b. Pay: Employees called back shall receive a minimum of two (2) hours at the rate of time and one-half pay.
- c. Multiple Call Backs: Employees may not receive more than two (2) call back credits in any eight-hour (8) work period. A multiple call back occurs when an employee returns home and is recalled to their work site. Responding to a recall after being released but prior to returning home does not constitute a multiple call back.
- d. Department Records: Departments are responsible for documenting the call-back reasons and maintaining documentation in the department for a period of three (3) years.
10. **Inclement Weather**
- a. City Policy: The City is responsible for providing Police, Fire, water, sewer, sanitation and other services to the citizens of Mesquite with or without inclement weather conditions. Given these responsibilities, it

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is the City's policy to be open for business under all types of weather conditions.

- b. Reporting to Work: All employees shall be required to work on their normally scheduled work days regardless of inclement weather conditions unless instructed otherwise by their department head or supervisor.
- c. Supervisory Notification: Department heads are responsible for ensuring that their operations are adequately staffed during periods of inclement weather. Employees who miss work or expect to be late for work due to inclement weather conditions must notify their department head or supervisor immediately. Failure to properly notify may result in disciplinary action.
- d. Time Missed: Employees who miss work due to inclement weather may use accrued vacation or compensatory time to compensate for the lost time. Employees with no vacation or compensatory time accrued shall not be reimbursed for the lost time.

VII. PERFORMANCE EVALUATION

1. **Overview:** The performance pay system is established for purposes of rewarding those employees who demonstrate and maintain a high level of

performance. The amount of the increase received shall be commensurate with the performance evaluation. Merit increases may be deferred, pending improvement in performance, when processed in accordance with established procedures.

2. **Merit Increase Effective Dates:** The effective date of merit increases shall occur on the employee's merit review date. Promotions and disciplinary/involuntary demotions will result in a new merit review date. With the exception of unclassified employees, no merit increase shall be processed without the completion of a performance review.
3. **Non-Periodic Increases:** Non-periodic increases may be granted to employees who clearly demonstrate service of an unusual and exceptional quality upon recommendation of the department head and approval of the City Manager. Non-periodic increases may not exceed one (1) per employee per fiscal year.

VIII. DISTRIBUTION OF PAYROLL CHECKS

1. **Release of Employee's Check:**
 - a. Designated Individual: May pick up a current employee's paycheck if the employee specifies in writing that the person may do so. The designated individual, if unknown to the party authorized to release the check, will be required to provide valid photographic identification.
2. **Termination Checks**

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- a. Pick Up: Termination checks will be distributed to the terminated employee at the Human Resources Department.
- b. Releasing Paychecks: The City shall release the employee's final paycheck on the next payday.
- c. City Property: Departments are responsible for obtaining all City property. The City, with employee preauthorization, may deduct for any unreturned property from the employee's last paycheck.
- d. Mailing Check: Terminated employees who are unable to pick up their final check in person must inform the Human Resources Department of this situation and make arrangements for the final check to be sent to them via registered mail. Prior to release of all final checks, the terminated employee must have returned all City property to employee's designated department or authorized the deduction of an amount sufficient to reimburse the City. The employee is responsible for ensuring that the address on file with the Human Resources Department is current.

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CHAPTER 11 RESIGNATIONS

I. NOTICE

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

II. ACCEPTANCE

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

III. RESIGNATION WITHDRAWAL

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

IV. FAILURE TO NOTIFY

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

V. RESIGNATION IN LIEU OF DISCHARGE

A resignation in lieu of discharge will be considered as separation for misconduct, as specified in Chapter 8.II.4.

VI. JOB ABANDONMENT

Absence for two (2) or more consecutive days without prior authorization constitutes job abandonment and will result in the employee's termination. Termination for job abandonment is considered as failure to notify [Chapter 8.II.1.f].

VII. ORAL RESIGNATIONS

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

VIII. RETIREMENT

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**CHAPTER 11
RESIGNATIONS**

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

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CHAPTER 12 COMPLAINT RESOLUTION PROCEDURE

I. INFORMAL COMPLAINT RESOLUTION

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

Step 1

Discuss the concern with your immediate supervisor.

Step 2

If your concern is not resolved after discussion with your immediate supervisor, you should request a meeting with the next level of supervision.

Step 3

The final level of departmental discussion will occur at the departmental head level or the organizational equivalent.

II. FORMAL COMPLAINT PROCEDURE

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

Step 1

Request a meeting with the department head and present the

formal complaint in writing. The department director will respond to the employee's complaint, in writing, within 10 business days. If the department director should require additional time to conduct an investigation, the employee will be informed.

Step 2

If a complaint has not been satisfactorily resolved the employee may request that the department director forward the complaint to the person in City Management to whom the director reports.

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

III. CHAIN OF COMMAND

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

IV.

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CHAPTER 12 COMPLAINT RESOLUTION PROCEDURE

TIME LIMITATIONS

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

V. ACTIONS EXCLUDED FROM THE FORMAL COMPLAINT PROCEDURE

The following actions are excluded from the complaint procedure:

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

VI. REPRISAL PROHIBITED

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

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CHAPTER 13 EMPLOYEE SAFETY AND HEALTH

I. PROGRAM MANAGEMENT

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

II. WORKERS' COMPENSATION

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

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

1. **Employees:** Employees must immediately report an on-the-job injury/illness, however minor, to their supervisor or designated representative.
2. **Treatment:** After reporting, the supervisor and employee must decide whether first aid, treatment at a medical clinic or hospital emergency care is required. Employees sustaining an on-the-job injury/illness requiring medical treatment at a medical clinic shall be examined by one of the City's

contracted medical providers. When necessary, the supervisor must call 911 or arrange for someone to transport the employee.

3. **Supervisor's First Report of Injury:** Upon notification of an on-the-job injury/illness, the supervisor or designated representative must complete a first report of injury and submit it—to the Human Resources Department by the next business day.
4. **Investigations:** Investigations for Fire and Police personnel will be conducted pursuant to their policies. For general government employees, the Risk Manager and the department head will review, investigate and determine if the accident/incident is chargeable or non-chargeable to the employee. The employee will be given written notice of the determination.
5. **Employee Responsibilities:** It is imperative that employees absent due to an on-the-job injury/illness maintain regular contact (at least weekly) with their supervisor. Employees must communicate their treatment progress in recovery and probable return-to-work date. Employees absent due to an on-the-job injury/illness must not engage in any activity or other employment which may impede their recovery.

IV. PAY FOR ON-THE-JOB INJURIES/ILLNESSES

Employees unable to work because of a compensable on-the-job injury/illness may be eligible for

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CHAPTER 13 EMPLOYEE SAFETY AND HEALTH

salary paid by the City, by Workers' Compensation or both.

1. Fire and Police Personnel:

Fire and Police personnel will receive work-related injury benefits in accordance with the state Workers' Compensation law, as well as applicable state and local civil service statutes.

2. General Government Employees:

a. **Non-Chargeable:** Employees who have an on-the-job injury/illness, the cause of which is determined to be non-chargeable, are eligible for pay from Workers' Compensation and eligible for City pay if employed full time for one year at the time of the accident/incident.

b. **Chargeable:** A chargeable accident/incident is defined as the failure to follow policy, instructions or safe work practices, which directly contributed to an accident/incident that resulted in property damage or injury/illness. Employees who suffer an on-the-job injury/illness resulting from an accident/incident that is determined to be chargeable are eligible for pay only from Workers' Compensation.

c. **Workers' Compensation Pay:** Workers' Compensation will pay only a portion of the injured employee's normal salary. However, employees not receiving City pay may choose to use sick leave, vacation and compensatory time to supplement the pay received from Workers' Compensation, up to their net pre-injury wage.

d. **City Pay:** Full-time employees qualifying for Workers' Compensation benefits may qualify for City pay to supplement Worker's Compensation pay. City pay will be an amount equal to the difference between Workers' Compensation payments and the employee's net pre-injury wage. Net pre-injury wage is defined as gross wage (excluding overtime) less deductions for Texas Municipal Retirement System, Social Security, Medicare, FICA and federal Income Tax Withholding. City pay will not exceed 26 weeks for each injury/illness.

e. **Eligibility for City Pay:** Employees will only be eligible for City pay if:

- 1) The accident/incident is ruled non-chargeable.
- 2) The employee has been employed full time for one year at the time of the accident/incident.

4. **Grounds for Denial or Discontinuation of City Pay:** The following are grounds for denial or discontinuation of City pay for an on-the-job injury/illness:

- a. Failing to report an on-the-job injury/illness in accordance with this policy.
- b. Engaging in activities or employment which may impede the employee's recovery from an on-the-job injury/illness.
- c. Termination of employment.

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- d. Failing or refusing to comply with the instructions or advice of a treating physician to improve his/her condition.
- e. Workers' Compensation payments cease.
- f. Refusing to accept or perform a modified-duty assignment.
- g. Refusing to submit to a medical examination or treatment in accordance with the Texas Workers' Compensation statute.
- h. Refusing to return to regular duties after being released by a treating physician.
- i. Failing to keep the immediate supervisor informed on a regular basis (at least weekly).
- j. Refusing to cooperate with investigations with regard to an on-the-job injury/illness.
- k. Failing or refusing to take any post-accident drug or alcohol test.

unable to perform one or more of the essential functions of their job. When modified duty is expected to exceed 45 calendar days, the employee must obtain a re-certification of modified duty from their medical provider. Modified duty may not exceed 180 calendar days.

3. Conditions for Approving Modified Duty:

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

V. RETURN TO WORK FOLLOWING INJURY/ILLNESS

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

1. **Full Duty:** As soon as the employee is released by their medical provider to return to work full duty, they are to contact their supervisor to determine a return-to-work date.
2. **Modified Duty:** As determined by the department head, and where available, modified duty may be assigned to an employee

VI. EMPLOYEE APPEAL OF CHARGEABLE ACCIDENTS/INCIDENTS

1. **Fire and Police Personnel:** Appeal processes for Fire and Police personnel shall be set out in their respective standard operating procedures and/or regulations.
2. **General Government Employees:** An employee receiving a written notice of a chargeable decision may appeal the decision to the appeal board. The appeal must be in writing to the Director of Human Resources and filed

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within ten (10) calendar days of receipt of the notice. The appeal board shall determine the cause and assess the responsibility.

- a. Board Membership: The board shall consist of five (5) members selected by the Risk Manager and consist of the Risk Manager or his designee, a department head not of the appealing department, two employees/supervisors not of the appealing division and one employee/supervisor in the appealing division.
- b. Review of Factual Evidence: The Board will review all the evidence and facts of the case.
- c. Board Decision: All decisions of the Board shall be by majority vote and shall be final.
- d. Chargeable Incidents: Employees shall be subject to disciplinary action for causing a chargeable accident or injury. Appropriate discipline shall be based on the circumstances, severity liability and/or number of prior incidents determined chargeable. Discipline may include:
 - Oral Warning - (Documented).
 - Written Reprimand.
 - Suspension.
 - Demotion.
 - Termination.

1. Statement of Purpose: The purpose of this policy is to establish guidelines covering minimum standards for the qualification of applicants to operate City vehicles/equipment for all positions where driving is an essential function in the job description.
2. Driving History Verification: Driving history will be verified and evaluated by the Human Resources Department. The evaluation period shall begin seven (7) years preceding the application date.
3. Minimum Qualifications:
 - a. An applicant must possess or obtain a current, valid Texas drivers' license that is not under suspension or as required by the job description.
 - b. The applicant must be able to safely operate a motor vehicle and/or motorized equipment;
4. Grounds for Automatic Disqualification for Initial Appointment: The applicant may not have a conviction or have been placed on deferred adjudication within the past seven (7) years preceding the application date for any of the following:
 - a. Driving Under the Influence (DUI).
 - b. Driving While Intoxicated (DWI).
 - c. Manslaughter or criminally negligent homicide involving the operation of a motor vehicle.
 - d. Operating a motor vehicle with license suspended or revoked.
5. Grounds Which May be Cause for Disqualification for Initial Appointment:

VII.
VEHICLE/EQUIPMENT OPERATOR
STANDARDS FOR JOB APPLICANTS

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- a. License suspended, revoked or denied in the last seven (7) years.
 - b. Conviction of three (3) violations occurring within 36 months immediately preceding the application date:
 - 1) Conviction of operating a motor vehicle in violation of drivers' license restriction.
 - 2) Conviction of disregarding traffic control signals and devices.
 - 3) Conviction of exceeding speed limit.
 - 4) Conviction of illegal operation of motor vehicle without state-required auto insurance.
 - 5) Traffic accidents determined to involve contributory negligence.
 - c. Department directors may disqualify an applicant with one or two violations based on the facts and severity of the violation(s).
- a. Only City employees or authorized personnel may operate City vehicles.
 - b. Employees who are in jobs requiring the driving/operating of a vehicle shall report any and all traffic convictions, citations for moving violations, and/or revocations incurred while operating a City vehicle or any vehicle on City business to their immediate supervisor within 24 hours of the violation and/or conviction.
 - c. Employees who are in jobs requiring the driving/operating of a vehicle shall be subject to periodic drivers' license audit.
3. **Employee Loss of Driving Privileges/Non-Disciplinary Termination/Disciplinary Action:**
 - a. Employees who are convicted or are on deferred adjudication for the following violations will lose their driving privilege and will be given a non-disciplinary termination.
 - 1) Driving Under the Influence (DUI).
 - 2) Driving While Intoxicated (DWI).
 - 3) Manslaughter or criminally negligent homicide involving the operation of a motor vehicle.
 - 4) Operating a motor vehicle with license suspended or revoked.
 - b. Employees who have had their license suspended,

VIII. EMPLOYEE VEHICLE/EQUIPMENT OPERATOR STANDARDS

1. **Statement of Purpose:** The purpose of this policy is to establish guidelines governing minimum standards for the qualifications of employees to operate City vehicles/equipment for all positions where driving is an essential function in the job description.
2. **Employee Driving Standards and Driving Record Audits:**
 - a. Employees who have had their license suspended,

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revoked or denied for reasons other than those stated in Section VIII, 3.a will lose their driving privileges. However, these employees will be given ten (10) calendar days from the date of suspension, revocation or denial to have their license reinstated by the state of Texas. If after ten (10) calendar days, the employee's license and/or driving privileges have not been reinstated, the employee will be given a non-disciplinary termination.

4. **Procedures for Post-Accident Drug Screens:** See Chapter 16.V.3. Post-Accident drug screens for CDLs, see Chapter 16.VI.7.

IX. EMPLOYEES IN NON-DRIVING POSITIONS

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

X. REPORTABLE ACCIDENTS/INCIDENTS

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

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CHAPTER 14 EMPLOYEE BENEFITS

I. DEFINITION

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

II. HOLIDAYS

1. **City Observed Holidays:** Regular and probationary full-time employees are paid eight (8) hours of holiday pay regardless of whether they work 8-, 10- or 12-hour days when based on a 40-hour workweek.

- a. **City Holidays:** The City of Mesquite observes the following holidays:

New Year's Day	January 1
Martin Luther King Day	3rd Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Thanksgiving Day	4th Thurs. in November
Thanksgiving Friday	Friday after Thanksgiving
Christmas Day	December 25
Floating Holiday	Selected individually by regular full-time employees

- b. **Falling on Weekend:** Officially-observed holidays which fall on a Saturday shall be observed on the preceding Friday. Holidays which fall on a Sunday shall be observed on the following Monday.

- c. **Floating Holiday:** One (1) floating holiday, selected by the employee, is earned by regular full-time employees on the first day of each calendar year or upon completion of the initial probationary period. This holiday must be taken during the calendar year it is earned and may not be carried over to the following year. Employees will be required to request the holiday using the same procedures for requesting vacation. The department head has final approval on scheduling floating holidays.

III. VACATIONS

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

1. **Eligible Employees:** All full-time employees accrue vacation leave. Regular full-time employees who have completed their initial probationary period are eligible to use accrued vacation leave. Temporary, seasonal, part-time or otherwise designated employees are not eligible to accrue or use vacation leave.
2. **Accruing Vacation:** Employees accrue vacation on a monthly basis. Employees who begin City service before the sixteenth (16th) of any month shall accrue one month's vacation accrual for that month. Employees who leave the service of the City after the

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CHAPTER 14 EMPLOYEE BENEFITS

fifteenth (15th) of any month shall earn vacation leave for that month. Employees accrue vacation leave for any month they are on a paid leave or paid work status a minimum of one-half of their normal work days. Paid time does not have to be consecutive days.

- a. Less Than Five Years:
Regular full-time employees who have completed less than five (5) years continuous service with the City shall accrue, on a monthly basis, a total of ten (10) working days vacation leave each year.
 - b. More Than Five Years:
Regular full-time employees who have completed more than five (5) years continuous service with the City shall accrue, on a monthly basis, a total of fifteen (15) working days vacation leave each year.
 - c. Fifteen Years: Regular full-time employees who have completed fifteen (15) years continuous service with the City shall accrue, on a monthly basis, a total of twenty (20) working days vacation leave each year.
 - d. Twenty-five Years:
Regular full-time employees who have completed twenty-five (25) years continuous service with the City shall accrue, on a monthly basis, a total of twenty-five (25) working days vacation leave each year.
3. Maximum Vacation Accrual:
 - a. Schedule of Maximum

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

<u>Years of Service</u>	<u>Max. Vacation Accrual</u>
0-15 years	240 hours.
16-25 years	320 hours.
26 years and above	400 hours.

- b. Notification of Excess Vacation Balance:
After the end of each calendar year, employees with excess vacation balances will receive notification from Human Resources in January of each year.
 - c. Using Excess Vacation Balance: Employees with excess vacation balances must use the excess balance by the end of February in the year of notification or have their excess balance deleted. The City Manager may approve an extension of time to use the excess vacation balance carryover.
4. Using Vacation Leave:
 - a. Leave Request: Employees wishing to schedule vacation must submit a request to their supervisor. When deciding to grant vacation leave, supervisors will give due consideration to the needs of the department.
 - b. Holidays During City-paid Vacation: Official

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- holidays occurring during an approved vacation leave shall not be charged against the employee's vacation leave.
- c. Vacation Leave Minimum: Departments may establish their own vacation leave minimum; however, in no case, shall it be less than 15-minute increments.
- d. Consecutive Day Limit: No more than fifteen (15) working days vacation leave may be taken consecutively without written approval of the department head.
- e. No Vacation Leave Advance: No employee shall be granted vacation leave in excess of the actual amount accrued.
5. Payment for Accumulated Vacation:
- a. General Government Employees: General Government full-time employees leaving the service of the City in good standing following one (1) year of full-time continuous service shall be paid for accumulated vacation leave not to exceed twenty (20) working days.
- b. Fire and Police Personnel: Fire and Police personnel leaving the service of the City shall be paid for accumulated vacation leave in accordance with state Civil Service rules.
- c. No Cash Advances: Employees may not receive cash payment on accrued vacation except upon termination, retirement or death. Cash payments in lieu of vacation to persons currently employed shall not be permitted.
6. Vacation Donation
- a. Policy: Employees may donate vacation leave to another employee whose earned leave has been or soon will be exhausted due to a non-work related serious injury/illness or due to an immediate family member's serious injury/illness or event resulting in death. An immediate family member is an employee's spouse, son, daughter, parent, stepparent, stepchild, grandparent, grandchild or other persons living within the same household. A written statement from a licensed medical practitioner substantiating the request is required.
- b. Eligibility for Vacation Donation: Full-time employees employed by the City for at least 12 months who have exhausted or are within seven calendar days of exhausting their vacation, sick leave (if applicable) and compensatory time may request vacation donation by completing the "Vacation Donation Request" form. Short-term injuries/illnesses with recuperation time of less than one week are not eligible. Vacation donation may only be used for absences directly related to the purpose for which it was intended. Vacation donation may not

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- be used for personal vacation.
- c. How to Request Vacation Donation: Employees may ask for up to 12 weeks of Donated Vacation time per request. The form will be submitted, along with medical documentation, to the Department Director. The Director will submit the form to the Human Resources Department if the request is in compliance with this policy. The Human Resources Department will send notification to each department notifying employees of the specific Vacation Donation Request. Employees must designate the number of weeks requested not to exceed the amount of time required by medical necessity. Subsequent requests in excess of the initial 12 weeks may be made by the employee if medical need exists not to exceed 24 weeks used during any two-year period. Regardless of the amount of vacation donated, employees shall return to work as soon as medically able. Vacation donation balances may be forfeited when the employee returns to work full time for a minimum of 30 days and there is no further medical evidence of needed continuing treatment related to the purpose for which the vacation donation was intended. When an employee is not on FMLA leave and the Department Director can document undue hardship on existing staff

or departmental resources, a vacation donation request may be denied.

- d. How to Donate Vacation: Employees may complete a "Vacation Donation" form and submit it to the Human Resources Department.

The minimum vacation donation is one-half day. There is no maximum donation amount, however, the donation may not reduce the available donator's vacation leave below 40 hours. Vacation Donation is on a day-for-day basis and is irrespective of pay rates*. Vacation Donations received will be randomly selected and credited on the designated employee's vacation account as it is used.

Unused donated vacation time has no monetary value and will be returned to the donor. The employee has no property right to the unused donated vacation.

* If an employee working a 56-hour week donates one day of vacation to an employee working a 40-hour week, the recipient will receive one day of vacation at 8 hours. Conversely, an employee working a 40-hour week who donates one day at 8 hours to an employee working a 56-hour week, the recipient will receive one day of vacation at 12 hours.

- e. Privacy: Information about employees requesting a vacation donation will be cleared with the employees

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before it is publicized. Employees will be asked to authorize any statement on the "Vacation Donation Request" form. The employee has the right to maintain medical confidentiality and not express details of injury or illness.

- f. Restrictions: Donations may not be requested when an employee is receiving long-term disability payments. All leave earned by the employee receiving Donated Vacation must be taken prior to donated vacation. The use of donated vacation will be concurrent with FMLA leave if eligible.

State law prohibits granting of "prospective leave", that is, Vacation Donated cannot be applied to prior absences.

IV. SICK LEAVE

1. Sick Leave Accumulation

- a. Eligible Employees: All full-time employees accrue sick leave at the rate of one and one quarter (1-1/4) days' leave for each month of completed service beginning with the first full month of employment. Temporary, seasonal, part-time or otherwise designated employees are not eligible to accrue sick leave.
- b. Accruing Sick Leave: Employees accrue sick leave on a monthly basis. Employees who begin City

service before the sixteenth (16th) of any month shall accrue one month's sick leave accrual for that month. Employees who leave the service of the City after the fifteenth (15th) of any month shall earn sick leave for that month. Employees accrue sick leave for any month they are on a paid leave or paid work status a minimum of one-half of their normal work days. Paid time does not have to be consecutive days.

2. Using Sick Leave:

- a. Personal Illness and Medical Treatment: Sick leave may be used for purposes of permitting an employee to be relieved of their duties during actual personal illness or to secure necessary medical treatment.
- b. Care of Family Members: A maximum of 40 hours of sick leave per calendar year may be used for the care of an eligible family member with a serious illness, injury, surgery, hospitalization, contagious disease, emergency medical treatment or care for an illness requiring the presence of a family member. For the purpose of using sick leave, an eligible family member shall be the employee's child, stepchild, parent, stepparent or spouse. A child is defined as a biological child, adopted child, foster child, stepchild or child for

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- whom an employee is standing in *loco parentis*.
- c. Notification: To receive sick leave, an employee must notify their immediate supervisor within the time limits established and published by their department. In the absence of established departmental time limits, the time limit shall be within one hour after the time set for beginning work.
 - d. Signed Statements: Departments may require an employee to provide a signed statement from a medical provider attesting to the illness of the employee or family member during the period of time when sick leave was granted. An employee who cannot provide such proof may be charged other leave or leave without pay.
 - e. Sick Leave Minimum: Sick leave may be granted in periods of not less than fifteen-minute (15) increments.
 - f. Advance: The City Manager may, after all paid leave is exhausted, authorize an advance of sick leave under exceptional circumstances. Absent the City Manager's written approval, no employee may be granted advanced sick leave. After an employee's accumulated sick leave is exhausted the employee may request to use unused vacation and/or compensatory leave as sick leave.
 - g. Probationary Period: Sick leave may be used as accrued during the probationary period.
 - h. During Approved Vacation: Employees who become ill for more than one (1) day, while on approved vacation leave, may request that their vacation be suspended and time they were ill charged to sick leave, except for employees who have given notice to terminate or retire. The employee may be required to submit a signed medical provider's statement attesting to the employee's illness and indicating the number of days the employee was incapacitated due to illness.
3. **Sick Leave Abuse:** Employees who use of sick leave other than as permitted in this policy or established departmental policies shall be subject to disciplinary action. In addition, upon discovery of an abuse of sick leave, sick leave may be denied and/or converted to another leave status.
 4. **Departmental Sick Policies:** Department heads may, with the approval of the Human Resources Director, establish written policies governing sick leave absences within their department.
 5. **Departmental Responsibilities:** Department heads are responsible for maintaining and enforcing sick leave policies within their departments.
 6. **Sick Leave upon Separation**
 - a. General government employees: General

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government employees separating service with the City in good standing shall be paid for accumulated active sick leave subject to the following schedule:

	Amount Upon	Paid
Period of Employment Termination		
0 to 3 years	None	
3 to 5 years	1/3 of unused sick leave	
5 to 6 years	2/3 of unused sick leave	
6 years and up	All unused sick leave not to exceed ninety (90) days	

b. Fire and Police Personnel: Fire and Police personnel separating service with the City shall be paid accumulated sick leave in accordance with state Civil Service rules.

c. Re-employment Buyback: Employees seeking re-employment will be required to have the sick leave reinstated through a buyback from the City any sick leave payments received at the time of termination. Employees rehired following a layoff have the option to reinstate sick leave through a buyback or forgo sick leave reinstatement and begin a new sick leave accrual. Terms of the repayment will be negotiated on an individual basis and documented in writing in the employee's official Human Resources file.

7. Catastrophic Family Sick Leave Donation

a. Policy: Employees may donate a maximum of 40 hours of family sick leave per calendar year to another employee to be used for the medically required care of an eligible family member that has a catastrophic illness/injury. For the purpose of using Catastrophic Family Sick Leave Donation, an eligible family member shall be the employee's child, stepchild, parent, stepparent or spouse. A child is defined as a biological child, adopted child, foster child, stepchild, or child for whom an employee is standing in loco parentis. A catastrophic illness or injury must qualify under the Family Medical Leave Act and be an extremely severe health condition that necessitates the employee's absence from work for the purpose of medically required convalescence or treatment. The family member must have suffered, and be under current, active medical treatment for a long-term catastrophic illness or injury including, but not limited to cancer, HIV/AIDS, major surgery, serious accident, heart attack, long-term hospitalization or other situations that pose a threat to life. Short term conditions requiring brief treatment and recovery (for

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- example, flu, measles, common illnesses, and common injuries), normal childbirth, broken bones, non-catastrophic illnesses, or elective surgery are excluded.
- b. Eligibility for Catastrophic Family Sick Leave Donation: Full time employees employed by the City for at least 12 months; who have exhausted all but 10 days of vacation leave or are within 7 calendar days of exhausting all but 10 days of vacation leave, have exhausted all compensatory time and have exhausted their own family sick leave are eligible to request Catastrophic Family Sick Leave Donation by completing a "Catastrophic Family Sick Leave Donation Request" form. Catastrophic Family Sick Leave Donation may only be used for absences directly related to the purpose for which it was intended. Catastrophic Family Sick Leave Donation may not be used for personal sick leave.
- c. How to Request Catastrophic Family Sick Leave Donation: Employees may request up to 4 weeks of Catastrophic Family Sick Leave Donation per request. The "Catastrophic Family Sick Leave Donation Request" form will be submitted, along with medical documentation, to the Department Director. Medical documents will need to explain the care needed by the patient and why such care is medically necessary. The employee will also describe the care provided to the family member and estimate leave time needed to provide such care. The Director will submit the form to the Human Resources Department if the request is in compliance with this policy. The Human Resources Department will send notification to each department notifying employees of the specific Catastrophic Family Sick Leave Request. Employees must designate the number of weeks requested not to exceed the amount of time required by medical necessity. Subsequent requests in excess of the initial 4 weeks may be made by the employee if medical need exists not to exceed 12 weeks used during any two-year period. Regardless of the amount of family sick leave donated, employees shall return to work as soon as medically possible. Catastrophic Family Sick Leave Donation balances may be forfeited when the employee returns to work full-time for a minimum of 30 days and there is no further medical evidence of needed continuing treatment related to the purpose for which the Catastrophic Family Sick Leave Donation was intended.
- d. How to Donate Catastrophic Family Sick Leave: Employees may complete a "Catastrophic Family Sick

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Leave Donation" form and submit it to the Human Resources Department.

The minimum donation is one half day. The maximum donation is 40 hours per calendar year and is on a day-for-day basis and is irrespective of pay rates*. Catastrophic Family Sick Leave Donations received will be randomly selected and credited on the designated employee's Family Sick Leave account as it is used.

Unused donated Catastrophic Family Sick Leave time has no monetary value and will be returned to the donor. The employee has no property right to the unused donated family sick leave.

*If an employee working a 56-hour week donates one day of Catastrophic Family Sick Leave to an employee working a 40-hour week, the recipient will receive one day of Catastrophic Family Sick Leave at 8 hours. Conversely, an employee working a 40-hour week who donates one day at 8 hours to an employee working a 56-hour week, the recipient will receive one day of Catastrophic Family Sick Leave at 12 hours.

- e. Privacy: Information about employees requesting a Catastrophic Family Sick Leave Donation will be cleared with the employees before it is publicized. Employees will be asked to

authorize any statement on the "Catastrophic Family Sick Leave Donation Request" form. The employee has the right to maintain medical confidentiality and not express the details of the injury or illness.

- f. Restrictions: Donations may not be requested when an employee is receiving long-term disability payments. The use of donated Catastrophic Family Sick Leave will be concurrent with FMLA leave if eligible.

State law prohibits granting of "prospective leave", that is, Catastrophic Family Sick Leave Donated cannot be applied to prior absences.

V. PERSONAL LEAVE

1. Eligibility: All regular full-time employees who have satisfactorily completed six months of service are eligible for Personal Leave, not to exceed 24 hours per calendar year based on a 40-hour work week, for the following reasons:
 - a. Death or funeral of family member: To attend the funeral or handle the affairs of the deceased family member. Family member shall include immediate family, extended family or person who served in "loco parentis." Extended family includes all family members identified in the kinship

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chart located at the end of Chapter 4.

- b. **Uncontrollable Property Damage:** Damage caused by "acts of God", fire, flood, tornado, explosion, vandalism, car wrecks, water damage or burglary.
2. **Approval:** The department directors reserve the right to cancel or not approve Personal Leave. When possible, all leave under this section must be approved in advance according to established departmental policy.
3. **Documentation:** Departments may require satisfactory proof of the need and duration of absence under this section and may disallow personal leave in the absence of such proof.
4. **Duration:** Employees are expected to utilize judgement and discretion in determining the duration of absences.
5. **Abuse of Leave:** Abuse of, failure to notify, deception in requesting or unnecessary extension of Personal Leave are grounds for disciplinary action.

VI. MILITARY LEAVE

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

1. **Eligibility:** Employees who are members of the National Guard, Official Militia of Texas or any of the reserve components of the Armed Forces of the United States, when ordered or authorized by proper authorities, shall be entitled to military leave with pay

during any period when they shall be engaged in field training or encampment or when ordered to active duty. This leave of absence with pay shall be limited to fifteen (15) normally scheduled work days during any one calendar year, and any absence in excess of this time shall be considered as military leave of absence without pay.

2. **Deductions Canceled:** Employees on military leave without pay will have payroll deductions canceled. Deductions may be reinstated once the employee returns to work.
3. **Health Coverage:** Employees who choose to drop group health coverage for dependents may be reinstated without re-application when the employee returns to work.
4. **Life Insurance Coverage:** Employees who are called to active duty are not eligible for life insurance coverage. Employee's group life insurance coverage will be reinstated upon returning to work. **See Group Life Insurance Plan Description Booklet for general provisions.
5. **Terminating Employment:** Military leave with pay benefits shall not be granted to employees who terminate their employment as a result of draft or enlistment.
6. **Benefit Accrual:** Employees on active duty do not accrue sick leave or vacation benefits during their term of active service with the Armed Forces.
7. **Payment of Benefits:** Benefits accrued prior to the initiating of military leave with or without pay shall not be reimbursed to the employee

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- unless a formal resignation has been submitted and separation papers processed. Benefits of employees who die during military service shall be paid to their designated beneficiary.
8. **Benefit Reinstatement:** Benefits accrued prior to military leave shall be reinstated upon return of the employee to service with the City.
 9. **Military Orders:** Employees must submit military orders and a completed leave request form to their department head and the Human Resources Department as soon as possible.
 10. **Reemployment:** Reemployment with the City will be in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

VII. EDUCATIONAL LEAVE

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

VIII. COURT LEAVE

1. **Pay Continued:** Regular full-time employees required by law to render jury duty shall receive their regular pay, upon

providing required documentation, during the period of jury service which overlaps with normally scheduled work hours.

2. **Documentation Required:** Employees summoned to jury service must provide an Official Certificate of Attendance to their immediate supervisor.
3. **Return to Work:** Upon release from jury duty, the employee must return to their assigned workplace.
4. **Personal Legal Business:** Employees absent for personal legal business must use accrued vacation or compensatory time. Leave without pay may be used with department head approval.
5. **City Witness:** Employees directed to appear as a witness for the City will be compensated for the time which overlaps with their normally scheduled work hours.

IX. APPROVED LEAVE WITHOUT PAY

Directors, at their discretion, may grant approved leave without pay to regular full-time and part-time employees for up to five (5) calendar days in a calendar year. Additional days will need the City Manager's approval. Employee's paid leave must be exhausted before being considered for approved leave without pay.

X. FAMILY & MEDICAL LEAVE

1. **General Provisions:** In accordance with the Family and Medical Leave Act, the City will grant job-protected unpaid

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family and medical leave to eligible employees for up to 12 weeks per 12-month period for any one or more of the following reasons:

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

2. **Servicemember Family Leave:** Eligible employees who are the spouse, child, parent or next of kin of a covered Servicemember, as defined in 3.h of this section, are entitled to up to 26 weeks of leave during a single 12-Month Servicemember Period (for a total of 26 weeks if combined with other FMLA leave), to care for such Servicemember who incurred a serious injury or illness in the line of active duty in the armed forces. Available leave not taken during the 12-Month Servicemember Period, which begins on the first day of leave is taken, will be forfeited. No more than 26 weeks of leave may be taken in a single 12-Month Servicemember Period, and no additional extended leaves may be taken in other years for the same injury or illness. If married spouses both work for the City, their total Servicemember Family Leave is limited to an aggregate of 26 weeks.

3. **Definitions**

- a. 12-Month Period: A rolling 12-month period measured backward from the date leave is taken.
- b. 12-Month Servicemember Period: A single 12-month period measured forward from the first day Servicemember Family Leave is taken.
- c. Spouse: A husband or wife recognized under Texas law for purposes of marriage, including common law marriage, but does not include unmarried domestic partners.

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- d. Child: A child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.
- e. Parent: A biological parent of an employee or an individual who stood in place of a parent to an employee when the employee was a child.
- f. Next of Kin: The nearest blood relative of a covered Servicemember.
- g. Active Duty: Duty under a call or order to active duty during a contingency operation.
- h. Covered Servicemember:
- 1) Member of the armed forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, or is on the temporary disability retired list for a serious injury or illness incurred in the line of active duty and which may render the member medically unfit to perform the duties of the member's military position.
 - 2) A member of the armed forces, including a member of the National Guard or Reserves, whose serious injury or illness was incurred before the member's active duty and was aggravated by military service in the line of active duty.
- 3) Upon such time as the Secretary of Labor defines qualifying injury or illness of a veteran servicemember, will include veterans who were undergoing medical treatment, recuperation or therapy for a serious illness and who were members of the Armed Forces, including the National Guard or the Reserves, at any time during the five years preceding the date on which the veteran undergoes such treatment, recuperation or therapy.
- i. Qualifying Exigency: This includes:
- 1) Short-notice deployment: notification of a call to active duty seven or fewer days from date of deployment;
 - 2) Military events and related activities:
 - To attend an official ceremony, program or event sponsored by the military that is related to active duty or call to active duty;
 - To attend family support programs and briefings sponsored or promoted by the

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- military, military service organization or American Red Cross that are related to active duty or call to active duty.
- 3) Childcare and School activities: Leave may be taken for a child in order to:
- arrange for alternate childcare;
 - provide childcare on an urgent, immediate need basis;
 - enroll or transfer the child to a new school or daycare facility;
 - attend meetings with staff at school or daycare facility.
- 4) Financial and Legal Arrangements:
- To make or update financial or legal arrangements to address the covered military members' absence while on active duty or call to active duty status.
 - To act as the covered military members' representative to obtain, arrange or appeal military service benefits while the member is on active duty or call to active duty status and for 90 days following termination of active duty status.
- 5) Counseling: To attend counseling for oneself, the military member or child when the need for such counseling arises from the active duty or call to active duty status of the covered military member.
- 6) Rest and recuperation: To spend up to five (5) days with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment.
- 7) Post-deployment activities: To attend arrival ceremonies, reintegration events and any other official ceremony or program sponsored by the military for the approximately 90-day period following termination of active duty or death of the Servicemember while on active duty.
- 8) Additional activities related to the call to active duty otherwise agreed to by the employer and employee.
- j. Serious Health Condition: An illness, injury, impairment or a physical or mental condition that involves:
- 1) Inpatient care (overnight stay).

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- 2) Incapacity requiring absence from work for more than three (3) calendar days and that involves continuing treatment by a health care provider;
 - 3) Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or which, if left untreated, would likely result in a period of incapacity of more than three (3) calendar days; or
 - 4) Prenatal care by a health care provider.
- k. Continuing Treatment:
- 1) Two (2) or more visits to a health care provider within 30 days of the commencement of the incapacity; or
 - 2) Two (2) or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider within 30 days of the commencement of the incapacity; or
 - 3) A single visit to a health care provider within seven (7) days of the commencement of the incapacity that results in a regimen of continuing treatment.
- l. Qualifying Injury or Illness of a Veteran Servicemember: Injury or illness must be incurred in the line of active duty or be a pre-existing condition that was aggravated by military service in the line of active duty. [This definition may be amended upon the Secretary of Labor defining the term as directed by FMLA provisions.]
4. **Coverage and Eligibility**
To be eligible for family/medical leave, an employee must have worked for the City for at least 12 months total and have worked at least 1250 hours over the previous 12-month period.
 5. **Intermittent or Reduced Leave**
An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodate recurring periods of leave. An employee may not take intermittent leave following the birth or placement of a child except at the discretion of the City.
 6. **Use of Paid Leave**
An employee will be required to use accrued paid leave (including paid vacation, sick leave, compensatory time and workers' compensation) for any part of a family/medical leave. When an employee has used all of his or her accrued paid leave, the employee may request an additional period of unpaid leave so that the total paid and unpaid leave provided equals 12 weeks (or 26 weeks if combined with Servicemember Family Leave time).
 7. **Employee Notice Requirement**

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- a. An employee must give 30 days' notice in the event of a foreseeable leave. A "Request for Family/Medical Leave" form should be completed by the employee and returned to the Human Resources Department. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable, followed by the completed form. The notice must indicate that (1) the employee is unable to perform the functions of the job or that a covered family member is unable to participate in regular daily activities; (2) the anticipated duration of the absence and (3) whether the employee intends to visit a health care provider or is receiving continuing treatment.
 - b. If an employee fails to give 30 days' notice of foreseeable leave with no reasonable excuse, leave may be denied until 30 days after the employee provides notice.
 - c. When planning medical treatment, an employee must make a reasonable effort to schedule the leave so as not to unduly disrupt the department's operations.
 - d. In the event of leave to attend to a qualifying exigency, the employee shall provide as much notice as is reasonable and practical under the circumstances.
8. **Employer Notice Requirements**
- a. Notice of Eligibility Rights: Within five (5) days after the employee requests leave or after the City learns the leave may be for an FMLA-qualifying reason, the City will provide written notice stating whether the employee is eligible for FMLA leave, and if not eligible, at least one reason why.
- b. Notice of Designation of Leave: Within five (5) days after the employee requests leave or after the City learns the leave may be for an FMLA-qualifying reason, the City will provide a written notice stating whether leave is available, and notifying the employee how much leave has been designated as FMLA leave and how much leave remains. For an unspecified leave, the City will update the notification every 30 days as to how much leave was designated in the prior month, how much was rejected and how much leave remains. If any part of the requested leave is not designated as FMLA leave, the City will provide written notice of and reason for denial.
9. **Medical Certification**
- a. Certification of Serious Health Condition: For leaves taken because of the employee's or a covered family member's serious health condition, the employee, upon request, must submit a completed "Physician or Practitioner Certification" form and return the certification to

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- the Human Resources Department. Medical certification must be provided by the employee within 15 days after requested. If the employee fails to provide adequate certification within this time period, then the City will inform the employee, in writing, what additional information is necessary and will allow the employee at least seven (7) days to correct the certification. The City may delay leave until such certification is produced. In the case of medical emergency, the employee must submit certification as soon as is reasonably possible.
- b. City May Require Second Opinion: The City may require a second or third opinion (at its own expense), periodic reports on status and intent to return to work and a fitness-for-duty report to return to work.
- c. Certification Related to Active Duty or Call to Active Duty: The employee requesting leave related to a family member's active duty or call to active duty shall provide supporting documentation of such status issued by the applicable Armed Services branch.
- d. Certification for Extended Servicemember Family Leave: Employees requesting extended Servicemember Family Leave must provide documentation of the injury, recover, or need for care, such as the military medical information, orders for treatment or other official Armed Forces communication showing that the injury or illness was incurred on active military duty and renders the member medically unfit to perform military duties.
- e. Confidentiality of Medical Records: Documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.
10. **Effect on Benefits**
- a. An employee granted a leave under this policy will continue to be covered under the City's group health insurance plan with the same conditions as if the employee had been continuously employed during the leave period.
- b. Employee contributions will be required either through payroll deduction or by direct payment to the City. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
- c. If an employee's contribution is more than 30 days late, the City may terminate the employee's insurance coverage.
- d. If the City pays the employee contributions

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- missed by the employee while on leave, the employee will be required to reimburse the City for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.
- e. If the employee fails to return from unpaid leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the City may seek reimbursement from the employee for the portion of the premiums paid by the City on behalf of that employee (employer contribution) during the period of leave.
 - f. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave, but will not lose benefits already accrued prior to the start of the leave. Paid time off does not accrue while on unpaid leave.
11. **Job Protection**
 - a. If the employee returns to work within 12 weeks following a family/medical leave (or 26 weeks if combined with Servicemember Family Leave), he/she will be reinstated in his/her former position or an equivalent position in terms of pay, benefits, status and authority.
 - b. The employee's restoration rights are the same as they would have been had the employee not been on leave. If the position would have been eliminated or the employee would have been terminated but for the leave, the employee does not have the right to reinstatement upon return from leave.
 - c. If the employee fails to return to work by the previously agreed upon date, in absence of further communication, he/she will be considered to have abandoned the job.
 12. **Unlawful Actions and Enforcement of FMLA Rights:**

It is unlawful for the City to interfere with, restrain or deny the exercise of FMLA rights, or to discharge or discriminate against anyone for opposing such unlawful practices or for participating in a proceeding relating to FMLA. An employee may file a complaint with the U.S. Department of Labor's Wage and Hour Division or may bring a private lawsuit against an employer for violating his/her rights under the FMLA.
- XI.
MEDICAL PLAN BENEFITS
- The following information is a summary of health benefits currently provided by the City of Mesquite. In summarizing this information, technical jargon has

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been avoided. Any statement that is inconsistent with the official Summary Plan Document is void. Rights to any benefit and the amount of the benefit will depend on the actual facts and provisions of the Summary Plan Document.

1. Medical Plan Eligibility:

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

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

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

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- 6) Changes that cause a dependent to become eligible or ineligible for coverage.
- b. Newborns. A dependent child born while the employee is insured under the health plan will be insured for 31 days beginning on the date of the child's birth. If the employee does not elect to make application to insure the newborn child within the 31 days of the child's birth, coverage for that child will end on the 31st day. No benefits for expenses incurred beyond the 31st day will be payable.
- c. Annual Open Enrollment: An annual open enrollment period will be held for those employees who wish to enroll in the medical plan, make changes to the medical plan or add/delete dependents without a change in status requirement.
3. Payment for Medical Plan:
- a. Payroll Deductions: A portion of employee and dependent rates for coverage shall be paid by the employee with the City subsidizing the remaining amount. Employee and dependent rates for coverage shall be paid through payroll deductions.
- b. Direct Payment When an Employee is on Unpaid Status: Employees off the job without pay must make arrangements to pay costs for their medical plan. The Human Resources Department must be contacted to make such arrangements.
4. Medical Benefits upon Retirement:
- a. Regular full-time employees retiring prior to Medicare eligibility may continue the medical and prescription plan for which the employee was enrolled immediately prior to retirement until eligible for Medicare at a rate to be determined annually. Employees may choose to continue medical benefits for dependents covered by the employee's medical benefits immediately prior to retirement at a rate to be determined annually. A retiring or retired employee's decision not to continue their employee and/or dependent coverage is final and irrevocable.
- b. Medical Coverage for Retirees: Retired employees or dependents that become eligible for Medicare benefits may choose the City-sponsored Medicare Supplemental Plan that includes medical and prescription benefits or discontinue participation in the City's medical plan. Retiree rates for this plan are determined annually. A retiree's decision not to continue their employee and/or dependent coverage is final and irrevocable.
5. Medical Benefits Upon Separation - COBRA:

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

XII. DENTAL

1. Eligibility and Enrollment:

- a. Regular full-time: The City of Mesquite offers all regular full-time employees and their dependents the opportunity

to enroll in the dental program.

- b. Dependents: Regular full-time employees must be enrolled in the dental plan in order to enroll their dependents.
- c. Eligibility: Benefits become available to eligible employees on the first (1st) day of the month after the employee has been employed for thirty (30) days with the City.
- d. Retirees: Retirees may continue employee and/or dependent coverage in the Dental program at the full rate. No City subsidy is provided.
- e. Change in Coverage: Any changes in coverage to the Dental Plan must occur in accordance with Section XI.2 as it applies to the medical plan.

XIII. REMOVAL OF INELIGIBLE DEPENDENTS

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

XIV. EMPLOYEE ASSISTANCE PROGRAM

1. Description: The Employee Assistance Program (EAP) is designed to provide employees and dependents with professional assistance in resolving difficult personal problems or issues such as job performance, marital

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

XV.
LIFE INSURANCE AND
VOLUNTARY BENEFITS

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

Long Term Disability may be purchased by the employee for the employee only.

XVI. TAX SAVER PROGRAM

1. **Description:** The Tax Saver Program as adopted by the City of Mesquite allows certain medical expenses and dependent care expenses to be reimbursed with funds deducted before tax withholding in order to reduce tax liability. This program is also known as the Flexible Spending Account, created under Section 125 of the Internal Revenue Code. In addition, Group Medical Plan rates will be deducted on a pre-tax basis

unless the employee designates otherwise.

2. **Eligibility and Enrollment**
 - a. **Regular full-time:** All regular full-time employees are eligible to participate in the Tax Saver Program.
 - b. **Enrollment Period:** Eligible employees may enroll in the Tax Saver Program upon appointment with the City. Open enrollment periods occur annually.
 - c. **Plan Year:** Plan years are on a calendar-year basis beginning January 1 and ending December 31. However, under the Internal Revenue code grace period rule, expenses may be incurred through March 15 of the following plan year.
 - d. **Plan Election:** To participate in the Tax Saver Plan, an employee must make an election each year. Once election has been made to participate or not participate in the Plan, no change or revocation may be made in that election year except in the case of a change in family status as defined by the Internal Revenue Code.

3. **Reimbursement Procedures:** Employees with eligible, medical or dependent care expenses must complete a Tax Saver Reimbursement form. Substantiating documents to verify expenses must be attached to the reimbursement form and forwarded to the Human Resources Department.

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4. **Forfeited Balance:** A claim for benefits may be submitted for the plan year in which expenses were incurred, including expenses incurred during the grace period. Reimbursements for the plan year may be submitted up to June 15 of the next plan year. On June 16, any of the previous plan year's Tax Saver dollar credits remaining in the participant's Medical care reimbursement or Dependent care expense accounts will be forfeited as mandated by the Internal Revenue Code.

service was with another TMRS city requiring twenty-five 25 years of service at the time of retirement.

4. **Benefits:** Each pay period, 7% of full time and eligible part-time employee's gross salary is withheld and deposited with TMRS. Member deposits to TMRS are tax-deferred. For every month a deposit is made to TMRS, the City agrees to match the deposit and interest at a rate of 2-1. The City's match of the deposits and interest is held in the City's TMRS account until retirement, when the City match becomes part of the benefit. The only way to receive the City's matching fund is to retire from TMRS and receive a monthly payment. The amount of the monthly benefit is based on and varies with the total deposits the member has made plus interest, the sums the City has agreed to pay, the member's life expectancy on retirement, the payment plan options selected and other factors.

XVII. TEXAS MUNICIPAL RETIREMENT SYSTEM

1. **Membership:** All regular full-time and eligible part-time employees of the City are required to become members in the Texas Municipal Retirement System (TMRS).
2. **Vesting:** Members with at least five (5) years of creditable service become "vested" and, if the funds are not withdrawn, are eligible to receive the City's contribution and accrued interest upon retirement.
3. **Eligibility for Retirement:** A member becomes eligible for "service retirement" under the Texas Municipal Retirement System if they have:
 - a. At least five (5) years of creditable service or combined creditable service and have reached age sixty (60), or
 - b. At least twenty (20) years of service regardless of age, except if prior

5. **Death Benefits:** A beneficiary is the person the employee chooses to receive TMRS benefits in the event of the employee's death. Employees will be asked to choose a beneficiary upon hire when the employee becomes a TMRS member. When the employee vests (after 5 of service) TMRS will ask the employee to reexamine the beneficiary choice. If an employee is a vested TMRS member but dies before retirement, the designated beneficiary has choices about how to receive benefits. Benefits to the beneficiary may include City matching funds

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depending on which option is chosen. If an employee is not vested at the time of death, the beneficiary will receive a refund of member deposits plus interest, and no City matching funds will be received.

6. **Disability Benefits:** If an employee becomes disabled so that the employee is no longer able to perform their job, and the disability is likely to be permanent, the employee may be eligible for Occupational Disability benefits from TMRS. An Occupational Disability benefit is calculated like a Service Retirement benefit, based on deposits and interest, the city's matching funds, and other credits, and is payable to the employee beginning on the last day of the month following the effective retirement date, assuming the disability is approved by the TMRS Medical Board.
7. **Additional Information:** Due to the complexity of questions relating to the retirement program, only a brief summary of the program is provided. For additional information, contact the Human Resources Department.

the Human Resource and Finance Directors.

2. **Direct Deposit:** Employees may have their biweekly paychecks directly deposited to participating banks. Direct deposit enrollments and cancellations must be processed through the Human Resources Department.
3. **Pre-authorized Deductions:** Employees who have pre-authorized deductions will have money deducted on their final paycheck for unreturned uniforms, equipment or other obligations.

XVIII PAYCHECKS

1. **Deductions:** Employees may have deductions withheld from their biweekly paycheck for all approved benefit plans, association dues (minimum of 75% participation of eligible membership required), except where otherwise provided by law), wage attachments and other deductions approved by

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CHAPTER 15 CONTROLLED SUBSTANCE AND ALCOHOL ABUSE AND TESTING POLICY

I. SCOPE

1. Applicants for employment or current employees in specific safety-sensitive positions within departments that service, support and operate equipment to transport citizens, as all or part of their duties, are governed by specific drug and alcohol policies and procedures.

These employees fall under regulations governed by the United States Department of Transportation (DOT) and the Federal Transit Administration (FTA), a DOT agency.

Copies of these policies and procedures are available in the affected departments.

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

II. PURPOSE

1. It is the policy of the City to provide a work environment that is free from the use, consumption, sale, distribution or possession of controlled substances or alcohol in the work place. (In this policy,

use of the term "drugs" also includes alcohol.) The specific purpose of the policy is to outline the methods for maintaining a work environment free from the effects of controlled substances and alcohol.

2. Each City employee has a responsibility to deliver service in a safe, efficient and conscientious manner. Therefore, the use, sale, distribution, possession or being under the influence of alcohol or any controlled substances, including prescription medication (when use of such prescribed medication is likely to affect the employee's ability to perform assigned duties) during working hours, as outlined in the provisions of this policy, is strictly prohibited and may result in disciplinary action, up to and including termination.
3. Employees in need of assistance, in relation to controlled substance or alcohol abuse, are encouraged to explore the use of leave time and medical benefits in obtaining assistance through public and private referral agencies specializing in chemical dependency before the problem affects their job.
4. In order to meet the objectives of this policy, the City has established a drug and alcohol-free awareness program for the purpose of informing employees about the dangers of alcohol and substance abuse, the City's Controlled Substance and Alcohol Abuse Policy, the availability of substance abuse

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counseling, rehabilitation programs and disciplinary actions that may be imposed on an employee for violations of the City's controlled substance and alcohol abuse policy.

5. Supervisory personnel will be provided with training necessary to identify work-related performance problems, to identify potential symptoms of substance abuse, to understand the methods of drug and alcohol testing, to document reasonable suspicion instances and to understand and implement guidelines for disciplinary action.
6. The Director of Human Resources has the responsibility to develop and adopt procedures for drug and alcohol testing.

report this use to their supervisor or a designee when the use of such drugs is likely to affect the worker's ability to perform assigned duties. It is the employee's responsibility to ascertain from his or her medical provider whether the prescription drug is likely to have adverse impact on the employee's performance of his or her duties. This provision is intended to protect the safety of each employee and his or her co-workers, property and the public. Employees failing to follow this instruction may be subject to disciplinary action, up to and including termination. Any information received from an employee under this provision will be kept confidential except to the extent it may be shared with individuals who are in a "need-to-know" position, such as the immediate supervisor or as required by state or federal law.

5. Any use of controlled substances and alcohol abuse that has an adverse affect on the employee's performance or that could jeopardize the safety of others, City equipment or the City's relations with the public is a violation of this policy, and the employee may be subject to disciplinary action, up to and including termination.
6. An employee scheduled to be on call that is called out is subject to the provisions in this policy.
7. An employee not scheduled to be on call that is called out and is under the influence of

III. ALCOHOL/CONTROLLED SUBSTANCE USE: EMPLOYEE RESPONSIBILITY

1. No employee shall report to work under the influence of alcohol, illegal substances or controlled substances without a prescription.
2. Any employee using, selling or in personal possession of alcohol, illegal substances or controlled substances while on duty or on City property at any time may be subject to termination, except when in the discharge of official duties or where otherwise permitted.
3. Use of illegal substances or controlled substances without a prescription, any time, on or off the job is subject to disciplinary action, up to and including termination.
4. Employees taking prescription or non-prescription drugs must

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legally prescribed drugs or alcohol or who is impaired by alcohol must so advise his or her supervisor and will not be required to report to work. An employee who is called out and who reports to work but fails to notify his or her supervisor that he or she is under the influence or impaired may be subject to disciplinary action, up to and including termination.

IV. CONDITIONS WHEREBY DRUG OR ALCOHOL TESTING IS TO BE CONDUCTED

1. **Conditions Applicable to all Testing**
 - a. The Human Resources Department is responsible for the administration of the drug screening process. All inconclusive results, all positive results and all results that appear to have been altered will be reviewed by a Medical Review Officer. All positive specimens will be confirmed by further recognized scientific testing, under the guidance of a Medical Review Officer.
 - b. Specimens for drug screening may include, but are not limited to, bodily fluids and hair.
 - c. Any applicant who tampers with or attempts to tamper with a specimen in any manner shall be disqualified from employment with the City and shall be barred from any future consideration for employment with the City.
 - d. If an employee tampers with or attempts to tamper with a specimen in any manner, the employee shall be subject to disciplinary action up to and including termination or indefinite suspension.
 - d. Prescription or over-the-counter drugs validated by the Medical Review Officer as being prescribed for or taken by the person to be tested will not be considered if the drug affects the testing, unless the use of such drugs in the judgment of the Medical Review Officer would be potentially harmful to the safety of the person being tested, or others.
 - f. Any question relating to drug testing will be referred to the Human Resources Director or designee.
2. **Pre-Employment Drug Testing:** All persons given a contingent offer of employment with the City are required to submit to a drug and/or alcohol test.
 - a. Prior to submitting to a drug or alcohol test, all applicants shall be required to sign a written consent form authorizing testing for the presence of controlled substances and alcohol. A job applicant refusing to sign a requested consent form will be withdrawn from consideration for employment.

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- b. Test results shall be communicated in a confidential manner to the Director of Human Resources or designee. An applicant shall not be placed on the City payroll or otherwise allowed to report for work until negative test results have been received by the Director of Human Resources.
 - c. In the case of positive test results, disclosure of the results shall be made to the applicant by the Director of Human Resources or designee. The applicant shall be told by the Director of Human Resources or his designee that he or she is disqualified for employment with the City. An applicant may be reconsidered for employment after one-year upon submitting evidence of successful completion of a rehabilitation program.
3. **Pre-Duty Testing**
 - a. Current employees who seek transfers or promotions into other positions will not be required to submit to drug and alcohol testing unless they are transferring or promoting to a position where duties include operating a commercial motor vehicle.
 - b. An applicant, under this section, will be requested to sign a consent form authorizing the testing and the use of the test results in employment decisions.
 - c. An applicant, under this section, refusing to take a drug test and/or sign a consent form will not be considered for employment.
4. **Post-Accident Testing:** Drug and alcohol testing will be required of employees following motor vehicle or motorized equipment accidents in any of the following circumstances:
 - a. A bodily injury that requires medical treatment;
 - b. A City vehicle or other City property is involved;
 - c. A third party (non-employee) is involved;
 - d. Employees who have an accident while driving City vehicles or equipment on or off duty will be subjected to testing for motor vehicle accidents.
 - e. Employees who have an accident while driving personal or rental vehicles on City business will be subject to testing for motor vehicle accidents.
 - f. In the event of an out-of-town accident, while on City business, the driver shall immediately notify their supervisor. The supervisor shall contact Human Resources to arrange for drug testing at the remote location.
 5. **Procedures for Post-Vehicle or Motorized Equipment Accident Testing**
 - a. The employee(s) involved in an accident and/or the first employee(s) from the department who arrive at

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- an accident site are required to inform the department director of the accident immediately. If the department director or his designee is not available, the employee(s) shall notify the Risk Manager of the accident. If the department director and the Risk Manager are unavailable, the Director of Human Resources or his designee shall be notified. In the event none of the above individuals are available, an Assistant City Manager shall be notified of the accident.
- b. The employee(s) involved in an accident and any employee who may be a contributing factor to an accident shall be prohibited from working or continuing to work until reporting to a City-approved testing facility.
- c. A specimen for drug or alcohol testing shall be collected from the employee(s) involved as soon as possible, but no later than two (2) hours after the accident.
- d. Except when otherwise approved by the Risk Manager, a supervisor or a designated person shall take the employee to a City-approved testing and collection site.
- e. If the employee, in the judgment of medical professionals and/or the supervisor, exhibits physical and/or emotional impairments such that his or her safety or the safety of others could be in jeopardy, the employee will not be allowed to return to work. If the results of the employee being tested are positive, inconclusive or appear to have been altered, the supervisor or a designated person shall arrange for the employee to be driven home.
- f. Refusal to submit to a post-accident drug or alcohol test will be grounds for termination.
- g. An employee may be placed on administrative leave during an investigation surrounding the circumstances of an accident leading to a drug and alcohol test. The investigation will be conducted by the Human Resources Director or designee.
6. **Random Drug Testing**
- a. All employees identified as safety/security sensitive may be selected for testing on an unannounced, random basis using a scientifically valid, random number generation method.
- b. The Director of Human Resources or designee shall be responsible to produce a list of names for random drug testing. This shall be done by means of a scientifically valid, random number generation method at time periods to be determined by the Director of Human Resources or designee. Employees will be selected

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- by lottery to ensure that each employee has an equal chance at being selected.
- c. The names produced from each random selection shall be forwarded to the employee's department director or designee. The names shall be kept confidential and shared only on a need-to-know basis. The employee's name will be re-entered into the random data file following selection.
 - d. Upon receiving the names of employees in his or her department who are to be tested for controlled substances and alcohol, the department director or designee shall ensure that the employees report to the lab as soon as possible, but not later than two (2) hours after the employees are notified to appear, unless extenuating circumstances exist. If such circumstances exist beyond the employee's control, where it is not possible for him or her to appear for testing within the time allowed, the department director or designee shall immediately advise the Director of Human Resources or designee of the circumstances and the employee's inability to appear.
7. **Reasonable Suspicion Drug Testing:** Employees suspected of controlled-substance use or alcohol abuse will be required to provide a specimen for testing.
- a. A written record of specific, observable facts will be required before a drug or alcohol test can be ordered based on reasonable suspicion.
 - b. Only supervisors who have received drug-awareness training may refer for testing an employee who has been observed in conduct or behavior that would create reasonable suspicion of controlled-substances use or alcohol abuse. The supervisor will document the exact reasons why he or she suspects that a certain employee has violated the controlled substances and alcohol abuse policy, including the symptoms exhibited by the employee, the actions of the employee, statements from other employees or third parties and other evidence that tends to establish a reasonable suspicion of controlled substances or alcohol abuse.
 - c. When it has been determined that reasonable suspicion exists and the employee should be tested, that decision must be approved by the Director of Human Resources or designee. In the event that these individuals are inaccessible within a reasonable period of time, the department head is authorized to require the employee to submit a

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- specimen to the testing facility.
- d. Except when otherwise approved by the Risk Manager, the supervisor or a designated person will drive the employee to a City-approved collection site. Under no circumstances will the employee be allowed to drive.
 - e. If immediate test results are positive, inconclusive or appear to have been altered, the supervisor or designated person shall arrange for the employee to be driven home.
 - f. If immediate test results are positive, inconclusive or appear to have been altered, an employee will be placed on administrative leave until further testing results are confirmed by a Medical Review Officer.

8. **Post-Injury Testing:** Drug/alcohol testing will be required of employees following on-the-job injuries in any of the following circumstances:
- a. A claim of bodily injury while on duty that requires medical treatment;
 - b. A bodily injury to a third party (another employee or bystander) whereby it is determined that an employee's actions or inaction(s) is a contributing factor to the accidental injury of another person.

DISCIPLINARY ACTION

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

1. Any employee whose breath alcohol test results in a Breath Alcohol Content of 0.02 or greater subjects the employee to disciplinary action up to and including termination.
2. Any employee who tests positive for a controlled substance is subject to disciplinary action up to and including termination.
3. Any employee who refuses to take either a drug or alcohol test will be subject to disciplinary action up to and including termination.

**V.
EMPLOYEE REQUEST FOR RETEST**

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

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employee for laboratory expenses.

a rehabilitation program, including the City's EAP, as a condition of continued employment.

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

VII. CONFIDENTIALITY OF INFORMATION

The following procedures will be used to assure that records relating to the drug and alcohol testing process are kept confidential.

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

IX. DRUG & ALCOHOL SEARCH POLICY

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

VIII. ASSISTANCE TO EMPLOYERS

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

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CHAPTER 16 PERFORMANCE EVALUATIONS

I. PURPOSE

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

II. EVALUATION FORMS AND PROCEDURES

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

III. PROBATIONARY EVALUATION

1. **Probationary Period Evaluation - Full-time Employees:** The probationary period provides a time for full-time employees to demonstrate and be evaluated on their ability to successfully perform in the position for which they have been hired. A probationary employee may be disciplined up to and including termination for any reason at any time while serving a probationary period. Probationary period evaluations shall occur as follows:

- a. **Mid-Probationary Evaluation:**
In order to provide at

least one progress report prior to the six (6)-month's probationary evaluation, a mid-probationary evaluation of employees shall occur at or around the end of the employee's third month in a position.

- b. **Six (6)-Month's Probationary Evaluation:** Approximately two weeks prior to the completion of the six-month's probationary period, employees shall be evaluated on their ability to successfully perform in the position for which they have been hired. The results of the evaluation will determine whether the employee will be retained as a regular full-time employee, released from employment or have their probationary period extended.

2. **Probationary Period Evaluation - Part-time Employees:** Part-time employees shall be evaluated on their ability to successfully perform in the position for which they have been hired and determine whether the employee will be retained. Part-time employees are always at-will and may be terminated without cause or appeal at any time during their employment with the City. Part-time employees will be evaluated at the same time intervals as full-time employees.
3. **Promotional Probation:** Promotional probationary employees will be evaluated as set forth in Chapter 17.III.1.

IV. ANNUAL PERFORMANCE EVALUATIONS

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CHAPTER 16 PERFORMANCE EVALUATIONS

All regular full-time and part-time employees shall have their performance evaluated annually by their immediate supervisor prior to their anniversary date.

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

V. EVALUATION FORMS

Upon request, departments will furnish employees a copy of their performance evaluation.

VI. EVALUATION TRAINING

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

VII. APPEAL OF PERFORMANCE EVALUATION

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

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CHAPTER 17 HARASSMENT, DISCRIMINATION AND RETALIATION

I. POLICY

1. **Harassment:** It is the policy of the City of Mesquite, in accordance with Title VII of the Civil Rights Act of 1964, that all employees are entitled to a work environment that is free from sexual intimidation, unwelcome sexual advances and other forms of harassment. The City of Mesquite strictly prohibits any form of harassment based on sex, age, disability, color, national origin, race/ethnicity, religion or other protected classes. Any employee who engages in or condones any conduct or actions that constitute harassment is subject to discipline, up to and including termination.
2. **Discrimination:** The City of Mesquite is committed to equal employment opportunity for all employees. Discrimination against any person in employment, examination, appointment, training, promotion, discipline, pay or any other aspect of personnel administration is prohibited. This includes discrimination because of race, color, creed, national origin, religion, sex, age, or disability. Any employee who engages in or condones any conduct or actions that constitute discrimination is subject to discipline, up to and including termination.
3. **Retaliation:** The City of Mesquite prohibits retaliation against an individual for reporting discrimination or harassment, or for participating in an investigation of a claim of

discrimination or harassment.

II. DEFINITION

For purposes of this policy..

1. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made a term or condition of employment
 - b. Submission to or rejection of such conduct is used as a basis for employment decisions
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance creating an intimidating, hostile or offensive working environment. This may include displaying sexually-suggestive visuals, calendars, graffiti or objects and/or offensive language, jokes, gestures or comments.Offensive or harassing behavior will not be tolerated against any employee. This policy covers vendors, customers or others who enter our workplace. Supervisory or managerial personnel are responsible for taking reasonable action to end such behavior in their workplace.
2. **Other Forms of Harassment:** All slurs, jokes and/or other verbal, non-verbal or physical conduct relating to an individual's race, color, national origin, disability, age, religious beliefs or other protected classes

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constitute harassment when this conduct:

- a. Has the purpose or effect of creating an intimidating, hostile or offensive working environment or
 - b. Has the purpose or effect of interfering with an employee's work performance or
 - c. Adversely affects an employee's employment opportunities.
3. **Discrimination:** Action of discrimination against or favoring any employee on the basis of race, color, creed, national origin, religion, sex, age or disability in any aspect or terms of conditions of employment.
4. **Retaliation:** Any adverse employment action against an individual for reporting discrimination or harassment or for participating in an investigation of a claim of discrimination or harassment.

III. MANAGEMENT RESPONSIBILITY

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

IV. EMPLOYEE RESPONSIBILITY

All City of Mesquite employees are responsible for helping to prevent harassment, discrimination or retaliation of any kind. Management will investigate all complaints to determine if the conduct constitutes harassment, discrimination or retaliation. An employee who feels that he or she has witnessed any type of harassment, discrimination or retaliation or has been subjected to any type of harassment, discrimination or retaliation must use the complaint procedures set out in Section 17.V below. All employees must cooperate with an investigation into a complaint of any harassment, discrimination or retaliation.

V. REPORTING HARASSMENT, DISCRIMINATION OR RETALIATION

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

When a complaint is reported, the employee will be asked by the Human Resources Director or other investigating director or supervisor to provide a written and signed statement that details, as specifically as possible, the alleged harassment, discrimination or retaliation. The written statement should include the

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date(s) of the occurrences, the number of occurrences, an explanation of what happened, whether the person(s) against whom the complaint was filed was told that the conduct was unwelcome and what harm resulted from the alleged harassment, discrimination or retaliation.

VI. CONFIDENTIALITY

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

VII. ADMINISTRATIVE INVESTIGATION

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

may result in disciplinary action, up to and including termination. Upon completion of the investigation, the Human Resources Director or appointed Director or Supervisor shall present a report of findings to the City Manager.

VIII. DISCIPLINARY ACTION

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