



**CITY OF ARLINGTON, TEXAS**  
**PERSONNEL MANUAL**

**Updated: May 2021**

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# CITY OF ARLINGTON, TEXAS PERSONNEL MANUAL

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## 101.00 PERSONNEL ADMINISTRATION AUTHORITY

### 101.01 POLICY/PURPOSE

- A. With the exception of matters reserved by state law or the City Charter to the City Council, the general and final authority for personnel administration rests with the City Manager.
- B. This Personnel Manual provides statements of policy and establishes required procedures relating to personnel administration that are necessary to effectively and efficiently manage city operations. It is issued under the authority of the City Manager.
- C. City of Arlington policy administration demands discharge of duties above the minimum standards of criminal and civil responsibility. The provisions of this Manual create high standards of conduct so that training and performance can be aimed at the highest levels and may, in appropriate cases, serve as the basis for internal discipline even though they are not intended for civil or criminal proceedings.
- D. In May 2017, the City of Arlington, Texas, adopted Texas Local Government Code, Chapter 143, for certain employees within the City's Fire Department. Unless otherwise stipulated by Chapter 143 or the adopted Local Rules, the final authority for personnel administration are the statements of policy and established required procedures published within this manual.

### 101.02 MANAGEMENT AUTHORITY

City Management possesses the authority to administer city operations, except where otherwise noted. Management authority includes, but is not limited to, the following activities:

- 1. Discipline, discharge, or release employees pursuant to the procedures described in this Manual;
- 2. Direct the work forces;
- 3. Hire, assign, or transfer employees;
- 4. Determine the mission of city departments;
- 5. Determine the methods, means, and allocation/assignment of personnel needed to carry out the City's mission;
- 6. Introduce new or improved methods or facilities, or change such;

7. Determine reasonable work schedules and establish the methods and processes by which such work is performed;
8. Require the performance of duties stated and intended in job descriptions, with the understanding that every duty is not always specifically described;
9. Determine position availability by:
  - a. Authorizing lateral reassignments;
  - b. Classifying police and/or fire positions as civilian or uniformed, as needed;
  - c. Freezing, hiring, and promoting;
  - d. Authorizing delay in filling positions due to budget, facilities, or other business necessity directly related to the delay; or
  - e. Authorizing temporary assignment into a vacancy; and
10. Delete positions, reclassify positions, and/or reassign employees to different positions with different classifications and/or pay as required by business necessity.

### 101.03 PERSONNEL MANUAL

- A. **Scope.** The provisions of this Manual apply to all employees of the City of Arlington both on and off duty, unless otherwise indicated, restricted by proper authority, or limited by law. Unless otherwise noted, an employee who separates from the City prior to an administrative process being completed (i.e. grievances and investigations under Section 114) waives all further appeals.
- B. **Not a Contract.** This Manual does not constitute a contract of employment or benefits. Nothing in this Manual should be construed as a guarantee of continued benefits from, or employment by, the City of Arlington. All employees are subject to discharge.
- C. **Changes.** The City reserves the authority to modify, revoke, suspend, interpret, terminate, or change any or all of the provisions of this Manual. Except in case of emergency, employees will be given 5 days written notice of any change.
- D. **Titles.** Titles used shall not govern, limit, modify, or affect the scope of meaning or intent of any provision.
- E. **Validity.** Any statement in a directive found to be illegal, incorrect, or inapplicable shall not affect the validity of the remaining contents.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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- F. **Department Rules.** Individual departments, with approval of the City Manager and the review and consent of the Human Resources Department and City Attorney's Office, may develop additional personnel administration rules and procedures that are required for the department's operations. Any department rule or procedure that, because of operational necessity, is inconsistent with the provisions of this Manual must be approved in writing by the Human Resources Department, City Attorney's Office, and City Manager's Office.

## 101.01 APPENDIX A

### DEFINITIONS

**at-will employees** - probationary, part-time, seasonal, or temporary employees, council appointees, Deputy City Managers, department heads, assistant city attorneys, the heads of organizational units, and persons in other specific positions identified in Appendix D to this Chapter, and those other employees designated at the time of hiring/promotion by the City Manager as "at will" employees have no property interest in the positions they hold and therefore may be dismissed, transferred, or demoted without cause.

**days** - when not specified as working days or calendar days, are regular city business days.

**department** - a major segment of the city organization headed by a person who reports directly to a Deputy City Manager, the City Manager, or the Mayor and City Council. Departments are listed in Appendix B to this Chapter.

**department head** - the chief executive officer of a department, whether identified as Director, Chief, or any other job title.

**firefighters**- those employees in the City's job family classified as fire suppression or fire prevention and are subject to overtime provisions as listed by Fair Labor Standard Act regulations.

**health fitness impairment** - a temporary or permanent mental or physical impairment including, but not limited to injury (on or off the job), pregnancy, illness, or other job-restricting impairment, which diminishes or precludes one's capacity for, or renders one unfit for performance of the essential job functions of the position.

**injury in the course and scope of employment** - as defined in Texas Labor Code Sec. 401.11.

**month** - 30 calendar days.

**new status review** – the six months period to review performance and conduct following a promotion, transfer, reclassification or demotion.

**on-the-job injury** - see injury in the course and scope of employment.

**organizational unit** – administrative designation of department segment created for business or operational purposes.

**police officers** - those employees certified as peace officers by the Texas Commission on Law Enforcement Officer Standards and Education and commissioned as police officers by the City of Arlington, regardless of their rank, classification, or job title.

**probationary employee** - an employee in the performance probation period of initial employment or re-hire as specified in the Hiring and Selection Chapter.

**reserve police officer** - a person certified as a reserve peace officer by the Texas Commission on Law Enforcement Officer Standards and Education and commissioned as a reserve police officer by the City of Arlington, who performs duties as assigned by the Police Department in a volunteer status.

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**spouse** – a husband or wife, considered in relation to the employee where the relationship is legally recognized either through a marriage certificate or a Declaration of Informal Marriage affirmed in the presence of the Texas County Clerk. For the purposes of certifying for Family Medical Leave the spousal relationship is defined in accordance with the Act.

**101.02 APPENDIX B**  
**DEPARTMENTS/WORK GROUPS**

Audit

Aviation

City Attorney's Office

City Manager's Office

Code Compliance Services

Community Development and Planning

Convention Center

Economic Development

Financial Services

Fire

Handitran

Human Resources

Information Technology

Judiciary

Libraries

Management Resources

Municipal Court

Parks and Recreation

Police

Public Works and Transportation

Water Utilities

## 101.03 APPENDIX C

### ORGANIZATIONAL UNITS

I. Departments/Work Groups composed of only one organizational unit:

<b>Audit</b>	<b>Convention Center</b>
<b>Aviation</b>	<b>Economic Development</b>
<b>City Attorney's Office</b>	<b>Handitran</b>
<b>City Manager's Office</b>	<b>Judiciary</b>
<b>Community Development and Planning</b>	<b>Municipal Court</b>

II. Departments composed of more than one organizational unit

**Community Services**

Administration/Grants  
Animal Services  
East District  
Housing Authority  
North District  
Sanitary Landfill  
West District

**Financial Services**

Administration/Accounting/Purchasing  
Payroll/Payables Operations  
Treasury Operations

**Fire**

Operations Shift A  
Operations Shift B  
Operations Shift C  
Operations Support  
Prevention  
Communication Services

**Human Resources**

Risk Management

**Information Technology**

Administration  
Business Services  
Customer Support  
Geoprocessing  
Information Services  
Infrastructure Services

**Libraries**

Administration  
Branch Services  
Bibliographic Services  
Central Services  
Electronic Services

**Management Resources**

Budget  
City Secretary  
General Services

**Parks and Recreation**

Administration/Planning  
Aquatics  
Golf  
Park Operations  
Park Programs  
Tennis Programs

**Police**

Administration  
Community Services  
East District  
Investigations  
North District  
Operations Support  
West District

**Public Works and Transportation**

Administration  
Engineering Construction  
Engineering Operations  
Environmental Management  
Streets  
Traffic  
Construction Management  
Facility Services  
Fleet Services

**Water Utilities**

Business Services  
Operations  
Water Treatment

## 101.04 APPENDIX D

### AT-WILL POSITIONS

#### Asset Management

Senior Asset Officer  
Construction Manager  
Environmental Services Administrator  
Facility Services Manager

#### Audit

City Auditor  
Assistant City Auditor

#### Aviation

Airport Manager  
Assistant Airport Manager

#### City Attorney's Office

City Attorney  
Assistant City Attorney  
Attorney I  
Attorney II  
Deputy City Attorney  
Chief Municipal Court Prosecutor  
Senior Attorney

#### City Manager's Office

City Manager  
Assistant City Manager  
Deputy City Manager

#### Code Compliance Services

Code Compliance Administrator  
Animal Services Manager  
Veterinarian

#### Communication and Legislative Affairs

Director of Communication and Legislative Affairs  
City Secretary

#### Convention Center

Director of Convention and Event Services  
Assistant Director of Convention Center

#### Economic Development

Economic Development Manager  
Real Estate Manager

#### Finance

Finance Director, CFO  
Budget Manager  
Controller  
ERP Project Manager  
Purchasing Manager  
Treasury Manager

#### Fire

Fire Chief  
Communications Services Administrator

#### Handitran

Transit Manager

#### Housing

Executive Director of Housing

#### Human Resources

Director of Human Resources and Civil Service  
Human Resources Manager  
Risk Management Manager

#### Information Technology

Chief Technology Officer  
IT Manager

#### Judiciary

Presiding Municipal Court Judge  
Municipal Court Judge

#### Libraries

Director of Libraries  
CATSV Administrator  
OFM Administrator  
PMCE Administrator

#### Municipal Court

Municipal Court Administrator

#### Parks and Recreation

Director of Parks and Recreation  
Assistant Director of Parks and Recreation  
Business Services Manager

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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**Planning and Development Services**

Director of Planning and Development  
Services  
Assistant Director of Planning and  
Development Services  
Building Official  
Business Services Manager

**Police Department**

Police Chief  
Assistant Police Chief  
Chief Administrative Officer  
Deputy Police Chief

**Public Works and Transportation**

Director of Public Works  
Assistant Director of Public Works

**Strategic Initiatives**

Senior Strategic Initiatives Officer  
Grants Manager  
Planning Manager

**Water Utilities**

Director of Water Utilities  
Assistant Director of Water Utilities  
Financial Administrator

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**Other At-Will Positions**

Part-time employees  
Probationary employees  
Seasonal employees  
Temporary employees

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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## 102.00 CATEGORIES AND CLASSIFICATIONS OF CITY WORKERS

### 102.01 PURPOSE/POLICY

Proper employee classification is necessary to administer salaries, determine eligibility under the City's employee benefit plans, and comply with employment and tax laws.

The City offers part-time, full-time, seasonal, and temporary employment opportunities to meet the organization's staffing requirements. The City also uses agency temporaries, contract workers, and Supplemental Employment Volunteers as described in this Chapter to respond flexibly to changing workload requirements.

All employees, whether full-time, part-time, seasonal, or temporary, are classified as exempt or nonexempt, according to federal regulations, for overtime and minimum wage requirements.

### 102.02 CATEGORIES AND CLASSIFICATIONS OF EMPLOYEES

- A. Employment status, continued employment, benefits, and termination procedures vary among the following categories of employees:
1. *Regular full-time*: any employee with a regularly-scheduled work week of 30 hours or more in one position (or working an approved alternative schedule that is considered equivalent to 30 hours or more per week or assigned to a 24-hour shift in the Fire Department) who has completed his or her probationary period.
  2. *Probationary*: an employee during the performance probation period of initial employment or re-hire as specified in the Hiring and Selection Chapter.
  3. *Regular part-time*: any employee in a position with a regularly-scheduled work week of 29 hours or less. The number of hours regularly scheduled per week is a distinguishing feature of such positions.
  4. *Seasonal*: an employee in a position for a specified length of time to perform work assignments of a recurring nature.
  5. *Temporary*: an employee in a position for a specified length of time to perform work assignments of a limited nature. Such employees have definite starting and ending dates of employment. Length of employment rather than number of hours worked is a distinguishing feature of such positions. Temporary employees may be either full-time or part-time. Temporary assignments cannot extend beyond 12 months except with the approval of the Human Resources Director.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*



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- B. Compensation may vary between the following classifications of employees in compliance with the federal Fair Labor Standards Act:
1. *Exempt employee*: an employee who performs executive, administrative, or professional functions and is paid on a salary basis regardless of the number of hours worked in a pay period.
  2. *Non-exempt employee*: any employee who is not classified as exempt and is paid on an hourly basis for the number of hours worked.

### **102.03      TEMPORARY CONTRACT WORKERS**

- A. Personnel from temporary agencies can be hired part-time or full-time by the City to work for the duration of specific projects or assignments. Temporary contract assignments cannot extend beyond 12 months, except with the approval of the Human Resources Director. Temporary contract personnel can be exempt or non-exempt.
1. The temporary agency is responsible for hiring, training, assigning, disciplining, and firing its contract personnel. Agency temporaries take direction from, and are monitored by, their assigned City supervisor, but the agency supervisor is primarily responsible for monitoring the performance of the temporary contract personnel and taking any necessary disciplinary or corrective action.
  2. Temporary contract personnel receive their benefits through their employment agency and so are not eligible to participate in the City's health, pension, leave, or other benefit plans.
- B. Supervisors or managers in need of temporary contract personnel must follow the requisition procedure specified below:
1. Requests for temporary contract personnel must be placed through the Human Resources Department.
  2. For general clerical and administrative contract personnel, requests must be made by 10:00 a.m. of the business day before the date the personnel are required. Requests for temporary contract personnel with special skills must be made as far in advance as possible.
  3. The Human Resources Department requests contract temporary employees from approved temporary help agencies. Approved agencies are those that have provided the City with certification that they are properly licensed by the state and will meet their payroll tax and other legal obligations with respect to the temporary workers, and are subject to a contract with the City obtained pursuant to the bid process.

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**102.04 SUPPLEMENTAL EMPLOYMENT SERVICES**

A Supplemental Employment Volunteer (SEV) is an individual who has applied through the Human Resources Department and completed the requirements to fill a specific short or long term staffing need, or compliment and enhance paid city staff as requested by a city department.

1. SEVs may be placed in professional, administrative/clerical, recreation and athletic and/or technical areas. SEV's work is supervised and monitored by designated personnel within the assigned department.
2. SEVs may be interns, business cooperative program students, persons with an interest in public service, or may be provided through temporary agencies.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

## 103.00 HIRING AND SELECTION

### 103.01 POLICY/PURPOSE

The City of Arlington is committed to hiring qualified employees, regardless of race, color, religion, national origin, sex, age or disability. Selection for employment with the City of Arlington is based on job-related qualifications and is contingent on satisfactory results on exams or tests, as required by law, and/or specific qualifications to perform job duties.

### 103.02 APPLICATION PROCESS

#### A. Forms and Submission

1. **Applicants** seeking full-time, part-time, temporary or seasonal employment or re-employment with the City must complete the current application process.
2. **Current City employees** applying for positions in other departments must complete the current application process. Completing the process authorizes hiring authorities in the department to review the employee's permanent personnel record.

B. **Falsified/Omitted Material Fact(s)**. Omission or falsification of any material fact on an application disqualifies an applicant for consideration for employment, transfer or promotion for at least 6 months from the date of the application. The City may further extend the ineligibility period in the case of a non-employee applicant and/or take disciplinary action up to, and including, termination against an employee for the omission or falsification.

### 103.03 SELECTION

A. **Equal Employment Opportunity**. Discrimination in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration based on an employee's or applicant's religion, race, color, national origin, disability, age, or sex (including sexual orientation and gender identity) is prohibited.

B. **Job-Related Criteria**. Selection for employment and ability to retain employment with the City of Arlington is based on job-related criteria that may include, but are not limited to:

1. Possession of the necessary knowledge, skills, abilities, training, education, and experience required for the position;
2. Satisfactory results on performance tests, physical examinations, polygraph examinations, psychological examinations, credit verification, or drug and alcohol tests as required because of job duties or law; and

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

3. Satisfactory results on criminal history, driving record, employment and education reference checks.

C. **Seasonal/Temporary Physical Exams.** No person shall be employed as a seasonal or temporary employee until documentation of a physical examination within the previous 60 days, indicating satisfactory physical condition for employment, has been provided to the Human Resources Department by the applicant, if such is required because of job duties.

D. **Minimum Age.** Eighteen is the minimum age for City employment, except for:

1. Fire uniformed services - age 19,
2. Police uniformed services - age 21, and
3. Selected seasonal and temporary positions where persons age 14 and over but under 18 may be employed as allowed by law in jobs that are non-hazardous.

E. **Nepotism in Hiring.** Employment of certain related persons by the City or within designated City units is not allowed. The provisions of this Section apply to persons from outside the City workforce who are applying for employment with the City. Restrictions on persons who are already employed by the City, and who become related to another person who is employed by the City, are specified in the Relationships Chapter (204.00).

1. **Scope.** For the purposes of determining a relative relationship (Nepotism) only, employee includes probationary, regular full-time, regular part-time, seasonal, temporary, at-will employees, temporary agency workers, volunteers, and reserve police officers.

- a. **Volunteers** – relatives as defined in this policy who are volunteering with the City of Arlington cannot volunteer in a position within the same department the related employee is employed.

2. **Relative.** The following relatives are covered by these guidelines:

- a. Any person related by blood or adoption as follows:

- 1) mother or father;
    - 2) daughter or son;
    - 3) sister or brother;
    - 4) grandmother or grandfather;
    - 5) granddaughter or grandson;
    - 6) niece or nephew;
    - 7) aunt or uncle;

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- 8) first cousins;
  - b. Any person who is married to any person specified in E.2.a above; or
  - c. An employee's spouse and any person related to the employee's spouse as specified in E.2.a above.
3. **Disclosure.** All persons applying for employment are required to disclose any relative serving as the Mayor or as a Council Member and any relative who is employed by the City.
4. **Prohibitions.**
- a. **Elected Officials' Relatives.** No person who is related within the second degree by marriage (spouse and spouse's children, parents, brothers, sisters, grandparents, and grandchildren) or within the third degree by blood (parents, children, brothers, sisters, grandparents, grandchildren, great-grandparents, great-grandchildren, aunts, uncles, nieces, and nephews) to the mayor or any member of the City Council may be offered or accept employment with the City.
  - b. **Executives.** No person who is a relative (as defined in E.2.a above) of a council-appointed employee, a Deputy City Manager, or a Department Head may be offered or accept employment with the City.
    - 1) Volunteer applications submitted by relatives of Executives as defined in this policy must be reviewed and authorized by the Director of Human Resources.
  - c. **Employees' Relatives.** No person who is a relative (as defined in E.2.a above) of a current City employee may be offered or accept employment with the City in the same department as his or her relative. A person applying for rehire with the City may be placed in the same department as the relative if the person was employed in the same department and related to the employee at the time of the person's separation from the City.
  - d. **Condition of Conflict.** No person who is a relative (as defined in E.2.a above) may be offered or accept employment where the employment would constitute a condition of conflict.

#### **103.04 RE-EMPLOYMENT**

- A. To be considered for re-employment, former employees must have demonstrated acceptable prior service with the City and must meet the current minimum qualifications for the position for which they are applying. Re-hired employees are subject to the conditions of employment and benefits of a newly-hired employee, except where specifically stated otherwise.

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B. See also Military Personnel Chapter 308.00.

### **103.05 PROBATIONARY PERIOD**

- A. **Applicability/Length.** All new or re-hired full-time employees are required to successfully complete a performance probationary period of six calendar months active duty in the position for which the employee was hired. The employee is considered at-will for the probationary period.
1. A new or re-hired employee who fails to satisfactorily complete the performance probationary period will be dismissed.
  2. As at-will employees, probationary employees have no property interest in the positions held, and therefore may be dismissed, transferred, or demoted without cause.
  3. The 6-month probationary period:
    - a. Is extended for the positions of Police Officer, Firefighter, Apprentice Telecommunicator, Police Service Assistant, Jailer, Code Compliance Officer I, Code Compliance Officer II, Code Compliance Officer- Senior, and Housing Specialist until 6 months after completion of all, of any, academy and department training periods and the employee has been released to work without a trainer;
    - b. May be extended for extenuating circumstances documented in writing that make additional time necessary to effectively evaluate the employee and requested by the Department Head and approved by the Director of Human Resources or the Director's designee.
- B. **Restriction.** No probationary employee may be reassigned, promoted, or allowed to voluntarily transfer during the probationary period unless the Department Head determines that such action is a business necessity.

## 104.00 CHANGES IN EMPLOYEE STATUS

### 104.01 POLICY/PURPOSE

The evolving nature of serving both residents of and visitors to Arlington requires jobs to change, duties and responsibilities to be altered, and employee movement within the organization. Employees may undergo any number of changes in status and/or compensation resulting from their performance, promotion, demotion, reassignment, or transfer. The purpose of this Chapter is to identify and describe the more common of these changes.

### 104.02 GENERAL PROVISIONS

- A. All promotions, demotions, reassignments, or transfers are contingent on position availability and the employee meeting the minimum qualifications.
- B. Status changes described in this Chapter may affect compensation, based on position classification.

### 104.03 PROMOTIONS AND DEMOTIONS

- A. Regular full-time employees may promote to higher-classified positions based on qualifying skills and demonstrated performance.
- B. Regular full-time employees may be demoted as the result of failure to meet minimum performance standards established for their position, disciplinary action, or job elimination due to business necessity.

### 104.04 REASSIGNMENT

- A. **Management Reassignment.** An employee may be temporarily or permanently reassigned to a position in the same rank or classification with different duties and responsibilities. This action may be taken at the discretion of management.
- B. **Temporary Reassignment in Higher Classification.** A regular full-time employee may be temporarily assigned to an acting status in a higher level position having different duties and responsibilities when:
  - 1. An existing position is vacant or the incumbent is absent from work for not less than 30 days (30-day requirement not applicable to and police officers due to Sec. 141.033 of the Texas Local Government Code);
  - 2. Maintenance of department operational effectiveness precludes dispersing the duties of the position among other equally classified employees;

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3. The employee meets the minimum qualifications of, and is capable of performing, the assigned duties of the higher level position; and
4. The appropriate Deputy City Manager approves the temporary assignment in writing (not applicable to firefighters and police officers due to Sec. 141.033 of the Texas Local Government Code).

C. **Employee-Sought Reassignment.** Regular full-time employees are allowed to voluntarily seek transfers to equally or lower-classified positions for which they are qualified, unless the transfer is not in the best interest of the City.

#### **104.05 POSITION RECLASSIFICATION**

Reclassification of a position may occur at the discretion of management when the job duties actually performed and the minimum qualifications of the position have significantly changed since the job description was written. Reclassification may result in a position being placed in a higher, lower, or same classification. Reclassifications are appealable at the department head's discretion. Employees whose positions are reclassified will be given advanced written notice of the reclassification by the supervisor.

#### **104.06 NEW STATUS REVIEW PERIOD**

- A. Regular full-time employees who are promoted, transferred, reclassified, or demoted will serve six calendar months in the new position, during which time their performance and conduct will be reviewed. The 6-month New Status Review period:
  1. Is extended for the positions of Police Officer, Apprentice Telecommunicator, Police Service Assistant Jailer, Code Compliance Officer I, Code Compliance Officer II, Code Compliance Officer-Senior and Housing Specialist, until 6 months after completion of all, if any, academy and department training periods and the employee has been released to work without a trainer;
  2. May be extended for extenuating circumstances, documented in writing, that make additional time necessary to effectively evaluate the employee, when requested by the department head and approved by the Director of Human Resources or his/her designee.
- B. A regular full-time employee who fails to satisfactorily complete the new status review period will be dismissed unless, subject to position availability and employee qualifications, the employee can be returned to his or her former position or reassigned to a position classified equal to or below that held before the status change.

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1. Return to the former position and/or reassignment to an equivalent position are final non-appealable actions.
  2. Both re-assignment to a lower classified position and/or dismissal are appealable.
- C. No new status review employee may be reassigned, promoted, or allowed to voluntarily transfer during the probationary period unless the Department Head determines that such action is a business necessity.
- D. New status review is not applicable to those employees that are subject to Texas Local Government Code, Chapter 143.

#### **104.07 HIRING PART-TIME EMPLOYEES FOR FULL-TIME POSITIONS**

Part-time employees hired into full-time positions are subject to the same terms and conditions as any probationary full-time employees.

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## 105.00 TERMINATION OF EMPLOYEE STATUS

### 105.01 POLICY/PURPOSE

Employees leave the City of Arlington workforce under various conditions that include retirement, reductions in force, dismissal, or voluntary separation due to personal or business reasons. Depending on the nature of the employee's department, procedures exist that affect the employee's eligibility to obtain terminal pay and/or appeal disciplinary action. Employees should make themselves aware of these procedures.

### 105.02 RESIGNATION/RETIREMENT

#### A. Notice Required.

1. **Resignation.** An employee must submit a written resignation to his/her immediate supervisor at least 10 working days before the effective date of resignation. The resigning employee must indicate in the resignation letter the last day/shift/hour to be worked. Failure to report to work as scheduled during the resignation notice period will be treated as an unauthorized absence.
2. **Retirement.** An employee must give written notice of intent to retire to his/her immediate supervisor no less than 30 calendar days before the effective date of retirement. However, it is encouraged to provide such notice 90 calendar days before the effective date of retirement. The retiring employee must indicate in the retirement intent notice the last day/shift/hour to be worked. In cases of disability, application for disability retirement satisfies the notice requirement.
3. **Failure to Give Notice.** An employee who gives less than the required notice forfeits terminal pay benefits, unless the department head waives the notice requirement and the department head approves the waiver request in writing.

#### B. Pending Disciplinary Action

1. No resignation or retirement will be accepted after disciplinary action has been initiated against an employee, unless acceptance is agreed to and coordinated among the department head, Human Resources Department, and City Attorney's Office. Disciplinary action initiation means service of a formal charge and specification memorandum and does not include notice of a complaint under investigation.
2. An employee whose resignation or retirement notice is tendered and accepted after the initiation of a disciplinary action forfeits the opportunity to respond and to appeal the disciplinary action. If the resignation/retirement notice is not accepted, the employee's opportunity to respond and appeal the disciplinary action is maintained.

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3. An employee retains the opportunity to respond and appeal if the resignation or retirement notice was given prior to the initiation of a disciplinary action.

### **105.03 REDUCTION IN FORCE**

As a matter of business necessity, the City Manager may direct, with City Council's approval, a reduction in the city workforce through the elimination of occupied and unoccupied positions and layoff of employees. The elimination of positions after reorganization may be approved by the City Manager. Employees that are subject to Texas Local Government Code, Chapter 143, shall refer to the specifics of reduction in force in the Texas Local Government Code, Chapter 143.

### **105.04 DISMISSAL**

- A. **"At-will" employees**, as listed in Appendix D to Chapter 101.00, may be dismissed from city employment at any time, with or without cause. Such employees have no property interest in continued employment with the City, and their dismissal is not appealable. At-will employees may respond as discussed in Section 111.02 A.
- B. **Employees who are not "at will."** All employees not classified as "at-will" may be dismissed from city employment only as the result of disciplinary action or as the result of a Reduction in Force.

### **105.05 EXIT PROCESSING**

Employees shall contact the Human Resources Department at least five (5) days before the date of separation from city employment to make arrangements for final pay, benefits determination, and an exit interview.

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## 106.00 WORK HOURS

### 106.01 POLICY/PURPOSE

The City of Arlington reserves the right to establish official work hours for any position to ensure accomplishment of the City's mission.

### 106.02 GENERAL PROVISIONS

- A. **40-hour Week.** The City has adopted a 40-hour work week schedule for non-exempt employees, except for certain uniformed fire personnel. Mealtime during a tour of duty is not considered compensable time, unless the employee is on restricted on-call pay status, or the employee is required to work during the meal time.
- B. Except as specified in this Section, authorized paid leave is considered hours worked.
1. Sick leave is not considered hours worked for the purpose of determining if overtime pay liability has occurred. (See Compensation Chapter 301.00).
  2. Paid leave is not considered hours worked for the purpose of determining eligibility for Family and Medical Leave Act (FMLA) leave.
- C. **Additional Work.** All employees are required to work hours in excess of their official hours when necessary, as determined by department management. Such additional work assignments may be rotated and allocated among employees qualified to do the work. Excess hours may be required or granted for a specified period of time, or on a regular basis as operating circumstances warrant.
- D. **Unauthorized Additional Work.** Unless approved in advance by the employee's immediate supervisor, performing work at any time other than, or in addition to authorized working hours, is prohibited. This includes, but is not limited to work before or after regular work hours, or work taken home.
- E. For employees who are not exempt from overtime payment under the Fair Labor Standards Act (FLSA), and where hourly computations are permitted for use of sick and vacation leave by exempt employees, work time or leave time will be computed to the nearest quarter hour.

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**106.03 INCLEMENT WEATHER**

- A. City offices and activities will remain open and in operation during established working hours unless the City Manager declares the offices, excluding emergency services, officially closed due to inclement weather.
- B. **Reporting to Work.** If the City has not been officially closed, employees who are unable to report to work due to inclement weather must contact their supervisor in accordance with personnel policies and departmental procedures. An employee who fails to report to his or her supervisor may be subject to disciplinary action, up to and including dismissal.
- C. **Compensation for Inclement Weather Absences.** Compensation for absences related to inclement weather will be as follows:
1. **Official Closing.** If the City Manager closes a facility due to inclement weather, an employee scheduled to work at the facility will be paid his or her normal shift pay during the hours the facility is officially closed.
  2. **No Official Closing.** If the City Manager does not close a facility and an employee is unable to report to work due to inclement weather, compensation will be handled in the following manner:
    - a. **Non-exempt Employees.** A non-exempt employee who misses work hours due to inclement weather may use accrued vacation time or holidays. If an employee has no paid leave available, the employee may be granted authorized leave without pay. At the discretion of the Department Head, non-exempt employees may be allowed to make up hours missed.
    - b. **Exempt Employees.** An exempt employee who misses work hours due to inclement weather may use accrued vacation time or holidays if the absence is for a full work day. Neither the salary nor the leave accruals of an exempt employee will be docked for absences of less than one (1) full work day.
    - c. **Part-time and Part-time Seasonal Employees.** A part-time or part-time seasonal employee who is unable to report to work due to inclement weather will be paid only for hours actually worked.
- D. **Early Closing.** If the City Manager closes a facility early due to inclement weather, an employee who reported for work will be paid for the remainder of his or her normal shift. A non-exempt employee who remains as part of a skeleton crew will be allowed to accrue compensatory time or will be paid overtime at the Department Head's discretion.
- E. **Emergency Services.** Employees designated by their department head to provide emergency services will report to work as provided by their department rules during an official closing.

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## 106.04 ON-CALL STATUS

- A. Some operational segments may designate non-exempt employees to be on-call to provide for after-hours service needs. Employees are required to respond to an on-call assignment. Two forms of on-call are recognized for non-exempt employees, as follows:
1. Restricted on-call is the time spent on or away from city premises, under conditions that prevent the employee from using the time for personal activities. All such time in readiness is considered time worked and is compensable.
  2. Unrestricted on-call is all time, other than regularly scheduled working hours, when an employee is designated to be available for call-back. The employee is free to pursue personal activities, but must respond to summons (paging phone or radio) within designated guidelines set by the department head. This is not considered time worked and is not compensable. If called back, however, call-back compensation will be paid.
- B. An employee is considered officially scheduled and designated as on-call only when approved by the employee's supervisor.

## 106.05 ALTERNATE WORK SCHEDULES

### A. General Provisions

1. Subject to operational requirements, regular full-time employees may be permitted to work an alternate work schedule that allows the employee to work outside the normal work hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, as specified in this Section.
2. **Approval Process.** The Human Resources Department must review all alternate work schedules to ensure there is no conflict with statutory/regulatory requirements or city policy. Any alternate work schedule for an individual must be agreed to in writing by the supervisor and the employee and must be approved by the department head prior to implementation. Proposed alternative work schedules for work groups that create operating and/or budget implications require Deputy City Manager approval prior to implementation.
3. **Restrictions.**
  - a. The City may cancel or suspend an employee's alternative schedule privileges at any time, for any reason, or for no reason.
  - b. Daily and weekly work schedules can be modified at the City's discretion to meet changing operational needs.

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- c. Approval of an alternate work schedule does not restrict exempt employees from working more than their scheduled hours.
  - d. Employees can be required to depart from an alternate schedule, as necessary, to work additional hours, to attend training, or for other business purposes determined by the City.
  - e. No alternate schedule will be approved that has the potential to unduly increase the City's overtime pay liability.
- B. **Flex-Time** allows the employee to work outside the normal work hours of 8:00 to 5:00 p.m., but requires eight hours of work per day Monday through Friday. Flex-time schedules must include an unpaid daily meal break of at least 30 minutes.
- C. **Compressed Work Week** is a schedule that permits an employee to work the equivalent of a full week in fewer than five days. The 24-on/48-off schedule for firefighters is not considered a compressed work week.
- 1. No compressed work week arrangement under which an employee is scheduled to work more than 12 hours per day on a regular basis is permitted.
  - 2. Employees who work a compressed work week and are scheduled to work on a city holiday receive the same amount of paid holiday leave – 8 hours – as other full-time employees. If, under the compressed work week schedule, the employee is scheduled to work more than 8 hours on a city holiday and takes the day off, the employee must work additional hours within the same week, or supplement the holiday leave with accrued vacation leave, to meet the 40-hour work requirement.
  - 3. Employees who work a compressed work week schedule may re-schedule holidays that occur on a day when they are not scheduled to work, as provided in the Holidays Section of the Paid Leave Chapter.

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## 107.00 PERFORMANCE PLANNING AND REVIEW

### 107.01 POLICY/PURPOSE

The job performance of all employees will be reviewed periodically.

Periodic formal performance review is intended to ensure that all employees:

- Are aware of what duties are expected;
- Understand the level of performance expected;
- Receive timely feedback about their performance;
- Have opportunities for education, training, and development; and
- Are evaluated in a fair and consistent manner.

### 107.02 GENERAL PROVISIONS

A. The performance of employees will be reviewed:

1. Periodically during the performance probation period after hiring, and the new status review period after promotion, reassignment, reclassification, or transfer;
2. For employees assigned to the police and uniformed fire services classifications, after completion of probation and at least 30 calendar days before the due date for their next pay step until reaching the top pay step for their classification,
3. At least annually for police and fire uniformed services classifications employees after reaching their top pay step and for all other employees after completion of probation. Annual performance planning and review interviews between supervisors and employees:
  - a. Assigned to the police or fire uniformed services classifications will be at the time designated by their departments;
  - b. Assigned to all other classifications will be at the time designated by the Human Resources Department.

B. Interim reviews at intervening six-month intervals, or more often if desired by the supervisor, are recommended to foster communication, assure a common understanding of purpose, and to assist in detecting any developing problems.

C. Notwithstanding establishment of standardized periodic performance reviews in this Chapter, employees and supervisors are encouraged to have frequent, informal discussions of performance when appropriate or necessary.

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### **107.03 REVIEW PROCESS**

- A. Together the supervisor and employee will discuss the employee's performance during the review period and plan for the next review period in order to:
  - 1. Identify the expectations of how duties are to be performed;
  - 2. Identify the principal duties of the job and create a way to measure results;
  - 3. Develop special objectives that recognize significant work or projects, if any;
  - 4. Identify and address areas of employee development needs; and
  - 5. Develop an action plan for training to improve or add skills.
- B. The supervisor will document the employee's evaluation and the agreed on plans on the prescribed form, after which the evaluating supervisor and employee will discuss and sign the approved review document. The employee will be given the opportunity to read the performance review.
- C. An employee has no appeal of a performance evaluation, but may attach a written response to the review document. If the employee submits a disagreement statement, it will be attached to the review document.

### **107.04 PERFORMANCE IMPROVEMENT PLAN (PIP)**

- A. A regular full-time employee who continues to perform below the acceptable level after counseling may be placed on a Performance Improvement Plan (PIP). If the employee fails to demonstrate the necessary improvement upon completion of the PIP, the employee shall be reassigned, demoted, or dismissed as specified in this Section.
- B. The PIP cannot be used:
  - 1. To extend a performance probationary period.
  - 2. For part-time, seasonal, or temporary employees whose performance is deficient.
  - 3. To extend the 6-month new status review period after promotion, reassignment, or voluntary transfer. Deficient performance by those employees will result in reassignment or dismissal as specified in Chapter 104.00.
- C. The PIP document should include statements of the specific deficiencies in the employee's performance, what improvement is necessary, the period of time in

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which improvement must occur, i.e., 30, 60, or 90 days, and what action will result if the employee fails to show satisfactory improvement.

- D. An employee has no appeal of a performance improvement plan, but may attach a written response to the document. If the employee submits a disagreement statement, it will be attached to the document.

## 108.00 TRAINING AND TRAVEL

### 108.01 POLICY/PURPOSE

- A. Training.** The City promotes a learning environment and provides in-house training relevant to developing general job skills and preparing employees for new and increased responsibilities. Each department is allocated, within budget constraints, training funds to meet specific individual or department needs.
- B. Travel and Local Meeting Expenses.** The City recognizes the need for official representation at conferences, meetings, conventions, seminars, and other functions. The City will pay reasonable expenses which are incurred in the course of authorized City travel. The objective for paying travel-related expenses are 1) to provide employees sufficient funds to execute business on behalf of the City and 2) to safeguard City funds by paying only reasonable and necessary expenses.

Directors are responsible for ensuring that travel expenditures comply with this Chapter and for the thorough review and approval of documents necessary for the travel transaction. Directors have the discretion to implement more restrictive procedures and/or guidelines for their individual departments. The purpose of required documentation is to provide sufficient evidence to anyone who reviews the travel transaction that public funds were expended in compliance with this Chapter.

Employees traveling on behalf of the City are expected to utilize services and accommodations appropriate and reasonable for the business to be conducted.

For purposes of this Chapter, the term "Director" refers to the Department Director or their designee.

### 108.02 TRAINING PROCEDURES

- A. Human Resources In-house Training.** All individuals attending Human Resources training must register through Human Resources to attend the class. Training requests must have supervisory approval and be submitted to Human Resources for processing. An enrollment confirmation may be returned to the individual.
- B. Specific Individual or Department Training.** All training, other than that provided through Human Resources, is coordinated by the employee's

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department. Approval and funding for such training is at the discretion of department management.

### **108.03 TRAVEL AND LOCAL MEETING EXPENSES**

#### **A. General Provisions**

1. The Director of Finance is responsible for the overall administration and enforcement of this Section.
2. All employees are expected to report any abuse and/or misuse of travel and training funds to management.
3. An employee shall not use his or her own funds (cash, check, or credit/debit card) to purchase airline tickets or pay for registration expenses for another employee unless prior approval is received.

The Metroplex is defined as Collin, Dallas, Denton, Ellis, Henderson, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise counties.

#### **B. Approval Required For Travel**

1. Employees must provide an estimated cost of the trip using the Travel Authorization Expense Report form and obtain prior approval from their Director. In the event travel is conducted without prior approval, the employee may be responsible for all expenses incurred.
2. Authorization for travel for Directors will be granted by the Deputy City Manager to whom they report. Deputy City Managers travel authorization shall be granted by the City Manager.

#### **C. Requests for Travel Advances.**

1. Employees may request travel advances for meals and incidental expenses from the Accounts Payable Division. A request for advance travel funds must be submitted on a Payment Authorization form that contains all pertinent information at least 5 working days before the date of travel. The check shall not be issued more than 7 working days before the date of travel.
2. The amount of the travel advance is limited to the anticipated meal per diem, plus any incidental expenses, such as gas, ground transportation fare and tips.
3. The Payment Authorization form shall indicate a charge directly to the appropriate travel/training expenditure account. A signed travel

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approval and travel advance request form must be attached to the Payment Authorization form. Any questions concerning the proper line item account number should be directed to the Accounts Payable Division.

4. Failure to follow these procedures will result in denial of advance funds. If the advance is denied, the employee may still apply for allowable reimbursement of personal funds used during travel.
5. Denial of travel advances may be appealed through the Department Director.

**D. Procurement Card for Travel Expenses.** Upon approval of the Director, designated administrative employees can be issued procurement cards with travel privileges. These cards can be used for booking travel, lodging or other expenses, that are typically paid by the City, except for travel related meals. Personal expenses are not to be placed on a City procurement card and procurement card reporting requirements as outlined in the Purchasing Manual, Sec. 4.4.1.a must be followed. Misuse of the City's procurement card may result in card privileges being revoked and/or disciplinary action being taken, as deemed appropriate.

**E. Reimbursable Expenses.** The City will reimburse actual expenses as authorized within this policy, except for meals and incidental expenses (M & IE). Meals and incidental expenses will only be paid on a per diem basis and based on the rates established by the U.S. General Services Administration for the current fiscal year ([www.gsa.gov](http://www.gsa.gov)) in effect for the travel destination.

Itemized original receipts from the vendor must be provided for all expenses, except meals and incidental expenses. Credit card slips will not be accepted. Failure to submit itemized receipts will render those expenses non-reimbursable.

If a travel package is used, documentation that clearly segregates the cost of airfare, lodging and ground transportation should be provided. If not available, the employee must submit documentation supporting that this was the most economical travel method.

If travel time is extended for non-city related business, reimbursement will not be made for any expenses incurred for the additional stay unless it is properly documented and approved as an Extraordinary Expense (See 6.f).

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No reimbursement will be made for costs in excess of the maximum allowances specified in this Chapter. Expenses in excess of maximum allowances are the responsibility of the individual.

### **1. Meals and Incidentals (M & IE)**

- a. The City will pay for the cost of meals for overnight travel on a per diem basis in accordance with the U.S. Government's Domestic Per Diem Rates in effect for the travel destination. Incidental expenses are defined as fees and tips given to porters, baggage carriers, and bellhops.
- b. The Domestic Per Diem Rates can be obtained by accessing the U.S. General Services Administration's website at [www.gsa.gov](http://www.gsa.gov) or by contacting the Finance Department/Accounts Payable Division.
- c. The employee may not claim the entire per diem rate for travel periods of less than one full day. The per diem rate is broken down into standardized meal rates for breakfast, lunch, and dinner. The breakdown of the per diem rate can also be found at the same U.S. General Services Administration's website at [www.gsa.gov](http://www.gsa.gov). Under the per diem rates there is a section for M & IE breakdown.
- d. The City will not pay for meals for individuals who are not employed by the City of Arlington except with the written approval of the Director stating the business purpose of the meal. If an exception is granted, an itemized meal receipt with attendee names and business purpose must be attached to the expense report.
- e. Where meals are provided at conferences and included in the registration fees, reimbursements should not be requested except when limitations of an individual cannot be accommodated by the conference organizers, or when the exception is approved by the Director for business purposes. A conference itinerary/schedule must be included as supporting documentation. The City will not pay for social or recreational conference functions that are separate ticketed events not included in the base conference registration fee without prior approval of the Director (to be noted on the request for travel authorization).

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- f. For international travel, actual costs for meals will be reimbursed.
- g. For travel that does not involve an overnight stay, meals may be reimbursed if the employee is in a travel status out of Metroplex for more than 12 hours.

**2. Accommodations.** The City will pay only actual expenses for hotels, motels or other lodging. Employees should request the reduced government rate or conference rate when making reservations. The government rate, per the State of Texas hotel contract can be accessed on the State of Texas Building & Procurement Commission website at [www.tbpc.state.tx.us/communities/procurement/prog/stmp/stmp-hotel-contract/stmp-hotel-contacts](http://www.tbpc.state.tx.us/communities/procurement/prog/stmp/stmp-hotel-contract/stmp-hotel-contacts). The State contract should be referenced when making hotel reservations. Most hotels will not accept claims to a government rate after check-in. City employees are not exempt from hotel taxes and will be reimbursed for such taxes.

- a. The City will pay only the cost of a single occupancy room, unless the second occupant is also a city employee. If an employee shares a room with someone who is not an employee of the City or who is not traveling on City business, and the room cost is higher than the single room rate because of double occupancy, the employee must pay the difference.
- b. When attending a conference, lodging should be at the conference rate. Expenditures in excess of the conference rate shall be explained as an Extraordinary Expense (see 6f). For non-conference lodging, the State of Texas contract rate should be requested and used when available.
- c. Meals ordered through room service or charged on the hotel bill will be covered through the per diem allowance.

**3. Telephone Calls.** Reimbursement for personal telephone calls will not exceed \$5 per day, including access charges. The most economical method must be used for business-related calls. All phone calls must be documented as to whether personal or business-related. Internet connection fees incurred for business purposes will be reimbursed if approved by the Director. Telephone calls will not be reimbursed for employees who receive a cell phone allowance or who have a city-issued cell phone.

4. **Parking.** Only actual parking expenses shall be allowed. If no receipt is provided, the employee must submit a signed and dated declaration of the expense. Airport parking for 24 hours or less will be reimbursed at the short-term parking rates. Required parking for 25 hours or more shall be reimbursed at the long-term parking rate only.
5. **Tips/Gratuities.** Tips or gratuities on ground transportation shall not exceed 15 percent of total ground transportation fare. Meal related tips are included in the per diem rate.
6. **Transportation.**
  - a. **Airline.** The City will pay for coach or economy class tickets. Employees are encouraged to take advantage of the lowest available fare whenever possible (economy class). However employees are not required to fly at unusual times to qualify for discounts. If an employee chooses to travel first-class, the City will only pay coach or economy class fare. Every effort should be made to secure at least 14 day advance fare. The preference is to book airfare on a City P-card or City pre-payment with the second option being employee out-of-pocket reimbursement.

Employees shall not use private airplanes or charters, without approval of the City Manager. Cost savings or emergency requirements must be shown and included with the City Manager's written approval.

Expenses for luggage will not exceed the cost of more than two pieces of luggage. Where an airline company requires additional fees for seat assignment the City will reimburse expenses for those seats, excluding those in first class and business class. If not available, the employee must submit documentation supporting that this was the most economical travel method.

- b. **Personal Vehicle.** When traveling on City business, a personal vehicle may be used with approval of the Director. The City will reimburse the lesser of mileage or 14-day advance roundtrip coach class airfare. A mileage log or other supporting documentation must be attached to the expense report. Normal travel time should not exceed one day. Any travel that is greater than one day will be considered vacation time. The City will not pay for in-transit costs.

Mileage reimbursement for use of a personal vehicle will be made at the rate established by the Internal Revenue Service. Current

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mileage rates may be obtained from the Finance Department/Accounts Payable Division. Appendix A is provided to help calculate the least expensive travel method, which is the amount that will be reimbursed.

Mileage reimbursement for local travel will be calculated from the employee's office (workday destination) or from the employee's home, whichever is less.

Employees who receive a car allowance will not be reimbursed mileage, however fuel cost will be reimbursed for travel exceeding 300 miles round trip. Fuel receipts (not credit card slips or credit card statement) must be submitted for reimbursement.

- c. City Vehicles.** City vehicles should be used when available or at the discretion of the Director. Direct expenses associated with the use of a city vehicle, which are incurred by the employee, will be reimbursed.
- d. Rental Cars.** To assure payment for rental cars prior approval of the Director is required. To determine the appropriate size and type of rental vehicle such factors as intended use, number of passengers, amount of luggage or equipment or other use factors should be considered.

  - 1. When renting a vehicle in lieu of some other transportation method (i.e. ground transportation) proper justification must be provided to insure that this is the least expensive travel method. Appendix A is provided to help calculate the least expensive travel method and to provide supporting documentation for reason that other transportation option/means were not utilized.
  - 2. Employees shall sign and accept the liability/collision insurance agreement on the contract. Failure to accept this additional insurance will constitute agreement by the employee to be responsible to the service provider, third parties, or the City (at the City's discretion) for all claims in the event of an accident.
- e. Ground Transportation.** Employees may claim reasonable actual ground transportation expenses including shuttle services and ground transportation. Documentation for these expenses is required.

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- 7. Extraordinary Expenses.** There may be occasions when, for the City's benefit, extraordinary expenses may be justified. Extraordinary expenses that are not specifically provided for in this Chapter, when justified in writing and properly documented, may be approved by the department Director if they are determined to have been incurred for the City's benefit. Accommodations within the metroplex may be justified based on extraordinary expenses with approval by the Department Director.
- F. Trip Cancellation.** The employee shall promptly notify the Finance Department when travel plans are cancelled. If the trip is cancelled due to a conflict with city business, the City will be responsible for any fees that result from the cancellation. If the trip is cancelled for personal reasons, the employee shall reimburse the City for any fees charged as a result of the cancellation. Any exception to this rule must be approved by the Director.
- G. Non-allowable Expenses.** The cost of alcoholic beverages, laundry/dry cleaning, shoe-shining, haircuts, in-room movies, tours, personal entertainment, limousines, and spouse or other family expenses are specifically excluded from reimbursement, except when approved as Extraordinary Expenses.
- H. Filing Expense Reports**
1. Any travel expenses incurred for travel outside the Metroplex shall be submitted on a Travel Authorization & Expense Report form with proper approval and sent to the Accounts Payable Division within 15 calendar days of the conclusion of the trip.
    - a. Employees will include all prepaid expenses related to the travel on the expense report. Prepaid expenses may include hotel charges, registration fees, and airfare.
    - b. If the expense report and required documentation is not received in the Accounts Payable Division within 15 calendar days after the conclusion of the trip, no further travel advances will be given to the employee. The Finance Department will send a delinquency notice to the employee, Department Head, and respective Deputy City Manager. The Finance Department will retain a copy of all employee notifications.
    - c. Department Directors shall submit their expense reports directly to the Deputy City Manager to whom they report. Deputy City Managers and Council members shall submit their expense reports to the City Manager. All expense reports shall be forwarded to the Accounts Payable

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Division after review and approval for final payment/disposition.

2. The reimbursement of mileage, business meals, gas, and other expenses incurred at local meetings within the Metroplex do not require an expense report. These items may be submitted to a department supervisor for approval and reimbursed using a petty cash voucher or payment authorization as applicable.
3. **Splitting Bills.** If more than one employee attends the same trip/event, each employee will complete his/her own expense report. If the employees share an allowable expense, every effort should be made to split the bill. If the bill cannot be split, then one employee should obtain a receipt for the entire amount and document the other employees who contributed, and the amounts provided by each. Upon return to the City, the employee shall produce copies of the receipt for all contributing employees for their expense reports.
4. **Return of Unused Funds.** When the travel advance, or any portion of it, is not entirely used, the employee shall return the unused funds for credit to the proper account. The employee shall ensure that the returned monies are credited to the same line item account from which they were originally drawn. The original receipt of this refund transaction must be attached to the expense report and submitted to the Accounts Payable Division. If the trip was cancelled, the original receipt should be forwarded to the Accounts Payable Division indicating that the trip was cancelled.
5. **Travel on Behalf of Other Agencies.** With the approval of the Director, employees may be granted travel time on behalf of other organizations. In unusual circumstances the City Manager or Deputy City Manager may approve the use of City funds on behalf of the outside agency. The same guidelines outlined in this Chapter must be followed.
6. **Accounts Payable Review.** The Accounts Payable Division shall review the items submitted for mathematical accuracy and compliance with the provisions of this Chapter. If any correction(s) are determined to be necessary, the Director will be notified and documents returned for appropriate corrections. The corrected documents must be returned to Accounts Payable within the 15 day reporting timeline. If Accounts Payable determines that documentation does not properly support an expenditure, the Director of Finance will review and notify

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the Department Director if additional documentation is deemed necessary.

- I. IRS Regulations.** Notwithstanding the City's administrative procedures for travel advances, IRS regulations may result in the City having to classify travel advances as ordinary income to the employee if:
1. The expenses were not incurred for valid business purposes; and
  2. The employee did not adequately account for these expenses and return any excess allowance within a reasonable period of time. To meet the "reasonable period of time" test, expenses must be incurred within 30 days of the receipt of a cash advance, and the employee must adequately account for their expenses within 60 days after they were paid, and return any excess advance within 120 days after the expense was paid or incurred.

#### **108.04 RECRUITING/RELOCATION EXPENSES**

**A. Expense Reimbursement.** In most instances applicants for City employment are responsible for interviewing and/or relocation expenses. When the recruiting process requires a regional or national effort, applicants may be reimbursed for certain direct, out-of pocket interviewing/relocation expenses, particularly those relating to travel or relocation from out-of-state.

1. Reimbursement is limited to the expenses of coach airfare, lodging, meals, and ground transportation to and from the airport, to the extent allowed as ordinary expenses for city employee travel. For the purpose of interviewing for city employment or seeking housing after acceptance of employment, actual cost of lodging that a reasonable and prudent person would incur for these purposes may also be reimbursed.

If mileage is reimbursed as part of the relocation it will be paid at the IRS rate for relocation reimbursement, which is less than mileage reimbursement for routine training and travel. Finance Department/Account Payable can provide the appropriate rate.

2. The same receipts/documentation that would be required for reimbursement of employee travel is required for recruiting/relocation reimbursement. The Department Head shall submit a Payment Authorization form for the total amount and the receipts/documentation to the Finance Department/Accounts Payable Division.
3. Recruiting/relocation expense reimbursements will be charged to the hiring department.

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4. Recruiting/relocation expenses cannot be advanced and will be paid only on a reimbursement basis after receipt of acceptable documentation of payment by the applicant. This does not preclude the City from making a direct payment to the vendor providing the service (i.e. movers, airlines, etc.)

**B. Approval Required.** Directors must secure approval from the appropriate Deputy City Manager or City Manager by indicating why reimbursement is necessary, the approximate cost of reimbursement, and what account(s) will be used for funding.

**APPENDIX A**  
**TRANSPORTATION JUSTIFICATION WORKSHEET**

**AIRLINES VS. PERSONAL VEHICLE:** The lesser of the Total Cost is the maximum reimbursement when choosing to drive to a destination versus flying

AIRLINE		PERSONAL VEHICLE	
Airfare*	_____	_____ miles @	0
Airport Parking	_____	Destination Parking	_____
Transportation (To/From Airport)	_____	Additional Lodging	_____
Other	_____	Additional Meals	_____
Total Cost	<u>0</u>	Total Cost	<u>0</u>

\* A 14-day advance fare shall be used for airfare cost unless there are extenuating circumstances. A brief explanation of these circumstances must be provided. A price quote must be attached to this form in order to obtain reimbursement. This quote may be obtained via the Internet web page of the appropriate major airline.

**RENTAL VEHICLE VS. OTHER MODE:** The lesser of the Total Cost is the maximum reimbursement when choosing to rent a vehicle versus other modes of transportation (i.e. shuttle or ground transportation).

RENTAL VEHICLE		OTHER MODES OF TRANSPORTATION	
Vehicle*	_____	Mode of Transportation	_____
Fuel	_____	Cost of Transportation	_____
Destination Parking	_____	Other:	_____
Other	_____	Other:	_____
Total Cost	<u>0</u>	Total Cost	<u>0</u>

\* The appropriate size of the rental vehicle will depend on such factors as the number of passengers, and the amount of luggage and/or equipment being carried. A brief explanation of these circumstances must be provided.

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## 109.00 SAFETY AND ACCIDENT REPORTING

### 109.01 POLICY/PURPOSE

The City is committed to providing a safe workplace. Employees are expected to take an active role in promoting workplace safety by reporting unsafe working situations. Management support is one of the crucial elements of a Risk Management program.

Additionally, employees are required to report accidents in order to help management identify and correct the underlying causes of accidents, and thereby prevent similar accidents. Accident reporting is also required to verify that injuries in the course and scope of employment qualify for compensation under the Workers' Compensation system.

The City sets minimum qualification standards for vehicle drivers and for vehicle operation in an effort to minimize human injury, lost working time, and property damage costs.

### 109.02 GENERAL PROVISIONS

- A. **Employee Responsibilities.** Employees are responsible for exercising care and good judgment in preventing accidents and for observing safety rules when performing job duties. Employees are required to:
1. Report all accidents to their supervisor and seek first aid for all injuries, however minor they may be. Employees shall complete accident report forms and report to their supervisor no later than 24 hours after the occurrence;
  2. Report any unsafe work conditions, equipment, or practices to their supervisor as soon as possible;
  3. Attend scheduled safety meetings and activities; and
  - 4.
- B. Employees shall not alter, repair, or in any way change, add to, or remove any parts or accessories of any City owned or leased property without the permission of the department head and the City department officially charged with maintenance of the property (such as Information Technology for computers, Fleet for vehicles). This includes buildings, office equipment, machines, clothing, tools, and other equipment.
- C. Employees who operate vehicles or equipment in the course and scope of employment with the City will be instructed, where applicable, in the use of that equipment.

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- D. Supervisor Responsibilities - It is the responsibility of all City supervisors to adhere to the occupational safety and health programs, accident reporting, and supervisory investigation responsibilities. Supervisors are required to:
1. Reporting accidents/injuries to the appropriate risk management department using City accident reporting forms. Supervisors have 48 hours from the time the employee notifies them of the accident to complete their initial investigation and submit the accident forms.
  2. Train staff under their supervision and ensure that staff understands how to accomplish their work assignments in a safe manner.
  3. Ensure that scheduled, periodic inspections of workplaces are conducted to identify, evaluate, and correct workplace hazards, sanitation deficiencies, security concerns, and unsafe work practices. Findings shall be documented and corrective action outlined for all deficiencies.
  4. Ensure adequate personal protective equipment (PPE) is available and enforce its use as required.

### **109.03 Training**

- A. Each City department head has the responsibility to facilitate and document required safety training within each department for employees. The four (4) types of training that shall be accomplished:
1. Orientation – outlines the City and department safety procedures (i.e. accident reporting, hazard identification)
  2. Initial – job specific training concerning the safe operation of tools and equipment and hazards associated with job functions
  3. Continuous – regular reoccurring training (i.e. weekly, monthly, quarterly)
  4. Specific needs training – required for new processes and/or equipment, or when a unique risk exposure exists (i.e. temperature extremes, confined space, lockout/tag-out).
- B. The intent of this training is to reduce hazards, promote a safe work environment, eliminate workforce loss and all costs associated with accidents.

### **109.04 SAFETY INSPECTIONS AND ANALYSIS**

- A. The primary purpose of an inspection is to spotlight unsafe working conditions and equipment, unsafe acts, and reveal any need for new safeguards and procedures. Inspections also foster safety awareness and involve employees in the risk management program.

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- B. Inspections shall be conducted as outlined in this policy. The frequency of each inspection shall be based on the following criteria, to determine which areas need attention:
1. Frequency of accidents
  2. Potential for injury
  3. Potential for severity of injury
  4. General workplace cleanliness
  5. New or altered equipment, processes, or operations
  6. Previous record of past incidents / inspections
- C. The Human Resources Department will:
- a. Conduct periodic on-site safety inspections and report any unsafe conditions to management;
  - b. Provide hazard and accident analysis; and
  - c. Prepare and keep adequate records of all accidents and develop programs to assist in eliminating accidents.
- D. Supervisors will conduct regular safety inspections to ensure safe working and work site conditions.
- E. Employees shall promptly report the need for repairs of any City owned or leased property issued to, used by, or possessed by the employees to the supervisor and to the City department officially charged with maintenance of such property.

### **109.05 Accident Investigations**

- A. Investigations are intended to:
1. Determine the sequence of events leading to a failure;
  2. Identify the direct and indirect (root) cause of the accident;
  3. Find methods to prevent reoccurrence of the accident or injury.
- B. To be of benefit, accident investigations must be fact-finding, not fault-finding. This is not to say responsibility should not be addressed where employee conduct appears

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to have been a factor in the incident, nor should that person be excused from accountability for his conduct. The review shall, however, be an unbiased account of factual information relating directly to the incident.

- C. The Human Resources Department, or other designated City employees, conduct administrative investigations into the circumstances of accidents and prepare written reports upon request. The report may also include recommendations of any corrective action that should be taken to prevent recurrence of such an accident. If the administrative investigation is conducted by anyone other than Human Resources personnel, a copy of the report will be sent to Human Resources.
- D. Where necessary, the Human Resources Department will coordinate any claims/litigation defense with the City Attorney's Office.

### **109.06 PERSONAL PROTECTIVE EQUIPMENT**

- A. The City will provide, directly or through an allowance, as determined by management, items of personal protection, including clothing, as specified in this Chapter.
- B. Supervisors will direct use of personal protective items when warranted. Employees will comply with such direction. Examples are:
  - 1. Hard hats will be provided and used by all employees working in areas where possible danger of head injury from impact, falling or flying objects, or from electrical shock and burns exist.
  - 2. Hearing protection devices will be provided and worn by all employees working in areas where a danger of noise exposure exceeds accepted safe limits.
  - 3. Eye and face protection equipment will be provided and used by all employees when machines or operations present potential eye or face injury from physical, chemical, or radiation agents.
  - 4. Respiratory protective devices will be provided and used by all employees when working in atmospheres immediately dangerous to life and health, or where there is an immediate threat of exposure to contaminants which are likely to have adverse effect on the health of the employee.
  - 5. Protective footwear will be used by all employees when working in areas where equipment operation, or the movement of heavy materials, or construction situations could cause injury to the feet.
  - 6. Protective gloves will be worn by all employees when work-site operations could cause injury to the hands.

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7. Outer garments marked with or made from reflective or high-visibility material will be provided and will be worn by all employees when exposed to vehicular traffic in alleyways, roads, streets, highways, or when working within 15 feet of a street or roadway.
8. Appropriate fall-arrest equipment will be provided and used by all employees when working in an overhead position which may require use of both hands and/or when there is a danger of falling.
9. Life jackets or buoyant work vests will be provided and used by all employees when working over or near water where the danger of drowning exists.
10. Confined-space work rules will be followed for all work in confined spaces.

### **109.07 OPERATION OF VEHICLES**

- A. **Vehicle Operator Qualifications.** In order to operate any City motor vehicle, or any other motor vehicle in the course of City business, an employee must:
1. Have a valid Texas operator's license for the class of vehicle to be driven;
  2. Have a record of no more than 3 moving violations and/or accidents within a 24-month period;
  3. Have no record of D.W.I. or D.U.I.D. convictions in the preceding 24-month period;
  4. Be at least 18 years old; and
  5. Be otherwise qualified under federal and state regulations to drive the vehicle in question.
- B. Driving records of employees who operate City motor vehicles will be examined on an annual basis by Human Resources.
- C. Employees who operate City motor vehicles in the course and scope of their employment must notify their supervisor:
1. When their driver's license becomes invalid or suspended for any reason. Such employees will immediately be prohibited from operating vehicles on City business.
  2. Immediately during regular working hours (or by the next working day if after hours) when any ticket or citation for any violation of state law or a local ordinance relating to motor vehicle traffic operation other than parking violations is received. This notice must be in writing and include:
    - a. Driver's full name and license number,

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- b. Date of the incident,
  - c. Nature of the violation,
  - d. Whether or not the violation was committed in a commercial vehicle, and
  - e. Location of the offense.
- D. An employee shall operate any vehicle used for City business in a careful and prudent manner and shall obey the laws, policies, regulations, and procedures of the state, City, and any political subdivision pertaining to such operation. An employee's operation of a vehicle shall at all times set a proper example for other persons.
- E. **Duty Restrictions/Possible Dismissal.** A physical, mental, or driving skill impairment that affects an employee's ability to operate a motor vehicle safely, or failure to comply with the driver qualifications specified in this Section, precludes that employee from operating any City owned or leased vehicle or privately-owned vehicle for City business. If vehicle operation is an essential job function of the position, the employee will be immediately relieved of duty and, if the vehicle operation prohibition is due to suspected physical or mental impairment, the employee will be subject to a health fitness evaluation as specified in the Performance and Conduct Standards Chapter 201.00.
- F. **Passenger Restraint Systems.** As required by law, passenger restraint systems must be worn by the driver and passengers when a vehicle is in operation. The driver is responsible for ensuring compliance by all occupants. If the restraint system is inoperable, the vehicle cannot be used until it is repaired.

## 109.08 ACCIDENT INVOLVEMENT

- A. **Report Required.** All accidents involving injury to any person, City-owned or leased vehicles or equipment, personal vehicles, or equipment used for City business, and/or property damage must be reported to the immediate supervisor by the employee(s) involved (or witnesses, if the employee is unable to report) as soon as possible, but no later than 24 hours after the accident. The supervisor must report these accidents to the Human Resources Department. City accident reporting forms must be used.
- B. **Employee Responsibilities.** Unless transported from the scene for medical treatment, an employee involved in a job-related accident that is required to be reported in 109.05A. will:
1. Render aid to other parties if possible and necessary;
  2. Report the accident and any injuries immediately to the local law enforcement agency;
  3. Immediately notify the supervisor, who will in turn notify Human Resources and, where necessary, the City Attorney's Office;

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4. Record the name, address, and phone number of any witnesses;
  5. Record the make, model, and license number of any other involved vehicle involved and obtain the names, addresses, and telephone numbers of the driver and occupants of the other vehicle(s), if any;
  6. Be courteous, but not make or sign any statement for anyone other than the police officer responding to the scene, or the City Attorney's Office representative;
  7. Remain at the accident scene until excused by the supervisor or the local law enforcement agency;
  8. When requested, provide a statement to the Human Resources Department and the City Attorney's Office; and
  9. If involved in a job-related motor vehicle accident, an employee shall not discuss or reveal information or provide statements/information to non-City personnel.
- C. An employee who is involved in an accident required to be reported under this Chapter may be required to undergo examinations and/or tests as specified in the Performance and Conduct Standards Chapter 201.00 and/or the Drug and Alcohol Tests Chapter 115.00.

### **109.09 Non-duplication of Programs**

- A. The City prefers to cite standards, guidelines, rules and regulations of other agencies and organizations where feasible and appropriate. This practice of referencing and referral to other agencies and programs recognizes and emphasizes the authority, responsibility, and expertise of that agency or organization. This practice also avoids duplication of programs, reporting and compliance with separate sets of guidelines, standards, rules and regulations. Often the applicability of these codes, standards, and regulations carries over into other lines of business which the City engages in.
- B. When a risk exposure is not covered by a City ordinance, policy, or procedure, an appropriate nationally recognized standard shall be followed. Therefore, appropriate state or federal agencies and other organizations that have specialized knowledge and expertise regarding a particular safety and health topic or program or that have the authority and responsibility for a specific safety or health related program, may be referenced in conjunction with various safety elements for the City.

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- C. Despite the exclusion of coverage under the OSH Act, the most commonly referenced standards are the Occupational Safety and Health Administration (OSHA) regulations.
- D. A department which cannot comply with any nationally recognized standard shall, upon request of Risk Management, file a statement which:
1. Clearly identifies the factors preventing the department's compliance with the appropriate guideline or nationally recognized standard; and
  2. States the action the department will take in lieu of complying with the guideline or nationally recognized standard.

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## 110.00 PERSONNEL RECORDS

### 110.01 POLICY/PURPOSE

The City gathers and maintains information on applicants, employees, and volunteers and retains information on retirees and former employees in order to administer its planning and personnel functions, including job evaluation, performance and placement judgments, to carry out the provisions of its compensation and employee benefit programs, and to comply with state and federal recordkeeping and reporting requirements. The City will gather, maintain, and retain only such personal information as is required to effectively conduct its business and is necessary to administer personnel programs.

While complying with its governmental reporting and recordkeeping requirements, the City strives to ensure that it handles all personal and job-related information about employees in an appropriate fashion, in accordance with the principles and procedures specified in this Chapter. Medical records will be kept separate from basic personnel files and according to applicable Health Insurance Portability and Accountability Act requirements.

### 110.02 FILE CONTENTS/SECURITY/RETENTION

- A. The basic personnel file maintained in Human Resources may include, but is not limited to, correspondence, performance evaluation ratings, changes in official status, and completed disciplinary actions.
- B. Employees are required to notify the Human Resources Department when there is a change in name, address, telephone number, marital status, number of dependents, military status, person to notify in case of accident or emergency, or beneficiary assignment of any employee benefits plan.
- C. All paper-based documents relating to the City's personnel record system are kept in secure, locked files in the Human Resources Department. Medical records are kept in separate, locked files in the Human Resources Department. All personnel files and records must remain in the Human Resources Department at all times until archived pursuant to the department's records retention schedule.
- D. An employee of the City who objects to material in the employee's personnel file on the grounds that it is inaccurate or misleading may file a statement relating to the material.
- E. Personnel records will be retained in accordance with adopted City Records Retention Schedules.

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### 110.03 FILE ACCESS/RELEASE OF INFORMATION

- A. Release of information contained in and access to employee personnel files is controlled by provisions of the Texas Public Information Act, Texas Government Code Chapter 552. No information on current or former employees will be released to outside parties except by the Human Resources Department or by other parties after consultation with the City Attorney's Office.
- B. **Basic Files.** Basic personnel files are open for inspection in the Human Resources Department as follows:
1. An employee, or the duly authorized agent, may examine public information portions of the employee's personnel file;
  2. A City employee having supervisory authority over the employee, or an employee with a bona fide need to know, may examine material in that employee's file;
  3. By order of a court of competent jurisdiction, any person may examine such portion of any employee's personnel file as may be ordered by the court;
  4. An official of an agency of the state or federal government, or any other political subdivision of the state, may inspect by formal request or subpoena any portion of a personnel file when such inspection is deemed by the Director of Human Resources to be necessary and essential to the pursuance of the proper function of the inspecting agency, or deemed upon advice of the City Attorney to be required by law.
- C. **Medical Files.** Medical files may only be accessed in accordance with the Health Insurance Portability and Accountability Act by:
1. Supervisors and managers as necessary to be informed about restrictions on an employee's work or duties and accommodations that must be provided;
  2. First-aid and safety personnel who need information on a disabled employee's need for special assistance in the event of an emergency, or in other necessary circumstances;
  3. Government officials investigating compliance with the Americans with Disabilities Act and other federal and state laws prohibiting discrimination on the basis of disability;
  4. Government officials and agents and contract service providers in accordance with the Workers' Compensation Act; and

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*



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5. Contract service providers in connection with the City's health coverage provider benefits.

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## 111.00 DISCIPLINE

### 111.01 POLICY/PURPOSE

When an employee's conduct results in deficiencies in job performance or violations of law, city regulations, or rules, it is the policy of the City to take appropriate action to improve and/or correct the conduct or performance or, if necessary, remove the employee from the City workforce through application of the standardized disciplinary options and procedures specified in this Chapter.

### 111.02 GENERAL PROVISIONS

- A. Disciplinary action will be consistent with the nature of the deficiency or infraction involved and with other relevant factors. In reaching a decision as to what disciplinary action will be taken, the supervisor should consider such factors as the type and severity of the employee's conduct and its results, the employee's work record, the employee's prior disciplinary record, and any mitigating or aggravating circumstances which may be relevant to the situation.
- B. All disciplinary action must be documented in writing. Except where specifically provided in this Chapter, records of all finalized disciplinary actions will be maintained in the Human Resources Department. "Finalized disciplinary actions" are those in which a disciplinary option provided for in this Chapter was exercised or applied.
- C. While it is expected that disciplinary action options be exercised progressively, so that lesser options are used for minor deficiencies or infractions, and more severe disciplinary action is taken for serious violations or for repeated deficiencies or infractions, the nature of the deficiency or violation in any particular situation may require that a more severe disciplinary action be taken. Consistent with the progressive discipline process, records of finalized disciplinary actions are not permitted to be purged or destroyed, so that a full record of an employee's disciplinary history is maintained.
- D. Employees who are designated as "at-will" may be terminated at any time, without cause, and are employed for indefinite terms. If disciplined, they may be given the same response opportunity to disciplinary actions as employees who are not at-will. "At-will" employees are not afforded the appeal provisions in Section 111.04 E or Chapter 111.05 of this Manual.
- E. An employee who chooses to exercise the response or appeal opportunities specified in this Chapter and the next Chapter may have one

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representative assist, accompany, or provide representation at any step during the process.

- F. An employee who is exempt under the Fair Labor Standards Act may be suspended without pay for one or more days for infractions of workplace conduct rules such as the rules contained in the Personnel Policy Manual. These infractions must constitute serious workplace misconduct and not performance or attendance issues. Serious workplace misconduct includes, but is not limited to, violations of the Personnel Policy Manual such as sexual harassment, violence, drug or alcohol violations, or violations of state or federal law. Exempt employees may also be suspended without pay for a minimum of less than a full week for infractions of safety rules of major significance. Otherwise, exempt employees may not be suspended without pay for less than one full week.
- G. If an employee against whom disciplinary action has been initiated requests reassignment to an equally classified position, or demotion to a lower classified position, and it is determined, in consultation with the Department Head, the Human Resources Department, and City Attorney's Office, that the voluntary re-assignment is in the best interest of the City, the employee waives the opportunity to respond to or appeal the proposed discipline.

### **111.03 DISCIPLINARY OPTIONS**

- A. The options for disciplinary action are listed in the chart provided as Appendix A to this Chapter and the next chapter. It includes the forms, retention requirements, response and appeal options for each level of discipline.
- B.
  - 1. **Discipline.** Discipline options may be administered for violations of laws, rules, or regulations. The levels are:
    - a. **Counseling.** An informal discussion between a supervisor and employee about the need to improve minor performance problems or as a reminder of a rule. The supervisor documents the discussion on the Counseling Form.
    - b. **Oral Reprimand.** An oral reprimand is an oral instruction from the supervisor to the employee about the need to improve performance deficiencies or about a violation of a rule. Even though the instruction is oral, this level of discipline must still be documented on a discipline form.

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- c. **Written Reprimand.** A written reprimand is a written warning from the supervisor to the employee about the need to improve performance or about a rule violation.
- d. **Suspension.** A suspension is a relief from duty without pay for a period of time determined by the supervisor based on the severity of the incident. Exempt employees cannot be suspended for a period of less than one week, except for serious safety violations or serious workplace misconduct as specified in the Fair Labor Standards Act (as stated in Section 111.02 F.).
- e. **Demotion.** A demotion is a reduction in rank or classification consistent with deficiency or violation.
- f. **Dismissal.** Involuntary separation of the employee from city employment.

#### **111.04 DISCIPLINE PROCEDURES**

- A. Discipline is initiated when the employee receives notices in the proper written format. All forms are available online on the Human Resources Portal.
- B. **Consultation with Human Resources.** Supervisors are encouraged to consult with their Human Resources Consultant for Counselings, and Oral Reprimands. Supervisors are required to consult with their Human Resources Consultant for Written Reprimands, Suspensions, Demotions and Dismissals.
- C. **Response.** All employees are given the opportunity to respond to the supervisor issuing the discipline within two (2) days of receipt of the memorandum or form initiating the discipline, except that “at will” employees do not have a right to respond to a dismissal. While the employee’s response may be oral or written, the supervisor shall seek a face-to-face meeting with the employee to review the response, giving the employee the opportunity to present pertinent facts. After such response is received and/or communicated, the supervisor shall consider the response and render a written decision to the employee not later than two (2) days from the date of the employee's response. Failure of the employee to submit the response or attend a conference waives the response.

1. If the employee waives the right to respond, the disciplinary action will become effective upon the employee's signing the Response Waiver Form/Format 4, and submitting it to the supervisor.
2. If the employee fails to respond, the disciplinary action will become effective at the expiration of two days from receipt of the disciplinary memorandum.
3. If the employee responds (Response Form/Format 4A) and after reviewing the employee's response, the supervisor decides the proposed disciplinary action remains appropriate, the disciplinary action will become effective immediately following such decision.

D. **Relief From Duty/Re-assignment.** After receiving a proposed dismissal notice, the employee is placed on administrative leave with pay during the response period. If the employee waives the right to respond, the employee may be dismissed effective as of the date the employee signed the response waiver form.

E. **Appeal Provisions.**

1. An employee who is not designated as "at-will" may appeal a written reprimand, suspension or demotion as specified in this Chapter. An employee may appeal a dismissal as specified in this Chapter or the next Chapter of this Manual. This administrative process is the exclusive remedy to dispute whether just cause exists to support such actions. There is no right to appeal the final administrative decision to any court based on a claim of insufficient cause or breach of contract.
2. The time limits in this Chapter may be extended or shortened at any or all steps if both parties agree in writing. In the event the parties cannot agree, the Director of Human Resources has the discretion to extend the time limits; however, the time limits cannot be shortened except by agreement of the parties. The Human Resources Director will notify both parties in writing of any extension.
3. Failure to respond to an appeal within the time limits prescribed by the appropriate representative at any step is a violation of this policy, but does not void the pending action.
4. All appeals must be in writing. All decisions rendered in response to appeals must be in writing to the employee, either in memorandum or letter format.

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5. Wherever these procedures provide for appeal to the Department Head and the Department Head personally imposed the discipline, or for some reason is not eligible to hear the appeal, another Department Head within the organization will be identified as a Designee and any appeal shall be made to the Designee, who shall thereafter act in lieu of the Department Head in all subsequent steps of the appeal process.
6. Failure of the employee to exercise the opportunity for appeal within the specified time frame constitutes waiver of the appeal.
7. The employee's opportunities to respond under Sec. 111.04.C and appeal under this Section and the next Chapter are independent. Whether the employee chooses to respond or not will in no way affect the employee's right to appeal.
8. An employee whose resignation or retirement notice is tendered and accepted after the initiation of a disciplinary action forfeits the opportunity to respond and to appeal the disciplinary action. If the resignation/retirement notice is not accepted, the employee's opportunity to respond and appeal the disciplinary action is maintained.

#### F. **Appeal Procedures.**

1. **Scope of Appeal:** When a disciplinary action is appealed, the individual hearing the appeal will determine: 1) whether the alleged misconduct occurred, and 2) whether the proposed discipline is reasonable.
  - a. When ruling on whether the alleged misconduct occurred, the individual hearing the appeal should either uphold or reverse each specification of each charged violation.
  - b. When ruling on the level of discipline, the individual hearing the appeal is limited to upholding the discipline as imposed, reducing the level of discipline imposed, or overturning the disciplinary action. The level of discipline may not be increased.
2. **Counseling Reports:** In lieu of an appeal, the employee may respond to counseling reports by filing a written response within two (2) days of receipt of the counseling report. The supervisor has the discretion to consider such response. No further appeal is provided.

3. **Oral Reprimand:** In lieu of an appeal, the employee may respond to the oral reprimand within two (2) days of receipt of the oral reprimand. The supervisor has the discretion to consider such response. No further appeal is provided.
4. **Written Reprimand:** The employee may appeal a written reprimand by submitting the completed Disciplinary Appeal Form/Format 6, to the Department Head and the Director of Human Resources within ten (10) days of the date the employee receives the written reprimand. The Department Head may meet with the employee or make a decision on existing documentation. The Department Head shall render a decision within ten (10) days after receiving the appeal or meeting with the employee. This decision is final and not appealable further.
5. **Suspension, Demotion or Dismissal:** The employee may appeal a suspension, demotion, or dismissal by filing the completed Disciplinary Appeal Form/Format 6 with the Department Head and the Director of Human Resources within ten (10) days of the date the employee receives the suspension, demotion or dismissal.
  - a. The Department Head must meet with the employee to hear the appeal within ten (10) days after receiving the appeal. (This appeal is based on the disciplinary action only. The employee may make a statement and submit to questions from the Department Head if the employee desires. No other witness testimony is allowed during this meeting. The employee may offer documentary evidence if supplied to the City Attorney's Office five days before the hearing. The employee, employee representative, and the representative of the disciplining supervisor may summarize their positions and contest the documents offered at the appeal.) The Department Head shall render a decision within ten (10) days after the meeting with the employee. A copy of the decision must be sent to the Director of Human Resources.
  - b. If the decision of the Department Head is not acceptable to the employee, and the employee chooses to appeal further, the employee must file an appeal on the Disciplinary Appeal Form specified by the Human Resources Department with the Director of Human Resources within five (5) days of the date the employee receives the decision from the Department Head. At this step of the appeal process, the employee must elect one of the following options:

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- 1) **Formal Evidentiary Hearing – Appeal to a Deputy City Manager.** If a formal hearing is requested, it will be convened within thirty (30) days. Should any party provide reasonable justification for extension of this limit, the Director of Human Resources shall have the discretion to re-schedule the convening date. A department representative may be present during the hearing to act on behalf of the department. During a formal hearing, both the employee and the department designee shall have the right to question witnesses and present pertinent documentation. The City will make a written or tape recorded transcript. The Deputy City Manager may render a decision at any time after the close of evidence, but will render a decision no later than ten (10) days after receipt of the record (which includes the written and/or tape recorded transcript of the hearing), unless an extension of time is required. When such an extension is required, the employee will be so advised in writing and a new date established.
  
- 2) **Decision on the Record.** If the employee has elected a decision on the record, the Deputy City Manager will render a decision based on the documentation presented in the appeal meeting with the Department Head and any further documentation the supervisor may provide. The Deputy City Manager will render his or her decision within ten (10) days after receiving the record, unless an extension of time is required. When an extension is required, the employee will be so advised in writing and a new date established. The City must establish by a preponderance of evidence that the alleged misconduct occurred and that the level of discipline is reasonable.
  
- 3) **Formal Evidentiary Hearing – Appeal by Arbitration.** Instead of selecting subsections 1) or 2), an employee who is not "at will" may elect to have a dismissal, a demotion or a suspension without pay reviewed by an Arbitrator who is not employed by the City. The procedures for this appeal are stated in Chapter 111.05 of this Personnel Manual. All arbitration hearings will be open to the public. The City must establish by a preponderance of evidence

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that the alleged misconduct occurred and that the level of discipline is reasonable.

- c. If the Deputy City Manager's decision is not acceptable and the employee chooses to appeal further, the employee must file an appeal on the Disciplinary Appeal Form/Format 6A with the City Manager plus a copy to the Director of Human Resources within five (5) days of the date the employee receives the Deputy City Manager's written decision. Based on the record, the City Manager or designee will render a decision within fifteen (15) days after receiving the appeal, unless an extension of time is required. When an extension is required, the employee will be so advised and a new date established. The City Manager or his designee will provide a copy of the decision to the Director of Human Resources, the Department Head, and to the employee. The disciplinary decision of the City Manager or designee is final and not appealable further.

## 111.00 APPENDIX A DISCIPLINE OPTIONS

Step	Required Forms	Retention Location	Response	Appeal*
Counseling	1. Counseling/Discipline Report 2. Response Form 3. Response Waiver Form	**Department File	Two (2) days to respond to Supervisor	None
Oral Reprimand	1. Counseling/Discipline Report 2. Response Form 3. Response Waiver Form	**Department File	Two (2) days to respond to Supervisor	None
Written Reprimand	1. Written Reprimand Memo 2. Response Form 3. Response Waiver Form 4. Appeal to Department Head Form 5. Appeal Waiver Form	**Human Resources	Two (2) days to respond to Supervisor	Department Head
Suspension	1. Suspension Memo 2. Response Form 3. Response Waiver Form 4. Appeal to Department Head Form 5. Appeal Waiver Form 6. Appeal to Deputy City Manager Form or 7. Appeal to Arbitrator form	Human Resources	Two (2) days to respond to Supervisor	1. Department Head 2. Deputy City Manager 3. Arbitration 4. City Manager
Demotion	1. Demotion Memo 2. Response Form 3. Response Waiver Form 4. Appeal to Department Head Form 5. Appeal Waiver Form 6. Appeal to Deputy City Manager Form or 7. Appeal to Arbitrator form	Human Resources	Two (2) days to respond to Supervisor	1. Department Head 2. Deputy City Manager or 3. Arbitration 4. City Manager
Dismissal	1. Dismissal Memo 2. Response Form 3. Response Waiver Form 4. Appeal to Department Head Form 5. Appeal Waiver Form 6. Appeal to Deputy City Manager Form or 7. Appeal to Arbitrator form	Human Resources	Two (2) days to respond to Supervisor	1. Department Head 2. Deputy City Manager or 3. Arbitration 4. City Manager

\*At-will employees do not have appeal rights for any level of discipline.

\*\* For those employees that are subject to Texas Local Government Code, Chapter 143 (the Code), documents related to disciplinary actions will be retained in the appropriate file in compliance with the Code.

(See Arlington Fire Department Civil Service Local Rules when recommending a suspension, indefinite suspension, or demotion of a Fire Department employee covered by Texas Local Government Code, Chapter 143.)

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## 111.50 APPEAL BY ARBITRATION

### 111.51 PURPOSE

The purpose of this Section is to establish an additional avenue of appeal for employees who are not designated as "at will." See Section 101 Appendix A, Section 101 Appendix D, Section 105.04 and Section 111.02 of this Manual. This procedure shall only apply to disciplinary actions that are terminations of employment, demotions, or suspension without pay. This procedure is not intended to replace other disciplinary procedures, only to add an optional arbitration procedure. If the optional procedure is selected by the employee, there will be no subsequent or additional disciplinary appeal to a Deputy City Manager or to the City Manager, or any appeal to the Mayor and City Council. Effective October 30, 2017, this Section shall not apply to Arlington Fire Department employees covered by Chapter 143 of the Texas Local Government Code.

### 111.52 APPEALS TO AN ARBITRATOR

(a) Waiver of Appeal from Suspensions. When an employee is suspended for a period of 40 hours or less (), the employee may, after appeal to the Department head, choose to pursue no further appeal and to use his/her accumulated vacation time to satisfy the hours of suspension in lieu of serving the suspension with unpaid time off.

(b) When an employee is suspended for a period of 24 hours or less (), the employee shall at the time he/she elects arbitration, elect to have the arbitration conducted and the decision rendered under either of the two procedures set out below. Regardless of which procedure the employee elects, the City and the employee agree that there is no judicial review for any reason of the arbitrator's decision of suspension of 24 hours or less (36 hours or less for a firefighter).

- (1) The employee may elect to have the arbitrator hear the sworn testimony of witnesses in person and after both parties' witnesses are heard and oral arguments made the arbitrator shall render a decision from the bench at the conclusion of the hearing. The arbitrator shall document his/her ruling but it will not be necessary to provide detailed findings or explanation.
- (2) The employee may elect to have affidavits and arguments submitted to the arbitrator in writing with no "in person" hearing; after which the arbitrator shall render a decision based solely upon the documents submitted by both parties.

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(c) Appeal to Arbitrator of suspensions for more than 24 hours (more). For all suspensions of more than 24 hours (more), the employee may elect arbitration pursuant to Section 111.50 of the Personnel Manual as is currently permitted or may elect to choose either of the options set above. The employee must make their desired form of arbitration known at the time they elect to Appeal by Arbitration.

(d) Notice of Appeal. If the Department Head imposes or upholds a disciplinary action and the employee is not satisfied with such decision, the employee may elect to appeal the decision to an Arbitrator. In order to exercise this right of appeal, the employee shall file with the Director of Human Resources a written notice of appeal on forms provided by the City within five (5) days of being notified of the Department Head's decision to impose or uphold the disciplinary action.

(e) Selection of an Arbitrator. Upon receipt of the written notice of appeal, in which an employee has elected to have the appeal heard by an Arbitrator, the Department Head shall notify the Director of Human Resources. The Director of Human Resources and the employee (or through their respective representatives, attorneys, or designee) shall attempt to agree on the selection of an Arbitrator on or before ten (10) days after the date the notice of appeal is filed. If no agreement is reached within the specified time, the Director of Human Resources shall compile a list of seven (7) qualified neutral arbitrators. The list shall contain the names of arbitrators who are licensed attorneys, and who are domiciled or office within the Dallas-Fort Worth Metroplex area. The employee and the Director of Human Resources may agree on one of the seven arbitrators on the list. If they do not agree within twenty (20) working days after the appeal was filed, the employee and the Director of Human Resources shall alternate striking a name from the list and the name remaining is the Arbitrator. The employee shall strike a name first from the list. In the event that the twentieth (20th) day falls on a Saturday, Sunday, or legal holiday, then the parties shall strike the list on the next workday. Each strike shall be performed within three (3) days or it is waived. If it is waived, then the other side will strike next.

(f) Arbitrator's Jurisdiction and Authority. The Arbitrator has jurisdiction to hear appeals from a decision of the Department Head relating to the employees and types of disciplinary actions stated in Section 111.51, above. Upon consideration of the testimony, evidence and arguments, the Arbitrator may affirm, modify, or reverse the decision of the Department Head. If the Arbitrator determines to modify the decision, the Arbitrator's authority shall be limited only to a lesser level of discipline. The Arbitrator shall have no authority to increase the level or severity of discipline that was imposed by the Department Head. The City must establish by a preponderance of the evidence that the discipline imposed by the Department Head is reasonable. In making a decision, the

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Arbitrator shall be limited to determining: 1) whether the employee violated the personnel rules, as charged, and 2) whether the disciplinary action imposed is reasonable. In modifying or reversing a decision of the Department Head, the Arbitrator shall be limited to awarding or not awarding reinstatement and/or back pay. Attorney's fees and costs may not be awarded to the prevailing party. The Arbitrator's jurisdiction is strictly limited to the above administrative determinations, and he has no authority to adjudicate any causes of action under state or federal law or other action related to the employee including, but not limited to, the destruction or alteration of any existing employment records..

(g) Appeal Hearing. The appeal hearing shall begin promptly. The date of the appeal hearing shall be set by agreement of the parties and the Arbitrator. The Arbitrator may grant continuances for the date of the hearing on good cause as coordinated through the Director of Human Resources or his/her designee. Any party failing to appear for the hearing shall forfeit his/her right to an appeal hearing.

(h) Subpoenas. The Arbitrator shall have the power to issue subpoenas in accordance with Sections 11.01 and 11.02 of the Administration Chapter of the City of Arlington Code of Ordinances, Subpoenas may be requested by either side no later than ten (10) calendar days before the hearing upon notice to the other party and the Arbitrator. A party is limited to the issuance of six subpoenas unless good cause is shown as determined by the Arbitrator.

(i) Expedited Procedure. The parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure, the Arbitrator shall render a written decision on the appeal within ten (10) days after close of the hearing.

(j) Non-expedited Procedure. In an appeal that does not involve an expedited hearing procedure, the Arbitrator shall make a reasonable effort to render a written decision on the appeal within thirty (30) days after the date the hearing closes. The Arbitrator's inability to meet the time requirements imposed by this paragraph does not affect the Arbitrator's jurisdiction, the validity of the disciplinary action or the Arbitrator's final decision.

(k) Discovery. No discovery including deposition, interrogatories, or formal production of documents will be conducted before arbitration. Notwithstanding this rule, the requirements of the Public Information Act (Government Code Chapter 552, *et seq.*) will be observed. However, both parties shall exchange their witness lists, their lists of exhibits, and copies of their exhibits to be presented at the hearing at least ten (10) days prior to the date set for the hearing. Failure to comply with this Section is grounds for the exclusion of the evidence.

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(l) Recording Hearing. The Hearing may be tape recorded by either audio or video recording equipment, although this recording is not mandatory and any failure to record does not invalidate the proceedings. Either side may hire a court reporter to record the proceedings. The party hiring the court reporter shall be responsible for paying the court reporter's fees. However, the party not requesting a court reporter shall be able to obtain a copy of the transcript from the court reporter.

(m) Final Decision. The Arbitrator's written decision is final and binding on all parties in this arbitration. No party shall have the right to appeal an Arbitrator's decision except as provided in Section 111.53 below.

(n) Fees and Expenses. The Arbitrator's fees and expenses are shared equally by the employee and the City. These fees and expenses may not be awarded as costs to the prevailing party. Any transportation, hotel, meals, expert witness or similar fees associated with the appearance of a witness are to be paid by the party who calls the witness. The appealing employee shall not be responsible for compensating any City employee who is called as a witness by the employee, unless the Arbitrator finds that the employee should have known that the witness had no relevant and material testimony to offer or that the number of witnesses subpoenaed by the employee is excessive or repetitive and an abuse of the appeal procedures. Both the employee and the City shall each send a deposit of one-half (1/2) of the estimated Arbitrator's fees and costs to the Arbitrator at least ten (10) days before the hearing. If additional fees and expenses are incurred, each party will pay one-half (1/2) within ten (10) days after the completion of the hearing.

### **111.53 SUIT TO SET ASIDE AN ARBITRATOR'S DECISION**

Judicial Review. A state district court may set aside an Arbitrator's decision only on the grounds that the Arbitrator was without jurisdiction or exceeded his/her authority, or that the decision is manifestly a violation of law. In no event is a de novo review available to determine: 1) whether the employee violated the personnel rules, as charged, or 2) whether the disciplinary action imposed is reasonable. A suit brought under this provision will be heard by the trial court without a jury. The suit must be filed in district court within ninety (90) days of the Arbitrator's written decision. The petition must be brought in Tarrant County, Texas.

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## 112.00 EMPLOYEE ASSISTANCE PROGRAM (EAP)

### 112.01 POLICY/PURPOSE

The City of Arlington provides a confidential counseling and referral service, through a contract counseling service provider, to assist employees in resolving personal problems. The service may also be used to address issues that may be affecting job performance or employee morale.

The primary function of the EAP is to assist employees and their dependents by assessing needs and making recommendations regarding appropriate treatment. Initial counseling and referral services are available at no cost to all full-time employees and their dependents.

### 112.02 REFERRAL TYPES

- A. **Self-referral.** When an employee or family member is experiencing a personal or job-related problem, the employee may contact the EAP provider to schedule an initial appointment. The first appointment will be set based on the nature of the problem. Appointments may be made during scheduled work hours, should staffing levels permit, and employees may use accrued time, if available, for the absence.
- B. **Informal Referral.** If an employee initiates discussion about a personal problem with a supervisor, the supervisor may recommend that the employee use the EAP service. The supervisor may also assist the employee by offering to contact the EAP provider. Appointments may be made during scheduled work hours, should staffing levels permit, and employees may use accrued time, if available, for the absence.
- C. **Formal Referral.** This kind of referral is based on problems affecting job performance, i.e., a decline in an employee's work performance or an incident which may impact job performance. Supervisors shall consult with their department's Human Resources Consultant before approaching the employee. The specific job performance problem or job related incident shall be clearly described to the employee. The supervisor will suggest the employee use the EAP services and may assist the employee by offering to contact the EAP provider. If the employee rejects the offer of a formal referral to the EAP provider and the work problems do not recur after the interview with the supervisor, no further action is required. No disciplinary action will be taken solely because the employee declines the use of the EAP, unless the mandatory referral criteria are met.
- D. **Mandatory Referral.** Referral to EAP by a supervisor is mandatory for an employee when:
  - 1. The employee has failed a drug and alcohol test;

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2. The employee refused a formal referral and the problems affecting job performance have continued;
3. The employee agreed to a formal referral, but did not contact the EAP service provider, and the problems affecting job performance have continued; or
4. It is suspected that a physical or mental impairment of an employee constitutes a hazard to persons or property, or may be preventing the employee from effectively performing the essential job functions of the position.

### 112.03 COUNSELING/FURTHER REFERRAL TO COMMUNITY RESOURCES

- A. If the problem for which the employee was referred can be resolved in five or fewer one-hour sessions, counseling will be provided by the EAP counselor and paid for by the City. Employees will be allowed to use any accrued leave to attend these sessions.
- B. In addition to services provided by EAP and paid for by the City, EAP may make an appropriate referral to a community resource. Any referral made by EAP for further services will be made based on the employee's health insurance, ability to pay, location of the services, the counselor's expertise and philosophy, and the employee's expressed preferences. Employees will be allowed to use any accrued leave to go to referrals made by the EAP counselor, as long as the employee provides proof of appointments or treatment.

### 112.04 RECORDS OF EAP REFERRALS/USE

- A. **Confidentiality.** All records pertaining to the EAP will be treated with a high degree of confidentiality.
- B. **Release.** Any information released will be clearly defined as confidential and will be released only under the following circumstances:
  1. When the EAP counselor determines that there is **clear and imminent risk** to the employee or to the community. Clear and imminent risk includes, but is not limited to an individual who is actively suicidal, an individual who is likely to physically harm another person, and/or an individual whose ability to function on the job is so substantially impaired that the individual presents a serious risk to the community;
  2. When and to whom required by judicial order or when required by legal proceedings;
  3. As required by law to appropriate authorities in cases involving child abuse;

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4. To Human Resources staff and the employee's supervisors on a need to know basis when a referral was mandatory; and
5. To others with written consent of the employee.

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## 113.00 GRIEVANCES

### 113.01 POLICY/PURPOSE

All employees are encouraged to bring any complaints about work-related situations to the attention of management. Employees shall seek to first informally discuss any issues with immediate supervisors or other members of the department's management.

### 113.02 GENERAL PROVISIONS

- A. **Scope.** The grievance procedure provides an avenue for any full-time employee to obtain management review, through the employee's department, of any work-related issue that adversely impacts the employee and for which there is no other means of response, review, appeal, or resolution as provided in this Manual.
- B. **Time Limits.** Prompt resolution of grievances is desired. Time limits specified may be extended or shortened by written agreement of the parties. The Director of Human Resources may extend the time limits if the parties cannot agree, but cannot shorten time limits.
1. A grievance not brought forward by the employee within the time limits prescribed at each step will not be considered timely and will be void.
  2. A grievance shall be responded to within the time limits prescribed by the appropriate supervisory authority level. Failure to timely respond to a grievance does not void the grievance, nor does it uphold the grievance or provide the grounds for another grievance to be filed.
- C. **Representation.** Any party to the grievance may have a representative to provide assistance, accompany, or to provide representation at any step of the procedure. For the purpose of this policy, parties include the grievant, the individual(s) against whom the grievance is directed, and the appropriate department head.
- D. **Statement of Grievance.** At each step of the process, the written grievance must contain:
1. A detailed statement of the grievance and the facts upon which it is based;
  2. Description of the specific wrongful act and harm done to the grieving employee; and
  3. Statement of the remedy or adjustment sought.

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- E. **Sequential Steps.** When the response to any step of the grievance procedure is not acceptable to the employee, the next sequential step must be followed within the time limits specified.
- F. **Human Resources Assistance.** At any step of the grievance process the supervisor/manager who is to respond to the grievance may seek assistance from the Director of Human Resources or designee in resolving the grievance.

### **113.03 GRIEVANCE STEPS**

- A. **Step One/Supervisor Review.** The employee should first seek to resolve the issue informally. If the issue is not resolved, the employee may file a Step One Grievance form with the Director of Human Resources and the employee's immediate supervisor. The Step One grievance form must be filed within fifteen (15) days of the incident or when the employee became knowledgeable of the incident. The supervisor will attempt to resolve the matter and will submit a written response to the employee within ten (10) days after receipt of the Step One Grievance form.
- B. **Step Two/Department Head Review.** If the supervisor is unable to resolve the matter or the employee does not find the supervisor's response acceptable, the employee may file a Step Two Grievance with the Department Head. The Step Two Grievance must be filed within five (5) days of receipt of the supervisor's written response to the Step One Grievance. The Department Head or designee will meet with the employee and render a written decision to the employee within ten (10) days after the meeting. A copy of the decision shall be given to the Director of Human Resources. If the department head is the employee's immediate supervisor, the employee must, within the time limits specified for presentation to the Department Head, present the Step Two Grievance form to the Department Head's supervisor, who will act as specified in this Section in lieu of the Department Head.
- C. **Step Three/City Manager Review**
  - 1. If the department head or designee is unable to resolve the grievance or the Step Two response is unacceptable, the employee may seek further review by filing a Step Three Grievance Form with the City Manager, within five (5) days of receipt of the Step Two decision. The employee must also provide a copy of the form to the Director of Human Resources.
  - 2. Within thirty (30) days of receipt of the Step Three Grievance Form, the City Manager or designee will either uphold the decision of Step Two, or uphold the grievance and grant the employee the remedy sought, or render any other decision consistent with good management principles, practices, and policies.
  - 3. At his/her discretion, the City Manager or a designee may appoint an ad hoc grievance committee and refer the grievance to a peer review. If this option is

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chosen, the Director of Human Resources shall notify all parties in writing and convene the committee within thirty (30) working days of notification or extend the time period as needed to accomplish the hearing.

4. The grievance committee will conduct a hearing and forward its report to the City Manager or designee within ten (10) working days of the conclusion. The committee's report will include findings of fact, a statement of the applicable policy, regulation, or rule, and its recommended resolution of the matter.
5. The City Manager or designee will review the committee findings and proposed resolution and render a decision within ten (10) working days of receipt, unless an extension of time is required to gather additional information. All parties will be notified if an extension of time is required.
6. The decision of the City Manager or designee is final in response to a grievance or a committee recommendation and not subject to appeal.

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## 114.00 DISCRIMINATION AND HARASSMENT

### 114.01 POLICY/PURPOSE

The City is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the City expects all relationships among persons in the workplace will be business-like and free of bias, prejudice, and harassment.

It is the policy of the City to ensure equal employment opportunity, without discrimination or harassment on the basis of race, color, religion, sex (including sexual orientation and gender identity), age, disability, national origin, or any other characteristic protected by law. The City prohibits any such discrimination or harassment.

The City encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of the City to investigate such reports. The City prohibits retaliation against any individual who reports claims of disability, requests for accommodation for religion or disability, discrimination or harassment, or participates in an investigation of such reports. Additionally, the City prohibits acts of retaliation for leave protected by law under the federal or state government, or any other political subdivision of the government.

### 114.02 GENERAL PROVISIONS

- A. These policies apply to all applicants and employees, whether related to conduct engaged in by fellow employees or someone not directly connected to the City (e.g., vendors, contractors).
- B. Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.
- C. Misconduct constituting harassment, discrimination, or retaliation will be dealt with appropriately. Examples of responsive action may include training, referral to counseling, and/or disciplinary action, as the City believes appropriate under the circumstances. False and malicious complaints of harassment, discrimination, or retaliation, as opposed to complaints which, even if erroneous, are made in good faith, may be the subject of responsive action as described above.
- D. These policies shall not be used as a basis for excluding individuals of any protected class from participating in business or work-related activities or discussions. No person shall make the mistake of engaging in discrimination or

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exclusion in order to avoid allegations of harassment. The law and the policies of the City prohibit disparate treatment on the basis of any protected class, with regard to terms, conditions, privileges, and perquisites of employment. The prohibitions against harassment, discrimination, and retaliation are intended to complement and further those policies, not to form a basis of an exception to them.

### 114.03 PROHIBITED CONDUCT

- A. **Discrimination.** No employee shall discriminate against or favor any individual on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability with regard to the terms and conditions of employment.
- B. **Sexual Harassment.** Sexual Harassment constitutes discrimination and is illegal under both federal and state laws. For the purposes of this policy, sexual harassment is defined as in the Equal Employment Opportunity Commission Guidelines as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
  3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- C. **Harassment.** Harassment on the basis of an individual's religion, race, color, national origin, disability, age, sexual orientation, gender identity or sex, or that of the individual's relatives, friends, or associates, is prohibited.
1. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual and that:
    - a. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
    - b. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
    - c. Otherwise adversely affects an individual's employment opportunities.
  2. Harassing conduct includes, but is not limited to epithets, slurs, or negative stereotyping, threatening, intimidating, or hostile acts, denigrating jokes, and

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written or graphic material that denigrates or shows hostility or aversion toward an individual or group, and that is placed on walls or elsewhere on the employer's premises, or circulated in the workplace.

- D. **Retaliation.** Acts of retaliation should be reported immediately and will be promptly investigated and addressed. The City prohibits acts of retaliation in the workplace for the following:
1. Reporting claims of disability, requests for accommodation for religion or disability, discrimination or harassment;
  2. Participating in an investigation of any claim that falls within the scope of this policy;
  3. Utilizing leave protected by law under the federal or state government, or any other political subdivision of the government.

#### **114.04 REPORTING**

- A. The City encourages reporting of all perceived incidents of discrimination, harassment, or retaliation, regardless of the offender's identity or position. A person who believes that he or she has been the subject of such conduct should discuss those concerns with the immediate supervisor, Department Head, Director of Human Resources, or Human Resources Consultant.
- B. Individuals who believe they are being subjected to such conduct should promptly advise the offender that the behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. If the conduct persists, the employee should file a formal complaint with the Human Resources Department.
- C. All supervisors are required to consult with the Director of Human Resources or his/her Human Resources Consultant any time an individual notifies them of conduct that may constitute harassment, discrimination, or retaliation.

#### **114.05 COMPLAINT PROCEDURE**

- A. As noted in this Chapter, individuals who believe they have been subjected to prohibited conduct or believe they have witnessed such conduct may file a formal written complaint with the Human Resources Department. The written complaint should include a detailed account of the incident or incidents, including dates, times, and names of witnesses and other persons involved, all relevant evidence (i.e. emails, and other documentation) in the possession of the complaining employee should be provided to assist in the investigation. An employee may express their

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desire to withdraw a complaint in writing; however, this may not lead to the cessation of the investigation.

- B. The City encourages prompt reporting of complaints or concerns. While complaints must be made within 300 calendar days of the alleged act of discrimination, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.
- C. Any reported allegations of harassment, discrimination, or retaliation will be investigated promptly by the Director of Human Resources or designee. The Director of Human Resources or designee will meet with the individual within ten (10) days after receipt of the complaint. A deadline will be established allowing for a complete and thorough investigation depending on the complexity of the complaint. If an extension of time is needed to investigate the complaint, the individual will be notified in writing.
- D. If the complaining individual is not satisfied with the decision of the Director of Human Resources or designee, that party may, within five (5) days of receipt of the decision, appeal to the City Manager for final disposition. The City Manager or designee shall review the complaint and the investigation conducted and/or conduct a further investigation, and render a decision within twenty (20) days of receipt of the appeal. If an extension of time is needed to investigate the complaint, the employee will be notified in writing.
- E. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation.

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## 115.00 Drug and Alcohol Program

### 115.01 Purpose/Policy

The City of Arlington does not tolerate illegal drug usage or drug abuse by employees on or off-duty, or by anyone in any City workplace. This prohibition includes the unlawful manufacture, distribution, dispensing, possession, or use of a drug in or away from the workplace.

The City has written and implements its Drug and Alcohol Program to ensure compliance with Federal Regulations of the Department of Transportation. In the event that Federal Regulations conflict with the City's Program, the Federal Regulations shall prevail where applicable to designated safety-sensitive employees. In the event that Federal Regulations fail to provide language for a particular situation, the employee shall be subject to applicable City Policies.

The City uses alcohol and drug testing of applicants selected for safety-sensitive positions and for employees as specified in this Chapter as a tool to administer its drug and alcohol policy. The policy is designed to eliminate employees' use or abuse of alcohol and drugs that jeopardize safety of the employee, co-workers, and the public, and that impede the efficiency of City operations and damage the reputation of the City and its employees. It is an essential job function and safety rule applicable to every employee working in a safety sensitive position to be able to work in a constant state of alertness and in a safe manner.

The City of Arlington recognizes dependency on legal drugs for other than their intended purposes by employees, or their immediate family members, as a significant health problem affecting employment and offers short-term counseling and assessment and referral services for this problem.

The City's Drug and Alcohol Program is administered by the Human Resources Department. The Human Resources Director shall assign a Designated Employer Representative (DER) to manage the testing program and maintain records in accordance with DOT regulations and City retention schedules. The Personnel Policy Manual addresses employee conduct in section 201.00.

### 115.02 General Provisions

A. **USDOT Safety-Sensitive Positions** are those positions identified by segments of the US Department of Transportation (USDOT) as safety-sensitive and subject to USDOT rules relating to drug and/or alcohol testing. Participation in this program is a requirement of all safety-sensitive employees that meet federal (USDOT) and City criteria, and therefore, is a condition of employment.

1. Criteria:

a. Under Federal Transportation Authority (FTA) rules as stated in 49 CFR Parts 40 and 655, those employees who operate a revenue-generating vehicle, whether

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in or out of service, and those persons who maintain, dispatch, or schedule use of such vehicles.

- b. Under Federal Motor Carrier Safety Administration (FMCSA) rules as stated in 49 CFR Parts 40 and 382, those employees required to possess a commercial driver's license to:
  - (1) Operate a vehicle that is rated to transport more than 15 passengers, including a driver;
  - (2) Drive a vehicle with a gross weight rating of 26,001 or more pounds; or
  - (3) Drive a motor vehicle of any size carrying hazardous materials that requires placarding.

**B. City Safety-Sensitive Positions** are those positions identified by the City as safety-sensitive and are included in Appendix A to this chapter. These positions are subject to the City's drug and/or alcohol testing rules. City safety-sensitive positions include those that are classified as USDOT safety-sensitive, as well as those positions that meet the following criteria.

1. Criteria:

- a. Where the employee's performance of assigned duties could create a safety hazard that could cause injury or harm to the employee, other employees or citizens, or cause damage to property.
- b. City safety-sensitive positions include but are not limited to those that require the operation of a vehicle and/or motorized equipment, such as cars, trucks of any size, vehicle wheelchair lifts, tractors, mowers, weed trimmers, trash compactors, saws, drills, and postal mailing and insertion machines, in order to perform their jobs.
- c. Most fire and police positions, inspectors, and school crossing guards.
- d. Those whose duties involve the construction of facilities.
- e. Those that are involved in the maintenance of facilities, streets, or vehicles;
- f. Those that use and/or handle hazardous materials/chemicals;
- g. Those whose duties regularly involve exposure to drugs (Tests will be conducted on a periodic, unannounced basis);

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- C. Employees in sworn/certified firefighter, peace officer or designated police positions in the Fire or Police Departments may be subject to testing in accordance with additional policies for those departments.
- D. All other employees not designated in A, B, or C above, including but not limited to full-time, part-time and seasonal are subject to this policy.
- E. Posting and advertisements of all safety-sensitive positions will indicate that selection for the positions is subject to drug and alcohol testing. All job descriptions for safety-sensitive positions will be identified as safety-sensitive. It is the policy of the City of Arlington to attract and maintain a workforce that is free of alcohol or drugs which may impair judgment and job performance and may result in accident or injury to self, other employees, or the general public. Job offers to applicants selected for safety-sensitive positions will be made contingent upon the results of the required drug and alcohol tests. A verified negative drug test is required before hiring any safety-sensitive positions.

Supervisors are responsible for identifying to the Human Resources Department those positions that meet the criteria of USDOT safety-sensitive positions. Supervisors are also responsible for identifying to the Human Resources Department those positions that meet the criteria of City safety-sensitive positions.

- F. Testing under the City's authority shall be in accordance with USDOT-FTA regulations, except as stated herein.
- G. Any questions in relation to this drug and alcohol policy should be directed to the Director of Human Resources or designee at 101 S. Mesquite, Suite 790, Arlington, TX or by phone (817)459-6869. Additional information regarding USDOT/FTA or FMCSA regulations can be obtained by request through Human Resources and USDOT regulations can also be found at [www.transportation.gov/odapc/](http://www.transportation.gov/odapc/).
- H. For the purpose of this drug and alcohol policy, an employee who tests positive on a drug test as defined by USDOT, and/or who tests 0.02 or greater on an alcohol test shall be considered impaired and immediately removed from duty. For alcohol tests with a result of .02 or greater, the employee will be referred to an Employee Assistance Program (EAP) under the City's authority. Though an alcohol concentration between 0.02 and 0.039 is considered a "non-negative" under USDOT regulation, any City employee with an alcohol concentration that is 0.02 or greater will be subject to disciplinary action under the City's authority up to and including termination. Under USDOT authority a test with a .04 or greater will be referred to a Substance Abuse Professional (SAP).

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### 115.03 PROHIBITED BEHAVIOR

The City prohibits the use of any drug or other performance-altering drug that cannot be substantiated by medical evidence of legitimate drug use. The City also prohibits any employee from engaging in unlawfully manufacturing, distributing, dispensing, possessing, or using drugs in the workplace.

The City also prohibits the following:

#### A. Use of Alcohol on Duty

1. **Drinking.** An employee shall not drink alcoholic beverages while on duty or in uniform or while in any City facility or on City property.
2. **Under the Influence.** An employee shall not report for work or be on duty while under the influence of alcohol.
3. **Odor.** An employee's breath shall not have an odor of alcohol.
4. **Possession.** An employee shall not possess alcohol while on duty. An employee shall not bring into or store alcoholic beverages in any City premises or vehicle except where authorized.

#### B. Use of Alcohol Off Duty

1. **Discredit to City/Unfit for Duty.** While off duty an employee shall refrain from consuming alcoholic beverages to the extent that it results in obnoxious or offensive behavior which tends to discredit the City or the employee, or renders the employee unfit to report for the next assigned work day.
2. **Post-Accident.** If a required post-accident alcohol test is not administered during the employee's duty hours, the employee shall refrain from drinking any alcoholic beverage for eight (8) hours after the accident.
3. **Before Work.** Under City authority an employee is prohibited from drinking any alcoholic beverage four (4) hours before reporting for duty. USDOT covered employees are prohibited from using alcohol within 4 hours prior to performing safety-sensitive functions.

#### C. Alcohol: Removal from Work

An employee will be removed from performing duty:

1. When test results indicate an alcohol concentration of 0.02 or greater under the City's authority. For USDOT covered employees, while having an alcohol concentration of 0.04 or greater will be prohibited from performing or continuing to perform a safety-sensitive function.

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2. For four (4) hours after using alcohol off the job;
3. While using alcohol on the job;
4. During the eight (8) hours following an accident if their involvement has not been discounted as a contributing factor or until they are tested;
5. If they refuse to submit to required alcohol tests; and
6. If they are in possession of alcohol while driving.

Additional information can be found in Section 201.00, Performance and Conduct Standards.

#### D. Use of Drugs

1. **Notice to Supervisor.** It is the employee's primary responsibility, in consultation with their health care professionals, to determine what medications they are taking which may or may not raise a significant safety concern.
  - a. **USDOT Safety-Sensitive Positions:** When dangerous drugs, controlled substances, narcotics, or hallucinogens, as defined by USDOT and DEA, are prescribed for use during work hours, or the side effects could be experienced during work hours, the employee shall notify the immediate supervisor. An employee taking any substance, including over-the-counter medicines, which may interfere with safe job performance, must notify the immediate supervisor.
  - b. All other City Employees: When dangerous drugs, controlled substances, narcotics, hallucinogens prescribed to you or over-the-counter medicines taken by you impair or impede your ability to perform the functions of your job, you must notify your supervisor so that the appropriate actions may be taken to ensure safe and competent operations in the City.
2. **Prescribed Medication.** An employee shall not report for duty or remain on duty when using, under the influence of, or possessing any controlled substance, unless the substance is prescribed for that employee, used as instructed by the prescribing medical provider, and the employee has been advised by the prescribing medical provider that the substance does not adversely affect the employee's ability to safely, effectively, or satisfactorily perform job duties.
3. **Over-the-counter Medication.** An employee shall not report for duty nor remain on duty when the employee uses over-the-counter medication that interferes with the safe, effective, or satisfactory performance of duty or that the employee should reasonably know has such effect.

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4. **Illegal Use of Legal Drugs.** An employee shall not use or be under the influence of legal drugs that are being used illegally.
5. **Detectable Level of Drugs.** An employee shall not have a detectable level of dangerous drugs, controlled substances, narcotics, or hallucinogens in urine or bloodstream, except in relation to a valid personal prescription. In the event that an employee's drug screen comes back positive due to a prescription drug it shall be the employee's responsibility to provide the Medical Review Officer with proof of a valid prescription for final determination.
6. **Drug Trafficking.** An employee shall not buy, sell, solicit to buy or sell, transport, or possess illegal controlled substances or illegal drugs.
7. If disclosure is made, the City in accordance with its authority under 49 CFR Part 391.11(a) reserves the right to send the driver for a Fitness-for-Duty evaluation to evaluate the medication and its possible adverse effects on the driver's ability to safely operate a motor vehicle or perform other safety-sensitive duties. The Personnel Policy Manual addresses Health Fitness Impairment in Section 305.00.

#### **E. Drug Free Workplace Act of 1988**

1. The City of Arlington is a drug free workplace. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in any City facility or City vehicle. Any violation shall result in disciplinary action up to and including termination. The employee assistance program is available at any time to assist with drug counseling and rehabilitation.
2. Federal law states that, in the event an employee is convicted (including a plea of nolo contendere) for a violation of any criminal drug statute occurring in the workplace, the employee is required to notify their supervisor no later than five (5) days after the conviction. CITY PERSONNEL POLICY 201.11.B. STATES AN EMPLOYEE SHALL NOTIFY THE DIRECT SUPERVISOR IN WRITING BY THE NEXT WORKING DAY ANY CHARGES OR COMPLAINTS BEING FILED, CONVICTION, PROBATION, ADJUDICATION, OR DEFERRED ADJUDICATION.

#### **F. FMCSA Clearinghouse**

The Federal Motor Carrier Administration (FMCSA) has established the Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse (Clearinghouse). This database contains information pertaining to violations of the U.S. Department of Transportation (DOT) controlled substances (drug) and alcohol testing program for holders of CDLs.

The Clearinghouse rule requires the City as an FMCSA-regulated employer to report to the Clearinghouse information related to violations of the drug and alcohol regulations in 49 Code of Federal Regulations, parts 40 and 382 by current and prospective employees.

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The Clearinghouse also requires the following:

- a. Employers are required to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle (CMV).
- b. Employers are required to annually conduct a limited query in the Clearinghouse for all CDL drivers who work in safety-sensitive positions they currently employ.

Upon conditional offer of employment, all applicants must register with the Clearinghouse and provide consent to the City to conduct a full query of the Clearinghouse for any drug and alcohol violation information as part of the background check investigation.

Current City employees holding a CDL for purposes of their employment with the City will be queried annually. Employee's must complete a Limited Query form authorizing consent for the mandated annual query for the duration of employment. Should the query report that data exists in the Clearinghouse, the employee must register with the Clearinghouse and provide specific consent for release of that information to the City to conduct a full query. The employee may be removed from performing safety-sensitive functions until they comply with the Clearinghouse requirements and it is found the employee is not in violation of drug and alcohol regulations.

Records of drug and alcohol program violations will remain in the Clearinghouse for five years, or until the driver has completed the return-to-duty process, whichever is later.

Any questions in relation to this drug and alcohol policy should be directed to the Director of Human Resources or designee at 101 S. Mesquite, Suite 790, Arlington, TX or by phone (817)459-6869. Additional information regarding USDOT/FTA or FMCSA regulations can be obtained by request through Human Resources and USDOT regulations can also be found at [www.transportation.gov/odapc/](http://www.transportation.gov/odapc/). FMCSA Clearinghouse information can be found at <https://clearinghouse.fmcsa.dot.gov/>

## **115.04 TYPES OF DRUG AND ALCOHOL TESTING**

### **A. Pre-Employment and Employee Transfers Testing**

1. Pre-employment drug and alcohol tests will be conducted when an individual is selected to be hired for a position listed in this policy. Applicant will not be hired or perform safety-sensitive functions until he/she passes the pre-employment drug and alcohol tests.
2. Pre-employment drug and alcohol tests will be conducted when a current employee transfers from a non-safety-sensitive position into a position listed in 115.00 Appendix A as safety sensitive. An employee who has been out of the random pool for more than 90 calendar days (30 days under FMCSA regulation) will also be pre-employment tested and a negative test result received prior to performing safety-sensitive duties.

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3. If a pre-employment test is canceled, the applicant is required to submit to and pass another test. Pre-employment drug tests for disabled individuals unable to provide sufficient volume can be reported as negative if medical examination shows no evidence of illegal drug use.
4. For testing conducted under the City's authority, if applicant's drug test is non-negative, the matter will be referred to the MRO for review (see Section 115.05 – Testing Procedures). Pre-employment job applicants or employees seeking a transfer into a safety-sensitive position who test positive will not be hired or transferred.
5. For verified positive tests and refusals, the City will immediately notify the applicant of the finding and provide contact information for qualified SAPs if the subject position is subject to DOT regulation.
6. If a prior employer reports that the applicant has previously failed or refused a pre-employment drug test under USDOT Regulations, the applicant must provide the City proof of having successfully completed a DOT approved SAP evaluation and treatment plan. If the applicant has not completed follow-up testing as ordered by the SAP, the applicant may still be hired, but will be subject to continued follow-up testing until SAP ordered testing is complete. See 115.03.F. for FMCSA Clearinghouse rules.
7. Police officers who laterally transfer into positions involving investigations of vice and/or narcotics activity, the property room, or jail of the Arlington Police Department shall be required to submit to drug and alcohol tests before they transfer into one of these areas.
8. Pre-employment drug and alcohol testing will be performed when required for eligibility for external funding.

## **B. Random Testing**

1. Employees in USDOT safety-sensitive positions will be selected for testing on a random basis and have an equal chance of being tested each time selections are made. Employees in City safety-sensitive positions may be selected for testing on a random basis under a regularly scheduled testing program approved by the Director of Human Resources and designated Department Director. Employees in sworn/certified firefighter, peace officer or designated police positions in the Fire or Police Department will be selected for testing on a random basis in a manner to ensure that each identified employee has a substantially equal chance of selection. The random test program implemented for Fire/Police Department employees will be managed through the Fire/Police Department and approved by the Director of Human Resources in conformance with the provisions of this chapter.
2. Separate pools will be maintained for FMCSA, FTA and the City's authority. The City will test at least twenty-five percent (25%) of the identified employees in a calendar year for drugs under the City's authority. However, testing of FMCSA and FTA identified

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employees will be tested in a calendar year for drugs in accordance with the testing rates set by the Department of Transportation. Those employees will be subject to random testing at an unannounced random testing date. An individual may be randomly picked more than once or not picked at all during the annual period.

3. To ensure that the selection process is random, those employees subject to random testing will be placed in a pool, with exception to Fire/Police personnel, who are subject to a separate pool. Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
4. The random selection procedure will be based on a scientifically valid method of selection utilizing computer-based number generators, managed by a third-party administrator.
5. Random testing will be done on a quarterly basis, or as established by the Director of Human Resources. Testing will be conducted on different days of the week throughout the cycle to prevent employees from matching their drug use patterns to the schedule for collection. Collection for random testing will be spread out over the time period. Selected employees will not be notified until immediately prior to the time that they are to report to the collection site and employees shall proceed immediately to the collection site. A covered employee may be randomly tested for prohibited drug use any time while on duty.
6. If an employee is unavailable during a draw period due to vacation or other long-term absence, an alternate will be requested from the third-party administrator. If an employee is temporarily unavailable, or it is their day off, the number should be held until their next shift within the same testing period. No employee shall be excused because of operational difficulties.
7. Random alcohol testing will be performed at a rate of at least 10% of the average number of identified positions. This rate is subject to adjustment by USDOT as based on the industry's violation rate. Random alcohol testing will be done on a quarterly basis, or as established by the Director of Human Resources, with the number of draws based on the size of the random pool.
8. An employee shall only be tested for alcohol while the employee is performing, just before the employee is to perform, or just after the employee has performed safety-sensitive functions.
9. Random notifications should be conducted as discreetly as possible in order to ensure the confidentiality and integrity of the process. Testing will be done on an unannounced and unpredictable basis under a testing program.
10. Random drug and/or alcohol testing will be performed when required for eligibility for external funding.

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C. **Post-Accident Testing:** Employees will be tested under the City's authority for all post-accident testing for disciplinary purposes. In a post-accident situation, an employee may be required to give two urine samples for testing under USDOT authority and the City's authority.

1. USDOT-FMCSA - Definition of a Qualifying Accident - As soon as practical following an accident involving a commercial motor vehicle, the City shall test for drug and alcohol for each employee:
  - a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
  - b. Who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved:
    - (1) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
    - (2) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
2. USDOT-FTA- Definition of a Qualifying Accident - As soon as practical following an accident involving a transit vehicle, the City shall test for drug and alcohol each employee:
  - a. Who is operating a transit vehicle that is involved in an accident resulting in loss of human life.
  - b. Whose actions may have been a contributing factor where the accident involves:
    - (1) bodily injury where an individual immediately receives medical treatment away from the scene of the accident, or
    - (2) any vehicle involved incurs disabling damage as a result of the accident and is transported away from the scene by a tow truck or other vehicle.

An accident does not necessarily mean that a collision occurred. An injury involving the operation of a transit vehicle is sufficient to meet this definition.

Testing for a qualifying accident under FTA regulation includes not only the vehicle operator, but also ANY covered employee whose action may have contributed to the accident.

3. City Authority – Definition of Qualifying Accident – As soon as practical following an accident involving a City vehicle or motorized equipment, the City shall test for drug and alcohol each employee:

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- a. Who is operating a City vehicle or motorized equipment that is involved in an accident resulting in loss of human life.
- b. Whose actions may have been a contributing factor where the accident involves:
  - (1) Bodily injury where an individual immediately receives medical treatment away from the scene of the accident; or serious bodily injury as defined by Texas Penal Code for accidents involving Police Officers; or
  - (2) Any vehicle or motorized equipment involved incurs disabling damage as a result of the accident and is transported away from the scene by a tow truck or other vehicle.

#### 4. Post-Accident Test-Related Requirements

- a. The employee will be tested for drugs and alcohol as soon as possible.
- b. If an alcohol test is not administered within two (2) hours following the accident, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a required test is not administered within eight (8) hours, the City shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. These records shall be made available to USDOT upon request.
- c. If a drug test is not administered within 32 hours after the accident, the City shall cease attempts to administer the test and shall state in the record the reasons. These records shall be made available to USDOT upon request.
- d. The decision not to administer a test shall be based on the City's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident.
- e. An employee who is subject to post-accident testing who fails to remain readily available for testing, including notifying their supervisor of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
- f. All reasonable steps will be taken to obtain a urine sample for the testing of drugs from an employee after an accident. In case of a conscious but hospitalized employee, the hospital or medical facility will be requested to obtain a sample.

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The hospitalized employee must give consent for the test prior to the test being performed. Reference will be made to the USDOT drug testing requirements if a USDOT test is conducted. Testing conducted must be performed by personnel who have been trained in accordance with the requirements of 49 CFR 40. If an employee who is subject to post-accident testing is conscious, able to urinate normally (in the opinion of a medical professional) and refuses to be tested, that is a test refusal.

- g. Supervisor shall discreetly inform the employee that they are directed to submit to a post-accident testing.
- h. The identified employee will not be allowed to proceed alone to or from the collection site. A supervisor shall accompany him/her to the collection site.
- i. The employee is not allowed to perform safety sensitive functions pending the results of the drug test/alcohol test.
- j. Record the activity performed that supports the determination to conduct a post-accident test. This documentation should be prepared and signed by the supervisor within 24 hours of the accident or before the results of the tests are released, whichever is earlier.
- k. Employees shall be provided with necessary post-accident information, procedures, and instructions prior to performing safety-sensitive functions to be able to comply with the requirements.
- l. In the event the City is unable to conduct a USDOT post-accident alcohol and/or drug test due to circumstances beyond its control (i.e. employee is unconscious, incarcerated, etc.), results from local or state law enforcement officers may be used in lieu of USDOT tests if provided results are consistent with state and local law.
- m. After-hour and holiday post-accident tests shall be collected at the emergency room, at the scene of the accident, or at another location arranged with the City's authorized collection personnel.

#### **D. Reasonable Suspicion Testing**

- 1. Under the City's authority, reasonable suspicion may be based on:
  - a. Arrest or conviction for a drug or alcohol related offense on or off the job, or
  - b. The identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking; or

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- c. Information provided by reliable and credible sources that is independently corroborated;
  - d. Newly discovered evidence that an employee has tampered with a previous drug and alcohol test; or
  - e. Possession of drug paraphernalia.
2. When there is reasonable cause/suspicion to believe that an employee covered by this policy is using a prohibited drug or using alcohol while on duty, the employee will be required to take a test for drugs and/or alcohol. The required observations for alcohol and/or drugs reasonable suspicion testing shall be made by a supervisor who is trained in drug use and alcohol misuse symptoms. The supervisor who requires the test may not administer the test.
3. Any drug and/or alcohol test ordered under reasonable suspicion must be approved by the Human Resources Director or designee and the Department Head or designee.
4. A decision to test under the City's authority must be based on specific, documented observations concerning the appearance, behavior, speech, or body odors of the employee. A decision to test under USDOT authority shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. The observations may include indications of chronic or withdrawal effects of drugs. Alcohol testing is authorized only if the observations are made during, just preceding or just after the period of the workday in which the employee is required to be in compliance with this policy.
5. If a reasonable suspicion is not administered within two (2) hours following the request for the test, the City shall prepare a record stating the reasons the test was not promptly administered. If the test is not administered within eight (8) hours following the request, all efforts to administer the drug and/or alcohol test will stop. The documentation should indicate for the record the reasons the test was not administered timely. These records shall be completed by the employee's supervisor and forwarded to the Human Resources Consultant and then filed in the drug and alcohol files. These records shall also be made available to FMCSA and FTA upon request.
6. A reasonable suspicion test will be conducted under direct observation.
7. Reasonable Suspicion Test-Related Requirements
  - a. A trained supervisor or other trained city official will conduct an assessment of the employee's observable behaviors.

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- b. Supervisor shall discreetly inform the employee that they are directed to submit to a reasonable suspicion test. Refusal is equivalent to a positive test result. The supervisor who requests the test cannot perform the test on the employee.
  - c. The identified employee should not be allowed to proceed alone to or from the collection site. A supervisor shall accompany him/her to and from the collection site.
  - d. Record the activity performed that supports the determination to conduct a reasonable suspicion. This documentation should be prepared and signed by the supervisor within 24 hours of the request for test or before the results of the tests are released, whichever is earlier, if possible. A copy should be forwarded to the Human Resources Consultant and then filed in the drug and alcohol files.
8. An employee shall only be tested for alcohol while the employee is performing, just before the employee is to perform, or just after the employee has performed their City safety sensitive function. It is the City's position that employees are expected to be available to perform all functions, anytime they are at work or on call; unless they have a medical excuse that advises they are otherwise not able to perform their job duties.

#### **E. Additional Testing of Employee**

1. The City may require drug and/or alcohol tests of employees whose use of City or approved personal non-motorized equipment results in an accident with property damage or injury. For motorized equipment, reference Post-Accident Testing 115.04 C.
2. For Peace Officers, the City shall require drug and/or alcohol tests of employees who are involved in use of force as defined by Police General Orders that results in death or serious bodily injury as defined by Texas Penal Code. Testing shall be completed as soon as feasibly possible, not to exceed eight (8) hours from the time of the incident or prior to the release of the employee from the incident.
3. For Peace Officers, the City shall require drug and/or alcohol tests of employees whose discharge of a firearm, while acting in the line of duty, results in death or serious bodily injury as defined by Texas Penal Code. Testing shall be completed as soon as feasibly possible, not to exceed eight (8) hours from the time of the incident or prior to the release of the employee from the incident.

#### **F. Return To Duty Testing**

1. Return to Duty Testing is required following a positive result if the City has elected to retain the employee and has not exercised its authority to terminate the employee.

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2. Before an employee returns to duty after a positive drug test, an alcohol test of .04 or above (or .02 for non-DOT test under the City's authority), or test refusal, the employee shall undergo return to duty drug and alcohol testing. An employee may not return to duty until they:
  - a. Have been assessed by an SAP/EAP and completed the recommended treatment program;
  - b. Are recommended by the SAP/EAP for return to duty;
  - c. Have a verified negative result on a USDOT drug test, or non-DOT if under City authority, under direct observation; and
  - d. Pass an alcohol test with a negative result under the City's authority, but in no event greater than 0.02 under DOT regulation.

### **G. Follow-up Testing**

1. Should an employee return to duty after a positive result, follow-up alcohol and/or drug testing may be required as directed by a SAP/EAP. The SAP/EAP may recommend education, treatment or both.
2. Follow-up testing for alcohol shall be conducted when the employee is performing functions; just before the employee is to perform functions; or just after the employee has ceased performing such functions. Follow-up testing for drugs shall be conducted anytime the employee is on duty.
3. A minimum of 6 unannounced, follow-up tests must be administered within the first 12 months after the employee has returned to duty. The SAP/EAP can direct additional testing during this period or for an additional period up to a maximum of 60 months from the date that the employee returned to duty. The SAP/EAP can terminate the requirement for the follow-up testing in excess of the minimum at any time, if the SAP/EAP determines that the testing is no longer necessary.
4. Follow-up tests are conducted under direct observation.
5. An employee who is undergoing follow-up testing shall remain in the random pool and be tested if his/her number is selected.
6. Failure to submit to follow-up testing, or a positive result on a follow-up test, may result in disciplinary action, up to and including termination. FMCSA mandates that all refusal to submit and positive results be recorded in the Clearinghouse national database.
7. Following the successful completion of a USDOT return-to-duty drug and/or alcohol test, the individual will be subject to a minimum of six (6) randomly-scheduled USDOT follow-

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up drug and/or alcohol tests over the first year of safety-sensitive duty, with testing continuing for a period of up to 60 total months (five years).

## **115.05 TESTING PROCEDURES**

- A. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All USDOT testing will be conducted with the procedures put forth in 49 CFR Part 40, as amended. This regulation is available for review by employees when requested. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the testing procedure, and the validity of the test result. All city safety-sensitive (Non-DOT) testing will be conducted in accordance with section 115 of the City's policy and on non-federal forms.
- B. All urine specimens collected for testing under the City's Drug and Alcohol Program shall use the split specimen collection method described in 49 CFR Part 40, as amended.
- C. If the urine sample is outside the normal temperature for human urine, a second collection will be taken under direct observation.
- D. Drug Tests under DOT regulation: See 49 CFR Part 40, as amended, for the drugs tested under DOT regulation. (USDOT – 5 panel drug screen, including opioids) Each specimen will be accompanied by a USDOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. An initial drug screen will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered non-negative if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended. The test results from the laboratory will be reported to a Medical Review Officer (MRO). The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a non-negative test result.
- E. Drug tests under City authority are 10-panel drug screens testing that includes barbiturates, benzodiazepine, propoxyphene, methadone, and methaqualone in addition to those tested under DOT regulation. These tests will be performed on non-federal custody and control forms.
- F. Following a non-negative result, the MRO will contact the employee, notify the employee of the laboratory result, and provide the employee with an opportunity to explain the confirmed test result. The MRO will subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive and reported to Human Resources. If a legitimate explanation is found, the MRO will report the test result as negative.

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- G. The MRO makes three (3) attempts in 24 hours to contact the donor. If unable to contact, the MRO will notify the DER to request assistance. The DER will contact the donor or their supervisor to instruct the donor to contact the MRO immediately, no later than 72 hours from the contact. In the event the MRO is not able to contact the donor to discuss the results of their drug test, the MRO will verify test results as positive, refusal or cancelled.
- H. Applicants and employees have the option to have their split sample tested if their request is made to the MRO within 72 hours of the receipt of the final test results from the MRO.
- I. The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the MRO.
- J. An applicant who is offered a position will be required to report to the drug testing collection site within 24 hours of notification, or at a specific pre-designated date and time, and provide a specimen.
- K. Upon notification that a drug test is required, an employee will report immediately after notification to the drug collection site and provide a specimen. Failure to report immediately is considered a refusal to test.
- L. The City may choose to test for other substances under its own drug and alcohol policy; however, it may not do so under USDOT pretenses or using the same specimen that is being collected for USDOT requirements.
- M. Alcohol Tests: Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.
- N. The confirmatory test will be performed using a NHTSA-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout along with an approved alcohol testing form will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40 as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

## **115.06 DRUG TEST RESULTS**

- A. Negative – Reported by MRO to Human Resources Designated Employer Representative (DER). No further action.

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- B. Negative Dilute – Reported to DER. This refers to creatinine and specific gravity values lower than normal for humans. In instances where the employee produces a dilute specimen, he or she must undergo a second test upon receipt of initial test results and proceed to the collection site immediately. If the second test result is Negative Dilute, there is no further testing.
- C. Positive or Positive Dilute – Reported by MRO to DER, who notifies the HR Consultant. The DER and Consultant immediately remove the employee from duty. Under DOT regulation, the employee is referred to a Substance Abuse Professional (SAP). Under the City's authority, the employee is referred to the Employee Assistance Program (EAP).
- D. Adulterated – Indicates the specimen has been altered, as evidenced by results showing a substance not a normal constituent of urine, or an abnormal concentration of a substance. This is considered a refusal to test.
- E. Substituted – Test results not consistent with human urine. This is considered a refusal to test.
- F. Invalid – When a result cannot be established. The DER will contact the MRO to determine whether additional testing is required.

The City shall notify an employee of the results of any tests for controlled substances if the test results are verified as positive. The City shall also inform the employee which drugs were verified as positive.

#### **115.07 REFUSALS TO TEST AND UNCOMPLETED TESTS**

- A. **Drugs.** All covered employees subject to USDOT regulation are required to submit to drug and alcohol tests conducted in compliance with 49 CFR Parts 40 (as amended). Under the City's authority, compliance with this drug and/or alcohol testing plan is a condition of employment. Refusing to test may lead to disciplinary action up to and including termination from the City. Under the regulations, refusal to take a required drug/alcohol test or failure of a drug/alcohol test shall result in removal from duty. Refusal to test carries the same consequence as a positive test result. Refusal includes the following and applies to both drug and alcohol testing:
  - 1. An inability or failure to provide a specimen or breath sample as required by USDOT Part 40 (as amended);
  - 2. An inability or failure to provide a sufficient urine specimen or breath sample without a valid medical reason (confirmed by a physician);
  - 3. Tampering, adulterating, or substituting specimen;
  - 4. Delaying arrival, or failure to appear, at a designated collection site for any test in the time allotted (except a pre-employment test);
  - 5. Failure to remain at the test site until the testing process is completed (except a pre-employment test, where leaving before the test begins is not a refusal);

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6. Failure to permit an observed or monitored collection when required;
7. Failure to undergo a medical evaluation when required;
8. Failure to cooperate with any part of the testing process;
9. Failure to sign Step 2 of alcohol test form;
10. Leaving the scene of an accident without just cause prior to submitting to a test. (Nothing in this section shall be construed to require the delay of necessary medical attention following an accident). Failure to remain available for testing will be regarded as a refusal to test.
11. Failure to comply with direct observation protocols or follow the observer's instructions.
12. Possessing or wearing a prosthetic or other device with the intent to fraudulently defeat the test.
13. Failure to take a second test when required.
14. Admitting adulteration or substitution of the specimen, or attempts to do so, to the collector or the MRO.
15. If the MRO reports a verified adulterated or substituted test result.

## **B. Alcohol**

1. Compliance with this drug and/or alcohol testing plan is a condition of employment.
2. Refusal to take a required alcohol test or failure of an alcohol test shall result in removal from performing safety-sensitive functions.
3. Refusing to test, failing a test, attempting to adulterate a sample, not reporting to the collection site in the time allotted, or leaving the scene of an accident before the tests have been conducted will result in removal from duty and may lead to disciplinary action up to and including termination from the City.
4. An employee may leave the scene of an accident in order to obtain medical assistance for those injured in the accident. Failure to remain available for testing for 8 hours following an accident will be regarded as a refusal to test.

## **C. Shy Bladder**

1. If an employee is unable to provide at least 45 milliliters of urine collection site personnel shall urge the individual to drink not more than 40 oz of fluids and, after a period up to three (3) hours' time, attempt to provide a complete sample. If employee is still not able to give an

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adequate sample the DER shall refer the individual for a medical evaluation to determine if individual's inability to provide a sample is a genuine medical condition or constitutes a refusal to test. This examination must take place within 5 business days. An employee's refusal to be examined by a physician shall be regarded as a refusal to test.

D. As an employee, refusing to take a non-USDOT test or sign a non-USDOT form is not considered a refusal to take a USDOT test. There are no consequences under USDOT regulations for refusing to take a non-USDOT test. However, under the City's policy, the following can result in disciplinary action up to and including termination:

1. Failure to take any non-USDOT drug or alcohol test as requested;
2. Failing to stay in contact with the City and its medical review officer (MRO) while awaiting test results;
3. Failing to comply with restrictions on reporting for duty, or remaining on duty, if the employee tests positive for drugs; or
4. Failing to accept referral to and following the recommendations of the Employee Assistance Program (EAP), Substance Abuse Professional (SAP), or medical treatment approved by the Director of Human Resources after a drug and/or alcohol test result which is positive can result in the City taking disciplinary action up to and including termination.

#### **115.08 MEDICAL REVIEW OFFICER (MRO)**

- A. The MRO must be a licensed physician or doctor of osteopathy who is responsible for receiving laboratory results generated by the drug and alcohol program, and who has knowledge of substance abuse disorders and has approved medical training to interpret and evaluate an individual's confirmed positive drug test result together with his/her medical history and any other relevant biomedical information. MRO's do not receive or interpret alcohol results.
- B. The MRO will perform responsibilities, perform notifications, and retain confidential records as required by 49 CFR Part 40 as amended.

#### **115.09 EMPLOYEE AND SUPERVISOR TRAINING**

- A. Every employee covered by this policy will receive the following drug use/alcohol misuse education: (Subject to 49 CFR Part 40, 382 or 655)
  1. Drug/alcohol information will be periodically distributed and displayed in the work areas.
  2. Copies of this policy are available to every employee. It is the responsibility of every new employee to review the entire drug and alcohol policy and clarify any questions with the Human Resources Department.

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3. The employee assistance program is available 24 hours per day, seven days a week.
  4. Each employee shall receive 60 minutes of drug abuse training.
- B. Supervisory management positions shall receive training for detecting symptoms of drug use/alcohol misuse:
1. Supervisors will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use; and
  2. 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

### **115.10 EVALUATION/REHABILITATION**

- A. The DOT-qualified Substance Abuse Professional (SAP) must be a licensed physician (medical doctor or doctor of osteopathy), licensed or certified psychologist, social worker, employee assistance professional, licensed marriage and family counselor; or an addiction counselor certified by the National Association of alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse.
- B. The SAP will perform responsibilities and retain confidential records as required by 49 CFR Part 40, as amended.
- C. For testing under DOT regulation, an employee who fails a drug test, alcohol test (0.04 or greater), or refuses to be tested will be referred to a substance abuse professional who will determine what assistance the employee needs in resolving problems associated with alcohol misuse or drug use. Each employee identified as needing assistance in resolving problems associated with alcohol misuse or drug use shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program and shall be subject to unannounced follow-up drug and/or alcohol tests. For testing under the City's authority, referral will be to the Employee Assistance Program (EAP). Referral will be based on an employee failing a drug test, alcohol test 0.02 or greater, or refusal to test.
- D. Participation in rehabilitation through the EAP will not result in disciplinary action. However, the City does not waive its right to take disciplinary action up to and including termination where warranted for violations of rules and regulations.
- E. The SAP/EAP's determination that an employee is medically qualified to be returned to duty does not waive the City's authority to impose disciplinary action.
- F. **Dependency Diagnosis.** An employee must follow the recommendations of the counselor or physician after a diagnosis of alcohol or drug abuse or dependency that is not made as the result of a City-required drug and/or alcohol test.

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**115.11 EMPLOYEE LEAVE STATUS**

Where removal from duty is required for testing, a regular full-time employee will be placed on administrative leave with pay pending the outcome of the test.

If a regular full-time employee's drug or alcohol test results in a positive finding, the employee will be placed or remain on administrative leave with pay pending receipt of the diagnosis by the SAP or EAP.

- A. An employee whose examination results in a finding of dependency must use accrued sick leave first, then other accrued leave to seek medical treatment approved by the Director of Human Resources. Such leave will be retroactively applied to when the employee was removed from his or her position for testing. If needed, a leave of absence may be granted at the discretion of the Department Head after exhaustion of all accrued leave.
- B. An employee whose examination does not result in a finding of dependency must use available paid leave, excluding sick leave, until it is exhausted or until such time that he or she can pass a return-to-duty drug and alcohol test. Such leave will be retroactively applied to when the employee was removed from his or her position for testing. Upon exhaustion of accrued leave (sick leave excluded), the employee may be placed on administrative leave without pay if less than one pay period, or a leave of absence may be granted at the discretion of the Department Head if greater than one pay period.

**115.12 Recordkeeping**

- A. The City of Arlington will keep the following records for the periods specified. These records will be maintained in the office and under the supervision of the DER.
  - 1. Five years. The following records shall be maintained for a minimum of five years:
    - a. Records of employee alcohol test results that indicate an alcohol concentration of 0.02 or greater;
    - b. Records of employee verified positive drug test results;
    - c. Documentation of refusals to take required alcohol and/or drug tests;
    - d. Calibration documentation in accordance with 49CFR Part 382 (FMCSA) and the City's authority;
    - e. Employee disputes;

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- f. EAP and SAP documentation, to include employee evaluation and referrals, as well as return to duty and follow up testing; and
  - g. A copy of each annual calendar year USDOT MIS summary.
2. Three years. In accordance with 49CFR Part 655, the following records shall be maintained for a minimum of three years:
- a. Previous employer drug and alcohol test records, and background checks.
  - b. Good faith effort documentation.
3. Two years. The following records shall be maintained for a minimum of two years:
- a. Records related to the drug and alcohol collection process and training.
  - b. Records of the inspection, maintenance, and calibration of EBTs in accordance with 49CFR Part 655 (FTA).
3. One year. The following records will be maintained for a minimum of one year.
- a. Records of negative and canceled drug test results and alcohol test results with a concentration of less than 0.02.

**B. Location of Records.** All records required shall be made available for inspection at the City within two business days after a request has been made by an authorized representative of the Research and Special Programs Administration, Federal Motor Carrier Safety Administration or the Federal Transit Administration.

**C. Access to Facilities and Records**

- 1. Except as required by law or expressly authorized or required by USDOT, the City shall not release employee information that is contained in the records required to be maintained.
- 2. An employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of drugs or misuse of alcohol, including any records pertaining to his or her drug or alcohol tests. The City shall promptly provide the records requested by the employee. Access to employee's records shall not be contingent upon payment for records other than those specifically requested.
- 3. The City is required to obtain pursuant to an employee's consent, information on the employee's alcohol tests with a concentration result of 0.04 or greater, positive drug test results, refusals to be tested, and other violations of USDOT regulations within the preceding two (2) years for FTA positions and preceding three (3) years for FMCSA positions, which are maintained by the employee's previous USDOT covered employers.

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- a. This information shall be maintained and reviewed by the City. If the prior employer fails to respond to the initial request, the City will continue good faith efforts to obtain the records for 30 days. The City will keep documents of all efforts made on file. Efforts include but are not limited to: phone calls, emails and certified letter.
- b. If a prior employer reports a positive drug or alcohol test, or a test refusal, the applicant/employee must show proof of successful completion of SAP referral, evaluation, and treatment plan before he/she can be allowed to work in a safety-sensitive position.
- c. The City must provide to each of the applicant/employee's prior USDOT-covered employers within the two or three (FTA or FMCSA) preceding years the applicant/employee's specific, written authorization for release of the information.
- d. The release of any information may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures confidentiality. The City shall maintain a written, confidential record with respect to each past employer contacted.

### **115.13 REPORTING OF DRUG AND ALCOHOL TESTING RESULTS**

- A. The City shall prepare and maintain an annual calendar year summary of the results of its drug and alcohol testing programs. The City shall complete the summary as required by the DOT and transmit electronically on or before March 15th for the previous calendar year.

### **115.14 CONTRACTORS HIRED BY THE CITY**

- A. Contractors hired by the City that fall under Sections 49 CFR Parts 40, 382 or 655 shall be required to submit a copy of their Anti-Drug/Alcohol Misuse Program and may also be required to submit quarterly reports that state: number of employees tested, type of test, number of positive drug tests and resulting action for those that tested positive, number of alcohol tests that indicated a confirmed alcohol concentration of 0.02 or greater and resulting action for those with a confirmed alcohol concentration of 0.02 or greater, for that period. The contractor shall make clear the job titles of employees who will perform any work or functions covered by Part 382 or 655 under said contract. Names may also be included if clarification is necessary. Failure to submit an Anti-Drug/Alcohol Misuse Program that complies with USDOT Parts 40, 382 and 655 may result in the rejection of offeror's bid. Failure to submit quarterly reports or annual USDOT MIS reports may result in a default of contract as stated in the project's specifications and contract documents.
- B. The contractor shall allow access to property and records by a City representative, FTA or any USDOT agency with regulatory authority over the operator for the purpose of monitoring the operator's compliance with the requirements of Parts 40, 382, and 655, as amended.

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**115.15 CONFIDENTIALITY**

- A. Each individual's record of testing and results under this policy will be maintained private and confidential. Except as provided by law or expressly authorized by USDOT regulations, the results of individual drug and/or alcohol tests will not be released to anyone without the specific, written consent of the tested employee authorizing release of the information to an identified person. Prior to testing, the individual will be informed about who will receive test data (e.g., testing laboratory, MRO, Program Manager, Supervisor if removal from a safety-sensitive function is necessary).
- B. All persons associated with the City's drug and alcohol testing procedure are prohibited from willfully disclosing test results to City employees who do not have a need to know or persons not eligible to receive test results under applicable law.
- C. An employee who is required to take a drug and/or alcohol test will be given a copy of the test results upon request.
- D. All written records will be stored in a secure location with access available to USDOT upon request.
- E. Drug and alcohol testing and/or rehabilitation records shall only be released to subsequent USDOT covered employers upon written consent from the covered employee. Then only the specific information requested by the employee shall be released.

**115.16 SMOKING AND OTHER TOBACCO PRODUCTS**

In order to encourage and support healthy lifestyles and a safe work environment, the City maintains smoke-free facilities and prohibits smoking and the use of all tobacco products by all City employees and volunteers while on duty. This smoking and tobacco prohibition also includes vaping and the use of electronic cigarettes.

- A. **On Duty.** Employees and volunteers are prohibited from smoking and using tobacco products while they are on duty. On duty includes but is not limited to all non-meal rest breaks. For the purposes of this prohibition only, uncompensated meal breaks taken in a municipal building or facility or on adjacent municipal grounds is considered on duty.
- B. **Off Duty.** Except where otherwise provided, off duty employees and volunteers are subject to the rules applicable to the public in municipal buildings and facilities; no smoking is permitted within the buildings/facilities.
- C. **In Vehicles.** Smoking and using tobacco products is prohibited:
  - 1. In all City vehicles at any location. This includes, but is not limited to heavy equipment and motorcycles;

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<b>Department</b>	<b>Job Code</b>	<b>Position</b>	<b>DOT</b>
Aviation	1140	Airport Maintenance Technician	
Aviation	1146	Airport Maintenance Technician PT	
Aviation	1147	Airport Maintenance Technician SN	
Aviation	1150	Airport Operations Supervisor	
Aviation	1141	Airport Security Specialist	
Code Comp.	1190	Animal Services Administrative Coordinator	
Code Comp.	1629	Animal Services Code Compliance Officer	
Code Comp.	1195	Animal Technician	
Code Comp.	1196	Animal Technician PT	
Asset Management	1225	Apprentice Electrician	
Water	1230	Apprentice Service Worker	
Water	1231	Apprentice Service Worker PT	
Parks	1234	Aquatics Maintenance Technician I	
Parks	1235	Aquatics Maintenance Technician II	
Parks	1233	Aquatics Manager	
Parks	1232	Aquatics Program Coordinator	
Aviation	1260	Assistant Airport Manager	
Planning	1492	Assistant Building Official	
Parks	1251	Assistant Facility Coordinator	
Fire	1350	Assistant Fire Chief	
Parks	2341	Assistant Golf Professional	
Police	1270	Assistant Police Chief	
Handi-Tran	2837	Assistant Transit Operations Supervisor	DOT
Planning	1385	Assistant Utility Engineer	
Parks	1405	Athletic Field Maintenance Supervisor	DOT
Parks	1408	Athletics Facility Manager	
Parks	1409	Athletics Sports Coordinator	
Parks	1411	Athletics Sports Manager	
Asset Mgt.	1497	BSS Master Plumber	
Asset Mgt.	1460	Building Maintenance Worker	
Parks	1456	Building Maintenance Worker PT	
Planning	1490	Building Official	
Convention Center	1470	Building Operations Superintendent	
Asset Management	1495	Building System Mechanic	
Asset Management	1465	Building Systems Specialist	
Asset Management	1494	Building Systems Supervisor	
Handi-Tran	1500	Bus Driver	DOT
Handi-Tran	1496	Bus Driver PT	DOT
Parks	1498	Bus Driver PT Parks	

<b>Department</b>	<b>Job Code</b>	<b>Position</b>	<b>DOT</b>
Asset Mgt./Parks	1515	Carpenter	
Asset Mgt.	1521	Carpentry Supervisor	
Parks	1516	Cart Attendant Ditto PT	
Water	1575	Chief Treatment Technician	
Water	1577	Chief Maintenance Technician	
Pub. Works	1603	City Surveyor	
Planning	1610	Civil Engineer	
Code Comp./Housing	1627	Code Compliance Officer I	
Code Comp./Housing	1628	Code Compliance Officer II	
Code Compliance	1629	Code Compliance Officer I SN	
Planning	1650	Combination Inspector	
Fire	1670	Communications Supervisor	
Fire	1645	Communications Training Assistant	
Code Comp.	1641	Community Services Supervisor	
Code Comp.	1683	Community Services Technician	
Pub. Works	1708	Concrete Specialist	DOT
Asset Management	1722	Construction Specialist	
Parks	1740	Contract Inspector	
Pub. Works	1781	Crew Leader	DOT
Police	1796	Crime Scene Invest 1	
Police	1797	Crime Scene Invest 2	
Police	1798	Crime Scene Invest 3	
Asset Management	1826	Custodial Services Administrator	
Convention Center	1855	Custodian	
IT	2871	Customer Support Specialist	
Police	1955	Dep Police Chief CID	
Police	1890	Dep Police Chief East	
Police	1960	Dep Police Chief North	
Police	1895	Dep Police Chief Ops	
Police	1885	Dep Police Chief PTRNG	
Police	1881	Dep Police Chief South	
Police	1895	Dep Police Chief Tech Svc Div	
Police	1880	Dep Police Chief West Div	
Fire	1953	Deputy Fire Chief	
Fire	1954	Deputy Fire Chief Fire Marshal	
Fire	2213	Deputy Fire Marshal FPH	
Police	1971	Detention Officer	
Police	1972	Detention Supervisor	
Planning	1133	Development Coord	

<b>Department</b>	<b>Job Code</b>	<b>Position</b>	<b>DOT</b>
Asset Management	2035	Electrician	
Water	2029	Electrical Technician Trainee	
Fire	2043	Emergency Management Administrator	
Fire	2045	Emergency Management Coordinator	
Fire	2050	Emergency Management Planner	
Police	2047	Emergency Management Specialist	
Planning	2085	Engineering Operations Manager	
Pub. Works	2095	Environmental Compliance Officer	
Pub. Works	2097	Environmental Education Specialist	
Planning	2105	Environmental Health Specialist	
Asset Management	2096	Environmental Programs Coordinator	
Asset Management	2111	Environmental Services Administrator	
Convention Center	2120	Event Coordinator	
Convention Center	2125	Event Services Worker	
Police	2130	Evidence and Property Control Specialist	
Parks	2144	Facilities Operations Manager	
Convention Center	2145	Facility Crew Chief	
Parks	2150	Facility Maintenance Supervisor	
Convention Center	2149	Facility Systems Administrator	
Convention Center	2148	Facility Systems Specialist	
Code Comp.	2165	Field Operations Manager	
Water	3309	Field Operations Sector Manager	
Pub. Works	2171	Field Technician	DOT
Police	2187	Fingerprint Technician	
Asset Management	2190	Finish Carpenter	
Fire	2195	Fire Apparatus Operator	
Fire	2200	Fire Battalion Chief	
Fire	2205	Fire Captain	
Fire	2212	Fire Investigator/Bomb Tech	
Fire	2215	Fire Lieutenant	
Fire	2224	Fire Prevention Inspector	
Fire	2222	Fire Prevention Specialist	
Fire	2235	Firefighter	
Fire	2237	Firefighter Trainee	
Parks	2342	First Assistant Golf Professional	
Parks	2267	Forester	
Planning	2274	Gas Well Coordinator	
Parks	2339	Golf Course Superintendent 27 Hole	
Parks	2345	Golf Services Manager	

<b>Department</b>	<b>Job Code</b>	<b>Position</b>	<b>DOT</b>
Parks	2370	Greens Superintendent 18 Hole	
Parks	2375	Head Golf Pro 18 Hole	
Parks	2376	Head Golf Pro 27 Hole	
Water	2390	Heavy Equipment Operator II	DOT
Pub. Works	2400	Heavy Equipment Operator III	DOT
Parks	2463	Indoor Lifeguard PT	
Pub. Works	2485	Inspections Supervisor	
Water	2500	Inventory Coordinator	
Parks	2510	Irrigation Technician	DOT
Water	2530	Laboratory Analyst	
Water	2533	Laboratory Assistant	
Water	2535	Laboratory Specialist	
Water	2540	Laboratory Technician	
Parks	2544	Lake Attendant PT	
Parks	2551	Landscape Maintenance Supervisor	DOT
Parks	2554	Landscape Technician	
Parks	2555	Landscape Technician LA	
Parks	2556	Landscape Technician PT	
Code Comp.	1301	Lead Code Compliance Off	
Pub. Works	2558	Lead Crossing Guard PT	
Police	2561	Lead Detention Officer	
Pub. Works	2564	Lead Guard Coordinator PT	
Parks	2566	Lead Indoor Lifeguard PT	
Parks	2567	Lead Irrigation Technician	DOT
Parks	2575	Lead Landscape Technician	DOT
Water	3717	Lead Utility Technician	DOT
Library	2607	Library Courier PT	
Library	2600	Library Network Administrator	
Parks	2628	Line Cook FT	
Comm. Leg Affairs	2630	Mail Clerk I	
Comm. Leg Affairs	2631	Mail Clerk II	
Water	2536	Maintenance Supervisor	
Pub. Works	2671	Markings Specialist	DOT
Parks	2680	Master Electrician	
Parks	2690	Mechanic Parks	DOT
Water	2695	Mechanical Technician WT	DOT
Water	2705	Sr Meter Reader	
Water	2706	Meter Reader PT	
Water	2710	Meter Service Worker	

<b>Department</b>	<b>Job Code</b>	<b>Position</b>	<b>DOT</b>
Water	2730	Meter Services Crew Chief	
Water	2715	Meter Services Leader	
IT	2761	Network Administrator	
IT	2772	Network Engineer	
Convention Center	2840	Operations Crew Leader	
Water	2835	Operations Support Manager Water	
Parks	2865	Park District Supervisor	
Parks	2875	Park Landscape Supervisor	
Parks	2910	Parks Chief Mechanic	
Parks	2987	Playground Technician	
Police	3000	Police Chief	
Police	3010	Police Lieutenant	
Police	3015	Police Officer	
Police	3020	Police Officer Patrol	
Police	3023	Police Officer PT	
Police	3019	Police Officer Recruit	
Police	3045	Police Sergeant	
Police	3050	Police Service Assistant	
Police	3055	Police Service Specialist	
Police	3059	Police Supply Specialist	
Planning	3067	Project Engineer	
Pub. Works	3090	Public Works Inspector	
Pub. Works	3092	Public Works Ops Supervisor	
Comm. Leg Affairs	3145	Records Center Technician	
Parks	3155	Recreation Facility Manager	
Parks	3135	Recreation Program Coordinator	
Housing	3165	Rehab Spec Single Family	
Parks	3168	Rental and Lake Services Coordinator	
Parks	3167	Rental and Lake Services Manager	
Fire	3200	Resource Management Assistant	DOT
Fire	3205	Resource Management Specialist	DOT
Fire	3210	Resource Management Supervisor	DOT
Parks	3211	Restaurant Manager	
Water	3559	Sample Collector	
Water	3213	SCADA Analyst	
Pub. Works	3304	Sign Specialist	DOT
Pub. Works	3305	Signal Specialist	DOT
Pub. Works	3300	Signal Specialist I	DOT
Pub. Works	3310	Signal Specialist II	DOT

<b>Department</b>	<b>Job Code</b>	<b>Position</b>	<b>DOT</b>
Parks	3317	Sports Program Coord	
Code Comp.	3326	Sr Code Compliance Officer	
PLDVS	2109	Sr. Environmental Health Specialist	
Pub. Works	3246	Sr Field Technician	DOT
Planning	3355	Sr Inspector	
Parks	3250	Sr Landscape Technician	DOT
Water	2705	Sr. Meter Reader	
Water	3718	Sr. Utility Technician	DOT
Pub. Works	3417	Storm Water Permits Supervisor	
Pub. Works	3412	Storm Water Specialist	DOT
Pub. Works	3429	Streetlight Specialist	DOT
Planning	3433	Streetscape Inspector	
Code Comp.	3437	Substandard Structure Inspector	
Parks	3434	Superintendent Golf Course Maintenance	DOT
Pub. Works	3435	Survey Instrument Technician	
Pub. Works	3440	Survey Party Assistant	
Fire	3465	Telecommunicator	
Fire	3466	Telecommunicator PT	
Parks	3470	Tennis Facility Manager	
Pub. Works	3495	Traffic Engineer	
Pub. Works	3510	Traffic Technician	
Handi-Tran	3526	Transit Coordinator	DOT
Handi-Tran	3527	Transit Coordinator PT	DOT
Handi-Tran	3535	Transit Operations Supervisor	DOT
Water	3565	Treatment Technician	
Water	3560	Treatment Technician Trainee	
Parks	3570	Urban Forestry and Land Manager	
Library	3575	User Support Specialist	
Water	3595	Utilities Environmental Analyst	
Water	3716	Utility Technician Apprentice	DOT
Code Comp.	3656	Veterinarian	
Code Comp.	3657	Veterinary Tech	
Water	3690	Warehouse Inventory Clerk	
Pub. Works	3691	Warehouse Inventory Clerk PT	
Water	3719	Water and Sewer Crew Chief	DOT
Water	3680	Water and Sewer Leader Meter Reading	
Water	3701	Water Conservation Specialist	
Water	3705	Water Resource Technician	
Water	3712	Water Treatment Maintenance Coordinator	

<b>Department</b>	<b>Job Code</b>	<b>Position</b>	<b>DOT</b>
Water	3713	Water Treatment Maintenance Manager	
Water	3306	Water Utilities Field Operations Supervisor	



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## 116.00 COMMUNICATION AND NEWS MEDIA RELATIONS

### 116.01 POLICY/PURPOSE

The City of Arlington is committed to maintaining a positive relationship with the members of the community governed by the City's actions. A critical factor in maintaining this relationship is effective communication.

The purpose of this directive is to guide employees in the appropriate practices in direct public communications and in response to information inquiries. It is issued by authority of the City Manager, who reserves the right to modify, revoke, suspend, interpret, terminate, or change any provision of this directive with or without notice.

### 116.02 GENERAL PROVISIONS

- A. The Office of Communication (OOC) is the primary communication agency for creating and managing the flow of public information between the city government, its employees and citizens. The OOC may initiate communications or may assist other city departments in matters pertaining to the media, employee and citizen communication, public information requests, corporate image, and electronic and web broadcasting of public information. Specifically, the OOC provides:
1. Strategic message development and placement for City Manager's Office and city departments,
  2. Public affairs assistance to Mayor and Council,
  3. Public affairs and communications assistance to City Manager's Office and city departments,
  4. Release of information to employees and citizens,
  5. News media relations access,
  6. Communications coordination in crisis/disaster situations, and
  7. Evaluation of press coverage.
- B. **City Spokespersons.** The City Manager is the authorized spokesperson for the City of Arlington. Deputy City Managers and Department Directors may speak on behalf of the City on matters within their areas of control. Department Directors may designate individual employees to handle news media relations and/or public information requests. In particular situations, such as making presentations to community groups or at scenes of incidents that result in on-scene media response, individual employees have authority as specified by their Directors to speak on

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behalf of the City. In communicating on behalf of the City, employees should limit their comments to presenting factual information within their personal knowledge, and avoid speculation, or making any comments on the actions taken by or likely to be taken by other employees or departments. City employees should not respond to the media if there is a more appropriate person/expert on the subject matter.

- C. **Publications.** The City publishes information in print and electronic form to advise the public of city programs and services. All city publications should be timely, accurate, and understandable. Where necessary for effective communication, information distributed in print or electronic media should be in languages other than English. Each department should review its publications on an annual basis to ensure information is current and complete, and that it does not unnecessarily duplicate other information published by that department or any other division of the City.
- D. If an employee receives a request for information that is best supplied by another department, the employee should not speculate about the operations of another department, but should refer the requestor to the appropriate department. The employee should then contact the other department to provide advance notice of the request for information.

### **116.03 PUBLIC INFORMATION**

- A. Unless a more specific statute applies, access to all information collected, assembled, or maintained by city employees in the course of their duties is governed by Texas Government Code Chapter 552, the Public Information Act (PIA). The Act applies to documents and records maintained in any form (paper, film, devices that store electronic signals, tape, and voice, data, or video held in computer memory).
- B. Any member of the public may both inspect and obtain copies of government documents and records. Information exempt from required disclosure under the Act are: certain personal information on employees, information relating to civil or criminal litigation where the government or an officer or employee of the government is or may be a party as a consequence of the person's office or employment, information that would give an advantage to a competitor or bidder in a competitive bidding process, certain law enforcement or prosecutorial information, birth records (for up to 50 years), death records (for up to 25 years), personal information on participants in Neighborhood Crime Watch organizations, and certain information on economic development activities of the governmental entity. Other exemptions from disclosure may apply in certain situations.
- C. Unless the requestor agrees otherwise in writing, all requests for information made under the Public Information Act must be responded to within ten days of receipt of the request. The City has established rules of procedure for access to or providing copies of documents and records, including copy costs.

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- D. Any employee who receives a request for access to documents, records, or other information under the Texas Public Information Act (PIA) should immediately notify their supervisor and direct the request to the person in the employee's department designated to handle PIA requests. In the absence of a designated department representative, the request should be directed to the Office of Communications.
- E. The Public Information Act provides a criminal penalty for failure to comply with a properly submitted request and for distribution of information that is designated as confidential under the Act. It also provides a criminal penalty for willful destruction, mutilation, or removal without permission, or alteration of public information. Destruction or removal of documents or records of the City of Arlington are to be made only in accordance with the City's Records Retention Schedule.

#### **116.04 ADMINISTRATIVE NOTIFICATIONS**

- A. When major incidents or crises occur, administrative and/or legal support procedures are required to be initiated as soon as possible. In addition, administrators who are likely to receive media or citizen inquiries and/or citizen complaints should be made aware of the incident. Such notifications should be initiated through the chain of supervision within the involved department as soon as possible.
- B. Major incidents requiring notification are:
1. Death or serious bodily injury of an employee, any person in a city facility, or any person alleged to be caused by a city employee,
  2. Significant damage to city property,
  3. Significant damage to non-city property alleged to be caused by a city employee,
  4. Severe weather conditions or disasters,
  5. Events requiring significant deployment of City personnel and/or equipment, and
  6. Any other incident or event that is likely to generate significant media or community inquiries.
- C. General Order of Notification: A Telephone Tree or other broad based network should be used to notify individual employees or departments.
1. Crisis Event
    - a. 911
    - b. Immediate Supervisor
    - c. Division Supervisor

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- d. Department Director
  - e. Department Public Information Specialist or Designated Spokesperson
  - f. Office of Communication

2. General Event

- a. Immediate Supervisor
- b. Division Supervisor
- c. Department Public Information Specialist or Designated Spokesperson
- d. Department Director
- e. Office of Communication

**116.05 EMERGENCY/DISASTER RESPONSE**

- A. During emergency situations, the community needs detailed information about protective action to be taken for minimizing loss of life and property. The City provides information on hazard awareness and how to deal with hazards to the public through publications, public education presentations to the community, and through the news media.
- B. In the course of an actual emergency or disaster when the City's Emergency Operations Center is activated, public information efforts will be provided as detailed in the City's Emergency Preparedness Plan. In a situation where the Emergency Operations Center is not activated, public information efforts will be directed by the City department having primary operational responsibility for the incident, with assistance from the Office of Communication as necessary.

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## 201.00 PERFORMANCE AND CONDUCT STANDARDS

### 201.01 POLICY/PURPOSE

All employees are expected to maintain acceptable standards of conduct, efficiency, and economy in the performance of their work for the City. Acceptable standards of conduct should be maintained both on and off duty in order to promote impartial, objective, and effective performance of duty, avoid activities that adversely affect the City's reputation or interest, ensure safe and efficient operations, and engender a high degree of confidence in and support for City operations.

This Chapter, which describes standards of employee conduct and performance, is not intended to be an all-inclusive list of prohibited or expected conduct.

### 201.02 GENERAL PROVISIONS

- A. **Conformance to Laws.** An employee shall obey and shall not engage in any conduct prohibited by the laws of the United States, Texas, or any other state or any political subdivision wherein the conduct of the employee occurred. Conduct in violation of such laws may be cause for disciplinary action without regard to whether charges are filed or prosecuted.
- B. **Violation of Rules:** An employee shall not commit any act contrary to good order and discipline, or constituting a violation of any of the provisions of the rules and regulations of the City.
1. Ignorance of the rules and regulations does not excuse or justify any violation.
  2. An employee is responsible for his or her personal actions. No employee shall attempt to shift to another the employee's responsibility for executing or failing to execute assigned instructions or responsibilities.
- C. **Attempts and Conspiracy.** Any employee who by act or conduct attempts to violate, or conspires with any person to violate City or department policies, rules, or regulations shall be subject to the same discipline as though the actual violation had been accomplished.
- D. **Responsibility for Conduct of Another.** An employee is responsible for and chargeable with the rule, policy, or regulation violation by another if:
1. Acting with the kind of culpability required for the violation, the employee causes or aids an innocent or non-responsible person in engaging in conduct prohibited by the definition of the violation;

2. Acting with intent to promote or assist in the commission of the violation, the employee solicits, encourages, directs, aids, or attempts to aid the other person in committing the violation; or
3. Having a legal duty to prevent commission of the violation and acting with intent to promote or assist its commission, the employee fails to make a reasonable effort to prevent commission of the violation.

### **201.03 ATTENTION/DERELICTION**

- A. **Attention to Duty.** An employee shall remain awake, alert, observant, and occupied with City business when on the job. When at work an employee shall devote his or her time and attention to the business of the City. An employee shall not read unauthorized material, play games, watch television or movies, or otherwise engage in entertainment while on the job, or have such items on his or her person or at the assigned work location, except as may be required for the performance of assigned duties. The employee shall not engage in any activity which would cause the employee to neglect or be inattentive to assigned duties.
- B. **Dereliction of Duty.** Employees shall perform their job duties fully and without undue delay. Employees shall perform their job duties professionally, efficiently, and without unnecessary supervision. Employees shall ensure they are engaged productively at all times or as directed. Employees shall not perform their job duties negligently or with inappropriate/deliberate slowness. Employees shall demonstrate appropriate initiative and dependability in the quality, volume, and prioritizing of their job duties. Dereliction of duty also includes, but is not limited to:
1. Failure of an employee to immediately report to the supervisor (or other supervisor not involved) when a violation by either employees or citizens of laws, policies, rules, or regulations comes to the employee's attention;
  2. Failure of a supervisor to immediately take appropriate action when a violation by employees or citizens of laws, policies, rules, or regulations comes to the supervisor's attention, regardless of the supervisor's or violator's assignment or position in the City;
  3. Failure to observe and follow the rules or standard operating procedures of the employee's department or the City; and
  4. Failure to secure or report the loss of City property.
- C. **Personal Business.** No employee shall engage in personal business while on duty.

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**201.04 COMPETENCE, JUDGMENT, AND SUPERVISION**

- A. **Competence.** An employee shall maintain sufficient competence to properly perform the assigned duties and responsibilities of the position. The employee's efforts shall be directed and coordinated in a manner that will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the City. The fact that an employee was deemed competent at the time of employment does not preclude a judgment of incompetence as the result of job performance deficiencies. Incompetence includes, but is not limited to:
1. Failure to achieve and maintain acceptable job proficiency;
  2. Failure to accept and execute duties, responsibilities, instructions, and orders with a minimum of supervision;
  3. A written record of repeated disciplinary actions for infractions of policies, rules, regulations, manuals, or directives; and
  4. Repeated adverse counseling reports and/or evaluations reflecting need for improvement, or indicating performance inadequacies.
  5. Maintenance of required certifications, licenses, and access rights. An employee who fails to maintain certifications, licenses, or access rights that are required for the position they hold will be dismissed from employment.
- B. **Judgment.** An employee shall exercise appropriate judgment relevant to the conduct and performance of duty.
- C. **Supervision.** A supervisor shall, in accordance with department management's expectations:
1. Demonstrate qualities of leadership necessary for the position;
  2. Exercise appropriate supervision of subordinates and responsibilities;
  3. Effectively plan, develop, and coordinate supervision and training of subordinates;
  4. Observe and appropriately counsel subordinates;
  5. Take appropriate action when a subordinate fails to perform; and
  6. Properly account for all funds and property under his/her control.

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## 201.05 HEALTH FITNESS

- A. **Fitness for Duty.** An employee must be physically and mentally fit to perform essential job functions.
- B. **Evaluation for Fitness.** When it is suspected that the physical or mental impairment of an employee constitutes a hazard to individuals or property or may prevent the employee from effectively performing the essential job functions of the position, the employee may be required to authorize the City to have access to existing medical records and subsequently created records. The employee may also be required to submit to an evaluation of health fitness for duty, and/or undergo a program of treatment. Such testing must be coordinated with the Human Resources Department. For those employees that are subject to Texas Local Government Code, Chapter 143, the above stated will be managed in accordance with Texas Local Government Code, Chapter 143 and Arlington Fire Department Civil Service Local Rules; however, all other aspects of 201.05, Health Fitness, not addressed within Texas Local Government Code, Chapter 143, remain applicable.
1. The employee will be paid for the time required to take such examination. A licensed practitioner selected by the City will conduct the exam at no cost to the employee.
  2. Correction or treatment of conditions diagnosed during this examination and/or a program of treatment are the responsibility of the employee.
  3. If unable or unfit to perform the essential job functions of the position, an employee is subject to the provisions of the Health Fitness Impairment Chapter (305.00).
- C. **Periodic Exams and/or Treatment.** An employee may be required to take periodic special examinations and/or undergo a program of treatment to qualify for continued employment in the same classification or position.
- D. **Disclosure Required.** An employee who becomes aware of a physical or mental impairment that may affect the employee's ability to perform the essential job functions of the position must inform the department. The department, in coordination with the Human Resources Department, may require an examination pursuant to Section B above, and/or authorization for access to and review of medical records.
- E. **Status During Evaluation.** Pending completion of the health fitness evaluation, the employee may be required to use accrued paid leave, may be placed in an unpaid leave status, or may be temporarily reassigned.

## 201.06 OBEYING ORDERS

- A. **Insubordination.** An employee shall promptly obey and execute any and all lawful orders of a supervisor, including those relayed from a supervisor by another

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employee. A "lawful order" is any order in keeping with the performance of any duty, issued either verbally or in writing by the Department Head or any other supervisor, prescribed by the various rules and regulations of the City, and necessary for the preservation of good order, efficiency, or proper discipline of the City and its employees. The willful disobedience of any order lawfully issued by a supervisor or any mutinous, insolent, or abusive language or conduct toward a supervisor shall be insubordination. For the purposes of this paragraph, "supervisor" includes any employee designated to exercise authority in a given situation.

- B. **Conflicting Orders.** An employee who is given a proper order that is in conflict with a previous order or regulation shall respectfully call attention to such conflict. If the supervisor giving the order does not alter or retract the conflicting order, then the order shall stand and, under these circumstances, the responsibility shall be the supervisor's. In such situations the employee shall obey the conflicting order unless it is a violation of the law. The employee shall not be held responsible for disobedience of any order previously issued, and shall thereafter submit a written report stating the facts and circumstances to the Department Head, via the immediate supervisor.
- C. **Examinations and/or Tests:** Upon order of the department head for matters related to duty performance and investigations authorized by law, an employee shall submit to any medical, chemical, drug, alcohol, ballistics, or other test, photograph, fingerprinting, or counseling program, and shall sign any related authorization forms.

#### **201.07 REPORTING FOR DUTY**

- A. **Unauthorized Absence.** No employee may be absent without authorization. This includes failure to report for work at the assigned time and place or leaving a place of duty or assignment without proper authorization. This rule applies to any scheduled activity for which the employee is compensated by the City of Arlington.
- B. **Reporting for Work.** An employee shall report for work physically and mentally fit at the time and place specified by the supervisor and remain physically and mentally fit throughout the work day. The employee must be properly prepared to immediately assume and continue the duties, which includes being aware of information required for proper performance of that work.
- C. **Reporting Absence.** An employee who cannot report for work must notify the immediate supervisor within the time limits established by the department and give a telephone number and address where the employee can be located during the absence.
- D. **Personal Appearance.** All employees must maintain a neat, well-groomed appearance and hair style and wear any uniform or other apparel in accordance with individually established department standards.

- E. **Suspension.** No employee may wear a City uniform, or carry a City identification card, or use any City issued or authorized vehicle or equipment while under disciplinary suspension.

## 201.08 RESPONDING

- A. **Failure to Respond.** No employee shall fail to timely respond to official calls for service, dispatched calls, notices of assignments, or any other method of direction to perform at a designated place or by a designated time.
- B. **Responding to Calls for Service.** An employee must not respond to any dispatched call for service without authorization.
- C. **Requests for Assistance.** When the public requests assistance or advice or makes complaints or reports, either by telephone or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon consistent with established procedures.
- D. **Citizen Complaints.** An employee shall courteously and promptly accept a complaint made by a citizen against any employee of the City, or against any City policy or procedure, and attempt to resolve the complaint if possible. If an employee is unable to resolve the complaint, it must be immediately reported to the supervisor. An employee must immediately notify the supervisor if the complaint involves loss or destruction of property, personal injury, alleged criminal or civil law violation, or any other circumstance the employee determines to justify the immediate notice.
- E. **Testimony and Answering Questions.** An employee shall truthfully answer all questions put to him or her by a supervisor and render material requested related to the employee's duty and conduct and also to the operations and efficiency of the department and its personnel. For purposes of this paragraph, "supervisor" includes any employee designated to exercise authority in a given situation.
- F. **Identification.** An employee must furnish name, job title, and department name to any person requesting that information as a result of actions taken by the employee in the performance of official City business.

## 201.09 TRUTHFULNESS

- A. **Departmental Reports, Truthfulness.** No employee may knowingly enter, or cause to be entered, any inaccurate, false, or improper information, or misrepresent the facts in any City records or reports, whether such reports are oral or written. Employees must be truthful at all times in oral or written reports, whether under oath or not, and no material facts may be omitted or cause to be omitted from any report.
- B. **Fictitious Illness or Injury Reports/Deception.** An employee must not feign illness or injury, falsely report to be ill or injured, or otherwise deceive or attempt to deceive any official of the City as to the condition of personal health.

- C. **Abuse of Process/Withholding Evidence.** An employee shall not, at any time, intentionally manufacture, falsify, destroy, or withhold evidence or information, nor knowingly or intentionally make any false accusation or criminal charge.
- D. **Fraudulent Employment.** No employee shall procure or maintain employment in the City by means of willful misrepresentation or omission of any fact concerning the employee's personal history, qualifications for employment, or physical condition.
- E. **False Report.** No employee shall make a false oral or written report or statement, nor by any means induce another person to do so.

## 201.10 FRAUD

- A. **Interference with Judicial Process.** Employees shall not attempt, recommend, or cause a dismissal, reduction of charges, canceling of a subpoena, or other disposition of a pending criminal case that has been filed in any criminal court or before any grand jury, except by written approval of their supervisor. Employees shall not communicate in any manner, either directly or indirectly, any information which may assist persons guilty or accused of criminal or quasi-criminal acts to escape arrest or punishment, or which may enable them to dispose of or hide evidence of unlawful activity, money, merchandise, or other property unlawfully obtained.
- B. **Debts.** An employee shall not impair his or her ability to perform as a City employee, tend to impair efficient City operations, or cause the City to be brought into disrepute by undertaking any financial obligation which the employee knows, or should know, cannot be personally met. An employee shall pay all just debts when due.
- C. **Incurring Expenses.** No expenditure of money may be made or liability incurred in the name of the City of Arlington or an employee's department unless approved by an authorized representative of the City.
- D. **Evidence/Found Property.** No employee may fail to promptly deliver any evidence, abandoned property, or confiscated property to the proper authority as designated by department procedure or City regulation. An employee may not convert to personal use, destroy, or remove, except in accordance with established departmental procedure, any property found in connection with official business. No employee is authorized to keep or claim such evidence or property.
- E. **Misuse or Theft of City Property.** No employee shall steal, sell, willfully or negligently damage, destroy, misuse, lose, or have unauthorized possession of owned or leased City property, or use any City property, services, or information in an unauthorized manner for monetary gain.

## 201.11 PROFESSIONAL CONDUCT

- A. **Unbecoming Conduct and Conduct Prejudicial to Good Order.** An employee's conduct at all times, on and off the job, shall reflect favorably on the employee and

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the City. The subjective intent of the speaker or actor is not relevant in the determination of whether this standard of conduct is violated. Unbecoming conduct includes but is not limited to:

1. Acts that tend to bring the city into disrepute or discredit the employee, or tend to impair or disrupt the operation of the City or the employee.
  2. Word(s) or action(s) which can reasonably be construed to convey discriminatory or biased opinion, attitude or belief about race, color, national origin, gender (including sexual orientation and gender identity), disability, age or religion.
  3. Verbal conduct, jokes, gestures physical conduct of a sexual nature.
- B. Reporting of Arrests and Convictions.** An employee shall immediately (or by the next working day at the latest) notify his or her direct supervisor if the employee has been arrested. An employee shall immediately (or by the next working day at the latest) notify the direct supervisor in writing of any charges or complaints being filed, conviction, probation, adjudication, or deferred adjudication of any criminal or traffic offense. "Criminal offense" specifically includes, but is not limited to any offense involving the use, or attempted use of physical force, or the threatened use of a deadly weapon against a current or former spouse or their parent or guardian, against a person with whom the employee shares a child, or against a person with whom the employee is cohabiting or has cohabited.
- C. Courtesy.** An employee shall be courteous to the public and fellow employees. An employee's conduct and deportment shall always be quiet, civil, orderly, and courteous. The employee shall be diplomatic and tactful, controlling temper and exercising utmost patience and discretion. An employee shall at all time refrain from using coarse, violent, profane, or insolent language.
- D. Fighting.** An employee shall not engage in argumentative discussions or fighting, except where authorized by law, even in the face of provocation.
- E. Horseplay/Rough Play.** No employee shall engage in "horseplay/rough play" or the playing of pranks while on the job or in any City facility.
- F. Gambling.** An employee shall not engage or participate in gambling in any form while on duty, in uniform, while in any municipal facility, or in violation of any law or regulation.
- G. Immoral Conduct.** An employee shall maintain high standards of moral conduct in personal affairs and shall not be a participant in any incident involving moral corruption which tends to or does impair the employee's ability to perform as a City employee or cause the City to be brought into disrepute.

- H. **Unauthorized Memberships.** No employee shall become a member with intent to further its aims of any organization, association, movement, or group which advocates or approves the commission of acts of force or violence to deny others their rights under the Constitution of the United States or which seeks to alter the form of government of the United States by unlawful means.
- I. **Visiting Prohibited Establishments.** An employee, while on duty or in uniform, shall not frequent, visit, or enter a house of prostitution, gambling house establishment wherein the laws of the United States or Texas are violated, or a place whose primary purpose is the sale of alcoholic beverages

## 201.12 LABOR ACTIVITIES

- A. **Labor Activities.** No employee shall engage in any form of labor organization or association activities while on duty or on City property.
- B. **Strike.** An employee shall not engage in any strike. "Strike" includes, but is not limited to any of the following when engaged in for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligation of employment:
- a. The concerted failure to report for duty, willful absence from one's position;
  - b. Unauthorized holidays;
  - c. Sickness unsubstantiated by a physician's statement in accordance with personnel policies;
  - d. The stoppage of work or the abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment; or
  - e. An acceleration of work performance resulting in an unreasonable and substantial increase in City activity.

## 201.13 OTHER STANDARDS

- A. **City Auctions.** No City employee or City official or relative of a City employee or official shall be allowed to bid in City auctions, either personally or by representative.
- B. **Firearms and Lethal Weapons.** Except for employees commissioned by the City of Arlington as police/peace officers, City employees are prohibited from possessing firearms while on duty or in any City building or City vehicle, regardless of whether the employee possesses a Texas handgun license. However, employees are permitted to store a firearm they are lawfully allowed to possess in their locked, personal vehicle parked on City property during their duty hours or before reporting

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to or after departing from duty in accordance with all applicable laws. (Terms used are as defined in Chapter 46 of the Texas Penal Code.)

- C. **National Courtesies.** While on duty or in uniform employees shall render proper honors to the United States flag and national anthem at appropriate times.
- D. **Solicitation.** Solicitation is not permitted of or by City employees during working hours or within any City facility without advance approval in writing of the appropriate department head, Deputy City Manager, or the City Manager. "Solicitation" is any act or attempt to advertise, market, or sell any product or service, or to seek employee membership in any organization, or to obtain a donation/contribution.
- E. **Soliciting Co-Signers.** An employee shall not solicit any subordinate or supervisory employees to co-sign or endorse any promissory note or other loan.
- F. **Telephone and Address.** An employee shall report any change of telephone number or address to the supervisor and the Human Resources Department within 48 hours of such change.

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## 202.00 OTHER EMPLOYMENT

### 202.01 PURPOSE/POLICY

The City recognizes that employees sometimes seek additional employment during their off hours to earn additional income or to develop new skills and experience. Despite any outside employment, their City job is the primary employment responsibility for full-time employees. Working extended hours may adversely affect the health, endurance, and productivity of employees. The City does not consider outside employment to be an excuse for poor job performance, tardiness, absenteeism, or for refusal to work overtime or travel when required by the City. Outside employment can also cause conflict of interest problems. For these reasons, the City restricts outside employment of full-time employees as specified in this Chapter.

Overtime liability under the federal Fair Labor Standards Act may be incurred when employees occupy a compensated position and are allowed to perform services beyond their allowed hours without expectation of compensation. The City therefore places restrictions on employees working a second City job, or volunteering for the City, as specified in this Chapter.

### 202.02 OUTSIDE EMPLOYMENT

A. **General Permission.** Subject to written approval of the Department Head or designee, a City employee is permitted to engage in any business, trade, occupation, or profession that does not:

1. Bring the City into disrepute;
2. Reflect discredit upon the employee as an employee of a department or the City;
3. Interfere with the performance of the employee's City duties;
4. Present a conflict of interest;
5. Result in misuse of City property or funds;
6. Result in use of the City position for personal gain; or
7. Violate department policy or procedure.

#### B. Prohibitions

1. **Department Heads** are prohibited from engaging in any form of outside employment except as may be specifically approved in writing by the appropriate Deputy City Manager.

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## 2. **Inability to Work for the City**

- a. If an employee is on leave for his or her own personal illness or injury, birth of a child and in order to care for that child, placement of a child for adoption or foster care, care for a spouse, child or parent with a serious health condition, care for a qualifying member of the armed forces due to serious injury or illness incurred in the line of duty while on active duty in the Armed Forces or because of any qualifying exigency arising out of the fact that the family member is on active duty for three (3) consecutive days or less, the employee may not engage in other employment for up to 8 hours after the normally scheduled shift ends for which he or she failed to report. Where leave for three (3) consecutive days or less is frequent and on an intermittent basis management may suspend authorization for outside employment until further notice.
  - b. Authorization for outside employment is suspended until further notice upon which the employee is on leave that exceeds three (3) consecutive days off for his or her own personal illness or injury, birth of a child and in order to care for that child, placement of a child for adoption or foster care, care for a spouse, child or parent with a serious health condition, care for a qualifying member of the armed forces due to serious injury or illness incurred in the line of duty while on active duty in the Armed Forces or because of any qualifying exigency arising out of the fact that the family member is on active duty.
  - c. Employees participating in the Workers' Compensation Salary Continuation Program are prohibited from engaging in outside employment.
3. **Exercise of Government Authority.** No employee shall engage in any employment or business where the work performed by the employee or that of the employee's agents or employees is subject to approval/rejection, inspection, or licensing by the employee's department, except pursuant to authorized department policies.
  4. No employee shall engage in any employment or business on a matter which is or has been the subject of an investigation by the employee's department within the last 12 months, nor may the employee appear as a witness (except by court order) in any proceeding as a result of such employment.

## C. **Approval Process**

1. An employee must obtain permission in writing from the Department Head or designee before accepting any other employment or engaging in any other business. Permission granted is subject to revocation in the event of a subsequent known or occurring conflict with this policy.

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2. The request for permission to engage in outside employment must include the place where the work will be performed, a description of the type of business and the work to be performed, and the hours and days of work.
3. An employee who is working another job at the time of hire and who intends to continue the other employment must so advise the appropriate department head or designee and receive approval to continue the outside employment.

**D. Working More Than One City Job.**

1. The rules, prohibitions, and approval process specified in this Chapter also apply to working in a second job for the City or working as a volunteer for the City. Written approval from the employee's primary job Department Head and Director of Human Resources is required to work in a second job or volunteer for a City related activity. Additionally, the second job or volunteer opportunity sought is restricted to the same department as that of the primary job, unless an exception to work or volunteer outside of the primary department has been requested and approved in writing by the individual's Department Head and the Director of Human resources.

## **203.00 ETHICAL CONDUCT**

### **203.01 POLICY/PURPOSE**

City employees must not engage in any activities, transactions, or relationships that are incompatible with the impartial, objective, and effective performance of their duties, or that are adverse to the City's interest, or adversely affect the City's reputation.

No employee shall solicit, accept, or give any gift, gratuity, favor, entertainment, reward, or any other item of monetary value that might influence, or appear to influence, the judgment or conduct of the employee in job performance.

The City encourages its employees to fully exercise their constitutional rights as citizens to vote and participate in political activities, but city employees are subject to the restrictions specified in this Chapter relating to use of work time, City property, or use of their official status in political activity.

### **203.02 GENERAL PROVISIONS**

- A. Employees shall avoid any action, whether or not specifically prohibited, which might result in or create the appearance of:
1. Using public office for private gain;
  2. Giving preferential treatment to any organization or person;
  3. Impeding government efficiency or economy;
  4. Losing complete independence or impartiality of action;
  5. Making a government decision outside official channels;
  6. Affecting adversely the confidence of the public in the integrity of the government; or
  7. Connection of the employee's public employment or position with any policy, practice, standard, position, advertisement, product, or service not officially sanctioned by the City. Public employment or position includes the name or logo of the City, the name of its departments, or the use of its offices.

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**203.03 CONFLICTS OF INTEREST****A. Financial Interests**

1. **State Law Restrictions.** Texas Local Government Code, Chapter 171, prohibits City officials, both elected and appointed, from acting as a surety for a business having a contract with or performing work for the City, or acting as a surety for any official bond required of a city officer. The statute also restricts voting or decision-making in certain circumstances on matters involving businesses or real property in which the official or certain relatives have an ownership interest or receive income.
2. **City Restrictions.** No employee shall have a pecuniary interest in any exchange with, purchase by, or sale of property, goods, or services with the city, unless the employee has disclosed the pecuniary interest to the appropriate department head before any contact with the City concerning the transaction. The Department Head must notify the City Attorney's Office of the potential conflict.
  - a. This prohibition also applies where the pecuniary interest is held by the employee's spouse, child, parent, parent-in-law, brother, sister, grandparent, or grandchild.
  - b. Even if no conflict of interest is determined to exist:
    - 1) Employees shall receive no favor or special concession or inducement not customarily available and granted by the City in such a transaction; and
    - 2) Any discretion by officers or employees of the City in connection with any such transaction shall be exercised impartially and upon the same standards applied to all Arlington citizens.

**B. Representing Others.** An employee is prohibited from:

1. Appearing and serving as a designated spokesman or representative for another person or persons, or any group or entity, in presentations before the City Council or any city department, agency, commission, or board on a matter related to his or her duties. This prohibition does not apply to:
  - a. Appearances or representations made by an employee in the official discharge of duties;
  - b. An employee expressing personal views for or against any issue pending before the City; or
  - c. An employee representing another employee, or group of employees, to the extent authorized by the Texas Government Code, Section 617.005, related to wages, hours of work, terms or conditions of work.

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2. Directly or indirectly representing another person, or any group or entity:
  - a. In any action or proceeding where any law, policy, or procedure of the City is in issue;
  - b. In any litigation in which the City or any city department, agency, commission or board is a party; or
  - c. In any court action or proceeding that was initiated by a city officer or employee in the course of official duties, or in any proceeding in which any city officer or employee is a witness.

#### **203.04 USE OF POSITION OR INFORMATION**

- A. **Use of Official Position.** An employee shall not use official position, official identification card, or city business card for personal or financial gain, for obtaining privileges not otherwise available to the employee, or for soliciting donation/contributions, except in the performance of assigned duties or where authorized by the City Manager. An employee may not lend official identification card or city business card to another person or permit it to be photographed or reproduced without approval.
- B. **Use of Name, Photograph, or Title.** An employee shall not permit or authorize use of name, photograph, or official title which identifies the employee as a city employee, or permit or authorize the name or logo of the City of Arlington, or any of its departments or offices, or property of the City to be used in connection with testimonials or advertisements of any commodity or commercial enterprise, for any personal reasons, or for soliciting donations/contributions without the approval of the Department Head.
- C. **Disclosure of Information.** No employee shall make known any information concerning an investigation, a known or reported law violation, a condition against which action is to be taken at a future time, or any proposed law enforcement action to any person not authorized to receive it. An employee shall treat the official business of the City as confidential and shall disseminate information regarding official business only to those for whom it is intended in accordance with established city procedures and consistent with the Texas Public Information Act. An employee may remove or copy official records or reports from a city office only in accordance with established procedures. An employee shall not promise confidentiality or divulge the identity of a person giving confidential information, except when authorized by proper authority and necessary in the performance of his/her work.
- D. **Use of Information Systems.** An employee shall not use information obtained in the course and scope of employment, including city reports, records, files, or contacts with citizens, to contact any person for any purpose other than official business.

- E. **Suggestions Pertaining to Services.** An employee shall not recommend or suggest in any manner the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, doctor, ambulance service, towing service, plumber, mechanic, etc.) unless permitted by applicable city ordinance, when authorized by proper authority, or in the transaction of personal business.
- F. **Limitations on Bail.** Employees shall not furnish non-cash bail nor act as principal or surety on any bail bond or bail bond application for any person charged with any type of criminal offense presented by Arlington officers, or arising out of an incident occurring in the City of Arlington, except for members of their immediate family (spouse, children, brothers, sisters and parents).

### **203.05 GIFTS AND GRATUITIES**

- A. **State Law Prohibitions.** Employees are prohibited from the following criminal acts specified in Texas Penal Code Chapter 36:
1. Bribery, which is defined as offering or receiving benefits for acts, decisions, opinions, recommendations, votes, or discretion (Penal Code 36.02);
  2. Coercion of an employee to influence exercise of official power or duty (Penal Code 36.03);
  3. Private communication to improperly influence an employee's official discretion in an adjudicatory proceeding (Penal Code 36.04);
  4. Tampering with witnesses, which is defined as offering or receiving benefits or coercion for false or withheld evidence, eluding legal process, or avoiding attendance (Penal Code 36.05);
  5. Retaliation against an employee, witness, or informant for their service (Penal Code 36.06); and
  6. Gifts from those regulated, inspected, investigated, in custody, in litigation (actual or planned), or interested in, or likely to be interested in any transaction involving the employee's discretion (Penal Code 36.08).
- B. **City Restrictions.** The City also imposes restrictions on acceptance of gifts and gratuities by employees. As used in this section, "gift and gratuity" means a payment, loan, subscription, advance, deposit of money, services, goods, merchandise, tickets, cash, present or promised, unless consideration of substantially equal or greater value is received. "Gift and gratuity" may include any tangible or intangible benefit in the nature of gifts, favors, entertainment, discounts, passes, transportation, accommodation, hospitality, or offers of employment.
1. **Prohibitions.** Unless specifically indicated in this Chapter as permitted:

- a. An employee shall not accept nor solicit by request or exhibiting identification (including wearing of a uniform) any gift or gratuity, including food or drink for the employee or others from any individual, business establishment (profit or non-profit), or merchant including, but not limited to existing or potential vendors or contractors, franchisees, licensees, and/or customers of the City.
- b. An employee shall not receive under any pretense or seek, ask, or share in any fee, reward, or other reimbursement or gratuity for the performance of official duties; and
- c. These prohibitions apply equally to receipt or solicitation by the employee's spouse, child, parent, parent-in-law, brother, sister, grandparent, or grandchild.

2. **Permitted Gifts and Gratuities.** The following activities are permitted:

- a. Solicitation or acceptance of anything from a friend or relative unrelated to any employee duties or city business and based upon a personal or family relationship;
- b. Participation in the activities of or the acceptance of an award for a meritorious public contribution or achievement from a charitable, religious, professional, social, or fraternal organization, or from a non-profit educational, recreational, public service, or civic organization;
- c. Participation in widely-attended luncheons, dinners, and similar gatherings sponsored by industrial, technical, or professional associations for the discussion of matters of mutual interest to the City. Payment by the City for attendance by city employees at such functions is encouraged;
- d. Acceptance, not otherwise prohibited by law or policy, of unsolicited advertising products or promotional material, such as pens, pencils, note pads, calendars, and other items under nominal value of not more than \$25;
- e. Transportation, meals, or accommodations not excessive or extravagant in nature provided in connection with seeking other employment and not otherwise prohibited by this policy. The employee must notify the Director of Human Resources and the appropriate Deputy City Manager;
- f. A gift or gratuity extended to the entire city or an entire department, extended through and approved by the City Manager;
- g. Acceptance of gifts including, but not limited to services, furniture, equipment, and materials intended for use by the City or a department:
  - 1) Gifts valued at \$1,000 or less when approved by the Department Head;
  - 2) Gifts valued in excess of \$1,000 when approved by the City Manager

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Any employee or department representative who is offered or who receives any item on behalf of the City or a department will immediately report the offer or item to the employee's supervisor. Where practical, receipt should not be made until a report is made and approval to accept is obtained.

- h. Acceptance of benefits, food, drink, lodging, transportation, or entertainment not otherwise permitted under this Chapter, but specifically authorized in writing by the City Manager or the Deputy City Manager for an employee's group as incident to the normal course of and in furtherance of city business. The employee shall file a monthly disclosure report to the allowing authority for review and indication of approval.
3. **Questionable Cases.** When any gift/gratuity is offered to an employee and it cannot be determined whether the acceptance would be prohibited or permitted, the employee shall submit the gift/gratuity proposal through the Department Head to the appropriate Deputy City Manager or City Manager for approval or denial. The proposal must include a description of the gift, name of the donor (if known), when the gift was received, and explanation of the proposed disposition of the gift.
4. **Denied or Prohibited Gifts or Gratuities.** If a gift or gratuity is presented that is denied by the Department Head, Deputy City Manager, or City Manager, or is prohibited under this Chapter, the following procedures should be followed:
  - a. If the donor is known, the employee must return the gift or gratuity.
  - b. If the donor is unknown, the employee will deliver the gift or gratuity to the immediate supervisor, who will donate the gift or gratuity to a non-profit charitable organization

## **203.06 HONORARIA AND EXPERT TESTIMONY**

- A. **Honoraria.** Texas Penal Code Sec. 36.07 prohibits employees from soliciting, accepting, or agreeing to accept an honorarium (whether a one-time fee for one occasion, duty, or service, or for multiple occasions, duties, or services) from any non-city source for services the employee would not have been requested to provide, but for the employee's official position or duties.
  1. The prohibitions include both on-duty and off-duty occasions.
  2. Certain transportation, meals, and lodging expenses are permitted by law. Approval by the department head for such activity, on or off duty, and the expense reimbursement is required.
  3. Honorarium does not include witness fees required by law.
- B. **Expert Testimony.** Employees may not provide expert testimony without prior coordination and approval of the appropriate Deputy City Manager and coordination

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with the City Attorney's Office. Any fee tendered for the appearance of a city expert witness may be accepted, if the appearance is approved and coordinated as required.

- C. **Use of City Employees, Information or Property.** No honorarium or expert testimony activity may involve use of information or city property or employees not available to the general public, unless the appropriate Deputy City Manager gives written authorization that such use is in the public interest.

## **203.07 POLITICAL ACTIVITY**

### **A. Definitions**

1. Political party: A national or state political party or an affiliated organization of such.
2. Election: Includes primary, special, and general elections.
3. Nonpartisan election: An election at which none of the candidates are to be nominated or elected as representing a political party, any of whose candidates for presidential election received votes in the most recent election at which time presidential electors were selected; and/or an election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of similar character. This includes City Council elections of the City of Arlington.
4. Partisan election: An election at which any of the candidates are to be nominated or elected as representing a political party, any of whose candidates for presidential elector received votes in the most recent election at which presidential electors were elected; and/or an election involving a question or issue which is specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of a similar character.
5. Political purposes or activities: Conduct in the furtherance of nonpartisan or partisan elections and/or of legislative actions by a governmental body.
6. Employee shall include probationary, regular full-time, regular part-time, seasonal, temporary, at will, and reserve peace officers.

### **B. Prohibited Political Activities.** No employee shall:

1. Engage in political activities:
  - a. That are a violation of law or that are prohibited by this Chapter;
  - b. While on duty;



- c. While in a uniform or vehicle that identifies the employee as a city employee;
  - d. By use of the employee's official title or status; or
  - e. In the offices, buildings, or non-public areas of city property, except for permitted activities in the furtherance of legislative action authorized by the City Manager or the City Council, in accordance with sanctioned city business.
2. Become a candidate for, or campaign for election to:
    - a. Public office in a partisan election if the employee's principal employment is in connection with an activity which is financed in whole or in part by loan or grants made by the United States or a federal agency;
    - b. Any elective public office in any election, if the office sought has direct or indirect contractual relation with the City of Arlington, presents a conflict of interest with the employee's employment, and the employee holds a policy-making position with the City of Arlington; (this restriction does not apply to the offices of justice of the peace or county commissioner); or
    - c. The office of mayor or council member of the City of Arlington.
  3. Make, solicit, collect, or receive a political contribution at or in an office or building of the City of Arlington;
  4. Solicit, collect, or receive contributions for candidates, except from members of an employee organization to which the employee belongs;
  5. Use official capacity to influence, interfere with, or affect the results of any election or nomination for office;
  6. Address, appear at, or participate in political gatherings in support of or in opposition to a candidate when the employee is acting in an official capacity or with use of the job or duty title or status as an employee;
  7. Directly or indirectly coerce, attempt to coerce, command, or advise a state or political subdivision officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or
  8. Take an active part in managing the campaign for office of a candidate for Arlington mayor or City Council.

**C. Permitted political purposes or activities.** An employee may otherwise participate fully in any other public affairs in a manner which does not materially compromise the efficiency or integrity of the employee as an employee, or the neutrality, efficiency, or integrity of the employee's department, division, or office.

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Except as limited by the prohibitions specified in B.1. above, employees are specifically permitted to:

1. Register and vote in any election;
2. Express opinions as individuals, privately and publicly, on political issues and candidates;
3. Hold membership in a political party or other political organization and participate in its activities to the extent consistent with the law and this policy;
4. Attend a political convention, rally, fundraising function, or any other political activity not in violation of federal, state, or local laws;
5. Sign political petitions as individuals;
6. Make a financial contribution to a political party, organization, or candidate;
7. Serve as an election judge or clerk, except when prohibited by the Texas Election Code, Chapter 32;
8. Display campaign signs on the premises of private yards and homes, place bumper stickers on private vehicles, or wear campaign buttons or badges when off duty and not in a uniform or vehicle that identifies one as an employee of the City of Arlington;
9. Become a candidate in an election other than those prohibited in B.2. above;
10. Work in campaign headquarters of Arlington mayor or City Council candidates, or other candidates;
11. Endorse or oppose a candidate for Arlington mayor, or City Council, or other office;
12. Serve as an officer of a political party, or a member of a national, state, or local committee of a political party, or as an officer or member of a committee of a political club, or be a candidate for any such positions, or campaign on behalf of, or in opposition to a candidate for any such positions;
13. Organize or reorganize a political party, organization, or club;
14. Organize, sell tickets to, or actively participate in a fund-raising function for a political party or candidate;
15. Take an active part in managing the political campaign of a candidate for public office in an election other than for Arlington Mayor or City Council, or for a candidate for political party office;
16. Solicit votes in support of, or in opposition to, any political candidate;

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17. Serve as a delegate, alternate, or proxy to a political party convention;
18. Act as recorder, watcher, challenger at the polls, or drive voters to the polls on behalf of a partisan political party or candidate;
19. Endorse or oppose a candidate in an election for public office in a political advertisement, broadcast, or campaign literature, except by use of the employee's job or duty title, or status as an employee;
20. Address a political convention, caucus, rally, or similar gathering except by use of the employee's job or duty title, or status as an employee;
21. Initiate or circulate a nomination petition or political petition as an individual; or
22. Distribute a card or other political literature relating to the campaign of a candidate.

## 204.00 RELATIONSHIPS

### 204.01 POLICY/PURPOSE

Employment of relatives presents the potential for conflict of interest problems, charges of favoritism by other employees, exposure to family discord that may impair the productivity of the related employees or other employees, problems in scheduling if related employees want to take time off together, unauthorized disclosure of confidential information, and pressure exerted on hiring supervisors by other employees, particularly higher-level employees, to hire persons related to those employees. The City, therefore, places restrictions on employees who become related to each other as specified in this Chapter.

Romantic or sexual relationships between employees can create conflicts of interest, potential for or actual charges of sexual harassment, and/or discord or distractions that interfere with other employees' productivity. The City strongly discourages such relationships between employees.

### 204.02 NEPOTISM

A. **Nepotism in Employment.** Employment of certain related persons by the City or within designated City units is not allowed. The provisions of this Section apply to current employees. Restrictions on persons who are applying for employment with the City are specified in the Hiring and Selection Chapter (103.00).

1. **Scope.** For the purposes of determining a relative relationship (Nepotism) only, employee includes probationary, regular full-time, regular part-time, seasonal, temporary, and at-will employees, temporary agency workers, volunteers, and reserve police officers.

a. **Volunteers** – relatives as defined in this policy who are volunteering with the City of Arlington cannot volunteer in a position within the same department the related employee is employed.

2. **Relative.** The following relatives are covered by these guidelines:

a. Any person related by blood or adoption as follows:

- 1) mother or father;
- 2) daughter or son;
- 3) sister or brother;
- 4) grandmother or grandfather;
- 5) granddaughter or grandson;
- 6) niece or nephew;
- 7) aunt or uncle;
- 8) first cousins;

- b. Any person who is married to any person specified in A.2.a above; or
- c. An employee's spouse and any person related to the employee's spouse as specified in A.2.a above.

### 3. Required Disclosure.

- a. All employees are required to disclose a relative relationship as follows:
  - 1) All employees are required to disclose the name and assignment of any relative (as defined in A.2 above) who is employed by the City during the application process for another City position or, if no formal application process is involved, to the selecting supervisor before selection is made.
  - 2) Employees must disclose becoming a relative (as defined in A.2 above) of the Mayor, a City Council member, or any other City employee to their Department Head through their immediate supervisor within 30 working days of creation of the relationship.
- b. Department Heads will consult with the Director of Human Resources to determine if a restriction specified in this Chapter exists and coordinate any further necessary actions.
- c. Failure to make the required disclosure will render the employees ineligible for transfer, promotion, or re-assignment alternatives specified in Section B below.

### 4. Prohibitions

- a. **Elected Official Relative.** An employee who is or becomes related within certain degrees to a person who is elected as mayor or council member may lose eligibility for continued employment. Any such employee shall have eligibility for continued employment evaluated by the Director of Human Resources according to the provisions of the Texas Government Code, Section 573.062.
- b. **Executive Relative.** If an employee becomes a relative (as defined in A.2 above) of a Council-appointed employee, a Deputy City Manager, or a Department Head, the opportunity for transfer or reassignment specified in Section B below is not available. One of the related employees must resign or be dismissed within fourteen (14) calendar days from the date the employees became related. If no resignation is tendered within the fourteen (14) days, the Director of Human Resources will determine, in coordination with the City Manager, which of the employees who are related will be dismissed. In the case of a council appointee, the City Manager will advise the Mayor and City Council of the violation and, if the Mayor and City Council fail to dismiss the council appointee, the non council-appointed related employee will be dismissed.

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- 1) Volunteer applications submitted by relatives of Executives as defined in this policy must be reviewed and authorized by the Director of Human Resources.
- c. **Other Employee Relatives.** No employees who become relatives of each other may be employed:
- 1) In the same organizational unit unless a re-organization approved by the City Manager results in:
    - a) Related employees being placed into the same organizational unit; or
    - b) An employee being removed from an organizational unit in which that employee and a relative were allowed to remain employed after July 3, 1989 (the effective date of the organizational unit restriction). If approved by the City Manager, the removed employee may return to the original organizational unit if selected for an available position in the unit within 90 days of the reorganization;
  - 2) In positions that would place one in the same line of supervision as the other; or
  - 3) In positions where a condition of conflict would exist.

## **B. Options for Related Employees**

1. If any of the prohibitions of A.4.c above are applicable, and timely disclosure of the relationship was made, the violation must be cured within 90 days of the employees becoming related by:
  - a. Voluntary movement of either or both employees to another open and available City position for which the employee is qualified that does not violate the prohibitions of A.4.c;
  - b. Involuntary re-assignment of one of the related employees to an available position of equivalent pay in another department; or
  - c. Dismissal of one of the related employees.
2. The positions to which an employee may voluntarily move, or be involuntarily re-assigned as permitted in B.1 above, are subject to position availability and employee qualifications.
3. If involuntary re-assignment or dismissal is required to cure the violation, the appropriate Department Head will make the final decision as to which employee will be reassigned or dismissed if only one department is involved. If more than one department is involved, the final decision will be made by the Director of

Human Resources with the advice of the Department Heads where the relatives are employed.

4. Related employees exempted from the prohibition on relatives in the same organizational unit under A.4.c. above, may apply and be selected for promotion, transfer, or reassignment, or may be demoted or reassigned by management authority within the same organizational unit, so long as the change does not place them in the same line of supervision or in positions where a condition of conflict would exist. Subject to Department Head approval, the affected employees may indicate a preference as to which employee relative will be selected.

### **204.03 SUPERVISOR/SUBORDINATE DATING**

#### **A. General Provisions**

1. The terms “dating” and “romantic relationship” as used in this Chapter include, but are not limited to casual dating, serious dating, casual sexual involvement, and any other conduct or behavior normally associated with romantic or sexual relationships.
2. The restrictions on romantic relationships apply regardless of the sexual orientation of the employees involved.
3. This policy shall be implemented in a nondiscriminatory manner and the City shall take any steps necessary to avoid disparate impact on either sex.
4. This policy applies only to consensual romantic or sexual relationships between supervisory personnel and those in their chain of command. Unwanted sexual attention (including physical contact) and sexually oriented behavior with the purpose or effect of creating an offensive environment is prohibited. See the Discrimination and Harassment Chapter (114.00).

#### **B. Prohibitions.** Supervisory personnel are prohibited from dating or engaging in romantic or sexual relationships with personnel who are in their chain of command.

1. All romantic or sexual relationships between a supervisor and subordinate employee must be disclosed by the supervisor to the Department Head or next highest individual in the supervisory chain of command. If the relationship involves two supervisors, both are responsible for making disclosure to the next highest supervisor who is not involved in the relationship.
2. If possible, the Department Head or executive must take immediate action to seek reassignment of one of the employees to another shift, another facility, or another department. If reassignment is possible, the supervisor-partner is prohibited from having any involvement in the professional decision-making affecting the non-supervisory partner. If reassignment is not possible, the supervisor will be terminated.

## 205.00 USE OF CITY PROPERTY AND EQUIPMENT

### 205.01 PURPOSE/POLICY

The City has a substantial investment in the property and equipment provided for employee convenience to ease the effective and efficient accomplishment of City business. Appropriate use of facilities, equipment, and other items of City property is expected from employees.

The City is committed to providing a safe workplace. See the Safety and Accident Reporting Chapter (109.00) for further information.

### 205.02 GENERAL PROVISIONS

- A. An employee shall use City equipment in accordance with established procedures and shall not abuse, damage, or lose City equipment. City property or equipment shall not be used for any personal non-City business, except as specified in this Chapter.
- B. Employees may be assigned authorized use of City owned or leased vehicles, phones, lockers, desks, cabinets, computers, and/or cases for the mutual convenience of the City and its employees. These items are subject to inspection at any time for any reason. Data caches, voice and e-mail boxes, pager and cellular phone memory banks, and other electronic storage systems provided by the City may be “opened,” “read,” or inspected in the same manner as the contents of City furnished vehicles, desks, lockers, and other equipment.
- C. An employee shall not, regardless of value, take City property without authorization. The use of any City property, equipment, or facility for personal gain, or for other than official duty-related use is forbidden. The theft or borrowing of tools or any other equipment, removing property from a City work-site, including new, used or discarded materials, office supplies, photocopy machines, mailing services, long distance telephone service, or any other service under City controls for personal business or gain, or for other than official duty-related use, or unauthorized use of City vehicles is prohibited.

### 205.03 LIABILITY FOR LOSS/DAMAGE TO CITY PROPERTY OR ISSUED EQUIPMENT

- A. **Repayment Required.** An employee who causes or permits loss or damage to City property or issued equipment to occur through an act of unauthorized use, or through an act or omission that constitutes misconduct or negligence, excluding theft, may have to repay the City for the loss or damage as follows:

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1. For loss or damage valued in excess of \$500, repayment will be determined by the Risk Manager and the Department Head. The Risk Manager has the discretion to elect to recoup less than the full amount of damage or loss.
2. For loss or damage valued at \$500 or less, repayment will be determined by the Department Head.

B. "Misconduct" as used in this Section is violation of a rule, procedure, or law.

C. "Negligence" as used in this Section is failure to exercise the degree of care that an employee with ordinary prudence would exercise under the same or similar circumstances.

**D. Appeal.**

1. In cases involving determination of liability by the Risk Manager, the Risk Manager will provide the employee with the proposed findings and a copy of any documents considered in making the determination. The employee may respond in writing within ten (10) days. The decision of the Risk Manager will be rendered as proposed or as modified within ten (10) days after the employee's response. The employee may appeal, within ten (10) days of receipt of the Risk Manager's decision, to the Deputy City Manager over for the employee's department. The decision of the Deputy City Manager is final.
2. In cases that do not involve a determination by the Risk Manager, the employee may respond in writing to the proposed decision of the Department Head within ten (10) days. The Department Head's decision will be rendered as proposed or as modified within ten (10) days of the employee's response. The decision rendered by the Department Head is final, non-appealable, and non-grievable.

E. **Payroll Deduction.** Required repayment under this Section will be made by payroll deduction from the employee's pay in an amount not to exceed 10% of the net pay per pay period for as many pay periods as necessary to recoup the amount to be recovered. If the employee resigns, retires, or is dismissed, recoupment of the City's loss may be made by deduction from the employee's terminal pay.

Improper pay deductions contrary to the requirements of the Fair Labor Standards Act are prohibited. Any improper pay deductions made contrary to these requirements will be reimbursed to the employee. The City of Arlington commits, in good faith, to comply now and in the future with these requirements and other requirements of the Fair Labor Standards Act. Any employee, who believes that his or her pay has been subject to improper deductions or who otherwise believes that the requirements of the Fair Labor Standards Act have not been met, is encouraged to file a grievance under the City of Arlington

Grievance Policy. This Grievance Policy is contained in Section 113 (page 113-1) of the Personnel Policies Manual.

- F. **Discipline.** Repayment for loss or damage required under this Section may be in addition to or in lieu of disciplinary action.

#### **205.04 VEHICLE USE/OPERATIONS**

- A. **Business Use.** Except as specified in this Section, City vehicles are furnished for official City business and may not be used for personal reasons without express written prior authorization by City Manager.

**B. City Manager and Deputy City Managers.**

1. The City Manager will be provided a leased vehicle for business and personal use.
2. The Deputy City Managers will be provided leased vehicles for business and personal use or may receive a car allowance in lieu of a leased vehicle. Personal use of a City leased vehicle by Deputy City Managers is limited to trips within Texas unless the City Manager approves personal use outside the state on an individual trip basis. Fuel and oil expenditures as a result of vehicle personal use by the Deputy City Managers will not be reimbursed.

- C. **Other Executives.** Directors or Assistant Directors, or a similar rank may have a City vehicle assigned to them or be provided an automobile allowance as part of their employment consideration. The City Manager shall determine which positions have a vehicle assigned or are furnished an allowance. The amount of the automobile allowance shall be determined by the City Manager.

1. These City vehicles may only be used for City business and transportation to and from work, unless other use is approved in writing by the City Manager.
2. The employee must ensure that all required preventive maintenance and repair work is done on the vehicle. Failure to ensure proper maintenance will result in discipline up to and including loss of the assigned vehicle.

- D. **General Staff Vehicles.** City vehicles not assigned to a position as part of a compensation package are considered to be general staff vehicles. General staff vehicles shall be assigned to departments by the City Manager's Office, according to the needs of the City. General staff vehicles may not be used for transportation to and from work unless designated as "on-call" vehicles or expressly authorized in writing by the City Manager.

- E. **On-call Vehicles.** Within a department's allocation of City vehicles, the Department Head may recommend designation of "on-call" vehicles for assignment to particular positions based on the need for frequent emergency return to work outside regular working hours. On-call vehicles may only be used

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for City business and for transportation to and from work. On-call vehicle assignments must be approved in writing by the City Manager's Office.

F. No City vehicles may be used for transportation to and from work by employees residing outside the Arlington city limits. This policy applies to general staff vehicles, on-call vehicles, and vehicles assigned to an employee as part of his/her compensation unless specifically authorized in writing by the City Manager.

G. **Tracking Devices.** GPS vehicle tracking devices may be installed in any and all of its vehicles or other property. With regard to city vehicles, these devices allow the City to monitor the location, speed, direction, and other information related to the use and operation of its vehicles. GPS data may be used in part to determine whether employee's use of the equipment is appropriate and/or violates City personnel policies and/or departmental orders. Employees shall have no expectation of privacy with regard to the City's ability to monitor an employee's use of city-owned equipment and vehicles.

## 205.05 ELECTRONIC COMMUNICATIONS

### Introduction

In the course of conducting City business, employees will create, store, transmit, receive and manage electronic data. All data that is handled by City employees is the property of the City of Arlington regardless of the media (including paper copies), equipment or information system that is used to create, store or transmit the data.

### Definitions

1. **City-owned Equipment** – Any device that the City physically provides employees that accesses, stores or transmits electronic data. This includes, but is not limited to, computers, cell phones, traditional phones, radios, etc.
2. **Personal Equipment** – Any device that is not provided by the City that an employee may be using to access, store or transmit City electronic data. This includes, but is not limited to, any type of personal computer, tablet computer, cell phones, etc.
3. **Information System** – the software application, operating system, e-mail system or web site, either Internet or intranet, that is used to access, store or transmit electronic data.

### A. General Provisions

1. Employees shall have no expectation of privacy in information contained on any City information system. Employees who use personal equipment to access City data are obligated to provide access to their equipment and systems to the City and will provide the City with authorization to obtain

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electronic communications systems data from a third party provider including e-mail and text message content when requested.

2. Data created in the course of City business on electronic communication systems is considered a record under the Texas Local Government Record Act and all electronic documents are subject to retention guidelines set by the City's local government control schedules. Employees are responsible for maintaining original documents and electronic files according to departmental requirements. Employees shall not provide any information to any requestor outside of their normal job duties or without an official request.
3. Since many information systems retain data on the equipment used to access the data, employees are discouraged from using public computing equipment (i.e. equipment provided in public locations such as hotel lobbies) to access City information systems.
4. The purpose of electronic communications systems is to enhance the City's accessibility to citizens and improve service delivery. Limited personal use of electronic communications systems is acceptable; however, no expectation of privacy arises to personal use. Department directors will determine the level of access assigned to authorized users and the limits on non-business use in their respective departments.
5. Prohibited activity with any City-owned, or personal electronic communications system being used on City property or being used to conduct City business, including cell phones, unless specifically delineated otherwise, includes:
  - a. Engaging in illegal, fraudulent, or malevolent conduct;
  - b. Transmitting or storing material that is threatening, obscene, sexually explicit or disparaging of others based on race, national origin, sex, sexual orientation, age, disability, religious or political beliefs;
  - c. Obtaining unauthorized access to any City-owned computer or data system;
  - d. Unauthorized disclosure of City computer data to another individual, whether or not the individual is an employee of the City;
  - e. Unauthorized creation, duplication, destruction, deletion or alteration of City computer data;
  - f. Sharing or disclosure of City-owned computer user IDs. This applies equally to an employee disclosing this information as well as any employee using it;
  - g. Unauthorized access or attempting to gain unauthorized access to physically secured City computer equipment;
  - h. Tampering with City-owned office computer equipment in any way, whether physically secured or not, without prior authorization;
  - i. Using another individual's account or identity without explicit authorization;

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- j. Distributing or storing chain letters, solicitations, offers to buy or sell goods, or other non-business material of a trivial or frivolous nature;
  - k. Activity used for outside employment or other direct financial profit;
  - l. Conducting political campaigns or other activity; and
  - m. Gambling or playing a game for money or other stakes.
6. Electronic communications systems may be monitored to:
- a. Provide a workplace that is free of unlawful discrimination;
  - b. Control the presence of inappropriate material;
  - c. Ensure that resources are being used properly; and
  - d. Investigate complaints of improper use.
7. Employees must follow applicable copyright laws. If any doubt exists regarding copyright status of material, contact the copyright owner to obtain written permission prior to use.

**B. Software Regulations**

- 1. Employees must adhere to all software license and copyright requirements for all City software. The City shall authorize all software that is used on City equipment. The use of unauthorized software is prohibited. The use of an employee's personal software on City equipment is prohibited. Employees are prohibited from installing City software on personal equipment or using or sharing City license key codes.
- 2. The Information Technology Department is responsible for tracking all City software and ensuring that the City maintains license compliance. All software acquisition and installation shall be performed by, or coordinated with, the Information Technology Department. Under no circumstances shall license requirements be violated, including license limitations on the number of copies of software that maybe installed or used at one time.
- 3. All software shall be registered as soon after acquisition as reasonable.

**C. Global E-Mail Messages.** Global e-mail messages are internal communications sent electronically to all City employees simultaneously to provide uniform coverage in matters of interest to all employees.

- 1. **Permitted Subjects.**
  - a. City-wide computer and wide and local area network issues;
  - b. Planned network service by Information Technology;
  - c. Issues that may affect the health and/or safety of all employees;
  - d. Information relating to employee policies or benefits;

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- e. Department events relating to the entire City workforce; and
  - f. Other issues as directed by the City Manager or designee.
2. **Authorization.** The Information Technology Department will send out global e-mail messages when they pertain to computer and network related issues that affect all employees. Any other global e-mail messages must be approved and processed by the Office of Communication.

#### D. Use of Cellular Phones

1. **Allowance.** Employees may, at the discretion of the City Manager, be paid a cell phone allowance in an amount determined by the City Manager based on the need for high citizen contact and frequency of use.
- a. **Department Responsibility.** Department Heads or their designee must:
    - i. Review all cell phone allowances annually and determine if the allowance should be retained, changed, or discontinued;
    - ii. Obtain a signed acknowledgement of the responsibility defined in 205.01.b by employees receiving a cell phone allowance; and
    - iii. Review the necessity of the allowance in the event an employee is reassigned.
  - b. **Employee Responsibility.** Employees receiving allowances must:
    - i. Support and maintain a working cell phone and applicable peripheral equipment for normal business use;
    - ii. Provide the Department Head or designee a current phone number immediately upon activating service; and
    - iii. Provide authorization to the City to obtain cell phone records including data and text messaging content from the cell phone provider at the City's request.
2. **City Provided Phones.** Department Heads have the discretion of maintaining pool cell phones or assigning cell phones to employees in accordance with business use.
- a. **Department Responsibility.** Department Heads or their designee must:
    - i. Contract and support pool or assigned cell-phones;
    - ii. Maintain a list of all employees' phone numbers, verify active service and budget appropriately;
    - iii. Ensure purchase and service standards meet City requirements and service is coordinated through the Financial

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and Management Resources Department utilizing the City's current provider;

- iv. Maintain phone records for five (5) years and advise employees of open record procedures. This includes flat rate plans that do not detail individual calls;
  - v. Monitor usage as it relates to need, rate plan, and review billings prior to payment authorization
- b. **Employee Responsibility.** Employee utilizing a City issued phone must:
- i. Reimburse the City for all non-business charges within 30 days of being billed; and
  - ii. Report lost or stolen property immediately to their supervisor. Failure to demonstrate reasonable care in use of issued phone or allowances may result in repayment to the City for the loss or damage as determined by the Department Head and specified in Section 205.03 of this Chapter.
3. **Terminating Employees.** No compensation will be awarded for future phone charges to employees terminating active status.
4. Using a cellular telephone or other mobile communications device while operating a motor vehicle is strongly discouraged and prohibited to the extent prohibited by federal, state or local law.

## **205.06 Social Media Policy**

### **A. POLICY/PURPOSE**

City of Arlington departments may utilize social media and social network sites to further enhance communications with various stakeholder organizations in support of City goals and objectives. City officials and City organizations have the ability to publish articles, facilitate discussions and communicate information through various media related to conducting City business. Social media facilitates further discussion of City issues, operations and services by providing members of the public the opportunity to participate in many ways using the Internet.

### **B. GENERAL PROVISIONS**

1. All City of Arlington social media sites shall be (1) approved by the City Manager's Office and the requesting Department Head; (2) published using approved City social networking platform and tools; and (3) administered by the Department of Information Technology or their designee. Designees can be any department employee or volunteer designated by the requesting Department Head that has a complete understanding of this policy and has appropriate content and technical experience.

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2. All City of Arlington social networking sites and entries shall adhere to applicable state, federal and local laws, regulations and policies including all Information Technology and Records Management City policies and other applicable City policies.
3. Texas Public Information Act and e-discovery laws and policies apply to social media content and therefore content must be able to be managed, stored and retrieved to comply with these laws.
4. All social network sites and entries shall clearly indicate that any articles and any other content posted or submitted for posting are subject to public disclosure.
5. Content submitted for posting that is deemed not suitable for posting by a City of Arlington social networking moderator because it is not topically related to the particular social networking site objective being commented upon, or is deemed prohibited content based on the criteria in Policy –Item H. of this policy, shall be retained pursuant to the records retention schedule along with a description of the reason the specific content is deemed not suitable for posting.
6. The City reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.
7. Each City of Arlington social networking site shall include an introductory statement which clearly specifies the purpose and topical scope of the blog and social network site. Where possible, social networking sites should link back to the official City of Arlington Internet site for forms, documents and other information.
8. City of Arlington social networking content and comments containing any of the following forms of content shall not be allowed for posting:
  - a. Comments not topically related to the particular site or blog article being commented upon;
  - b. Profane language or content;
  - c. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
  - d. Sexual content or links to sexual content;
  - e. Solicitations of commerce;

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- f. Conduct or encouragement of illegal activity;
  - g. Information that may tend to compromise the safety or security of the public or public systems; or
  - h. Content that violates a legal ownership interest of any other party
9. All City social networking moderators shall be trained regarding the terms of this City of Arlington policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.
10. All social networking sites shall clearly indicate they are maintained by the City of Arlington and shall have City of Arlington contact information prominently displayed.
11. Where appropriate, IT security policies shall apply to all social networking sites and articles.
12. Employees representing the City government via social media outlets must conduct themselves at all times as a representative of the City and in accordance with all City of Arlington Personnel Policies.
13. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

### **C. EMPLOYEE GUIDANCE FOR PARTICIPATING IN SOCIAL NETWORKING**

The City of Arlington understands that social networking and Internet services have become a common form of communication in the workplace and among stakeholders and citizens. Social networks are online communities of people or organizations that share interests and/or activities and use a wide variety of Internet technology to make the interaction a rich and robust experience. Employees that choose to participate in social networks while a City employee should adhere to the following guidelines.

1. City policies, rules, regulations and standards of conduct apply to employees that engage in social networking activities while conducting City business. Use of your City e-mail address and communicating in your official capacity will constitute conducting City business.
2. Employees who participate in social media outlets on or off-duty are subject to the same standards for such communications as set forth in Sections 116.00. , 201, 203 and 205.05 of the Personnel Policy Manual.

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3. Although minimal personal computer usage is allowed during the work day, participating in non work-related social media outlets while on duty is assumed to impact productivity and cause performance issues and therefore is prohibited.
4. City employees shall notify their supervisor and the IT department if they intend to create a social networking site or service to conduct City business.
5. Departments have the option of allowing employees to participate in existing social networking sites as part of their job duties. Department Heads may allow or disallow employee participation in any social networking activities in their departments.
6. Confidential or proprietary information or similar information of third parties who have shared such information with the City of Arlington should not be shared on social media outlets.
7. Employees shall follow all copyright laws, public records laws, retention laws, fair use and financial disclosure laws and any others laws that might apply to the City or your functional area.
8. Employees shall not cite vendors, suppliers, clients, citizens, co-workers or other stakeholders without their approval.
9. When participating in social networking sites not related to City business, an employee shall make it clear that they are not speaking on behalf of the City of Arlington but speaking in their capacity as a private citizen. If an employee publishes content on any website outside of the City of Arlington and it has something to do with the employee's employment at the City or subjects associated with the City, the employee shall use a disclaimer such as : "The postings on this site are my own and don't necessarily represent the City's positions or opinions." It should be noted however that a disclaimer will not prevent an employee from being disciplined if their communication has the effect of violating any City policy.
10. Employees shall not use ethnic slurs, profanity, personal insults, or engage in any conduct that would not be acceptable in the City's workplace. Avoid comments or topics that may be considered objectionable or inflammatory.
11. If an employee identifies one's self as a City employee, the employee shall ensure that their profile and related content is consistent with City of Arlington performance and conduct standards regarding how to present one's self to colleagues, citizens and other stakeholders.
12. When speaking on behalf of the City, employee comments should add value to the City of Arlington and interaction should provide worthwhile information and perspective.

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13. While the City of Arlington encourages its employees to enjoy and make good use of their off-duty time, City employees may be subject to discipline if their activities on or off duty have the effect of disrupting the functioning or efficiency of the workplace. Activities which are considered disruptive include, but are not limited to, harassing, demeaning, or creating a hostile working environment for any official or employee; disrupting the smooth and orderly flow of work within the City; or disrupting working relationships. In addition, employees are subject to discipline for inappropriate activities, on or off duty, if they are acting pursuant to their official duties, or if they engage in inappropriate conduct or speech on private employment matters.

## 205.06 APPENDIX A DEFINITIONS

For the purpose of this City of Arlington Social Media Policy, the following terms are defined as provided below:

- A. **Social Media and Social Networking:** Both terms are used to refer to social Internet sites or websites wherein information is created, exchanged or provided by/to third parties and individuals. Examples of social media include Facebook, blogs, MySpace, RSS, YouTube, Second Life, Twitter, LinkedIn, Delicious, Flickr, and blogs of all types, etc.
- B. **City of Arlington author:** An authorized City of Arlington official that creates and is responsible for posted articles and information on social media sites (see article below).
- C. **Article:** An original posting of content to a City of Arlington social media site by a City of Arlington author.
- D. **Commenter:** A City of Arlington official or member of the public who submits a comment for posting in response to the content of a particular City of Arlington article or social media content.
- E. **Comment:** A response to a City of Arlington article or social media content submitted by a commenter.
- F. **City of Arlington moderator:** An authorized City of Arlington official, who reviews, authorizes and allows content submitted by City of Arlington authors and public commentators to be posted to a City of Arlington social media sites.

## **207.00 SOLICITATION/SALES ON CITY OF ARLINGTON PROPERTY**

### **207.01 PURPOSE/POLICY**

Public property, such as City of Arlington buildings, facilities, parking lots, grounds and other real property, is held in trust for the public. It is to be used for governmental purposes and public purposes. The purpose of this Chapter is to underscore the fact that public property is not to be used for private gain, unless private gain is merely an incidental result of a use primarily public in nature, or for the comfort, convenience and benefit of city employees as public servants.

The purpose of this policy is to provide guidance on what is a "sale or offer of sale" permissible on public property as serving a governmental or public purpose.

### **207.02 SALES OR OFFERS OF SALE ON CITY PROPERTY**

Unless otherwise allowed by this policy, solicitation is not permitted of or by city employees during working hours or on any city property. "Solicitation" is any act or attempt to advertise, market, or sell any product or service or to seek employee membership in any organization, or to obtain a donation/contribution.

A City employee may only solicit on city property under the following circumstances:

1. An employee may post items for sale on a bulletin board designated as a limited public forum by a Deputy City Manager or Department Head.
2. An employee may sell fund raising items to co-workers in accordance with departmental policy. If a fund raising sale is to occur in a location available to the public and/or multiple departments, the sale must be with approval of a Deputy City Manager. (Examples: Girl Scout cookies, Passbooks, gift wrap, candy, candles, and other similar items sold in non-profit fundraising. Other examples are the city "soup kitchen," sales in connection with United Way campaigns and similar sales of goods or services for fund raising purposes.)
3. An employee or other person authorized by Department Head may take or place orders by, from or for city employees for City of Arlington or departmental logo items such as shirts, hats, jackets, and promotional items.
4. An employee may sell goods or services to co-workers in accordance with Personnel Policies Sec. 202 (outside employment) subject to any limitations imposed by the Department Head.

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Activities described in this Policy shall not interfere with city employees' performance of their duties. Employees are expected to comply with all city policies including but not limited to Attention to Duty and Personal Business.

Solicitation on city property is prohibited by persons who are not City of Arlington employees in accordance with federal, state and local law regarding use of city property.

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## 301.00 COMPENSATION

### 301.01 POLICY/PURPOSE

The City of Arlington's compensation philosophy is to maintain a competitive pay structure for the purpose of recruiting and retaining an effective and efficient workforce. The pay structure is designed to pay employees what jobs are worth, ensure appropriate movement through the salary range for that classification, and recognize performance through merit increases (where applicable). The pay plan is designed to comply with both state and federal laws, including the Fair Labor Standards Act (FLSA). The City also offers a variety of other categories of pay as specified in this Chapter.

### 301.02 PAY SYSTEM

A. **Pay Period.** The City has a 14-day pay period that begins every other Monday. Employees are paid biweekly on the Friday after the end of the pay period. When a payday falls on an official City holiday that is also a bank holiday, employees will be paid on the preceding Thursday. When a payday falls on an official City holiday that is not observed by banks, the payday remains on Friday. ACH direct deposits will be made on Friday, live checks will have Friday's date, and check will be distributed after 3 pm on Thursday.

#### B. Position Classification and Pay Plan

1. The City classifies positions within nine job families:

- Executive
- Managerial/professional
- Administrative/clerical
- Technical/craft
- Information technology
- Engineering
- Police uniformed service
- Fire Prevention
- Fire Suppression

Within each job family, positions are periodically evaluated to ensure internal equity that fairly and objectively reflects the value of each position relative to other positions within the City.

2. All employees not assigned to the police or fire uniformed service classifications are compensated based on the provisions of the Performance Pay Plan and/or alternative plans that are funded on a fiscal year basis at the option of the City Council.

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3. Employees of the police or fire uniformed service classifications are compensated based upon increments ("steps") of specific time duration according to the salary and classification schedule that is funded on a fiscal year basis at the option of the City Council.
4. The City Manager may establish other pay classification categories.

### C. Rates of Pay

1. **Base Rate.** The base rate of pay for each employee is that amount the employee is designated to receive within the salary range for the employee's job classification or, for those on the police or fire pay schedules, that amount designated for the appropriate incremental step level for the employee's job classification.
2. **Regular Rate.** The regular rate of pay for each employee is the employee's base rate of pay, plus any other type of pay for which the employee is eligible including, but not limited to shift differential, assignment pay, language pay, acting status pay, longevity pay - if taken biweekly and, for employees assigned to the fire uniformed service schedules, education incentive pay as specified in that department's written regulations. The regular rate of pay does not include stability pay, sick leave sell back, nor car, clothing, or any other type of special allowance.
3. **Overtime Rate.** The overtime rate of pay is one and one-half (1.5) times the regular rate of pay.

### D. Payroll Deductions.

Initial and continued employment with the City is conditional on employee agreement to deductions from pay as specified in this Section. Deductions will be made as follows:

1. When required by law;
2. When available to all regular City employees with individual employee consent and City Manager approval;
3. As payment for a fringe benefit or special program authorized by the City Manager and offered with City participation;
4. As re-payments to the City for reasons specified below: (Except for final paychecks, the time of re-payment will equal the period in which payments were made.)
  - a. Erroneous payment made by the City to an employee;
  - b. Loss or damage to City property or issued equipment;

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- c. Theft of City property, equipment or money;
- d. Failure to comply with the conditions of the Tuition Reimbursement Program (Section 307.03 F);
- e. Sick leave and/or vacation leave paid to an employee when the employee also received workers' compensation benefits for the same time period; or
- f. Non-equipment loss or damage costs such as expense accounts, personal calls, or court costs associated with a judgment for the City.

### **301.03 OVERTIME PAY LIABILITY**

- A. Non-Exempt Employees.** The federal Fair Labor Standards Act requires that the City compensate all employees at the overtime rate for all time worked in excess of 40 hours in the 7-day work period (or 212 hours in the 28-day work period for 24-hour firefighters under the 207(k) exemption), if they are not specifically exempt from overtime by FLSA.
1. **Sick Leave Exclusion.** For the purpose of determining eligibility for overtime compensation (time worked in excess of 40 or 212 hours, as applicable), sick leave is not counted as time worked.
  2. **Adjusting Work Hours.** Each supervisor is expected to manage work hours efficiently and effectively. When a supervisor allows or requires a non-exempt employee to work extra hours, the supervisor shall make reasonable efforts to arrange the employee's work hours during the work period so that liability for overtime pay does not result. This may be accomplished by balancing the employee's hours during the week; for example, if the employee works 2 additional hours on one day, two (2) hours authorized leave without pay shall be given another day in the work period. It may also be done by adjusting leave shown on payroll system entries; for example, an 8-hour per day employee who works 2 additional hours on Monday, and has vacation scheduled the next day, would be shown on the payroll system as working 10 hours on Monday, taking 6 hours vacation leave and 2 hours Authorized Leave without Pay on Tuesday.
  3. **Compensatory time.** Compensatory time is time off given in the second week of the pay period at the overtime rate in lieu of overtime payment, if the exclusion of sick leave (as specified in A.1) or adjustment of hours (as specified in A.2) does not reduce the number of hours worked to 40 or less during the first week.
    - a. Compensatory time is only available for hours worked in the first week of a pay period. Hours in excess of 40 (after exclusion of sick leave or adjustment of work hours) in the second week of the pay period for 7-day work period can only be compensated by payment at the overtime rate. Time off given during any week to balance additional work hours worked in that same week is an adjustment of work hours and is not deemed compensatory time.

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- b. Compensatory time is not available for 24-hour firefighters. These employees shall be paid at the overtime rate for all hours worked over 212 in a 28-day work cycle.
- c. Compensatory time cannot be banked or saved for use after the pay period in which it was earned. If hours are not adjusted to eliminate overtime pay liability, or compensatory time is not given in the second week of the pay period for additional work in the first week, pay at the overtime rate must be paid.

## B. Exempt Employees

1. Employees who are specifically exempt from overtime payment under the FLSA are paid on a salary basis that is intended to compensate them for all hours worked and are therefore not eligible to receive overtime pay for additional hours worked over 40.
  - a. In rare circumstances, such as when operating conditions and cyclical work patterns demand unusual amounts of additional work hours on a sustained basis, exempt employees, including exempt employees in seasonal positions, may be paid for the additional hours at the base rate, if requested by the Department Head and approved in writing by the appropriate Deputy City Manager and the Director of Human Resources. Exempt first responders will be paid overtime according to federal/state regulations.
  - b. Texas law requires pay for additional hours at the overtime rate for all police officers regardless of FLSA classifications, so overtime pay practices for non-exempt employees as specified in A. above will be followed for police officers.
  - c. The FLSA exemption from overtime pay liability applies to some seasonal employees.
2. Compensatory time is not available to employees in exempt positions.

### 301.04 OTHER PAY CATEGORIES

- A. **Shift Differential.** A shift differential of 6% of the base rate of hourly pay will be paid as additional compensation to all full-time employees assigned to work shifts that regularly start on or after 1 p.m. and before 5 a.m. for at least 2 consecutive pay periods.
- B. **Call-Back.** Call-back is an unscheduled or emergency return to work outside of officially scheduled work hours at the request of a supervisor. It does not include additional hours of work scheduled in advance.

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1. A non-exempt employee called back to the workplace under this Section will be paid the greater of one hour or the actual time worked on the call-back.
    - a. Travel time to and from a call-back is included in the actual time worked on the call-back. If travel time and actual work time does not exceed one hour, the employee will be paid the guaranteed one hour for call back, not one hour plus travel time.
    - b. Each call-back within the same 24-hour period will be paid as specified in this Section. A call-back that extends into a second 24-hour period will not be considered a second call-back.
  2. If a non-exempt employee has earned call-back pay and the supervisor cannot adjust work hours as specified in 301.03 A to avoid overtime pay liability, compensatory time may be given in the second week of the pay period for additional work performed in the first week of the pay period, or overtime must be paid.
  3. Exempt employees are paid on a salary basis for all hours worked and are therefore not eligible for call-back pay.
  4. Fire personnel exempt under Section 207(k) of the FLSA will comply with the call-back provisions of the standard operating procedures established by the Fire Department.
- C. **Longevity Pay.** Section 141.032 of the Texas Local Government Code mandates payment of \$4 per month for each year of service to employees who are firefighters or licensed peace officers.
1. The employee may choose to receive longevity pay on either a biweekly or annual basis. The employee must make this decision upon employment but may change his or her choice before the beginning of each calendar year by submitting a signed petition to the Human Resources Department.
  2. Service credit for longevity pay calculations is not forfeited due to breaks in service.
  3. Maximum credit for calculation of longevity pay is limited to 25 years.
  4. Paid leave time is counted as active service in calculating longevity pay.
- D. **Stability Pay.** The City provides an annual stability payment as a reward for continuous active full-time service credit as specified in this Section.
1. **Eligibility.** An employee must have 12 months of continuous active full-time service credit as of November 15 of the year of payment, must not have been

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placed on unpaid leave for more than 20 work days, excluding approved FMLA leave, as specified in the Family and Medical Leave Chapter (304.00) or other federally protected leave, during the 12-month period, and must be employed by and in a paid status, unless on approved unpaid FMLA Leave or other federally protected leave, with the City on November 15 of the payment year and on the date of disbursement. Retirement, resignation, or dismissal constitutes a break in continuous active service for stability pay eligibility purposes. An employee who is re-hired after retirement, resignation, or dismissal begins active service accrual anew for determining stability pay eligibility and periods of continuous service.

2. **Amount.** Eligible employees will be paid \$42 per year for each year of completed continuous full-time service credit for the first four years. Thereafter, the employee's stability payment will be computed by a formula that multiplies the number of completed years of continuous active full-time service credit by the stability index for the employee's classification.
  - a. Stability payments cannot be pro-rated and paid at any other time or based on any other occurrence except in the case of retirement, a reduction in force or death.
  - b. Forfeiture.**
    - 1) An employee who is not eligible for a stability payment for the current year because of use of more than 20 days of unpaid leave during the eligibility period, but who is in a paid status on both the eligibility date and the disbursement date, forfeits the stability pay for that year. The employee will receive an amount equal to the previous year's stability payment.
    - 2) An employee who is not in a paid status, excluding employees on federally protected leave, on either the eligibility date or the disbursement date forfeits all stability pay for the year.
    - 3) After any year of forfeiture, the employee's stability payments will be based on years of continuous active full-time service credit, less credit for any forfeited year.
  - c. Maximum credit for calculation of stability pay is limited to 25 years.
  - d. Paid leave time is counted as active service in calculating stability pay.
  - e. **Relation to Longevity Pay.** Each year the amount due to police officers and firefighters for longevity pay will be compared to their eligible amount of stability pay, and the employees will be paid the greater amount. If stability pay is forfeited as provided in D.2.b above, the police officer or firefighter may still receive longevity pay.

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- E. **Safety Incentive Award Pay.** With approval of the appropriate Deputy City Manager, individual departments, after consultation with the Human Resources Department and Risk Management Department, may establish a program by which employees in jobs with high exposure to accidents are rewarded for working safely.
- F. **Assignment Pay.** Employees may receive additional pay for particular job assignments irrespective of other assigned duties or pay.

**G. Language Pay**

1. **Eligibility.** The City provides language pay based on:
- a. Department Heads' identification of positions and/or persons within their department when:
    - 1) The possession of language skills is beneficial in the performance of position duties and has a positive impact on the department's delivery of services;
    - 2) The employee's position is one where public contact is frequent enough to benefit from a non-English language skill, or the normal work station of the qualifying employee is such that he or she is reasonably available to others who need assistance to translate from English to another language, or from another language to English when called upon to do so; and
    - 3) The language is used by any group constituting at least 5% of the residents of the City. Other languages (including American Sign Language) will be considered on a case-by-case basis on recommendation of the Department Head.
  - b. Achievement of a passing score in the testing process established to measure proficiency.
    - 1) The City will pay for an employee's first language certification test. The employee must pay the cost of any subsequent attempts to be certified, but the City will reimburse the employee for the cost of a successful re-test.
    - 2) Testing requirements for certification will primarily involve verbal language skills.
2. Language pay will be discontinued if the employee is re-assigned to a position where the skill will not be used or if the functions of the position no longer require the skill. Each department is responsible for re-evaluating the need for non-

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English language skills on a periodic basis and contacting Human Resources should those needs change.

3. The Human Resources Department will periodically conduct a random sample of positions and screen incumbents to ensure the continued need for additional language skills and that employees remain proficient in those skills. Any costs associated with the random skills assessments will be paid by the City.
  4. **Amount.** Language pay for full-time employees is \$50 per month and for part-time employees is \$25 per month. There is no additional compensation for certification in multiple languages.
  5. Denial of language pay may be appealed by the employee through the Department Head to the Deputy City Manager, whose decision will be final.
- H. **Acting Status Pay.** Employees who are temporarily re-assigned to perform the duties of a higher classification, as specified in the Reassignment Section of the Employee Status Changes Chapter (Section 104.04), will receive a compensation increase for the duration of the temporary assignment as specified in this Section.
1. **Police/Fire.** Police officers and firefighters will receive the base pay of the appropriate pay step of the higher classification or the rate specified in the department's general orders or state law.
  2. **All Other Employees.** Any other employee will, at the discretion of the Department Head with Deputy City Manager approval, receive a salary between the minimum and mid-point of the range for the acted-in classification.
  3. In determining the appropriate step or range position, continuation of eligibility for any other pays, or loss of any other pays due to the temporary assignment will be considered.
- I. **Special Allowances.** Employees who use their own personal property which management has determined is essential in day-to-day operations will receive special allowances for such as approved by the City Manager in writing.
- J. **Terminal Pay (Applicable to all employees whose job positions are not in the City's Fire Suppression or Fire Prevention job classification.)**
1. **Accrued Vacation Leave**
    - a. **Resigning or Retiring Employees.** Subject to the requirement to give written notice specified in the Resignation/Retirement Section of the Termination of Employee Status Chapter (105.00), full-time employees with more than six months active full-time service credit with the City of Arlington will be paid at the base rate for all accrued vacation leave upon resignation or retirement. Full-time employees with less than 6 months active full-time service credit with the

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City of Arlington are not paid for any accrued vacation. For 24-hour Fire department employees subject to Texas Local Government Code 143 whose positions are not in the City's job classification of Fire Prevention or Fire Suppression are exempt from the eligibility criteria defined in this section.

- b. **Dismissed Employees.** Dismissed employees are paid for accrued vacation on the same basis as resigning employees. Dismissed employees may elect to receive all or part of their terminal pay at the time of separation or may wait until all disciplinary appeals are over. If an employee is reinstated as the result of reversal of the dismissal on appeal, any leave balance paid on dismissal is forfeited; any leave balance not paid for on dismissal will be restored and the employee's length of service credit for the purpose of vacation leave accrual rate and any pay that is based on length of service credit will be restored.
- c. **Deceased Employees.** See Death Benefits Section of Non-Leave Benefits Chapter (307.00).
- d. **Final Paycheck Deductions.** Deductions from the terminal pay paycheck will be made for the same purposes as from a regular paycheck. In addition, any applicable deductions authorized in Sec. 301.02 D will be made.

## 2. Accrued Sick Leave

- a. **Resigning or Dismissed Employees.** Resigning or Dismissed employees who separate from the City are not eligible for any sick leave payout.
- b. **Retiring Employees.** Subject to the requirement to give written notice specified in the Retirement Section of the Termination of Employee Status Chapter (105.00), full-time employees eligible for TMRS retirement must also meet one of the following rules to receive payout at the base rate for all their accrued sick leave to a maximum lifetime payment for 960 hours:
  - i. Rule of 20: The employee must have 20 years of full-time service credit with the City of Arlington; or
  - ii. Rule of 60 plus 5: The employee must be at least 60 years of age at the time of retirement plus a minimum of 5 years of full-time service credit with the City of Arlington; or
  - iii. Rule of 70: The employee's age at retirement plus total years of full-time service credit with the City of Arlington must total at least 70.
  - iv. Rule of Prior Eligibility: The employee is eligible for TMRS retirement before March 1, 2020 and is hired before March 1, 2020.

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c. **The 24-hour Fire Department Employees.** 24-hour Fire department employees subject to Texas Local Government Code 143 whose positions are not in the City's job classification of Fire Prevention or Fire Suppression will receive all their accrued sick leave to a maximum lifetime payment of up to 1,440 hours paid at the base rate. Further, the payment of all accrued sick leave up to 1,440 hours will meet or exceed the value of the maximum eligible sick leave payout required in accordance with the Texas Local Government Code, Chapter 143.

d. **Final Paycheck Deductions.** Deductions from the terminal pay paycheck will be made for the same purposes as from a regular paycheck. In addition, any applicable deductions authorized in Sec. 301.02 D will be made.

**K. Terminal Pay- (Applicable for those Firefighters whose job positions are in the City's job classification of Fire Suppression or Fire Prevention.)**

**1. Resigning/Retiring Employees:**

- a. Will not be paid any holiday or vacation balances; and
- b. Will be paid at the total rate for all their accrued sick leave to a lifetime maximum payment of 90 days. Day is defined as 12 hours for a Firefighter regularly working the 2912 hours schedule and 8 hours for a Firefighter regularly working the 2080 hours schedule.
- c. Where a Firefighter in the City's job classification of Fire Suppression or Fire Prevention utilizes their vacation, time exceeding that equal to the prorated amount based on the date of separation within that 12 month period for which the vacation leave was awarded their final paycheck will be reduced to the extent of the law less the value of the disproportionate utilized vacation time.

2. **Employees Receiving Indefinite Suspension.** Those Firefighters receiving indefinite suspension will be paid for accrued sick leave on the same basis as resigning or retiring employees. Employees who received indefinite suspension will receive all of their terminal pay at the time of separation. If an employee is reinstated, it will be in compliance with Texas Local Government Code, Chapter 143. As such, any leave balance paid at the time of separation will not be restored; any leave balance not paid for at time of separation will be restored and the employee's length of service credit for the purpose of vacation leave accrual rate and any pay that is based on length of service credit will be restored, in accordance with Texas Local Government Code, Chapter 143.

3. **Pre-civil service Frozen Leave Accounts.** For those Firefighters working a position in the City's job classification of Fire Suppression or Fire Prevention under Texas Local Government Code 143, who received pre-civil service frozen leave accounts will receive:

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143, must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*



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- a. Payment of the value of the pre-civil service frozen vacation time at their base pay rate as of October 23, 2017.
  - b. No payment of the value of the pre-civil service frozen sick leave will be provided and any unused pre-civil service frozen sick time will be surrendered by the employee at the time of separation.

4. **Final Paycheck Deductions.** Deductions from the terminal pay paycheck will be made for the same purposes as from a regular paycheck. In addition, any applicable deductions authorized in Sec. 301.02 D and/or in any other section of this manual will be made.

**L. Sick Leave Sell Back.**

1. With the exception of those firefighters whose positions are in the City's Fire Suppression or Fire Prevention job classifications, employees may sell back to the City a portion of their accrued sick leave at the base rate of pay each year as specified in this Section.
  - a. The employee must have accrued 960 hours of paid sick leave.
  - b. The employee may sell back up to 40 hours. Any hours of paid sick leave that were used will be deducted from the amount available for sellback.
  - c. Eligibility for sick leave sellback occurs on each employee's employment anniversary date following accrual of the required hours of accrued paid sick leave. Request for sick leave sellback must be received by Payroll within 60 calendar days after the employee's anniversary date.
2. Donation of accrued sick leave hours to the Catastrophic Leave Program is not considered hours used for determining hours available for sellback.
3. Sick Leave hours utilized during approved FMLA Leave, as specified in the Family and Medical Leave Chapter (304.00), are not considered hours used for determining hours available for sellback.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143, must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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## 302.00 PAID LEAVE

### 302.01 PURPOSE/POLICY

As specified in this Chapter, the City provides several paid leaves to full time employees, including holiday, vacation and sick leaves, as well as other leaves as described in this chapter.

The City does not provide short term disability benefits for illnesses or non-duty-connected injuries. Employees should responsibly manage balances of accrued vacation and sick leave to minimize the chance that no paid leave will be available in case of temporary non-work-related disability.

### 302.02 GENERAL PROVISIONS

- A. Paid leave may be used only in lieu of regularly scheduled work hours.
- B. Paid leave cannot be advanced.
- C. Except as specified in this Chapter:
  - 1. Approval of any paid leave is subject to operational requirements of the department, and any request for paid leave may be denied or rescheduled due to staffing needs and work scheduling of the department.
  - 2. All requests for leave must be submitted in writing.
  - 3. All requests for leave must be submitted within the time designated by the department or in absence of any such deadline, as specified in this Chapter.
  - 4. Unauthorized absence on the day immediately before or after a day of authorized paid leave will result in forfeiture of the pay for the authorized day off.
- D. Leave designations cannot be retroactively changed except as specifically authorized in this manual or unless authorized in writing by the Department Head or his/her designee.

### 302.03 HOLIDAYS

- A. **Eligibility.** All full-time employees in a paid status are granted paid holiday leave for the 11 days listed in Appendix A to this Chapter. Every other employee is extended the official holiday, but without pay. Temporary, seasonal, and part-time employees will be paid their regular rates on a holiday only if required to work.
- B. **Amount.** For pay administration purposes, a holiday is the equivalent of 8 work hours (12 work hours in the case of 24-hour shift firefighters). Payroll procedures will provide

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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guidelines addressing the administration of holidays for employees assigned to work schedules other than 8 or 24 hours per day. Further information for employees authorized to work Alternative Work Schedules is available in the Work Hours Chapter (106.00).

### C. Scheduling

1. **Monday through Friday Operations.** In segments that are operational on Monday through Friday only, single day holidays that fall on Saturday will be observed on the preceding Friday, and those that fall on Sunday will be observed on the following Monday. If Christmas Eve falls on Friday, the Christmas holiday will be observed on the following Monday. If Christmas Eve falls on Sunday, it will be observed on the following Monday, and the Christmas holiday will be observed on Tuesday.
2. **Other Operations.** Employees who are required to work on an official city holiday, or employees who are required to schedule their holidays, or for whom an official city holiday falls on a regular day off, will be:
  - a. Allowed to re-schedule the holiday, within 90 days; or
  - b. Because of minimum staffing requirements, essential fire and police are allowed to carry over up to six (6) holidays into the next calendar year, with the exception of those Firefighters whose positions are in the City's job classification of Fire Prevention and Fire Suppression.
  - c. Paid their base pay (Section 301.02.C.1) for the time worked on the holiday, in addition to the holiday pay, if the Department Head determines re-scheduling the leave is not operationally possible.

D. **Other holidays.** A Department Head or designee may grant use of accrued leave, except for sick leave, to an employee who wishes to observe a national or religious holiday not officially observed by the City. If no accrued leave is available, an employee may be granted authorized leave without pay. Such leave must be requested at least 2 weeks before the requested holiday.

### E. Effect of Other Leave

1. An official holiday occurring during other paid leave will be documented as a holiday on the payroll.
2. An employee scheduled to work on an official city holiday who is unable to work due to illness will be charged sick leave and will be allowed to re-schedule the holiday within the time limits specified in Section C.2 above.

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**302.04 VACATION**

- A. **Accrual.** All full-time employees in a paid status accrue vacation leave at the rate listed in Appendix A to this Chapter. When the maximum accrual listed in Appendix A is reached, no additional vacation leave accrues until the employee uses vacation leave.
1. Retirement, resignation, or dismissal constitutes a break in continuous active service for vacation accrual purposes. A status change from a full-time position to a part time position will stop accruals. An employee who is re-hired after retirement, resignation, or dismissal begins active service anew for the purpose of determining the paid vacation leave accrual rate.
  2. Although an employee in unpaid leave status does not accrue paid vacation leave, unpaid leave status does not constitute a break in service for vacation accrual rate determination purposes. An employee returning to work from unpaid leave status will resume paid vacation accrual at the rate provided for based on credited service before and during the unpaid leave.
- B. **Use.** All full-time employees may be granted use of accrued paid vacation leave according to the following:
1. Accrued vacation leave may be used for attending to personal business, for extension of another paid leave, for leave under the Family and Medical Leave Act, for supplementing weekly workers' compensation benefits, or for inability to report to work because of bad weather when the City is not officially closed. Accrued vacation leave may also be used for other purposes at the discretion of the employee and with approval of the Department Head.
  2. Except for emergencies, or as permitted for Family and Medical Leave purposes, requests for vacation leave should be made 2 weeks before anticipated use, unless published department regulations provide otherwise.
  3. Use of accrued vacation may be granted in quarter-hour increments.
  4. Accrued vacation leave may not be taken during the first six (6) months of employment without Department head and Human Resources approval.
- C. **Unused Accrued Leave.** On termination of employment, employees may be paid for unused accrued vacation leave as specified in the Terminal Pay Section of the Compensation Chapter (Section 301.04).
- D. When a non-Civil Service City employee transfers into a position in the City's job classification of Civil Service Fire Suppression or Fire Prevention, any vacation time that exceeds the maximum allowable vacation leave balance established for the new job's classification will be frozen. The City will retain the value of the excess vacation

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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balance based on the employee's rate of pay in the current position prior to the transfer into a Civil Service Fire Suppression or Fire Prevention position.

1. Payment of the value of the frozen vacation time will be made at time of separation.
2. Newly hired employees entering as a Fire Trainee or Fire Prevention Trainee will have vacation leave immediately available, up to fifteen (15) workdays, that is prorated based on time of service within the Civil Service year. This leave is only accessible with Department Head approval and in consideration of operational need during the probationary period.

### **302.05 SICK LEAVE**

- A. **Accrual.** Maintaining good attendance is a condition of employment and an essential function of every job. To minimize the hardship that may result from illness or injury, the City of Arlington provides sick leave benefits. All full-time employees in a compensated status accrue paid sick leave at the rate of accrual listed in Appendix A to this Chapter. When the maximum accrual listed in Appendix A to this Chapter is reached, no additional paid sick leave accrues until the employee uses sick leave.
- B. **Use.** All full-time employees may be granted use of accrued paid sick leave according to the following:
1. Accrued paid sick leave may be used for doctor appointments, personal illness, or other physical incapacity of an employee. Accrued paid sick leave may also be donated to another employee under the Extended Sick Leave Program or sold back to the City under the Sick Leave Sell-back Program, subject to the restrictions specified for each of those programs.
  2. Up to 48 hours of accrued paid sick leave per anniversary year may be used as family sick leave to care for an employee's spouse, child, parent, or stepchild who is ill, incapacitated, or requires medical attention. This 48-hour limitation is not applicable in cases where the employee is eligible to use leave under the Family and Medical Leave Act to care for a family member with a serious health condition. (See Family and Medical Leave Act Chapter 304.00 for requirements.)
  3. Requests for use of accrued sick leave should be submitted to the immediate supervisor as early as possible for foreseeable incapacitation and no later than the earlier of one-half hour after the time set for beginning work, or within time limits established and published for the department for unforeseeable incapacitation.
  4. Use of accrued paid sick leave may be granted in quarter-hour increments.
  5. Accrued sick leave may be taken during the first six (6) months of employment as specified in this Section.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

6. If an employee becomes hospitalized or confined to bed by a physician's orders during vacation leave, the time will be charged to sick leave or family and medical leave only if the employee provides a physician's written statement confirming the medical restriction.
7. When accumulated sick leave has been exhausted, accrued paid vacation leave may be used in cases of personal illness or physical incapacity with approval of the Department Head.
8. See also the Health Fitness Impairment Chapter (305.00) and the Family and Medical Leave provisions in the Unpaid Leave Chapter (303.00) for further information.
9. Inappropriate use of sick leave occurs when an employee uses sick leave for unauthorized purposes or misrepresents the actual reason for the absence. In addition, sick leave usage can become inappropriate when usage of sick leave, not protected by law, becomes so frequent that an employee cannot fulfill the essential job functions.

### **C. Transfers In and Out of Civil Service**

1. When a non-Civil Service City employee transfers into a position in the City's job classification of Civil Service Fire Suppression or Fire Prevention, any sick time that has been accrued that is greater than 180 hours for 24-hour shift personnel or 120 hours for 8-hour shift personnel will become frozen. The frozen sick leave balance shall be made to the employee upon request for qualifying Family and Medical Leave (Refer to Chapter 304.00).

No payment of the value of frozen sick leave will be made at time of separation. For more information, please refer to Section 301.04.K.

2. When a Civil Service employee transfers into any other position that is not in the City's job classification of Civil Service Fire Suppression or Fire Prevention, the previously frozen sick leave balance will be rolled back into the employee's leave bank to be utilized as specified elsewhere in this policy.

The employee's existing leave accrual balance will be adjusted in accordance with the new position's maximum accrual rate.

### **D. Required Documentation**

#### **1. Substantiated Sick Leave**

- a. Unless Family and Medical Leave Act provisions apply, an employee who exceeds three (3) consecutive sick days off must provide to the Department Head a physician's written statement, or other satisfactory written documentation of the incapacity to work, or the absence will be considered unauthorized.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

## 2. Unsubstantiated Sick Leave

- a. An employee who is absent for an alleged medical incapacity of the employee or a qualifying family member, who does not provide a physician's written statement or other acceptable written documentation of the incapacity to work, will be charged with Unsubstantiated Sick leave. An employee may use 48 hours of accrued sick leave (72 hours in the case of 24-hour shift firefighters) per anniversary year as unsubstantiated sick leave. If the absence is longer than three consecutive workdays and the absence may be covered by FMLA, refer to Chapter 304.00.
- b. **Penalty.** An employee who is charged with more than (48) unsubstantiated sick leave hours in an anniversary year will be placed immediately in Sick Leave Penalty status. A non-exempt employee will not be paid for any further unsubstantiated sick leave taken during the pay period in which the 48<sup>th</sup> (or 72<sup>nd</sup>) hour of unsubstantiated sick leave is used and during the next 26 consecutive pay periods. This includes the pay period during which the limit is reached and the next 26 consecutive pay periods. Existence of the penalty provided in this section for failure to provide required documentation does not preclude disciplinary action against the employee.

3. A supervisor may at any time require satisfactory proof of the proper use of sick leave and may disallow sick leave in the absence of such proof. The employee may be required to sign any related medical record authorization forms for access and review of existing records and future records related to the sick leave.

**E. Catastrophic Leave Program.** If any full-time employee suffers a catastrophic illness or an injury off the job, either of which has life-threatening consequences, as verified by a treating physician, that completely incapacitates the employee from working, or an employee is required to care for an immediate family member (spouse, parent, child, stepparent, or stepchild) who suffers such an illness or injury, and the employee has no accrued paid leave remaining, the employee may use paid sick leave donated by other employees as specified in this Section.

1. On-the-job injuries covered under Workers' Compensation are excluded from this program.
2. In the case of employee catastrophic illness or injury, the employee must apply for the City's Disability Benefit Plan to be eligible for this benefit. If use of donated sick leave is approved, it will provide pay to the employee during the waiting period (maximum 120 calendar days) until benefits from the City's Disability Benefit Plan take effect.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

3. In the case of a qualifying catastrophic illness or injury suffered by a member of the employee's immediate family that requires the employee's care or assistance, and if the employee meets the employment length criteria for Family and Medical Leave Act leave, use of donated sick leave, if approved, will provide pay to the employee to the extent provided by the Family and Medical Leave Act.
  4. Full-time employees may donate a minimum of eight (8) and a maximum of 40 (12 and 60 in the case of 24-hour firefighters) accrued paid sick leave hours per calendar year, provided accrual of 120 hours (180 hours in the case of 24-hour shift firefighters) of paid sick leave.
  5. All requests for use of donated sick leave should be submitted to the Director of Human Resources for approval. Denial may be appealed to the City Manager or designee whose decision will be final.
- F. **Unused Accrued Paid Sick Leave.** Upon termination of employment, an employee may be paid for unused accrued sick leave as specified in the Terminal Pay Section of the Compensation Chapter (Section 301.04 J).

### **302.06 BEREAVEMENT LEAVE**

- A. All full-time employees will be allowed time off with pay, not to exceed 24 hours (36 hours for 24-hour shift personnel in the Fire Department subject to Texas Local Government Code, Chapter 143) to attend the funeral and otherwise attend to affairs of the deceased, upon the death of the employee's spouse, parent, child, sister or brother, step-parent, stepchild, grandparent or the parent of the employee's spouse.
- B. An employee may be required to provide information to document the absence.
- C. If additional time off is required, the employee may use accrued vacation leave. If no vacation time is available, the Department Head may approve use of authorized leave without pay.

### **302.07 JURY DUTY/COURT APPEARANCE**

- A. All full-time employees summoned to serve on a jury in city, state, or federal court receive Administrative Leave with Pay. A copy of a jury notice must accompany the advance written leave request.
- B. All employees will be paid for required appearance in a city, state, or federal court, or a legislative or administrative proceeding (including disciplinary hearings) concerning duty-connected matters, or certain duty-connected testimony, investigation, and court preparation. The employee must provide documentation of the requirement for attendance and the connection to duty. Acceptable documentation includes: a subpoena, letter of request from an attorney of record or prosecuting attorney, request of a hearing officer, or completion of the appropriate department form. These appearances will be considered hours worked and not leave.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*



1. Employees receiving payment from an outside employer for an appearance(s) covered by this Section must use accrued paid leave or unpaid leave because the appearance is not considered work for the City.
  2. Employees who have initiated legal or administrative proceedings, including disciplinary hearings, against the City of Arlington must use accrued paid leave or unpaid leave to attend such proceedings; the appearance is not considered work for the City. (Only employees who are classified as non-exempt under Fair Labor Standards Act [FLSA] may use administrative leave without pay of less than one (1) day.)
- C. When an employee on leave for jury duty or being paid for hours worked in a duty-connected court appearance is released from the duty/appearance before half of the employee's workday ends, the employee must report to his or her regular duty station when released from the jury duty/court appearance, even if the employee has to report for jury duty/court appearance the next day.

### **302.08 AUTHORIZED LEAVE WITH PAY**

- A. Authorized Leave with Pay (AP) is to be used in any of the following circumstances for exempt employees:
1. In any circumstance specifically stated in this Manual such as jury duty, bereavement leave, drug and alcohol testing, and pending investigations;
  2. To document an employee's attendance at training or other business functions away from the employee's regular duty station;
  3. During the response period when an employee has been notified of a proposed dismissal;
  4. When an employee is determined by the Department Head that the employee should be relieved from regular duties and an appropriate temporary re-assignment cannot be located.
  5. Flexible Time Paid (FTP). A department head, or designee, has the discretion to provide FTP to exempt employees for performance that is above and beyond their normal scope of duties.
    - a. FTP shall be provided on a limited basis.
    - b. Employees are not entitled to FTP and awarded FTP shall not accumulate.
    - c. Departments are responsible for maintaining and tracking the amount of FTP given and provide written justification for granting FTP.

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**302.09 LEGISLATIVE LEAVE FOR POLICE AND FIREFIGHTERS**

- A. Chapter 614 Subchapter A of the Texas Government Code requires the City to grant leave to a police officer or firefighter for the purpose of serving in, appearing before, or petitioning a governmental body during a regular or special session.
1. The leave must be requested in writing on or before the 30<sup>th</sup> day before it is intended to begin.
  2. The City may and does require the employee to reimburse all costs associated with the leave before the leave will be granted.
  3. The City may deny the leave if granting it would result in having an insufficient number of employees to carry out the normal functions of the City. Exchange of work time between police officers or firefighters of equal rank may only be made if the exchange of work time would not result in overtime.
- B. A police officer desiring to take legislative leave, after securing department authorization for the leave, must contact the Human Resources Department to determine the cost of the leave and make reimbursement arrangements.

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## 302.01 APPENDIX A

### PAID LEAVE TYPES AND AMOUNTS

Criteria for receiving and conditions for using the paid leave benefits summarized below are detailed in the Paid Leave Chapter (or other cited Chapters) of the City of Arlington's Personnel Manual.

#### I. HOLIDAYS

New Year's Day .... January 1	Independence Day .... July 4
MLK Birthday ..... 3 <sup>rd</sup> Monday in January	Labor Day ..... 1 <sup>st</sup> Monday in September
Presidents' Day ..... 3 <sup>rd</sup> Monday in February	Thanksgiving ..... 4 <sup>th</sup> Thursday and Friday in November
Good Friday ..... Friday preceding Easter	Christmas ..... December 24 and 25
Memorial Day ..... last Monday in May	

\*Fire Department employees subject to Texas Local Government Code, Chapter 142, may elect to substitute the 9/11 Holiday for one of the above identified City holidays.

#### II. VACATION

##### A. Police Officers

After Years of Continuous Active Service	Hours Per* Pay Period	Equals Days* Per Year	Maximum Accrual* Hrs/Days
0-9	4.616	15	240/30
10	4.920	16	256/32
11	5.232	17	272/34
12	5.536	18	288/36
13	5.848	19	304/38
14 and up	6.152	20	320/40

##### B. Firefighters - Whose job positions are in the City's job classification of Fire Suppression or Fire Prevention:

1. Vacation days will be awarded annually, beginning in the pay period encompassing October 30<sup>th</sup>.
2. In the first year of employment, those hired in the City's job classification of Fire Suppression or Fire Prevention will be awarded vacations hours equivalent to the sum of hours accumulated per pay period at the rate of 4.616 hours. This prorated amount will be calculated based on the hiring pay period to the pay period encompassing October 30<sup>th</sup>.

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3. The below accrual rate index applies:

<u>After Years of Continuous Active Service</u>	<u>Days Per Year*</u>	<u>No Carryover</u>
0-9	15	
10	16	
11	17	
12	18	
13	19	
14 and up	20	

\*A day is defined as 12 hours for those Firefighters regularly assigned to a 2912 hours schedule and 8 hours for those scheduled to a 2080 hours schedule.

### C. Executives

<u>After Years of Continuous Active Service</u>	<u>Hours Per Pay Period</u>	<u>Equals Days Per Year</u>	<u>Maximum Accrual Hrs/Days</u>
0 and up	6.152	20	480/60

### D. All Others

<u>After Years of Continuous Active Service</u>	<u>Hours Per Pay Period</u>	<u>Equals Days Per Year</u>	<u>Maximum Accrual Hrs/Days</u>
0	3.08	10	240/30
1	3.696	12	240/30
2	4.0	13	240/30
3	4.304	14	240/30
4-9	4.616	15	240/30
10 and up		(same as police officers/firefighters)	

\*A day is defined as 12 hours for those Fire Department employees regularly assigned to a 2912 hours work schedule and 8 hours for those scheduled to a 2080 hours work schedule.

## III. SICK LEAVE

- A. **Regular:** Employees accrue 4.616 hours per pay period (6.92 hours per pay period for those Fire Department employees regularly assigned to a 2912 hours work schedule). Maximum accrual allowed is 1,200 hours (Unlimited hours for those employees subject to Texas Local Government Code 143).
- B. **Family:** Up to 48 hours of accrued regular sick leave per anniversary year may be used for family sick leave.

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**IV. NON-ACCRUING LEAVE**

- A. **Bereavement Leave:** Up to 24 hours (36 hours for 24-hour shift firefighters) per death of employee's spouse, parent, child, sibling, stepparent, stepchild, grandparent, or spouse's parent.
- B. **Jury Duty/Court Appearance:** As needed for service as juror or for subpoenaed appearance as witness in duty-connected criminal or administrative proceeding.
- C. **Administrative Leave with Pay:** As specified in Paid Leave Chapter (Section 302.08).

**V. OTHER**

- A. **Military Leave:** As required by federal law. *See Military Personnel Chapter (308.00).*
- B. **Injury Leave with Pay:** For recovery/medical treatment of work-related injuries in conjunction with Workers' Compensation. *See Workers' Compensation Chapter (306.00).*

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## 303.00 UNPAID LEAVE

### 303.01 POLICY/PURPOSE

In addition to paid leave benefits (see Chapter 302.00), the City provides unpaid leave benefits to employees as a matter of mutual convenience and in compliance with state and federal laws, such as the Family and Medical Leave Act (FMLA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

These leave benefits have their own unique eligibility, documentation, scope of benefits, and return to work provisions and may or may not be used in conjunction with each other or paid leave. If any of the above involves a form of unpaid leave, changes or suspension of other benefits may be involved.

### 303.02 GENERAL PROVISIONS

A. **Benefits Status.** Except as otherwise provided by federal law, while on unpaid leave:

1. An employee does not accrue holidays, sick leave, or vacation leave;
2. Service credit for all employment privileges and benefits discontinues;
3. The time is not credited in computing the consecutive pay periods of active service for sick leave penalty period status;
4. Health expense coverage continues only if the employee pays the employee's share of the cost of employee and dependent coverage, if the employee is on unpaid Family and Medical Leave Act leave; health expense coverage continues during any other unpaid leave only if the employee pays the full cost of employee and dependent coverage;
5. Life insurance coverage for which the employee pays via payroll deduction continues only if the employee pays the premiums;
6. The City and employee's contributions to retirement, 401(k), and Deferred Compensation plans cease;
7. The employee is responsible for making repayments of any outstanding loans for which payroll deductions would otherwise be made;
8. An employee may forfeit eligibility for one or more years of Stability Pay, as specified in the Compensation Chapter (301.00);
9. An employee will not receive Tuition Reimbursement payments; and

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10. The annual salary death benefit through TMRS and the twice annual salary death benefit from the City may be suspended.

#### **B. Return to Work**

1. Except for certain highly compensated employees, upon completion of an approved leave of absence as provided in this section, an employee will be returned to the same job, if it is available and the employee is able to perform the duties of the position, or if the position is no longer available, will be offered a comparable position, subject to availability, for which the employee meets the qualifications. If the employee is not capable of performing the duties of the same or a comparable job, the employee will be offered the highest level position for which the employee is qualified and able to perform.
2. At the expiration of an approved leave, if an employee fails to return to work, refuses an offered position, or fails to request an extension of leave, the employee forfeits employment.

- C. An employee who is on unpaid leave and notifies the City that there will be no return to work is considered to have resigned effective on the notification date. The employee shall contact the Human Resources Department as soon as possible to arrange for re-payment of any amounts owed to the City and to arrange for continuation of health insurance coverage under the federal COBRA law. Among the amounts the City may recover from the employee are health insurance premiums paid by the City during unpaid leave.

- D. See also Family and Medical Leave Chapter (304.00).

- E. See also Military Personnel Chapter (308.00).

#### **303.03 AUTHORIZED LEAVE WITHOUT PAY**

- A. Authorized leave without pay may be granted upon written request at the discretion of a Department Head to employees for a period not to exceed the remainder of the pay period in which it is requested.
- B. Because it only involves part of one pay period, authorized leave without pay does not affect an employee's benefits, other than compensation, nor does it constitute a break in service for the purpose of computing longevity/stability pay. An employee on authorized leave without pay will continue to accrue vacation and sick leave at the regular rate of accrual.

#### **303.04 LEAVE OF ABSENCE**

##### **A. Criteria**

1. Any full-time employee may be granted an unpaid leave of absence for continuing medical treatment or recovery when all accrued paid leave has been

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143, must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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exhausted, or is not available, and a doctor's written certification indicates the employee is not permanently disabled, but is unable to perform regular or limited duties due to illness or non-job-related injury.

2. Regular full-time employees may be granted a leave of absence for education or other legitimate purposes consistent with City practices, operational requirements, and government regulations.
3. See also the Military Personnel Chapter (308.00).

#### **B. Authorization/Duration**

1. **Requests.** Requests for leave of absence must be in writing and submitted through an employee's supervisor to the department head for approval. Requests for leaves that are foreseeable must be made 10 working days before the requested start date.
2. Except for unpaid leave under the Family and Medical Leave Act, or for military purposes, a leave of absence of 30 calendar days or less may be granted by a Department Head, and a leave of absence of more than 30 calendar days must be approved by the appropriate Deputy City Manager through the employee's Department Head. See Family and Medical Leave Chapter (304.00) or Military Personnel Chapter (308.00) for approval processes for those types of unpaid leave.
3. Extensions of leaves of absence for the same purpose as the leave was originally granted require approval by the appropriate Deputy City Manager. A request for extension must be submitted in writing at least 10 calendar days before the effective end day of the original leave.
4. Except for unpaid leave under the Family and Medical Leave Act, if a leave is denied by the Department Head or Deputy City Manager and the employee fails to return to work, the employee forfeits employment.

#### **303.05 INJURY LEAVE WITHOUT PAY**

- A. An employee will be carried on payroll in an Injury Leave Without Pay status when the employee is receiving Temporary Income Benefits (TIB) as the result of an injury in the course and scope of employment, and is ineligible for the Salary Continuation Program, or elects not to participate in it and has no accrued paid leave to supplement the TIB payments.
- B. See Workers' Compensation Chapter (306.00) for details on leave and compensation during periods of inability to work due to injury in the course and scope of employment.



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## 304.00 FAMILY AND MEDICAL LEAVE

### 304.01 POLICY/PURPOSE

It is the policy of the City of Arlington to grant up to 12 weeks of family and medical leave (FML) during any 12-month rolling period to eligible employees in accordance with the Family Medical Leave Act of 1993 (FMLA) and any subsequent amendments. In situations regarding Military Caregiver Leave, an employee may be granted up to 26 weeks of FML during any 12-month rolling period. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this Chapter.

### 304.02 ELIGIBILITY

A. **Criteria.** Employees are eligible for leave under the federal Family and Medical Leave Act as specified in this Section.

1. The employee must have worked for the City of Arlington at least 12 months (52 weeks).
  - a. The twelve months (52 weeks) need not have been consecutive.
  - b. For eligibility purposes, an employee will be considered to have been employed for an entire week so long as the employee was in a paid status for any part of the week.
2. The employee must have actually worked at least 1250 hours during the 12-month period immediately before the date the leave would begin. Unpaid and paid leave is not counted as workdays for this purpose.
3. The employee must provide certification that the leave is for one of the reasons listed below:
  - a. **Serious Health Condition.** A serious health condition is one that requires inpatient care at a hospital, hospice, or residential medical care facility, or requires continuing care by a licensed health care provider. The relevant federal regulations provide specific examples of serious health conditions that include but are not limited to pregnancy and pre-natal care. The regulations exclude common ailments such as colds, flu, earaches, or stomachaches. An injury sustained on the job that results in inability to work, and that is covered under workers' compensation, generally meets the criteria for Family Medical Leave since most of these injuries render an employee unable to perform the functions of his or her job for some period of time. Therefore, if the employee is eligible for FML, the first twelve weeks of a workers' compensation injury will be counted toward an employee's annual FML allotment. A serious health condition is one where either:

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1. The employee is unable to perform the functions of the employee's position due to a serious health condition of the employee; or
  2. The employee must care for a spouse, child, or parent with a serious health condition. Spouse for FML purposes is defined in Section 101.01 of this policy manual; or
  3. The employee must care for a member of the armed forces for a serious health condition. See the Military Leave section of this policy.
- b. **Baby Bonding.** Leave to care for or bond with a child within twelve (12) months for the following circumstances:
1. **Newly Born.** A newborn child birthed to an employee, an employee's spouse, or a gestational or traditional surrogate in a legal agreement with the employee.
  2. **Adoption.** Placement of a child for adoption in the employee's home.
  3. **Foster Care.** Placement of a child for foster care in the employee's home.
- c. **Military Leave.** In situations regarding Military Leave, an employee may be granted up to 26 weeks of FML during any 12-month rolling period.
1. **Caregiver Leave.** An employee may take up to a total of 26 workweeks of unpaid leave during a single 12-month period to provide care for a Covered Member of the Armed Forces, including a member of the U.S. National Guard or Reserves, for a Serious Injury or Illness if the employee is a spouse, son, daughter, parent or next of kin of that member.

a. **Definitions.**

**"Covered Member"** means a current member of the Armed Forces, including a member of the U.S. National Guard or Reserves, or a Veteran who is undergoing medical treatment, recuperation, or therapy. It includes current members who are otherwise in outpatient status or on the temporary disability retired list for a serious injury or illness. Veterans must have been discharged within the previous five years before the employee takes this leave.

**"Son" or "Daughter"** means a son or daughter of any age.

**"Next of Kin"** means the nearest blood relative other than the member's spouse, parent, son, or daughter in the following order: 1) One designated blood relative (in writing); 2) All blood relatives with legal custody; 3) All brothers and sisters; 4) All grandparents; 5) All aunts and uncles; 6) All first cousins.

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**“Serious Injury or Illness”** means an injury or illness that was incurred by the servicemember in the line of duty on active duty that may render the member medically unfit to perform the duties of his or her office, grade, rank, or rating; or, an aggravation of a pre-existing condition in the line of active duty. The injury or illness may manifest itself during active duty or may develop after the member becomes a veteran. A serious injury or illness may also include a physical or mental condition for which a veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50% or more and the need for care is related to that condition or for which is due to a disability(ies) related to military service that substantially impairs a Veteran’s ability to work, or would impair in the absence of treatment, or an injury for which a veteran is enrolled in the Department of Veterans’ Affairs Program of Comprehensive Assistance for Family Caregivers.

**“Single 12-month period”** begins on the first day the employee takes leave for this reason and ends 12 months later. An eligible employee is limited to a **combined** total of 26 workweeks of leave for **any** FMLA-qualifying reason during the “single 12-month period.” Up to 12 of the 26 workweeks may be for an FMLA-qualifying reason other than to care for a covered servicemember.

2. **Qualifying Exigency Leave.** Any qualifying exigency arising out of the foreign deployment of the employee’s spouse, son, daughter, or parent of the employee who are on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces (including the National Guard and Reserves) in support of a contingent operation.
  - a. **Active Duty Status.** For regular Armed Forces members, Active Duty occurs during deployment to a foreign country. For Reserve members, Active Duty occurs during deployment to a foreign country to support contingency operations or deployment to international waters.
  - b. **Exigencies.** An eligible employee may take FML leave for the following:
    1. Issues arising from the military member’s deployment which is seven or fewer days of notice;
    2. To make or update financial and legal arrangements to address a military member’s absence;
    3. To attend counseling for the employee, the military member, or a child of the military member when the need for that counseling arises from the covered active duty or call to covered active duty status of the military member and the counseling is provided by someone other than a health care provider, e.g. military chaplain, pastor, or minister;

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4. To attend military events and related activities, including official military ceremonies and programs or informational briefings related to the military member's covered active duty sponsored or promoted by the military or military service organizations;
5. To spend up to 15 calendar days with a military member who is on rest and recuperation leave;
6. Certain childcare and related activities for the military member's child while the military member is on covered active duty;
7. To attend post-deployment activities within 90 days of the end of the military member's covered active duty or to attend to issues arising from the death of a military member while on covered active duty;
8. Certain parental care activities for the military member's parent who is incapable of self-care; or
9. Any other event that the employee and the City agree is a qualifying exigency.

### **304.03 FML ADMINISTRATION**

A. **Coordination of FML.** The administration of FML is coordinated through the City's Third-Party Administrator. (TPA) Leave requests will be managed in accordance with the federal regulations governing family medical leave benefits.

B. **Leave duration.** An eligible employee can take up to 12 weeks of leave during any 12-month period. In situations regarding qualifying Military Caregiver Leave of a person related to Active Duty, an employee may be granted up to 26 weeks of FML during any 12-month rolling period.

#### **1. Calculation Method.**

- a) The City uses the "rolling 12-month period" that counts backward from the date an employee uses any FMLA-qualifying leave.
- b) Each time an employee takes leave, the amount is subtracted from the 12 weeks of available leave, and the balance is the amount the employee is eligible to take at that time.
- c) When spouses who both work for the City each want to take leave for the birth of a child or baby bonding, they may only take a total of 12 weeks of leave between them.

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- d) Leave for birth of a child or baby bonding must be taken within one (1) year of the birth or placement.
- e) Leave for the purpose of caring for a service member with a serious injury or illness, the eligible employee shall be entitled to a total of 26 work weeks of leave during a 12-month period. This leave shall only be available during a single 12-month period. During this 12-month period, the employee shall only be entitled to a combined total Family Medical Leave of 26 weeks. Spouses who both work for the City of Arlington shall be entitled to a combined total of 26 weeks of leave for this reason.
- C. **Type of Leave.** The employee must use accrued paid leave before being eligible for unpaid leave as follows:
1. **Continuous Leave.** This type of leave is used on a continuous basis for more than three (3) days.
    - a. **Serious Health Condition.** A serious health condition of the employee or of a family member requires the use of all accrued sick leave first, then accrued vacation leave, then holiday leave (if applicable) before unpaid leave. (For this purpose, the 48-hour annual limit on family sick leave is waived.)
    - b. **For those Firefighters whose positions are in the City's job classification of Fire Prevention and Fire Suppression.** A serious health condition of the employee or of a family member requires the use of all accrued sick leave first, then accrued vacation leave, then holiday leave (if applicable), then pre-civil service frozen sick leave balance account, before unpaid leave. (For this purpose, the 48-hour annual limit on family sick leave is waived.)
    - c. **Baby Bonding.** Leave due to the birth or placement of a son or daughter (adoption or foster care), to bond with the child or in order to care for such child requires the use of accrued vacation leave, then holiday leave (if applicable) before unpaid leave. If a serious health condition of the mother or the baby is involved, the leave priorities of a Serious Health Condition stated above apply.
    - d. **Military Exigency and Military Caregiver Leave.** For a qualifying exigency of a person related to active duty, requires the use of accrued vacation leave, then holiday leave (if applicable) before unpaid leave. If the exigency qualifies as a serious health condition or if the leave is for Military Caregiver duties, then the leave priorities of a Serious Health Condition stated above apply.
  2. **Intermittent Leave or a Reduced Work Schedule.** The employee may take FMLA intermittently, taking a day periodically when needed, or may use the leave to reduce the work week or workday. In all cases, the leave may not exceed the equivalent of a total of 12 weeks over a 12-month period.

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- a. **Serious Health Condition.** Intermittent leave for a serious health condition of the employee or a qualified family member will be granted in accordance with the provisions of the Family and Medical Leave Act.
- b. **Baby Bonding.** The City is unable to accommodate intermittent leave for the birth of or placement of a son or daughter (adoption or foster care), to bond with the child or in order to care for such child. If a serious health condition of the mother or the baby is involved, the leave priorities of a Serious Health Condition stated above apply.
- c. **Military Leave.** For a qualifying exigency of a person related to active duty, requires the use of accrued vacation leave, then holiday leave (if applicable) before unpaid leave. If the exigency qualifies as a serious health condition or if the leave is for Military Caregiver duties, then the leave priorities of a Serious Health Condition stated above apply.
- e. **Temporary Transfer.** If the City and employee cannot agree to a satisfactory intermittent leave schedule or reduced work schedule for leave for a serious health condition of the employee or a family member, the City may temporarily transfer the employee to an available alternative position with equivalent pay and benefits to better accommodate the intermittent or reduced schedule. The City does not offer the option of a temporary re-assignment for post-birth (without documented restrictions from a physician) or baby bonding.

#### **304.04 Request Procedure**

- A. **When to Open a FML Claim.** All employees are required to contact the City's Third Party FML Administrator to file a claim when any of the following occur:
- 1. A serious health condition of the employee or immediate family member which results in absences that exceed three (3) consecutive sick days from work.
  - 2. A serious health condition of the employee or immediate family member which results in leave which is frequent and on an intermittent basis.
  - 3. A hospitalization of any amount of time.
  - 4. Birth of a child and care of a newborn child.
  - 5. Placement of a child with employee for adoption or foster care.
  - 6. Care for a spouse, child, or parent with a serious health condition.
  - 7. Qualifying exigency due to a family member's military deployment.
  - 8. Care of a family member who has incurred a serious injury or illness in the line of

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active military duty.

#### **B. How to Open a FML Claim.**

1. All employees are required to contact the City's Third Party FMLA Administrator as far in advance of the leave as is practical and reasonable. In the case of emergencies, an employee's family member or designee may contact the City's Third-Party Administrator to open a claim.
2. In addition, employees must notify their immediate supervisor of their need for leave as far in advance of the leave as is practical and reasonable. In the case of emergencies, an employee's family member or designee may contact the employee's supervisor to provide notification of the absence.

**C. Periodic Contact with Supervisor.** While on FML of more than one pay period, employees are required to report weekly to their supervisor regarding the status of their leave and their intent to return to work. Contact with supervisor should be made within normal business hours, unless published standard operating procedures instruct otherwise.

#### **304.05 FML Certification Requirements**

**A. Serious Health Condition.** Certification of leave for a serious health condition is coordinated through the City's Third-Party Administrator for FML. Once a FML claim is opened, the Third-Party Administrator will provide the employee with a Health Care Provider Certification Form. For FML consideration the employee is required to submit the Health Care Provider Certification Form within 15 days of opening their claim or provide a reasonable explanation for the delay. Failure to complete and return the Health Care Provider Certification Form in a timely manner may result in a denial of leave and may result in disciplinary action up to and including termination.

1. Medical certification of the serious health condition must include:
  - a) Date when the condition began;
  - b) Expected duration of condition;
  - c) Medical facts which support the certification;
  - d) Expected duration of condition;
  - e) Medical facts which support the certification;
  - f) Brief statement of treatment;
  - g) Statement that the employee is unable to perform the essential functions of the

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employee's position (if leave is due to employee's serious health condition), or a statement that the family member requires assistance and/or that the employee's presence would be beneficial or desirable for care of the family member, including psychological comfort (if leave is due to family member's serious health condition); and

- h) Dates and the duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule (if intermittent leave or a reduced work schedule is desired).
- B. Baby Bonding.** If the leave is for birth of or placement of a son or daughter (adoption or foster care), to bond with the child or in order to care for such child, the City shall require documentation in compliance with the City's Third-Party Administrator (TPA) for FML.
- C. Military Exigency of Military Caregiver.** If the leave is for the exigency of a person related to active duty or for military caregiver duties, the City shall require certifications in a form approved by the U.S. Government.
- D. Request for Second Opinion.** The City, through its Third-Party Administrator for FML, may require a second opinion if it has reason to question the medical certification for private healthcare providers only. The second opinion will be from a physician of the City's choice and at the City's expense. If necessary, to resolve a conflict between the original medical certification and the second opinion, the City and the employee will jointly select a third physician. The City will pay for the third opinion. This third opinion will be considered final.
- E. Medical Re-certification.** Medical re-certification may be required if:
1. The duration of the serious health condition, as stated in the original certification, has expired and the employee is still unable to return to work;
  2. There are facts that cast doubt on the employee's stated reason for the absence;
  3. The annual certification has expired for intermittent use and the employee continues to need intermittent time away from work for the condition; or
  4. There is a change in circumstances.

### **304.06 Employee Status and Benefits During Leave**

- A. Paid Leave.** An employee on paid leave for FML purposes will continue to accrue paid leave, and deductions from pay and the City's contributions to any benefit plan will continue to be made as if the employee had continued to work.
- B. Unpaid Leave.** An employee who is on unpaid leave for FML purposes continues

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health coverage only if the employee pays the employee's share of the cost of employee and dependent coverage. The employee receives City benefits only to the extent specified in the Unpaid Leave Chapter (303.00).

- C. **Required Reimbursement.** If the employee chooses not to return to work for reasons other than a continued serious health condition or qualifying exigency, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium, if the employee used any unpaid leave.
- D. **Work During FML Leave.** An employee who is on FML leave should not be asked or expected to perform any kind of work, other than minor tasks (i.e. providing a password). Further, employees shall not work any second employment while absent for any FML leave.

### **304.07 Return to Work/Disability.**

- A. **Health Fitness Impairment.** Absence from work due to a serious health condition of the employee, whether leave is paid or unpaid as provided in this Chapter, is considered a health fitness impairment.
1. The Return to Work and Disability provisions of the Health Fitness Impairment Chapter (305.00) will apply.
  2. For specific return to work process employees should reference section 305.04 of the policy manual.
- B. If an employee fails to return to work or request an unpaid leave of absence at the expiration of an approved Family and Medical Leave, the employee may forfeit employment.

## **305.00 HEALTH FITNESS IMPAIRMENT**

### **305.01 POLICY/PURPOSE**

A health fitness impairment occurs when an employee is unable to perform the essential functions of the position due to a serious health condition or an injury that occurs on or off the job. The purpose of this Chapter is to summarize for employees their options for compensation and return to work after a period of health fitness impairment.

### **305.02 GENERAL PROVISIONS**

- A. Where required because of business necessity, the City reserves the right to fill the position held by an employee with a health fitness impairment that prevents the employee from performing the essential job functions. For those employees that are subject to Texas Local Government Code 143, the above stated will be managed in accordance with Texas Local Government Code, Chapter 143 and Arlington Fire Department Civil Service Local Rules; all other provisions of this chapter are still applicable. Federal, state, and City benefits for the injured employee continue as specified in this Chapter and the Workers' Compensation Chapter (306.00). The provisions of this Chapter will govern the employee's return to duty.
- B. Employees are responsible for appropriately reporting on-the-job injuries, through the City's Workers' Compensation third party administrator, as soon as possible, but no later than 24 hours after the injury occurs, or it is reasonably known to the employee to have occurred. If the injured employee is physically unable to so report, any employee(s) who witnessed the incident will report such to the immediate supervisor within the time specified. If for any reason the employee does not report the injury, and the supervisor has knowledge of such injury, the supervisor is responsible for reporting the injury.
- C. While an employee is in an unpaid status, the employee is not considered on active service with the City. See Unpaid Leave Chapter (303.00) for list of consequences.
- D. Time limits expressed in terms of "work days" in this Chapter will be converted to shift equivalents for persons regularly assigned to other than the regular City 8-hour work day.
- E. When an employee is in any paid or unpaid leave status because of a health fitness impairment, the day will be applied toward the employee's leave benefit under the Family and Medical Leave Act.
- G. Tracking of time limits specified in this Chapter for health fitness impairment options is the primary responsibility of the immediate supervisor of the impaired employee. This does not relieve the impaired employee from responsibility for being aware of the express limitations of any of the health fitness impairment options. The City will seek reimbursement from employees for overpayment of benefits.

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- H. All correspondence concerning employment status or benefits to an employee, or the representative of an employee suffering a health fitness impairment, must be approved in advance by the Human Resources Department.

### **305.03 HEALTH FITNESS IMPAIRMENT OPTIONS**

- A. The options for an employee who cannot perform the essential functions of the position because of a health fitness impairment are as outlined in Appendix A to this Chapter. In addition, see the Workers' Compensation Chapter (306.00) for compensation options for an employee injured on the job.

### **305.04 RETURN TO WORK**

#### **A. Release to Duty Verification.**

1. An employee returning to duty after a health fitness impairment must provide a written release from the treating physician indicating the employee's fitness to return to duty, stipulating any type of restrictions, and the date of the employee's release from medical care. If no restrictions are specified, the supervisor is to send a copy of the release to Human Resources. If restrictions are specified, the employee must provide the required documentation to the Human Resources Department before reporting to work.
2. Depending on the length and reason for the health fitness impairment, on a case by case basis, the employee may be required to give consent for the City to review medical records/reports from treating professionals, and/or submit to evaluation by a medical professional of the City's choice (and at the City's cost).

- B. Status During Verification Process.** If records must be reviewed and/or evaluation of the employee's fitness is required to determine the employee's fitness to return to duty is warranted, the employee may be required to use available paid leave, may be placed in an unpaid leave status, or may be placed in a transitional duty status.

- C. Transitional Duty Assignment.** If an employee is medically released, but with restrictions that render the employee still unable to perform the essential functions of the employee's own position, an attempt will be made to find duties that the employee is capable of performing so that the employee can transition to full productivity in the employee's own department. If no transitional duty assignment can be made in the employee's department, the employee may be placed in a transitional duty assignment in another department.

1. Unless the impairment is related to the employee's pregnancy, the transitional duty assignment, or any combination of more than one transitional injury assignment, will not extend beyond 120 work days per accident or illness. If an injury or illness is work-related, the transitional duty assignment may be extended

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on a limited basis with the approval of the Department Head and the Director of Human Resources.

2. If the employee is unable to return to the employee's own position following the 120 work days, the employee may apply for any open and available position for which the employee is qualified and able to perform the essential job functions. If no position is available, the employee will be dismissed. The employee may apply for disability benefits as outlined in Section 305.05.
3. The total amount paid to an injured employee while on transitional duty assignment status will not exceed the employee's regular pay.
4. If an employee must work a reduced work schedule as part of the transitional duty assignment prescribed by the treating physician, the employee will be paid for hours worked and the remainder of the scheduled work day will be supplemented with the employee's accrued leave balances (sick, banked holiday, vacation) or salary continuation, if applicable. If the employee exhausts their leave balances, the balance of any reduced work schedule day will be authorized leave without pay. For the purposes of time tracking, any transitional duty time utilized in a work day will be considered as 1 day of transitional duty.
5. Employees that are assigned to transitional duty will be required to be re-evaluated every 30 days and submit the required documentation to Human Resources on or before the expiration of their transitional duty assignment.

**D. Impairment Related to Employee's Pregnancy.** If required by law, the City of Arlington will make a reasonable effort to accommodate an employee with an impairment, as determined by a physician, related to the employee's pregnancy. In this case, the accommodation could extend beyond the allotted 120 days if the accommodation is available in the same office. If the employee's physician restricts the hours the employee can work, the employee will only be paid for actual hours worked.

**E. Additional Recovery Needed.** If, after returning to work, an employee finds that recovery is not to the extent necessary to perform the essential job functions of the transitional duty assignment or regular assignment, the employee should so inform the supervisor and return to the attending physician. The employee must obtain a written medical release from duty or amendment of the previously provided description of work restrictions. This release from duty or amendment of work restrictions must be submitted to Human Resources. If the physician indicates the employee can return to duty with additional restrictions, the Human Resources Department will coordinate efforts to find another transitional assignment.

**F. Lactation Arrangement for New Mothers.** The City of Arlington supports the rights of lactating mothers to express breast milk upon return to work for her nursing child for one year after the child's birth, pursuant to FLSA, state and federal law. Departments shall make reasonable accommodations and provide a supportive

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environment for breastfeeding or lactating employees to express milk during work hours.

1. Employees with infants who are 12 months or younger and are in need of expressing breast milk during work hours should notify their immediate supervisor to discuss a lactation arrangement. Departments shall provide a private location, free from interruption and intrusion for the expression of breast milk that is not a restroom and that is a functional space for expressing breast milk. Should an appropriate location be unavailable in the employee's department, the Human Resources department will coordinate efforts with the employee and supervisor to find an appropriate solution.
2. Departments shall allow these employees to take reasonable breaks to express milk as frequently as needed. Whenever possible, the employee should use their allotted break and meal times for the expression of milk. Frequency and duration of each individual break may vary. However, where a break exceeds 15 minutes the employee must utilize accrued leave time for the total duration of the break. If employees are unable to coordinate the expression of milk during these allotted break times, the employee will clock out during the period they are expressing milk and clock back in when ready to return to work. The employee will assume all responsibility for the storage and security of her breast milk and equipment.
3. Harassment or discrimination against any employee who requests the ability to express milk in the workplace is prohibited. Employees found to have engaged in this behavior are subject to disciplinary action up to and including termination of employment.

### **305.05 AMERICANS WITH DISABILITIES ACT (ADA)**

**A. Purpose.** The City of Arlington is committed to abiding by the requirements of the Americans with Disability Act (ADA) of 1990, as amended, to create and sustain an environment that strives to accommodate, support, and value all employees, regardless of disabilities.

**B. Requesting an Accommodation.** The administration of ADA is an interactive process between Human Resources, the employee, their supervisor and the City's Attorney's Office. If an employee or someone on the behalf of the employee believes an accommodation is needed, they should contact Human Resources to begin the interactive process.

**C. Assessing Accommodation Requests.** The City of Arlington will make every effort to offer Reasonable Accommodations to enable an employee to perform the essential functions of his/her position when the employee cannot otherwise perform the essential functions of his/her position. A requested accommodation may not be deemed reasonable if:

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1. The need for an accommodation could not be properly substantiated;
2. The requested accommodation would not be effective in ensuring the employee is able to perform the essential functions of his/her position; or
3. The requested accommodation would impose an undue hardship on the operations of the City.

The City has discretion to determine whether a requested accommodation poses any undue hardship for the City and in determining what type of accommodation will be provided.

### **305.06        DISABILITY**

A. **Continuing Medical Recovery Possible.** An employee who is unable to return to the employee's regular assignment may apply and be approved for payments through the City's Disability Insurance.

1. Disability payments begin after 120 calendar days of continuous disability due to health fitness impairment and provide 60% of the employee's regular pay. Disability payments are offset by income from other sources.
2. An employee who is unable to return to work must use accrued paid leave during the 120-day waiting period for disability payments. The employee eligible for disability payments may continue to use accrued paid leave (delaying the start of disability payments and continuing 100% of regular pay) or elect to receive disability payments. An employee who does not have sufficient accrued leave to carry through the waiting period for disability payments may be granted a leave of absence for the remainder of the waiting period.

B. **Disability Retirement.** An employee who is a member of TMRS and who has been determined to be permanently physically or mentally disabled may be entitled to disability retirement benefits through TMRS. Summary information on the benefits, allowances, and coverage of TMRS disability retirement can be obtained from the summary plan brochure provided to each employee or through the Human Resources Department.

1. An employee who has been granted disability retirement through TMRS shall be considered to have resigned from the position held as of the effective date of the granting of the disability retirement.
2. An employee who has been approved for and accepts disability retirement may accept employment in another position in the City or another TMRS City (if able to perform the job duties). However, benefits may be reduced according to TMRS guidelines.

### **305.07        REASSIGNMENT, RE-HIRE, AND TERMINATION**

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- A. An employee who has a health fitness impairment may at any time before qualifying for the City's Disability Plan or disability retirement apply for a vacant position within the City that the employee is qualified for and capable of performing. Any disability payments from the City's Disability Plan will be offset by the wages paid for the new position.
  
- B. An employee who was dismissed following approval for disability retirement, who obtains a release from the attending physician indicating the employee's fitness to return to a position with the City other than the employee's former position, may apply through the Human Resources Department for any open and available position for which they meet the minimum qualifications. Any payments from the City's Disability plan or TMRS will be offset by wages paid for the position.

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## 305.00 APPENDIX A HEALTH FITNESS IMPAIRMENT

Illness & Off-job Injury*	On-the-job Injury*
<p><b>I:</b> Use accrued sick leave, accrued holidays, and/or vacation, then any unpaid family medical leave, in accordance with Sections 302.00 Paid Leave and 304.00 FMLA.</p> <p>All leave will be counted toward FMLA annual allotment if qualified as a serious health condition.</p>	<p><b>I:</b> Use injury leave with pay (salary continuation program). In “<b>Phase I</b>” the employee is eligible for 90 working days per injury (maximum 180 days in 5 year period).</p> <p>Injury leave is not available more than one year from injury date.</p> <p>FMLA will run concurrently the first 12 weeks of a workers’ compensation injury.</p>
<p><b>II:</b> If paid leave is exhausted before disability payments are approved and begin, the employee may be put on unpaid leave of absence in accordance with Section 303.00, Unpaid Leave.</p> <p>Note: If paid leave exceeds 120-calendar day wait for disability, employee may elect to use all accrued leave and then receive disability payments.</p>	<p><b>II:</b> In “<b>Phase 2</b>” the employee may supplement his/her weekly workers’ compensation check using accrued paid leave (sick, holidays, and vacation).</p> <p>If employee exhausts paid leave, the employee may collect workers’ compensation benefits <b>if still applicable</b>. (Workers’ compensation is equal to 70% of average weekly wage.) and be put on unpaid leave of absence in accordance with Section 303.00, Unpaid Leave.</p>
<p><b>III:</b> When an employee is able to return to work:</p> <ul style="list-style-type: none"> <li>• If employee cannot return to his full duties, transitional duty is available for a total of 120 working days.</li> <li>• If employee has permanent restrictions, the employee may seek assistance in finding accommodation or reassignment.</li> <li>• If position has been filled because of business necessity, the department will attempt to reassign the employee.</li> <li>• If accommodation and/or reassignment are not available, the employee may be terminated.</li> </ul>	<p><b>III:</b> When employee is able to return to work:</p> <ul style="list-style-type: none"> <li>• If employee cannot return to his full duties, transitional duty is available for a total of 120 working days.</li> <li>• If employee has permanent restrictions, the employee may seek assistance in finding accommodation or reassignment.</li> <li>• If position has been filled because of business necessity, the department will attempt to reassign the employee.</li> <li>• If accommodation and/or reassignment are not available, the employee may be terminated.</li> </ul>
<p><b>IV:</b> When employee is unable to return to work:</p> <ul style="list-style-type: none"> <li>• If employee is <b>unable</b> to return to work, he/she may apply for disability through the City’s disability carrier or TMRS retirement.</li> </ul>	<p><b>IV:</b> When employee is unable to return to work:</p> <ul style="list-style-type: none"> <li>• If employee is <b>unable</b> to return to work, he/she may apply for disability through the City’s disability carrier or TMRS retirement.</li> </ul>

Note: City’s insured disability plan payments begin after 120 calendar days of continuous disability **if approved by the carrier**. Pay is equal to 60% of regular pay.

Note: Paid leave does not accrue during unpaid leave.

Note: Eligibility for any leave or benefit category specified in this Appendix is not automatic and is subject to review and approval by the City pursuant to law and the terms of specific benefit plans.

**\*For those Firefighters whose positions are in the City’s job classification of Fire Prevention and Fire Suppression** pre-civil service frozen sick leave accounts must be used upon exhaustion of all civil service leave.

**\*Fire Department employees subject to Texas Local Government Code, Chapter 143**, will receive workplace injury/illness leave in accordance with the requirements of the Chapter.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*



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## 306.00 WORKERS' COMPENSATION

### 306.01 POLICY/PURPOSE

The City is committed to meeting its obligation under the Texas Workers' Compensation Act to provide medical, rehabilitation, and wage-replacement benefits to employees who sustain work-related injuries or illnesses. All work-related injuries and illness, whether eligible for the Salary Continuation Plan or not, are eligible under the Family and Medical Leave Act (FMLA), and any missed time due to the injury or illness will be counted toward the employee's FMLA allotment.

As specified in this Chapter, the City goes beyond the requirements of the Texas Workers' Compensation Act by providing a Salary Continuation Plan to supplement the temporary income benefits available under state law that do not provide full wage replacement.

The purpose of this Chapter is only to describe the financial benefits available to an employee who is unable to work the regular position because of an on-the-job injury covered under the Texas Workers' Compensation Act and the City's Salary Continuation Plan. Information on options for transitional duty, re-assignment, return to work, and disability payments are detailed in the Health Fitness Impairment Chapter (305.00).

### 306.02 STATUTORY PROVISIONS

- A. **Payment Purposes.** When an employee is injured within the course and scope of employment for the City of Arlington, the employee is eligible for workers' compensation payments pursuant to Title 5 of the Texas Labor Code. These payments are for:
1. Reasonably required medical treatment;
  2. A statutory amount that provides a portion of the employee's average weekly wage while the employee is unable to work because of the injury for up to 104 weeks; and
  3. Additional monetary benefits for permanent disability suffered as a result of the on-the-job injury.
- B. **Contest of Claim/Termination of Benefits.** Workers' compensation benefits are subject to termination for grounds specified in the statute. The City may contest any claim for reasons authorized by law. An employee whose claim is being contested by the City is not eligible for injury leave with pay or salary continuation until a final

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

determination of eligibility is made by Human Resources in conjunction with the City's third-party workers' compensation administrator.

- C. **Physician Choice.** An employee may consult any physician that accepts workers' compensation payments to administer treatment in connection with the on-the-job injury. The City will pay (or reimburse the employee for payment of) the cost of such treatment so long as the employee meets the eligibility requirements of workers' compensation and the charges are reasonable and necessary within Texas Division of Workers' Compensation (DWC) guidelines.
- D. **Temporary Income Benefits.** Under the Workers' Compensation Program, temporary income benefits do not begin until after the seventh (7<sup>th</sup>) calendar day of absence from work due to an on-the-job injury.
1. A regular full-time employee who appears initially to be eligible for workers' compensation weekly payments will be carried on the payroll in an Injury Leave with Pay status for all work time missed during the first seven (7) days of absence.
  2. If it appears initially that the employee is not eligible for workers' compensation weekly payments, or the claim is being contested by the City, the employee must use accrued paid leave, if available. If the employee has no accrued paid leave, the employee will be carried on the payroll in Injury Leave without Pay status. If it is determined that the employee is eligible for temporary income benefits, any accrued leave used will be restored to the employee's leave balance, or any unpaid leave time will be retroactively compensated.

### **306.03 SALARY CONTINUATION PROGRAM**

- A. **Eligibility.** Full-time employees receiving weekly workers' compensation temporary income benefits are eligible for salary continuation. Temporary, part-time, seasonal, and probationary employees with less than 6 months active full-time service credit are ineligible for salary continuation.
1. For those employees that are subject to Texas Local Government Code, Chapter 143, please refer to the Texas Local Government Code, Chapter 143 and Arlington Fire Department Civil Service Commission Local Rules for specific provisions pertaining to line of duty illness or injury leave of absence.
- B. **Salary Continuation Procedure.**
1. If the employee elects to receive salary continuation, it will provide the employee with regular pay during the time the employee is unable to work because of the injury as follows:

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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- a. The employee must elect to participate in the Salary Continuation Program agreement within five (5) days of filing the accident report;
  - b. Each workday that the employee is unable to work because of the injury will be documented as one (1) work day paid through the Salary Continuation Program; and
  - c. If the City's third-party workers' compensation administrator reduces temporary income benefits for liens allowed by Section 408.203 of the Texas Labor Code, the amount of this reduction will also be deducted from salary continuation payments at a rate not to exceed 25% of the temporary income benefits in accordance with state law.
2. **Salary Continuation Limits.** Salary Continuation is only available:
- a. For 90 workdays for each on-the-job injury.
  - b. During the 12-month period after the date of the injury;
  - c. The employee has not used 180 cumulative workdays of Salary Continuation Phase 1 in a rolling five (5) year period; and
  - d. The employee has not been assessed at Maximum Medical Improvement per Texas Workers' Compensation guidelines.
3. **Examinations.** The Director of Human Resources or designee may require an employee to submit to examinations at city expense by a physician or psychologist as a condition of receiving or continuing to participate in the Salary Continuation Program. These examinations are in addition to any medical treatment secured by the employee under workers' compensation laws.
4. **Payroll Status.** The employee will be carried on payroll in Injury Leave with Pay status while receiving Salary Continuation payments and unable to perform the duties of the regular position.
- C. **Salary Continuation Forfeiture.** An employee forfeits eligibility for participation in the Salary Continuation Program if the employee:
1. Fails to report the on-the-job injury as specified in 305.02.B and receive such medical treatment as may be necessary;
  2. Repeatedly fails to keep medical appointments. (The Director of Human Resources may reinstate eligibility if the employee later submits to examination and treatment; any such resumption does not reinstate forfeited pay benefits for the period in which the employee refused to submit to examination.);

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

3. Is found to be working another job;
  4. Retires, resigns, is dismissed for any reason, or dies;
  5. Refuses to submit to examinations or diagnostic tests or procedures recommended as medically or psychologically necessary by the provider;
  6. Fails to follow, refuses to comply with, disregards, or violates the treating physician's instructions regarding treatment of the on-the-job injury;
  7. Refuses to perform transitional (limited, partial, or part-time) duty when such has been authorized by the treating physician and offered by the Department Head or the Director of Human Resources;
  8. Falsifies or misrepresents physical condition or capacity;
  9. Refuses to return to regular duty on the working day after the employee has been released to regular duty by the treating physician;
  10. Fails to contact the immediate supervisor on a weekly basis, and the Human Resources Department on a biweekly basis, to discuss condition and expected return to work date;
  11. Has been injured as a result of the employee's own willful misconduct, gross negligence, or is in violation of safety procedures/rules as determined by the Risk Management division of Human Resources;
  12. Is receiving benefits through any of the City's disability income plans or TMRS;
  13. Refuses to make application for benefits under the Disability Income Plan offered by the City and TMRS when requested; or
  14. Fails to reimburse the City the full amount of any temporary income benefits received from the third-party administrator.
- D. **Administrative Rules.** The Director of Human Resources or designee, in coordination with city management, is authorized to promulgate necessary rules and regulations for the efficient administration of the Salary Continuation Program benefit plan.
- E. **Denial and Appeal.** Payment of benefits under this plan shall at all times remain subject to the Director of Human Resources or designee's approval. Denial shall be by written notice from the Director of Human Resources or designee to the employee with the grounds stated. The employee may appeal in writing within five (5) days of

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

receipt of the notice of denial to the Deputy City Manager or designee, who shall render a decision within ten (10) days of receipt of the appeal. The decision of the Deputy City Manager or designee is final. Failure to appeal within the time specified waives the appeal.

#### **306.04 BENEFITS/STATUS WITHOUT SALARY CONTINUATION**

- A. If an employee is not eligible for the Salary Continuation Program, or elects not to participate in it, and the employee is unable to work because of an on-the-job injury covered by workers' compensation, the employee will only receive statutory Temporary Income Benefits through the third-party administrator.
- B. The employee may use accrued paid leave to supplement the Temporary Income Benefits and remain in a paid City status.
- C. While receiving Temporary Income Benefits and in any unpaid leave status, all City benefits cease. The employee must pay the cost of all plans, such as insurance, loans, and retirement that are otherwise paid through payroll deductions. See the Unpaid Leave Chapter (303.00) for details.

## 307.00 NON-LEAVE BENEFITS

### 307.01 POLICY/PURPOSE

The City offers a variety of benefit plans as summarized in this Chapter.

### 307.02 GENERAL PROVISIONS

- A. Eligibility for and the amount of any benefit described in this Chapter depend on provisions of the official plan document and federal tax law. Statements made in this Chapter as a general informational summary of benefits that are inconsistent with the official plan documents are void. The City has discretionary and final authority to construe and interpret all employee benefit plans, decide all questions of eligibility, and determine the amount, manner, and time of payment of any benefits, to the extent allowed by law and by contract with the plan administrator. See applicable benefit plan documents, state laws or regulations, or federal law or regulations.
- B. Eligibility for any benefit described in this Chapter may be suspended during periods of unpaid leave.
- C. Except for the Education Assistance, summary booklets on each of the benefit plans described in this Chapter are provided to employees through the Human Resources Department.

### 307.03 BENEFIT PLANS

- A. **Death Benefits.** The beneficiaries of all full-time employees are eligible for:
  - 1. Death benefits through the Texas Municipal Retirement System (TMRS);
  - 2. The equivalent of employee's current base pay for 2 pay periods;
  - 3. Through the Group Term Life Plan, a payment in the amount of 2 times the deceased employee's annual base pay; and
  - 4. With the exception of those Firefighters whose positions are in the City's job classification of Fire Prevention and Fire Suppression, payment for all the employee's accrued paid vacation leave and payment for all the employee's accrued sick leave to a maximum of 960 hours if the employee had more than six months active full-time service with the City at the date of death.
  - 5. For those Firefighters whose positions are in the City's job classification of Fire Prevention and Fire Suppression, refer to Section 143.045(d) of the Texas Local Government Code, Chapter 143.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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- B. Health Expense Coverage.** The City provides full-time employees the opportunity to participate in:
1. A group insurance program covering medical, selected hospital, and dental expenses incurred by employees and/or dependents; or
  2. A health maintenance organization through which medical, selected hospital, and dental care is provided.
- C. Tax Saver Plan.** The City provides full-time employees the opportunity to participate in the Tax Saver Plan which allows use of payroll deductions of pre-tax dollars, pursuant to the IRS Code, to be used for certain:
1. Health/dental insurance premiums;
  2. Reimbursement of medical/dental expenses not paid by health/dental insurance coverage; and
  3. Dependent care expenses.
- D. Retirement.**
1. All full-time employees, and those regular part-time employees who occupy positions designated as requiring 1,000 or more hours per calendar year, must participate in the Texas Municipal Retirement System (TMRS).
    - a. The TMRS program is city and employee funded and the plan is administered by TMRS pursuant to V.A.T.C.S. Title 8, Subtitle G, Texas Government Code.
    - b. The employee's contributions vest immediately and the City's contributions vest after 5 years.
  2. Eligible part-time, seasonal, and temporary employees will participate in the City of Arlington, Texas, Part-time, Seasonal and Temporary Deferred Income Plan (PST-DIP). The PST-DIP is an employee and city funded retirement plan administered by the Human Resources Department.
  3. The amount of the benefit at retirement under TMRS or PST-DIP is determined by the plan document and state law.
- E. Optional Pension Plans.** All full-time employees may elect to contribute to one or both of two optional pension plans through payroll deduction of pre-tax dollars. Withdrawal of contributions can be made only for reasons specified in the official plan documents, and early withdrawals may be subject to penalties and tax pursuant to IRS regulations.

1. The Thrift Savings Plan is an Internal Revenue Code Section 401(k) plan that allows employees to contribute up to 10% of base pay. The City will match 50 cents on the dollar for the first 6% of employee contributions.
2. The Deferred Compensation Plan is an Internal Revenue Code Section 457 plan that allows employees to contribute up to an amount determined yearly by the IRS. The City does not match deferred compensation plan contributions.
3. If an employee also contributes to both plans, the total annual combined contributions cannot exceed the amount determined by the IRS.

F. **Educational Assistance Program.** The City offers regular full-time employees who have successfully completed their initial probationary period reimbursement for tuition and applicable fees for courses taken for credit that directly relate to an employee's present position or to a position of possible promotion, or where there is reasonable expectation that the employee will have an opportunity to move into that career field. Audited courses are not eligible for consideration.

1. The City will reimburse up to a maximum of \$2500 per employee, per calendar year. The maximum will be extended to \$4,000 per employee, per calendar year for a graduate degree. Employees will be reimbursed for college tuition, applicable professional certification, licensing and testing preparation fees that are not a condition of employment, and are not paid through the City's travel and training budget. Employees will also be reimbursed for eligible expenses including, but not limited to, books, lab fees, and other associated educational fees.
2. The employee must: submit a completed "Application for Educational Assistance" to Human Resources prior to registration.
3. Once approved employees must:
  - a. Make a grade of "C" or better in undergraduate courses or a "B" or above in graduate courses; and
  - b. Submit an "Educational Assistance Reimbursement Request" form and a copy of the grades, tuition and fees, cost of books and other fee payment receipts to the Human Resources Department for approval by the Director of Human Resources within 90 days of completion of the course;
  - c. Be in a paid status to receive reimbursement.
4. Reimbursement will be made for correspondence courses taken from an accredited institution of post-secondary education as certified through a commission on higher education of a regional educational agency for colleges and universities.

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*



5. The employee must maintain employment with the City for two years after reimbursement for the course. In the event the employee does not maintain employment with the City, the employee will be required to repay, at the time of termination of employment, the tuition and fees that were reimbursed by the City.

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## 308.00 MILITARY PERSONNEL

### 308.01 POLICY/PURPOSE

The City of Arlington is committed to fulfilling its obligations under state law and federal law and to demonstrating its support of national or regional security efforts by providing military leave as specified in this Chapter. The City also acknowledges that time spent by employees on military leave often is relevant or complementary to their workplace responsibilities, and that the skills, leadership, discipline, and teamwork experience that employees acquire during military service can prove valuable on the job.

### 308.02 GENERAL PROVISIONS

- A. Employment and re-employment rights of military personnel in civilian employment are governed by the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC 4301.
- B. Paid military leave will only be given in lieu of regularly scheduled work hours.
- C. All requests for military duty leave shall be made in advance and accompanied by copies of the military orders documents. Where military necessity prevents advance notice and documentation, notice will be provided as soon as possible and documented as soon as possible, but no later than immediately after the absence.
- D. Some persons called to active military service are entitled to some types of civil relief, such as the ability to break leases and limits on loan interest, under the Soldiers' and Sailors' Civil Relief Act (SSCRA). This Act does not affect employment or re-employment. Members of any of the armed services should seek private or military legal assistance to determine if they are eligible for civil relief under SSCRA.

### 308.03 LEAVE

- A. **Annual Paid Leave.** All full-time employees are eligible for 120 hours (180 hours for 24-hour firefighters) paid Military Leave per fiscal year to allow them to respond to orders of military service.
  - 1. Travel time included in the orders and paid for or reimbursed by the service will be counted as military leave, provided that such travel is scheduled to occur during the employee's normal work hours.

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2. Paid Military Leave will not be granted for time that is used for diagnosis or treatment of any service-connected sickness or disability, for obtaining or sustaining any disability rating, or for treatment in any government facility.
3. Time required for physical examination for selection or admission to the military service, to determine or maintain a selective service rating, or to maintain a reserve status may be compensated by paid military leave.

**B. Additional Leave.** If time is required beyond the maximum allowable for paid military leave, the employee may use either accrued paid vacation leave, re-scheduled holidays, authorized leave without pay for the remainder of a pay period in which accrued paid leave was exhausted, or unpaid leave of absence. Employees are not required to use accrued paid vacation leave or re-scheduled holidays before use of paid military leave or unpaid leave for military purposes.

#### **308.04 RETURN TO WORK**

- A.** To retain re-employment rights under USERRA, the employee must:
1. After periods of 30 days of service or less, return to work at the beginning of the first regularly scheduled work day after time for safe travel to his or her residence and 8 hours of rest time; or
  2. After periods of 31 to 180 days, make application for re-instatement no later than 14 days after completion of military service; or
  3. After periods of 180 days or more, make application for re-instatement no later than 90 days after completion of military service.
- B.** An employee entitled to re-employment under USERRA, who performed military service of less than 91 days, is entitled to the job the employee would have attained absent the military service, provided the person is, or can become, qualified for that job. This includes any pay raises that would have been given based solely on time in the position, but not raises that would have been based on performance in the job. For periods of service of 91 days or more, the returning employee may be placed in a position of like seniority, status, and pay.

#### **308.05 BENEFITS STATUS DURING LEAVE**

- A.** An employee receiving any paid leave within a pay period will continue to accrue paid leave, and deductions from pay and the City's contributions to any benefit plan will continue to be made as if the employee had continued to work.
- B.** The City will provide continued health care coverage on the same basis as for an active employee if the military leave is less than 30 days. For periods of more than

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30 days, the employee may choose to continue city health coverage by paying up to 102% of the entire premium cost, as provided under COBRA, since except in the case of reservists called to active duty through Presidential Reserve Call-up (PRC), where military health care coverage extends to 30 days beyond completion of military duty), any military health care coverage ends at the completion of military duty.

- C. During unpaid leave for military purposes, an employee accrues no paid leave and is not eligible for longevity or stability pay. On return to work, the employee will be credited with the time spent in military service as active service for determining the accrual rate of vacation leave. The time spent on military service will also be counted after return from unpaid leave for military purposes for determining years of service for computation of longevity and/or stability pay.
- D. Any department that bases any personnel decision, such as shift or days off assignments, on seniority must count the time spent on unpaid military leave as active city service for seniority ranking purposes.
- E. Contributions toward the required and optional pension plans, and the obligation to re-pay Thrift Plan loans, are suspended while an employee is on active military service of over 30 days. Reinstatement of service credit and/or deposit of contributions on return to work with the City is governed by the terms of the particular plan. Employees should consult the Human Resources Department for assistance in determining the impact of their active military service on these plans.
- F. As federally mandated, upon return from active military duty, the employee will be credited with the number of vacation hours that he or she would have accrued during that period of time. In addition, the employee will be paid any longevity or stability pay that would have been paid for the year of his/her return, if he/she is gone for 12 weeks or less during that year.

### **308.06 MILITARY PAY SUPPLEMENT**

- A. **Purpose.** The purpose of the military pay supplement is to assist city employees that will be absent from their jobs as a result of being called to active military duty.
- B. **Eligibility.** Employees, receiving supplemental pay must:
  - 1. Be called to active full-time military duty status for a minimum of ninety (90) days;
  - 2. Be a full-time or part-time regular employee on the payroll of the City of Arlington; and

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*Firefighters classified as Fire Prevention and Fire Suppression under Texas Local Government Code, Chapter 143 must also refer to the Arlington Fire Department Civil Service Local Rules and Texas Local Government Code, Chapter 143.*

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3. Receive a total gross military pay, including any allowances or special pays, which is less than 100 percent of the total gross city pay, including additional pay such as incentive pay, shift differential and language pay.
- C. **Required Documentation.** Each employee requesting supplemental pay for active military duty must submit copies of their monthly military pay stubs to the Human Resources Department to receive supplemental pay from the City. Employees must also submit a copy of their military orders.
- D. **Benefit.** The military pay supplement will be paid for the duration of the employee's active military time. The supplement will not be paid for any additional time taken, as allowed by law, between release from active duty and the employee's return to work.
- E. Those Firefighters whose positions are in the City's job classification of Fire Prevention and Fire Suppression, will become eligible to participate in the City's Military Pay Supplement benefits upon meeting the above stated eligibility and upon exhaustion of any available Military Leave Time Account benefits as provided for in Texas Local Government Code, Chapter 143, Section 143.073.

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## **309.00 UNIFORM EXPENDITURES**

### **309.01 PURPOSE/POLICY**

All employees must maintain a neat, well-groomed appearance and hair style and wear any uniform or other apparel in accordance with individually established department standards. Please refer to Personnel Policies and Procedures: 201.07D.

Employees in certain positions are required to wear uniforms and/or safety shoes to protect them from work related injury, to ensure professional representation of the City and to reduce wear and tear on employee's personal clothing. The City will provide, directly or through an allowance, as determined by department management, items of personal protection, including clothing and footwear, that are required to be worn in the performance of work related duties. Appropriate use and care of City required items of personal protection, clothing and footwear is expected from employees.

The City is committed to providing a safe workplace. See the Safety and Accident Reporting Chapter (109.00) for further information.

### **309.02 GENERAL PROVISIONS**

- A. The City prefers to maintain a decentralized uniform policy that enables department specific flexibility and requires department accountability.
- B. The City requires that all individual department uniform policies include the following verbiage:
  - 1. Employees are responsible for replacing uniforms damaged through abuse
  - 2. Employees may be required to return uniform clothing to the city upon termination
  - 3. Departments must utilize any annual uniform and safety shoe contracts or preferred vendors to facilitate potential cost savings through volume discounts
  - 4. Employees who choose to make uniform purchase from non-contract or preferred vendors, due to special circumstance, will be reimbursed at the rate specified for the comparable item in the annual contract

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5. Purchases for uniforms and/or safety shoes will not be made through departmental petty cash funds
6. Departments are responsible for establishing mechanisms to identify, record and report uniform purchases and ensure the city receives reimbursement as required from employees in cooperation with the Financial Services Department
7. Departments must obtain the approval of the Human Resources Director and the respective Deputy City Manager prior to establishing or changing departmental uniform guidelines

### **309.03 DEFINITION OF SAFETY SHOES**

Safety shoes that qualify for reimbursement are intended to be of an industrial grade nature and are designed to provide protection in a variety of work situations. In general, tennis shoes and/or casual style shoes that are not steel or composite-toed, will not qualify as “approved” safety shoes. If such shoes are advertised by the manufacture as non-slip or non-skid or slip/skid resistant per American National Standards Institute, they may qualify as reimbursable. The maximum allowable reimbursement for safety shoes is \$125 per year.

### **309.04 LIABILITY FOR LOSS/ABUSED CLOTHING**

Employees will be responsible for replacing City required clothing, personal protection items and/or footwear damaged through abuse.

### **309.05 IRS GUIDELINES**

Work clothing provided by the City is not taxable to the employee if:

1. The employee is required to wear them while working, and
2. The clothes are not suitable for everyday wear

It does not matter that the employee will not wear the work clothes away from work. The clothing itself must not be suitable for taking the place of any regular clothing.

The following are examples of uniform items that are not taxable to the employee:

Police Officer Uniform	Fire Fighter Uniform
Hard Hats	Safety Shoes
Safety Glasses	Work Gloves

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The following are examples of uniform items that are adaptable for general use and therefore are considered taxable to the employee:

Jeans	T-shirts
Docker-type pants	Sweatershirts
Dress Pants	Sweaters
Twill or Poplin Shirts	Windbreakers
Polo Shirts	Jackets/Coats
Golf Shirts	Caps
Visors	Tennis Shoes

Uniform allowances and reimbursement payments to employees are considered taxable income unless they are for the purchase of nontaxable uniform items paid under the City's Accountable Plan. The City's Accountable Plan meets the following three IRS criteria:

1. The uniforms are purchased for a business purpose.
2. Substantiation in the form of logs and receipts must be presented for uniform purchases.
3. Any excess reimbursement or unused allowance must be returned to the City within a reasonable period or time.

The City will provide a 20% cash gross up against taxable uniform purchases, up to the departmental maximum uniform allowance, which may offset increased taxes for taxable uniform items.

### **309.06 TERMINATING EMPLOYEES**

For security purposes, certain departments may require that uniform items be turned in to the supervisor when an employee terminates employment with the City. Reimbursement balances due the City will be deducted from the employee's final paycheck, if applicable.

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