

**PERSONNEL POLICIES**

**OF THE**

**CITY OF MOUNT VERNON,  
TEXAS**

## WELCOME TO THE CHALLENGE OF PUBLIC SERVICE

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The City of Mount Vernon is glad to have you on the team of public servants that make up the City of Mount Vernon's government. From elected officials to temporary employees, our job is to serve our fellow neighbors. As a City employee, you have a responsibility to the citizens of the City. How well you do your work and how you conduct yourself on the job are subject to public approval. Your contact with citizens will often be the only basis on which the City's government is judged. Therefore, our objective is to provide the best possible service to the citizens in an efficient, fair and courteous manner.

This Personnel Policies Manual is intended to provide guidance on how we work as a team to provide that public service. Whether you are a new or experienced employee, this manual will give you facts about the City, how it works and the policies that govern us as employees.

The personnel policies and procedures of the City of Mount Vernon are adopted by the City council, are subject to regular review and may be updated or changed from time to time.

Each department may have additional policies governing its employees. Be sure to check with your supervisor or department head to see which additional policies, if any, are applicable to you. If you need more details on the City-wide policies and procedures, please consult the City Administrators office.

Sincerely,

The Mayor and the City Council of the  
City of Mount Vernon

## NOTICE TO EMPLOYEES

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The City of Mount Vernon operates as a General Law City that has adopted the council-mayor form of government under the laws of the State of Texas. The City is governed by the City council, which is composed of five council members and a mayor elected for staggered two-year terms. The mayor is the presiding officer of the City council and may vote only in the event of a tie. The City council acts primarily through the passage of local laws, called ordinances, which establish rules governing the actions of citizens and the work of City employees.

The City established the office of the City Administrator and delegates to the City Administrator the duties and powers necessary for the efficient day-to-day administration of the City's affairs. All City employees and supervisors answer to the City Administrator except those appointed by the council.

The City of Mount Vernon provides services to the public, which include roads and streets; police and fire protection; building inspection; water supply; sewage treatment; City parks and control of stray animals; and any other services authorized by the City council. In addition, City employees are involved in economic development, planning and zoning activities; performing judicial functions in the municipal court; assessing and collecting municipal fees for utility and other City services; and providing staff support and legal advice to the City council and to any other officially appointed citizen groups.

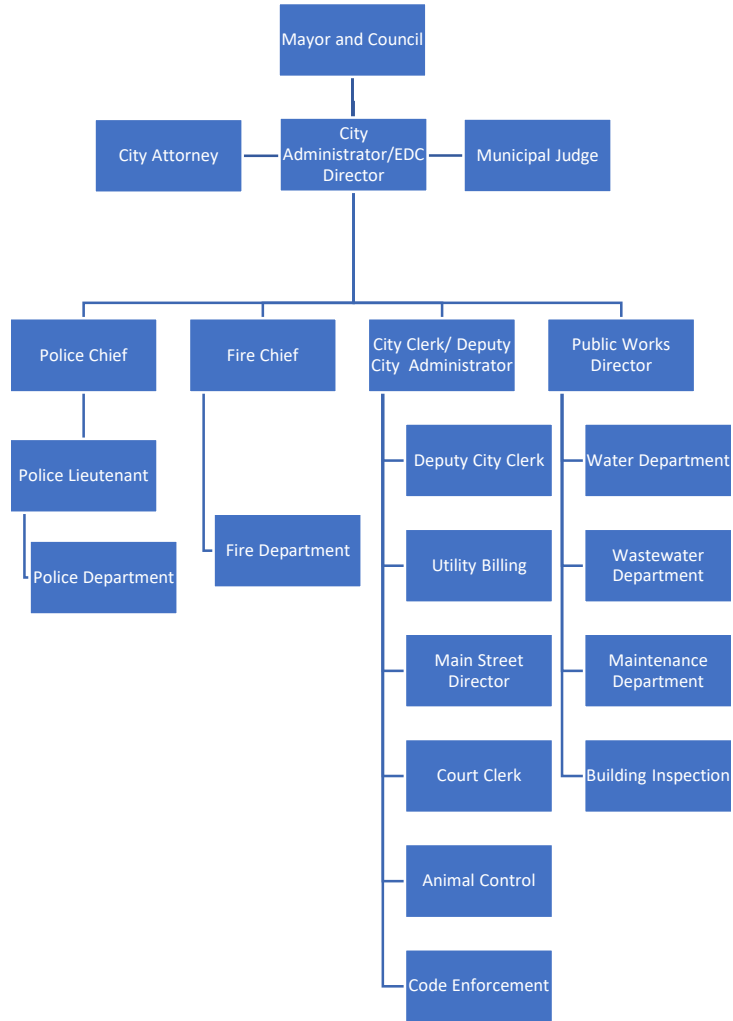
We hope that you, as an employee, will learn as much as you can about all of these services and activities so that you can coordinate your work effectively with that of other City employees and so that you can answer questions from the public.

The City of Mount Vernon operates under the legal doctrine of “**employment-at-will**” and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason not in conflict with state or federal laws. The City will attempt to ensure that employee dismissals are not made in an arbitrary or capricious manner; however, these personnel policies do not constitute or imply a contract, agreement, promise, or guarantee of employment or of continued employment. The City has the right to change these policies at any time, without prior notice to employees.

Each reference in these policies to the City means the City of Mount Vernon, Texas.

# MOUNT VERNON'S GOVERNMENTAL ORGANIZATION

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# **CITY OF MOUNT VERNON PERSONNEL POLICIES AND PROCEDURES MANUAL**

## **1.00 GENERAL POLICIES**

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### **1.01 AUTHORITY**

These policies are established by the City council and any deletions, amendments, revisions, or additions to the policies must be approved by the council. These policies completely replace and supersede any and all personnel policies previously adopted, individually or as a set of policies, by the City council.

In addition to these personnel policies, department heads may establish departmental rules and regulations that relate specifically to their departments, as long as they do not conflict with these policies. Departmental rules are important and employees must comply with them. If there is a conflict between a departmental rule or policy and these policies or any future amendments to these policies, the terms of these policies, as amended, will prevail. Additionally, departmental rules and regulations must be approved by the City Administrator.

### **1.02 SEVERABILITY**

The provisions of these policies are severable and if any provision or part of a provision is held invalid, illegal, or unenforceable, this shall not affect the validity of the remaining provisions or parts of provisions, which shall remain in force and effect.

### **1.03 RESPONSIBILITY FOR IMPLEMENTATION OF PERSONNEL POLICIES**

The City Administrator is ultimately responsible for the administration of the personnel policies and procedures. The City Administrator is responsible for the day-to-day administration of these policies and procedures.

With the exception of matters of appointments and any other personnel actions reserved to the City council by statute or ordinance, final authority on appointments and personnel decisions is reserved to the City council. The City council appoints and may remove the City Administrator, City attorney, municipal judge, police chief, City health officer and City Clerk. Department directors, referred to in these policies as department heads, are appointed by the City Administrator with the consent of the mayor and City council.

### **1.04 PURPOSE OF PERSONNEL POLICIES**

These policies set forth the primary rules governing employment with the City. The policies contained here inform employees of the benefits and obligations of employment with the City. They have been prepared and adopted in order to promote consistent, equitable and effective practices by both employees and supervisors which will result in high quality public service to the citizens of the City.

### **1.05 APPLICABILITY OF PERSONNEL POLICIES**

These personnel policies and procedures apply equally to all employees of the City unless a class of employees is specifically exempted. The following are not employees covered by the terms of these policies: City attorney, municipal judge, (unless he or she is an employee of the City), City health officer and incarcerated persons performing community service work for the City in lieu of jail time.

In cases where federal or state laws or regulations supersede local policy for specific groups of employees, such laws or regulations will substitute for these personnel policies only insofar as necessary to comply.

### **1.06 DISSEMINATION OF PERSONNEL POLICIES**

The City Administrator maintains the official set of the personnel policies, with all revisions, for reference by employees and is responsible for providing a complete copy of this manual and copies of all subsequent revisions or policy changes to each employee. If a question arises about a particular policy, the official set of policies in the City Administrator 's office should be consulted and will control.

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The City Clerk maintains the official set of the personnel policies, with all revisions, for reference by employees and is responsible for providing a complete copy of this manual and copies of all subsequent revisions or policy changes to each employee. If a question arises about a particular policy, the official set of policies in the City Clerks' office should be consulted and will control.

As a part of the initial orientation process, the City Clerk will provide a copy of the Personnel Policies and Procedures Manual to new employees. This copy is the employees to keep. Upon receipt of the personnel policies and before beginning work on the job, each employee is required to sign an acknowledgment that he or she has received a copy of the Personnel Policies and Procedures Manual and understands that he or she is responsible for knowing the contents. The signed acknowledgment is filed in the employee's official personnel file in the City Clerk's office.

### **1.07 AT WILL EMPLOYMENT**

The City of Mount Vernon operates under the legal doctrine of "employment-at-will" and, within the requirements of state and federal laws regarding employment; the City may dismiss an employee at any time, with or without notice, for any reason.

Texas law allows the City to maintain this "at will" employment relationship with its employees. This means that either the employee or the City can decide that the employee will leave the job without either party having to give a reason. State and federal law does require that the City not act in a discriminatory or retaliatory way in dismissing an employee.

### **1.08 EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the City of Mount Vernon to prohibit discrimination against any person in job structuring, recruitment, examination, selection, appointment, placement, training, upward mobility, discipline, or any other aspect of personnel administration based on race, age, sex, religion, color, disability, or national origin.

An employee will not engage in conduct at work that involves the use of racial or ethnic joking or derogatory remarks. Reports of such conduct will be investigated and disciplinary action will be taken, if appropriate.

The City prohibits retaliation or discrimination against any employee for opposing an unlawful or discriminatory employment practice, or for alleging such a practice or participating in an investigation of an allegation of discrimination.

(Legal reference: U.S. Civil Rights Acts of 1871 and 1964, as amended; V.T.C.A. Civil Practices and Remedies Code, Chapter 106; Texas Commission on Human Rights Act, V.T.C.A. Government Code, Sec. 461; V.T.C.A. Labor Code, Chapters 21-22; U.S. Age Discrimination in Employment Act of 1967, as amended; U.S. Rehabilitation Act of 1973, as amended; U.S. Americans with Disabilities Act of 1990; U.S. Executive Order 11246; U.S. Equal Pay Act; V.T.C.A. Health and Safety Code, Chapters 592.)

### **1.09 AFFIRMATIVE ACTION**

The City of Mount Vernon will take affirmative action to see that applicants are employed and employees are treated during their employment, without discrimination based on race, color, disability, religion, sex, national origin, age, or political affiliation or belief. In addition, the City will seek actively to include qualified members of minority, disabled and Vietnam-era veteran groups in applicant pools. (Legal reference: U.S. Executive Order 11246; U.S. Rehabilitation Act of 1973, Section 503; U.S. Vietnam Era Veterans' Readjustment Assistance Act of 1974, Section 2012, codified as Title 38, U.S.C. Chapter 42, Sections 2011, et seq.)

### **1.10 SEXUAL HARASSMENT**

It is the policy of the City to provide and maintain a work environment which is free of sexual harassment, sexual exploitation and intimidation. The City of Mount Vernon has a "zero tolerance" policy regarding sexual harassment; sexual harassment will not be tolerated by the City. All employees are expected to comply with

this policy; failure to do so will result in disciplinary action up to and including discharge. A copy of the City's sexual harassment policy will be posted at all City facility locations.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, 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 a basis for employment decisions affecting that person, or (3) such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.

It is illegal and against City policy for any worker – male or female – to harass another worker or create a hostile working environment by committing or encouraging:

1. Physical assaults on another employee, including rape, sexual battery, molestation, or attempts to commit these assaults
2. Intentional physical conduct that is sexual in nature, including touching, pinching, patting, or brushing up against another employee's body
3. Unwanted sexual advances, propositions, or sexual comments, including sexual gestures, jokes, or comments made in the presence of an employee who has indicated that such conduct is unwelcome; and
4. Posting or displaying pictures, posters, calendars, graffiti, objects, or other materials that are sexual in nature or pornographic.

The creation of an intimidating, hostile, or offensive working environment includes such actions as persistent sexual comments or the display of obscene or sexually oriented photographs or drawings. However, conduct or actions that arise out of a personal or social relationship and are not intended to have a discriminatory employment effect might not be viewed as harassment. The City will determine whether such conduct constitutes sexual harassment, based on a review of the facts and circumstances of each situation.

If an employee is either subjected to or witnesses' sexual harassment, he or she should immediately notify his or her immediate supervisor or the director of finance. If the employee's immediate supervisor is the source of the alleged harassment, the employee should report the problem to the supervisor's supervisor or to the City Administrator.

The City's grievance procedure (see Grievances) provides procedures for reporting alleged sexual harassment. The City will investigate such reports immediately. Supervisors should not disregard any complaint of sexual harassment. As soon as an employee reports an incident to you, you are responsible for reporting it to the City Administrator (even if the employee does not want you to say or do anything about it). The City Administrator will:

1. Get both sides of the story. The person accused of discrimination or sexual harassment will be advised of the allegations and given the chance to respond.
2. Keep records of the investigation. Documentation must be kept of all phases of the investigation, from the initial complaint to any written warning or action taken.
3. Attempt to resolve the complaint. The City Administrator will present findings and recommendations to the appropriate parties.
4. Maintain confidentiality and privacy to the extent possible. All aspects of the investigation are confidential. Once the supervisor has contacted the City Administrator, any discussion regarding this issue should be limited to those directly involved in the investigation.

No employee will be subject to any form of retaliation or discipline for pursuing a sexual harassment complaint.

To emphasize the importance of this policy and ensure every employee's understanding, the City requires each employee to sign a statement acknowledging receipt and understanding of this policy. The signed acknowledgement is kept in the employee's personnel file.

(Legal reference: Title VII of the U.S. Civil Rights Act, Section 703, as interpreted by EEOC: Sex Discrimination Guidelines, Section 1604.11; Meritor Savings Bank v. Vinson, U.S. Supreme Court, 1986.)

### **1.11 PERSONS WITH DISABILITIES**

It is the policy of the City to make its employment application process, employee activities, working environment, employee benefits, employee training and employee advancement process accessible to persons with disabilities and to make reasonable accommodations to a qualified individual with a disability who is an applicant or employee, unless that accommodation will place an undue hardship on City finances or operations.

In this section, a person with a disability is defined as a person who:

1. Is presently disabled
2. Has been disabled in the past; or
3. Is perceived to be disabled

It is also illegal and against City policy, to discriminate against a person because of his or her relationship or association with an individual with a known disability.

The Americans with Disabilities Act (ADA) defines disability as:

1. A physical or mental impairment which substantially limits one or more of a person's major life activities
2. A record of such an impairment; or
3. Being regarded as having such an impairment

Conditions that are medically correctable, such that they do not substantially limit a major life function, may be found not to be a disability.

Persons with disabilities must be provided equal access to the hiring process. Persons with disabilities who perform the essential functions of their job must be provided equal access to promotion, training and other benefit opportunities. No person will be subject to any form of retaliation for pursuing a complaint based on disability-related discrimination.

(Legal Reference: U.S. Americans with Disabilities Act of 1990.)

### **1.12 LACTATING/BREASTFEEDING POLICY**

Accommodations will be made for lactating mothers for up to one year after the child's birth. An employee who is breastfeeding her child will be provided reasonable break times to express breast milk for her baby. The City will designate a room for this purpose. The space will have a door that can be locked. Nursing mothers will arrange times for usage of said space through their department head. Any breast milk stored in a communal refrigerator must be labeled with the name of the employee and the date of expressing the breast milk. Any nonconforming products stored in the refrigerator may be disposed of. Employees storing milk in the refrigerator assume all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage, refrigeration and tampering.

City employees who work offsite or in other locations will be accommodated with a private area as necessary. Breaks of more than 20 minutes in length will be unpaid and the employee should indicate this break period on her time record.

### **1.13 CHANGES TO THESE POLICIES AND EMPLOYEE SUGGESTIONS**

These personnel policies may be amended or revised, or new policies may be added, at any time, with or without notice, upon the approval of the City council. In addition, the City Administrator and City attorney may conduct a review of the policies contained in this manual and submit any necessary or recommended changes to the City council for approval.

Employees are encouraged to make constructive suggestions for improvements to these policies or to work procedures or conditions. Any employee who wishes to suggest a personnel policy change should submit his or her suggestion(s) in writing to his or her supervisor for consideration. Employees are responsible for maintaining current knowledge and understanding of all personnel policy changes and for requesting clarification or assistance when needed.

Department heads and employees are provided copies of changes to these personnel policies by the City Clerk as soon as practicable.

## **2.00 EMPLOYEE RESPONSIBILITIES**

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### **2.01 GENERAL EMPLOYEE RESPONSIBILITIES**

The City is a public tax-supported organization. Its employees must adhere to high standards of public service that emphasize professionalism, courtesy and avoidance of even the appearance of illegal or unethical conduct.

Employees are required to give a full day's work, to carry out efficiently the work items assigned as their responsibility, to maintain honest conduct and to do their part in maintaining good relationships with the public, their supervisors, City officials and their fellow employees.

### **2.02 PROFESSIONAL APPEARANCE**

Employees of the City are hired to provide services to the City's citizens and to perform specific tasks in a professional manner. As representatives of the City, employees are encouraged to set and meet high standards both in performing quality work and in presenting a professional personal image to the public. While the City does not have a formal dress code, employees are expected to exercise regular hygiene care and to dress and groom themselves in a neat and tasteful manner, which is appropriate to the particular job being performed. Expensive clothes are not necessary, but a neat, well-groomed appearance and a courteous attitude are necessary in creating and maintaining a professional, favorable image of the City's work force. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for time away from work.

### **2.03 UNIFORMS**

In most departments, all employees are required to wear uniforms, which are furnished by the City.

The City has provided uniforms for all field maintenance personnel. Each employee will be uniformed in a standard manner for that particular department and must be dressed in uniform before reporting for work each day. In all cases, employees must keep their uniforms neat and clean.

### **2.04 TIMELINESS**

Employees are to be punctual in reporting for work, keeping appointments and meeting schedules for completion of work.

An employee who expects to be late for or absent from work must report the expected tardiness or absence to his or her supervisor within 15 minutes after the time he or she is expected to begin work, as a general rule, unless emergency conditions exist. Advance notification requirements may vary from department to department, depending upon the nature of the work and the need to secure substitute employees to carry on critical City functions.

Failure to report within the required period can be considered justification for disallowing paid sick leave for an absence. Unless otherwise approved by the supervisor, employees are expected to call on each day of absence. Where the nature of the absence necessitates an extended period of time off, the supervisor may approve longer reporting intervals. Frequent tardiness or unexcused absence is not permissible and will result in disciplinary action up to and including termination.

In cases where an absence is known in advance, the employee must receive written approval from his or her department head at least 24 hours in advance of the anticipated leave. See the Leave Time section, (Section 8) of these policies for matters involving planned absences.

### **2.05 OUTSIDE ACTIVITIES**

To protect the City from potential liabilities, employees may not engage in any outside employment, or enterprise determined by the City Administrator (1) to be inconsistent or incompatible with employment with the City; or (2) to affect the employee's job performance adversely. Examples of outside activities that may

conflict with City employment include construction or installation that may be inspected or regulated by the employee's City department, employment by a major contractor of the City, or employment that results in fatigue while on City duty.

In order to avoid conflicts of interest and potential liability on the part of the City, an employee must have the advance written approval of his or her department head to engage in any outside employment, including self-employment. The written approval of both the direct supervisor and the City Administrator is required. In addition, when an employee's approved outside employment ceases, the employee must notify his or her department head, who must in turn notify the City Administrator.

If a City employee is injured on the job in the course of employment outside of his or her employment with the City, the employee may not file a workers' compensation claim against the City for benefits related to the injury, regardless of the fact that the City Administrator may have determined that the outside employment satisfied the City's prerequisites.

The City accepts no liability for any action, failure to act, injury to self or others, property damage, or any other damage resulting from outside employment by a City employee.

## **2.06 GIFTS AND GRATUITIES**

A City officer or employee may not accept any gift or free services from contractors, vendors, or other persons that might tend to influence his or her official actions or impair his or her independence or judgment in performance of duties for the City. In addition, the City expects an employee or officer to refuse any gift, food, entertainment, honoraria, transportation, or lodging that might appear to or tend to affect his or her official actions. The City further expects employees to refuse any gift, food, entertainment, honoraria, transportation, or lodging that exceeds the \$50 limitation on gifts and benefits prescribed by the Texas Penal Code and in accordance with Texas Local Government Code.

## **2.07 CONFLICT OF INTEREST**

An employee of the City shall neither have financial interests, direct or indirect, in any contract with the City, nor be financially interested, directly or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service.

An officer or employee of the City may not:

Solicit or accept or agree to accept a financial benefit, other than from the City, which might reasonably tend to influence his or her performance of duties for the City or that he or she knows or should know is offered with intent to influence the employee's performance

Accept employment or compensation that might reasonably induce him or her to disclose confidential information acquired in the performance of official duties

Accept outside employment or compensation that might reasonably tend to impair independence of judgment in performance of duties for the City

Make any personal investment that might reasonably be expected to create a substantial conflict between the officer's or employee's private interest and duties for the City; or

Solicit or accept or agree to accept a financial benefit from another person in exchange for having performed duties as a City employee in favor of that person.

(Legal reference: V.T.C.A., Local Government Code, Chapter 171; V.T.C.A. Penal Code, Chapter 36).

## **2.08 POLITICAL ACTIVITY**

Employees of the City are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies. A City employee may not:

1. Use his or her official authority or influence to interfere with or affect the result of an election or nomination for office; or
2. Directly or indirectly coerce, attempt to coerce, command, or advise a local or state officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political purpose; or
3. Be a candidate for election to the City of Mount Vernon City Council.

In addition, any City employee who is subject to the provisions of the federal Hatch Act may not be a candidate for elective office in a partisan election. (A partisan election is an election in which candidates are to be nominated or elected to represent a party whose candidates for presidential electors received votes in the last preceding election at which presidential electors were selected.) City employees are subject to this additional Hatch Act restriction if their principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the federal government.

All City employees are prohibited from participating in any way in any political activity while on duty or while wearing a City uniform.

In addition, no City owned property, vehicle, building and/or office used exclusively for conducting the City's business may be used for conducting any political activity, except for the conduct of official elections. This paragraph shall not in any way limit an employee's right as a citizen to address the City council.

An employee's political activity, not in violation of this section, shall not be considered in determining his or her compensation, eligibility for promotion or demotion, work assignment, leave or travel request, or in applying any other employment practices to the employee. Likewise, no employee will be disciplined, terminated, or deprived of his or her employment rights for refusing to participate in such activities.

(Legal reference: V.T.C.A., Penal Code, Sec 36.03; U.S. Hatch Act of 1940, as amended.)

## **2.09 COMMUNICATION**

Matters that involve City policy, operations and organization are brought before the City council by the City Administrator, or by a person designated to do so by the City Administrator.

An employee may request that a matter be considered by the City council by submitting the item in writing to his or her department head who will forward the communication to the City Administrator. Final decisions as to what is to be brought forward to the council from the staff are determined by the City Administrator.

Communication with the public and the media about City issues or problems is the responsibility of the City council and the City Administrator. Employees are to refer the public and the media to the City Administrator if a question is non-routine, controversial, or outside of the scope of the employee's normal duties.

Employees may, from time to time, be given directions from persons other than their immediate supervisor. In such cases, other than emergency situations, the department head desiring to utilize an employee from another department must notify the employee's department head about the directive, its purpose and the relevant facts of the situation and the employee's department head must authorize the work. Failure to do so in a timely manner may result in disciplinary action.

Except for the purpose of inquiries and investigations specifically authorized under the City ordinance, the council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Administrator solely through the manager. Neither the council nor any of its members



shall give directions or orders to any City officer or employee, either publicly or privately, unless specifically authorized in City ordinance. Employee contact with members of the City council is limited during working hours to that authorized by the employee's supervisor. However, this shall in no way limit an employee's rights as a citizen to contact a member of the City council during non-working hours.

## **2.10 CHAIN OF COMMAND**

Individual City employees are responsible to the department head or City Administrator or to a supervisor designated by the department head or City Administrator. Department heads are responsible to the City Administrator. The City Administrator is responsible to the City council as a whole. Directions regarding work to be done, expected results and the adequacy of work performance will follow the chain of command. In the absence of the City Administrator, the City Clerk will assume responsibilities until his/her return. If both are unavailable, the Deputy City Clerk will assume those duties until the City Administrator or City Clerk returns.

## **2.11 SOLICITATION OF FUNDS FOR CITY PROJECTS**

At times, projects may be undertaken whereby funds are solicited from private citizens, businesses and organizations on behalf of the City. Before any solicitation of funds begins, the department head must notify and receive the approval of the City council. Participation on the part of any City employee in a fund-raising effort on behalf of the City is strictly voluntary.

## **2.12 EMPLOYEE FUNDRAISING**

City employees are free to engage in fundraising efforts for outside organizations of the employee's choice, but the solicitations shall be made during the employee's non-working hours. (Nonworking hours include lunch periods, work breaks, or any other period in which the employee is not on duty.) The employee must not represent himself or herself as a City employee or wear a City uniform when engaged in non-City -sponsored fundraising.

## **2.13 SMOKING**

Smoking/Vaping is prohibited in any building or vehicle owned or leased by the City of Mount Vernon.

## **2.14 USE OF ELECTRONIC DEVICES**

City telephones, including mobile and cellular telephones, pagers and fax machines, are to be used for City business. There is no expectation of privacy for an employee using these systems.

Occasional use of local telephone service for personal communications is permissible if the length and number of such communications are kept to a minimum and if there is no charge to the City for a metered service.

**Long Distance.** City employees may not place personal long-distance telephone calls on City telephone equipment unless the charges will be billed directly by the telephone company to the individual's personal account. A call to notify family of City requirements to work unscheduled overtime is a City business call. If an emergency long distance call is made on a City telephone, the employee must reimburse the City for the call.

**Personal Use.** Cellular telephones or pagers are furnished to certain employees in connection with their job duties. Employees need to limit personal use of their City cellular telephones and pagers in the same way they need to limit use of their City office telephones. Employees who have excessive cellular or pager usage for personal calls will be subject to disciplinary action, up to and including termination.

Use of City communications systems, including telephones and fax machines, for sending or receiving offensive or harassing statements, sexually oriented materials, illegal transactions, or private business transactions is prohibited.

## **2.15 USE OF CITY COMPUTERS, INTERNET ACCESS AND ELECTRONIC MAIL**

City computer systems, including Internet access and electronic mail systems are to be used for City business. Occasional use of electronic mail for personal communications is permissible if the length and number of such

communications are kept to a minimum. However, because all computer systems are City property, there is **no expectation of privacy** for an employee using these systems.

**Unacceptable Uses of the Internet and City E-Mail.** City e-mail systems and Internet access may not be used for transmitting, retrieving, or storing any communications, images, or other content of a discriminatory or harassing nature or any materials that are obscene, nude or personal photographs or X-rated pictures or photographs. Harassment of any kind is prohibited. (See Policy on **Sexual Harassment**). No messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes, or sexual orientation may be transmitted or forwarded using the City system. No abusive, profane, or offensive language may be transmitted through the City's e-mail or Internet system. The City's harassment policy applies in full to e-mail and Internet use. Employees do not have a personal privacy right regarding any matter created, received, stored, or sent from or on the City's e-mail or Internet system or computers.

The City e-mail and Internet system may not be used for any purpose that is illegal, against City policy, or contrary to the City's best interest. Solicitation of non-City business or any use of the City e-mail or Internet system for personal gain is prohibited.

City employees should keep in mind that even when an e-mail or voice mail message has been deleted from a location, it is still possible to retrieve that message.

**Rules for Electronic Communication.** Each employee is responsible for the content of all text, audio, or images that he or she accesses, places, or sends over the City's e-mail or Internet system (including bulletin boards, online services, or Internet sites). Employees must include their name in all messages communicated on the City's e-mail or Internet system.

If any employee receives unsolicited e-mail from outside the City that appears to violate this policy, the employee should notify his or her supervisor immediately. Similarly, if any employee accidentally accesses an inappropriate web site in the normal course of business, the employee should notify his or her supervisor immediately.

**System Security.** The City reserves the right to routinely monitor how employees use e-mail and the Internet. The City may monitor to measure cost analysis/allocation and the management of the City's gateway to the Internet. All messages created, sent or received over the City's e-mail or Internet system are the City's property and should **not** be considered private information.

**Violations.** Any employee who violates these rules or otherwise abuses the privilege of the City's e-mail or Internet system will be subject to disciplinary action up to and including termination. If necessary, the City also reserves the right to advise appropriate officials of any illegal activities.

## **2.16 PURCHASING**

Purchases by City employees will be made only as authorized by the City Administrator and must be made in accordance with the approved annual budget and state purchasing laws as they apply to cities. All purchases must be accompanied by a receipt. Department heads must approve, by way of their signature on invoices or receipts, all purchases as it applies to the Budget. All receipts for said purchases need to be turned into accounts payable within five working days. Any missing receipts will require an affidavit of missing receipt to be filled out and remitted in place of said receipt. The City of Mt Vernon will issue credit cards to certain employees for the use of their job. Credit card purchases can be made for equipment, materials, conference/training registration, hotel registration, meals and other purposes deemed necessary by the Department Head or City Administrator. Each person issued a City of Mt. Vernon credit card must read and acknowledge the policy. Each person who makes a purchase should ensure or verify that tax exemption status has been established with the particular vendor or retailer before any purchase is made.

## **STATEMENT OF GENERAL POLICY**

It is the policy of the City of Mount Vernon that all purchasing shall be conducted strictly on the basis of economic and business merit, while meeting all legal requirements. This policy is intended to promote the best interest of the citizens of the City of Mount Vernon, Texas.

It is important to remember that City purchasing operates in full view of the public. In order to assure an open purchasing process and economy in purchasing, the Mount Vernon City Council has determined that competitive bidding will be used as much as possible in the purchase of goods and services for the City.

## **CITY OF MOUNT VERNON PURCHASING POLICY** **GOVERNING AUTHORITY**

The primary governing authority for the City of Mount Vernon's Purchasing Policy shall be the Local Government Code Chapter 252, "Purchasing and Contracting Authority of Municipalities." All procurement activity shall be governed by this Purchasing Policy, in accordance with applicable state and local government codes. The Mayor and Council may from time to time review the Purchasing Policy and any changes made to the Policy shall be recorded and updated.

All powers of the City rest in the City Council. Authority for purchasing of goods and services is delegated to the City Administrator provided the purchase does not exceed \$50,000. The City Administrator's authority may be delegated to other staff, subject to the requirements of this policy and adopted purchasing procedures. To ensure proper oversight, all purchases and requisitions ~~in excess of \$10,000~~ will be reported to the Council monthly. The report will include the vendor, purpose, amount and source of funds for the expenditure.

For specific requirements and guidelines, employees should refer to the Purchasing Policy.

### **2.17 FIREARMS PROHIBITION**

An employee who is not a license holder is prohibited from carrying a firearm of any kind on City property. In addition to the above, no employee may carry a firearm, or any weapon, in violation of the Texas Penal Code. For the purposes of this section, "License holder" has the meaning assigned by Texas Penal Code Section 46.035(f), as amended.

### **2.18 SOCIAL MEDIA POLICY**

Given the multitude of concerns (legal, political and ethical) raised by social networking, this Social Media Policy establishes prudent and acceptable practices regarding City officials and employees use of the internet.

#### **Purpose**

The City has a legitimate government interest in effective, efficient and consistent communications with the public. The City also strives to have a productive workplace. Certain activities on the part of its personnel may become a problem if such activities could:

1. Impair the work of any City Official or employee; create a harassing, demeaning, or hostile work environments; or
2. Disrupt the smooth and orderly flow of work; or harm the goodwill and reputation of the City among its citizens or in the community.

For these reasons, the City reminds its personnel that the following guidelines apply in their use of social media, while both on and off duty.

#### **Disclaimer**

1. Under this Policy, the representatives of the City for social media are the City Administrator, City Clerk, EDC Director and Public Works Director.
2. Under this Policy, the City disavows and is not responsible for any sites, posts, opinions, or content not coordinated through and approved by the City Administrator.

3. If City personnel posts data purporting to be on behalf of the City while using a social media site without the prior approval of the City Administrator, the City is not responsible for said posted content, such content is not to be construed as reflecting the views or opinions of the Mayor, City Council or City Staff and such action may be grounds for disciplinary action.
4. The absence of explicit reference herein to a particular site does not limit the extent of the application of this Policy. If any City personnel is uncertain, he/she must consult their supervisor before proceeding.

### **General Guidelines**

1. While on duty, the use of City equipment or internet service by personnel must be limited to work-related tasks. Social media activities shall never interfere with work commitments.
2. It shall be a Policy, violation for any City personnel to post online content as a representative of the City, or on the City's behalf without the City Administrator's prior approval.
3. All City personnel posting City-related issues online, but not as an approved representative of the City or on the City's behalf, shall explicitly clarify they are speaking for themselves and not on behalf of the City by displaying the following disclaimer: "This is my own opinion and not necessarily the opinion or position held by the City or City Council."

### **Guidelines for Official City Sites**

1. All City-sanctioned social media sites shall be the purview of the City Administrator. Any content to be posted on City-sanctioned social media sites must meet the approval of the City Administrator or their designee, before it is posted.
2. All personnel that engage in social media activities and/or visit any City-sanctioned social media site on the City's behalf shall adhere to applicable federal, state and local laws, regulations and policies, including the Texas Public Information Act and the records retention schedule. All content must be managed, stored and retrieved to comply with these laws.
3. Any personnel that posts online content as a representative of the City, or on the City's behalf shall clearly state within said post that said content is subject to all applicable records retention and public disclosure laws. All City-sanctioned social media sites shall clearly indicate that any articles and any other content posted or submitted for posting are subject to records retention and public disclosure.
4. Any content posted as representative of the City, or content posted to a City-sanctioned social media site containing any of the following is prohibited:
  - 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;
  - d. Sexual content or links to sexual content;
  - e. Conduct or encouragement of illegal activity;
  - f. Information that may tend to compromise the safety or security of the public or public systems;
  - g. Content that violates a legal ownership interest of any other party;
  - h. Information that is incorrect or misleading;
  - i. Information that is in conflict with an approved City policy, ordinance, directive, or plan; and/or
  - j. (10) Anything else that creates a disruption in the workplace.
5. Content submitted for posting on a City-sanctioned social media site that is deemed unsuitable for posting by the City Administrator because it violates criteria in the preceding item (Item 4, immediately above) of this Policy, shall be retained pursuant to the records retention schedule along with a description of the reason for which specific content is deemed unsuitable for posting.
6. Any hyperlinks posted on a City-sanctioned social media site shall be accompanied by the following disclaimer: "The City guarantees neither the authenticity, accuracy, appropriateness nor security of the link, website, or content linked thereto."
7. Personnel found in violation of this Policy may be subject to disciplinary action, up to and including

8. Termination of employment
9. Any content posted as representative of the City, or content posted to a City -sanctioned social media site is owned by the City and is subject to the Public Information Act and the record retention schedule.

## **2.19 COMPLAINTS PROCEDURE**

The City of Mount Vernon recognizes that its Council, Boards, Commissions, Committees, staff and others serve the public and that is the goal of all of Mount Vernon's employees, Council members, Board, Commission and Committee members, volunteers and others serving Mount Vernon citizens. However, even with the best efforts, at times complaints may be filed by citizens or others and it is the desire of the City of Mount Vernon to address and resolve all legitimate complaints.

The Office of the City Clerk will accept any complaints that a citizen or member of the public wishes to file. If a citizen or member of the public refuses to put the complaint in writing, the City Clerk may provide a response if such a response is readily available. If not, the City Clerk may, at his/her discretion, write down the complaint and send it through appropriate channels as set out below.

The City Clerk will provide a form that the complainant may use, however, use-of the form is not required.

### Citizen complaints about staff related matters

A complaint about staff or matters which may be resolved by staff (failure to pick up trash, potholes, etc.) will be sent to the appropriate department for resolution. The department will furnish the City Clerk with a short written response as to the resolution of the matter if requested for filing.

### Citizen complaints about a member or members of Board, Commission, Committee or similar bodies

A complaint about a member of a Board, Commission, Committee or similar body (hereafter referred to as "committee") will be resolved by forwarding the complaint to the appropriate committee member for a response. A copy or summary of the complaint and response will be provided to Council members.

### Citizen complaints about Council members

A complaint about a member of the Council will be resolved by forwarding the complaint to the appropriate Council member for a response. A copy or summary of the complaint and response will be provided to the other Council members.

### Legal Questions

If the complaint appears to contain a legal question or information which would be inappropriate to share with others, the City Clerk may contact the Town Attorney for guidance. This procedure does not require the dissemination of information which cannot be released under state or federal law.

### **3.00 EMPLOYMENT PRACTICES**

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#### **3.01 METHODS OF RECRUITMENT AND SELECTION**

The City has several methods of recruiting and selecting persons to fill vacancies:

1. Promotion from within; or
2. Transfer from within; or
3. Public announcement (including media announcement and posting of notice for City employees) and competitive consideration of applications for employment; or
4. Referral from a job training program; or
5. Selection from a valid current eligibility list of applicants. (A valid current eligibility list is a record of applications for the same or a similar position for which recruitment was conducted within the preceding 60 days.)

The City Administrator determines the method of selection to be used in filling each vacancy. However, the City council must have approved funding for a position before recruitment begins.

#### **3.02 PUBLIC ANNOUNCEMENTS**

When public announcements of position openings at the City are used and competitive consideration will be given, the announcements are disseminated by the City Administrator in the manner most appropriate for the particular position being filled, as determined by the City Administrator. Department heads wanting to fill job vacancies within their departments must submit relevant information about the position to the City Administrator, who ensures that job opening announcements are made public through publication in the local newspaper and posting on the City bulletin board at City Hall.

Current employees may apply for positions for which they believe themselves to be qualified. If selected for the position for which he or she applied, a City employee can transfer to another City position, without loss of pay provided that his or her current pay is within the limits set by the City council for the transfer position. The length of time during which applications will be accepted will be determined by the City Administrator or his or her designee in accordance with the circumstances that exist at the time.

#### **3.03 QUALIFICATIONS**

The City maintains a job (class) description, which establishes the required knowledge, skills and abilities for each staff position and the acceptable levels of experience and training for each. The job description sets forth the minimum acceptable qualifications to fill the position.

#### **3.04 SELECTION**

In accordance with this policy, the City council appoints and may remove the City Administrator, City attorney, municipal court judge and City Clerk. The City Administrator has exclusive authority to appoint the department heads and handle the day-to-day operations of the City. Neither the council nor any of its members shall in any manner dictate the appointment or removal of any City employee. However, the council or its members may express freely to the City Administrator their views and opinions on such matters.

Vacancies of the City staff are filled on the basis of merit, whether by promotion or by initial appointment. Selections of the best qualified persons are made on the basis of occupational qualifications and job-related factors such as skill, knowledge, education, experience and ability to perform the specific job.

#### **3.05 RESIDENCY REQUIREMENT/RESPONSE TIME**

The City Administrator and Chief of Police or his or her designee shall reside within a (30) minute drive during the tenure of his or her office, unless otherwise authorized by the City council.

Additionally, employees who are designated in "on call" status must be able to respond quickly and to arrive at the City's designated response site within 30 minutes of receiving the page or call.

### **3.06 AGE REQUIREMENTS**

Persons under 16 years of age will not be employed in any full-time regular position. Persons under 18 years of age will not be hired in any hazardous occupation. Any prospective City employee under the age of 18 must have written permission and age verification (a signed Minor's Release Form) from his or her lawful parent or guardian on file in the City's payroll office prior to the first day of employment.

Other age limitations will be applied only as may be specifically required by state or federal law.

(Legal reference: Child Labor Regulations, Subpart C, issued pursuant to authority conferred by Section 3 (1) of the U.S. Fair Labor Standards Act of 1938, as amended; V.T.C.A. Labor Code, Chapter 51; U.S. Age Discrimination in Employment Act of 1967, as amended.)

### **3.07 APPLICATION FOR EMPLOYMENT**

When a specific vacancy exists, each person desiring employment with the City must submit a written application and other pertinent information regarding training and experience. To be valid, an application must be made on the City's official application form. Each person desiring employment with the City may obtain an application for employment from City Hall during regular business hours or from the City's website.

The City will make appropriate inquiries to verify the education, experience, character and required certificates and skills of an applicant prior to extending an offer of employment. In the case for applicants for positions with the City which require driving a vehicle, the City must check the prospective employee's driving record prior to offering the applicant employment with the City.

The City does not accept applications for employment unless a specific job opening exists. Department heads should notify the City Administrator when an opening is available.

### **3.08 EMPLOYMENT OF RELATIVES (NEPOTISM)**

Nepotism is the showing of favoritism toward a relative. The City forbids the practice of nepotism in hiring personnel or awarding contracts.

A person who is related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) to any member of the City council or to the City Administrator may not be hired.

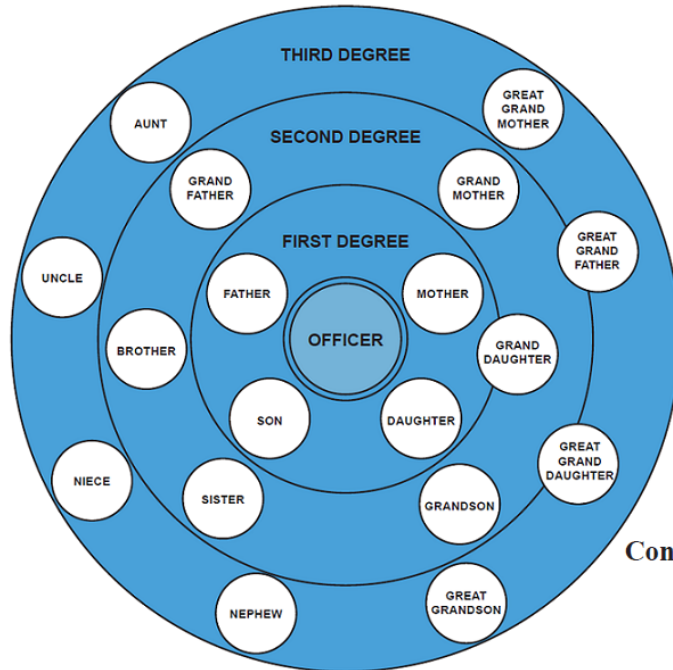
A person who is already employed by the City and is related in a prohibited manner may not stay in City employment unless the employee had been continuously employed by the City for a period of:

1. At least 30 days, if the officer or member is appointed; or
2. At least six months, if the officer or member is elected at an election other than the general election for state and county officers.

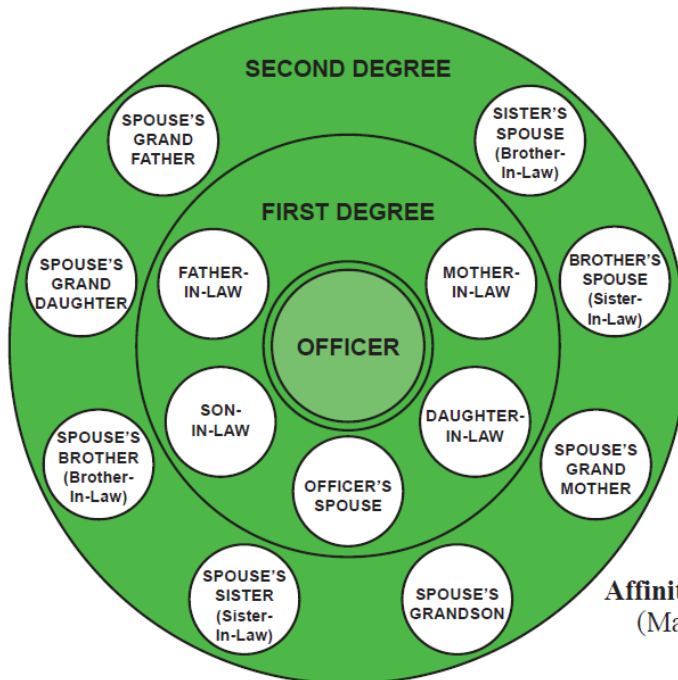
(Legal reference: V.T.C.S. Article 5996a, as amended.)

In addition, no personnel action (hiring, demotion, promotion, transfer) will be taken that would result in any employee's supervising another employee who is related within the second degree of affinity or the third degree of consanguinity to the supervisory employee. Prohibited degrees of relationship are defined in Figures 1 and 2 of the Nepotism Charts.

## NEPOTISM CHARTS



**Consanguinity Kinship**  
(Blood)



**Affinity Kinship**  
(Marriage)

\* Spouses of relatives within the first or second degree of consanguinity (e.g., son-in-law, mother-in-law, brother-in-law, sister-in-law, etc.) are also included in the prohibition. (Legal Reference: V.T.C.S., Article 5996h.)



### **3.09 TESTING**

Except for drug/alcohol tests, physical examinations, psychological tests for law enforcement officers and any other tests that may be required by state law, the only performance tests administered for employment or promotion will be specifically job related (“piece-of-the-job”) tests (e.g., typing, operating a computer, operating a piece of equipment, lifting something heavy which is specifically required to be lifted in the job, tabulating columns of numbers, providing writing samples, etc.).

### **3.10 DRUG TESTING**

All prospective employees for any regular, full-time position in the City are required to be tested by a licensed physician and declared in writing by the physician to show no trace of drug dependency or illegal drug usage. All prospective employees are required to pass a drug test after a conditional offer of employment has been extended, but prior to their first day of work. The offer of employment is contingent upon the prospective employee passing a drug/alcohol test. After employment, any employee may be required to submit to a test for drug dependency or illegal drug use. For more information on drug testing or drug usage, see the chapter of these policies on **Drug and Alcohol Abuse**. (Section 11)

### **3.11 PHYSICAL STANDARDS**

Knowledge of physical conditions and existing health problems of employees is necessary to avoid occupational injuries and to ensure that it will be possible to differentiate any future job-related injuries from existing medical problems. For these reasons employees are required to pass a drug test and a physical examination after a conditional offer of employment has been extended, but prior to their first day of work. Employees will not be placed on the City payroll prior to passing these exams. Back X-rays are required for persons who will perform strenuous physical activity. The required physical examinations will be performed by a physician of the City's choice and will be paid for by the City.

In each instance, the examining doctor will be provided a copy of the appropriate job description or summary of duties and will be required to certify that the prospective employee is physically able to perform the essential duties of the job.

In addition, prospective new employees for active or reserve police officer certification must undergo an examination by a licensed psychologist or psychiatrist and be declared in writing by the psychologist or psychiatrist to be in satisfactory psychological and emotional health. The required examinations will be made by a physician and psychologist or psychiatrist of the City's choice and will be paid for by the City.

### **3.12 MEDICAL RECORDS**

All records relating to the medical condition, medical testing, or drug testing of an employee or prospective employee are maintained separately from employee personnel files. These medical files are confidential and are not released to anyone unless a “need to know” has been clearly established. Only the City Clerk has routine access to employee medical records. (Legal reference: U.S. Americans with Disabilities Act of 1990.) The privacy of individuals’ medical records and information will be protected in all transmittals to and from insurance carriers and health care providers.

### **3.13 VERIFICATION OF ELIGIBILITY TO WORK**

In the event the employee has not provided evidence of eligibility to work, in accordance with the Immigration Reform and Control Act of 1986, within the first three days of employment, the employee will not be allowed to continue working and shall be subject to termination.

### **3.14 VACCINATIONS**

Those employees who work in departments that may come in contact with human waste or sewage will be provided with the option to receive vaccinations based on current Center for Disease Control recommendations. Should an employee choose not to participate, they will be asked to sign a waiver, stating as such.

### **3.15 DRIVING RECORD**

Every City employee who is required to drive a vehicle or operate a piece of equipment which requires a valid driver's license must maintain a safe driving record. The City will check a prospective employee's driving record if the applicant's employment will be in a capacity which requires operating a vehicle or piece of equipment. For this reason, any offer of employment will be contingent upon verification that the prospective employee has maintained a safe driving record.

The City periodically will check the driving records of all City employees and officials who drive City vehicles or are required to drive their personal vehicles to conduct City business. Employees must report any conviction of a traffic law violation to the City Clerk's office, including any charge or conviction that results in the suspension of the employee's driver's license.

### **3.16 DISQUALIFICATION**

An applicant is disqualified from employment by the City if he or she:

1. Does not meet the minimum qualifications for performance of the duties of the position involved;
2. Knowingly has made a false statement on the application form;
3. Has committed fraud during the selection process;
4. Is not legally permitted to hold the position (criminal history) or under investigation of any criminal offense;
5. Has offered or attempted to offer money, service, or any other thing of value to secure an advantage in the selection process;
6. Does not meet the physical requirements as a result of the required physical examination and substance abuse screening; or
7. Has not provided proof of citizenship or legal work status in the United States within three days of employment.

### **3.17 PRIOR MUNICIPAL SERVICE**

Employees entering service with the City who have had prior service with the City or any other City may be considered for appointment above the customary entry salary level. In addition, employees hired or rehired to fill regular full-time positions with the City will receive credit for their prior length of service as regular full-time employees for longevity purposes.

A break in continuous service with the City forfeits vacation and health leave benefits accrued prior to the break. For details pertaining to how a break in service affects retirement benefits, please refer to your Texas Municipal Retirement System "Member Information Guide."

### **3.18 PLACEMENT ON CITY PAYROLL**

New employees must report to the City payroll office before or during their first day of employment to fill out employment forms and be scheduled for new employee orientation. Department heads are responsible for ensuring that a new hire has scheduled an appointment with the City Clerk for completion of such paperwork and orientation before their first day of employment.

### **3.19 ORIENTATION AND TRAINING**

Before an individual begins performing his or her actual duties, he or she normally will be given a brief orientation session, conducted by the supervisor for whom he or she will be working, or by that person's designated representative. The purpose of the session is to enable a new employee to understand his or her job better, as well as that job's relationship to the overall operation of the City.

An orientation session also will be provided by the City Clerk, including but not limited to, items on

the Employee Orientation Checklist. During the orientation, employees are given a copy of the **Personnel Policies and Procedures Manual**. Employees are responsible for knowing and following the information contained in the personnel policies and must turn in a signed acknowledgment to this effect to the City Clerk.

Training an employee is the responsibility of the supervisor for whom the employee works. Whenever possible, employees receive on-the-job training under close supervision. Additionally, as is possible, department heads will provide new employees with a written policy for the department advising of information that is essential for job performance.

### **Orientation**

1. Explain the form of City Government and where the employee fits into the chain of command;
2. Show the facilities and specific work area (s);
3. Explain the specific job duties that the employee will be expected to perform;
4. Discuss the responsibilities of the new job;
5. Discuss the City's Personnel Policies and Procedures including the Substance Abuse, Sexual Harassment and Employee Conduct and Use of Equipment policies and have the employee sign and acknowledgement form;
6. Explain the relationship of the new employee to other employees;
7. Demonstrate the use of equipment to be used on the job;
8. Explain policies and procedures including motor vehicle record check
9. Supervisors will attest, in writing, that such orientation has been completed.

### **3.21 PROBATIONARY PERIOD**

Employees selected for appointment to a regular budgeted position are considered to be initial probationary employees. The initial probationary period extends for a period two (2) months. With the City Administrator's approval the initial probationary period may be extended a maximum of six (6) months.

Department heads and supervisors will use the probationary period to closely observe and evaluate the employee's work and to encourage adjustment to the job and the City service. The immediate supervisor and/or department head will frequently discuss job performance with each probationary employee so that the probationary employee knows if his/her work is satisfactory.

### **3.22 STATUS**

Initial probationary employees will be eligible for all benefits and conditions of employment. Although probationary employees accrue vacation leave, they are not eligible to take vacation leave until after the probationary period. All personnel procedures, work rules and standards of conduct apply to probationary employees.

### **3.23 TERMINATION**

An initial probationary employee may be terminated without prior notice or reason for termination. A probationary employee has no appeal rights under section 13 of these policies.

## 4.00 TYPES OF EMPLOYMENT

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### 4.01 CATEGORIES OF EMPLOYMENT

The City has four categories of employment:

- 1) **Regular Full Time** A regular full-time employee is employed in an authorized regular position that involves, on average, at least 40 work hours per week. Regular full-time employees may be either hourly or salaried and are eligible for the City's benefits package subject to the terms, conditions and limitations of each benefit program.
- 2) **Regular Part Time** A regular part-time employee is employed in an authorized position that, on average, involves fewer than 20 work hours per week. Regular part-time employees may be either hourly or salaried and are eligible only for those benefits that are mandated by law, such as social security and workers' compensation.
- 3) **Temporary Full Time** A temporary full-time employee are those hired for a period of time normally specified in advance and is expected to last one year or less. Temporary full-time employees may be either hourly or salaried employees. Such employees only receive those benefits that are mandated by law, such as social security and workers' compensation.
- 4) **Temporary Part Time** A temporary part time employee are those who work less than 20 hours per week. Hourly employees work on an irregular schedule, as called upon and are paid at an hourly rate. Such employees only receive those benefits that are mandated by law, such as social security and workers' compensation.

The following two designations indicate whether or not an employee is eligible for overtime compensation:

**Non-exempt.** A non-exempt employee is one whose position is covered under the overtime pay provisions of the Fair Labor Standards Act (FLSA) and will be compensated for overtime as required by law.

**Exempt.** An exempt employee is considered exempt from overtime pay provisions of the Fair Labor Standards Act (FLSA) and is expected to render necessary and reasonable services beyond 40 hours per week with no additional compensation. Exempt employees' salaries are set with this consideration in mind. City employees who are in exempt positions most often qualify under the executive, administrative, or professional exemptions, as defined below:

1. **Executive.** The executive exemption is for persons whose primary duty is "management" of the business. An employee who has management of a department or a subunit thereof as his or her primary duty and regularly supervises two or more employees, also qualifies for the executive exemption. The Department of Labor regulations define "management" as interviewing, selecting and training employees; planning and assigning work and determining how the work will be done; directing and evaluating the work of other employees; handling complaints and grievances; and disciplining employees.
2. **Administrative.** Administrative employees are "white collar" employees who perform "work of substantial importance to the management of the operation" or the enterprise. An employee whose primary duty is performing office or non-manual work directly related to management policies or general business operations of the City, as opposed to production or direct services and includes work requiring the exercise of discretion and independent judgment, will qualify as an exempt administrative employee.

3. **Professional.** To qualify for the professional exemption, an employee must have as his or her primary duty work requiring knowledge of an advanced type customarily acquired by a prolonged course of specialized intellectual instruction and study. The work must require the consistent exercise of discretion and independent judgment and must be predominantly intellectual and varied in character. Examples of the professional exemption include attorneys, doctors, teachers and registered nurses. In addition, computer programmers, systems analysts and certain other computer employees qualify as professional employees.

## **5.00 EMPLOYEE COMPENSATION AND ADVANCEMENT**

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### **5.01 PAY**

Pay for City employees is set each year by the City council in the adopted City operating budget. Rules governing salary administration and pay increases are also established by the operating budget approved by the City council.

### **5.02 PAYDAYS**

The payday for the City is every other Friday. The pay period shall commence at 12:00 am on Wednesday and end at 11:59 pm on the second Tuesday thereafter. If the payday falls on a holiday, checks will be issued on the last working day preceding the holiday.

Time sheets must be received by the City Clerk or payroll clerk, no later than 9:00 am on the Wednesday immediately following the end of each completed pay period. A failure to do so may result in said employees not being paid until such time as an off-cycle payroll may be completed. Disciplinary action may also result from such actions.

All paychecks shall be made by direct deposit except in unusual circumstances requiring the issuance of actual paychecks.

### **5.03 CHECK DELIVERY**

Paychecks will be distributed to employees by their immediate supervisors. No salary advances or loans against future salary will be made to any employee for any reason. (Legal reference: Texas Constitution, Article III, Sections 51, 52 and 53.)

An employee must promptly bring any discrepancy in a paycheck (such as overpayment, underpayment, or incorrect payroll deductions) to the attention of the appropriate department head, who will notify the City Clerk.

### **5.04 PAYROLL DEDUCTIONS**

Except as required by law, any payroll deductions must be approved and authorized by the City Administrator. Deductions will be made from each employee's pay for the following:

1. Federal social security
2. Federal income taxes
3. Medicare
4. Texas Municipal Retirement System contributions (for regular full-time and covered part-time employees)
5. Court-ordered child support
6. Any other deductions required by law

If a terminating City employee fails to return City -owned equipment or property to the City before his or her final paycheck is issued, the value of the property or equipment will be deducted from the final pay, with the balance of the final check to be paid after the employee returns the equipment or property to the City. Each employee is required to sign an authorization for such a deduction at the time City -owned equipment or property is issued to the employee.

In accordance with policies and general procedures approved by the City council, deductions from an employee's pay may be authorized by the employee for:

1. Group health/medical/life insurance for employees and dependents; and
2. Such other deductions as may be authorized by the council.

If there is a change in the employee's family status, address, or other factor affecting his or her payroll withholding or benefits status, the employee is responsible for obtaining, completing and returning to the payroll office the appropriate forms for communicating these changes.

### **5.05 MERIT INCREASES**

A pool of funds may be designated by the City council during the budgetary process for merit increases. The designation may specify a designated maximum amount for each department and the department head may be authorized to approve increases for some (but not all) employees, provided that the total amount of increases is within authorized budget limits. The amount of merit increase will be determined by the level of funds set aside for this purpose and the number of employees receiving qualifying ratings. See the section of these policies on **Employee Performance Evaluation** for more information.

A merit increase is advancement to a higher salary in the same pay group and is granted to recognize good performance in the same position. Normally, if the City council has set aside funds for merit increases, an employee is considered for a merit increase once a year, on the employee's anniversary date. Merit increases are not used to recognize increased duties and responsibilities (a promotion).

Merit increases may be granted on the basis of tenure with the City and meeting the department head's expectations for job performance, until the employee's salary reaches the midpoint of the pay range to which the job is assigned. To be eligible for a possible merit increase once an employee's salary reaches the midpoint of the pay range for the position, an employee must receive an overall performance rating of exceeds expectations or outstanding on the annual performance evaluation. The merit increase would be granted in conjunction with the supervisor's recommendation and a performance evaluation of the employee, the results of which are one factor used in merit pay decisions. A merit increase cannot increase an employee's salary beyond the maximum for the pay group of the position.

There shall be no retroactive merit increases granted. It is the supervisor's responsibility to conduct timely performance evaluations of each employee under his or her supervision. Merit increases are effective at the beginning of the pay period in which the performance evaluation was conducted.

### **5.06 PROMOTIONS**

A promotion is a change in the duty assignment of an employee which results in advancement to a higher paying position requiring higher qualifications and involving greater responsibility. A promoted employee will receive a pay increase of at least the amount of difference from one pay group to the next higher pay group, or of whatever amount is required to place the employee's salary on the entry rate of the new pay group, whichever is higher. Promotions are approved by the City Administrator within the staffing pattern and budget limits approved by the City council.

Employees promoted to a regular position must also successfully complete a probationary period of two (2) months.

Employees may choose to retreat to their former position during the probationary period. If that position is no longer available, they may choose to move to another available position in a different department.

### **5.07 LATERAL TRANSFERS**

A lateral transfer is the movement of an employee between positions at the same level of pay within the City. Lateral transfers may be made within the same department or between departments of the City. An employee will not receive a pay reduction when making a lateral transfer, provided that the employee's current salary is within the range approved by the City council for the transfer position. If a position is reclassified but remains assigned to the same pay group, no pay adjustment will take place.

## **5.08 DEMOTIONS**

A demotion is a change in duty assignment of an employee to a lower paid position with less responsibility. Demotions may be made for the purpose of voluntary assumption of a less responsible position, as a result of a reclassification of the employee's position, as a disciplinary measure, or because of unsatisfactory performance in a higher position. A demotion always involves a decrease in pay.

If a position is reclassified downward because of changes in the City's needs and not because of a performance problem on the part of the employee, every attempt will be made to maintain the employee's salary at its prior level. However, if the reclassification is made because of an employee's performance problems, the employee's pay must be adjusted downward by at least the equivalent of a one-step decrease to reflect the revised duties.

## **5.09 PAY REDUCTION FOR DISCIPLINARY REASONS**

An employee's pay for continued problem performance in the same position may be reduced, as a disciplinary measure, to a lower rate. The period covered by this type of disciplinary action may not exceed a total of 90 calendar days and the amount of the pay reduction may be in an amount up to 10%, depending upon the severity of the infraction. Upon completion of the 90-day period, the supervisor will review the employee's performance with the City Administrator and the City attorney and the employee's rate of pay will be returned to the previous rate, or the employee will be discharged. See the chapter of these policies on **Discipline** for information about suspension with or without pay for disciplinary reasons.

## **5.10 APPROVING AUTHORITY**

The City Administrator is the approving authority for all payrolls and for any pay increases, decreases, or payroll transfers granted under the terms of (1) these policies; (2) the classification and pay plans; or (3) the annual budget.

## **5.11 LONGEVITY PAY**

Longevity pay will be paid at \$100.00 per year, after two (2). The years of service will be calculated on years served as of December 15<sup>th</sup> of each year.

Longevity pay is not an accrued benefit and will not be paid should employment terminate prior to December 15<sup>th</sup>. The maximum amount of longevity pay is \$2000.00.

Longevity is subject to budget approval for the fiscal year. Longevity pay is subject to federal withholdings, social security and retirement deductions.

## **5.12 CERTIFICATE/LICENSE PAY**

Certification/license pay is additional pay to full time personnel who obtain specific certifications/licenses related to their job. Additional pay is not given for a certification/license that is a requirement of the job. The certification/license level required in the job description is compensation in setting the classification and base pay for the job. An employee's certification pay will become void should an employee be promoted to a position in which that specified certificate/license is a requirement in the job description for the new position. If an employee obtains a higher license, the City will not pay to renew the lesser of the two licenses. Additionally, the City will only pay for the higher license of the two licenses. Each higher level of certification/license in a series is inclusion of the previous level unless specifically noted. Certification/License pay will only be paid after probation period ends.

Certification/License pay is given for the following certifications:

### **Certificate Pay (Police Department)**

Intermediate Certificates - \$100 monthly

Advanced Certificates - \$150 monthly

Master Certificates - \$200 monthly

### **License Pay (Water or Waste Water License)**

D License - \$50 monthly

C License - \$100 monthly



B License - \$150 monthly

A License - \$200 monthly

**Municipal Court**

Level I - \$50 monthly

Level II - \$100 monthly

Level III - \$150 monthly

## **6.00 WORK SCHEDULE AND TIME REPORTING**

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### **6.01 HOURS WORKED**

Hours Worked shall have the meaning assigned to it by the FLSA and includes only those hours actually worked by an employee. Hours Worked does not include paid time off benefits provided pursuant to another policy of the City such as sick time off, vacation time off, paid holidays (where the employee does not work), premium pay for holiday shifts or any other absence approved for by the City policy.

Normal hours worked for most City employees are Monday through Friday, 8:00 am to 4:30 pm, with 30 minutes for lunch or 8:00 am to 5:00 pm, with one hour for lunch, for a total of 40 hours per workweek. However, other hours of work and official work periods for individuals or groups of employees may be set by the department head with approval of the City Administrator.

Adjustments to the normal hours of operation of City facilities or departments may be made by the City Administrator in order to serve the public better. Offices may be required to remain open during the noon hour and some employees may have their lunch hours staggered so that the City can provide this service.

Employees are expected to report punctually for duty at the beginning of each assigned workday/shift and to work the full work schedule established.

The City Administrator determines the number of hours worked by an employee for the compensation to be received subject to laws governing pay and working hours and to the provisions of the City's budget and these policies.

(Legal reference: U.S. FLSA of 1938, as amended; Garcia v. S.A.M.T.A., U.S. Supreme Court, 1985; U.S. Equal Pay Act of 1963.)

### **6.02 WORK PERIOD**

**Work Period-** In accordance with the exception allowed under Section 207 (k) of the Fair Labor Standards Act and 29 CFR Part 553, the City has declared that the work period for its uniformed and/or sworn employees in law enforcement, those engaged in fire protection activities, as well as all other employees is fourteen days in length. The official work period begins 12:00 a.m. on Wednesday and ends at 11:59 p.m. on the second Tuesday thereafter.

The Chief of Police or his or her designee will schedule officers to work during the Work Period. The City will attempt to accommodate requests for scheduling change as where practical; taking into consideration the impact such a change may have on Overtime Hours of any officer.

Non-exempt employees shall record the number of actual Hours Worked each day during the Work Period on time sheets provided by the department. The purpose of these procedures is to comply with the FLSA and to ensure that both the employee and the supervisor understand which hours are payable and those that are not payable. Time not worked but requested for pay under a policy (such as paid time off for sick time, vacations, or holidays) must be shown in hours for each day absent which is requested to be paid under such policy on the time sheet. Employees and their supervisors must sign each time sheet and employee's supervisor must approve any overtime

### **6.03 OVERTIME**

The policy of the City is to allow overtime only in cases of emergencies, special circumstances, or when specifically authorized by the City Administrator. Employees may be required in emergencies to provide services in addition to normal hours or on weekends or holidays.

For non-exempt employees who regularly work Monday through Friday, standard overtime hours shall include all hours worked in excess of forty (40) hours in a work week (a fixed and regularly occurring period of 168 hours or seven consecutive 24-hour periods). For Police personnel, standard overtime hours shall include all hours worked in excess of 86 hours in a work period. For Fire Department personnel, standard overtime hours shall include hours worked in excess of 106 hours in a work period. Only hours worked shall be counted for the purpose of calculating Overtime Hours. Compensation for overtime worked is given to the nearest quarter of an hour and is paid at 1 and ½ time the employee's regular hourly rate.

All employees, except department heads and any other employees determined by the City Administrator to be exempt under Fair Labor Standards Act (FLSA) and those considered to be re-eligible to receive overtime time pay in accordance with the FLSA. Overtime, when ordered for the maintenance of essential City functions, shall be allocated as evenly as possible among all employees required to perform the work. For scheduled and approved timed worked in excess of a regular work week, compensation will be at the rate of one and one-half (1-1/2) time the employee's regular base pay. Overtime pay will be paid for all time worked over forty (40) hours per week the standard number and period, as referenced in Section 6.03, unless such employees are exempt from overtime pay. With the exception of "call-out" situations, see Section 6.08 below; no sick time, vacation time, holiday time, or time taken for jury or for travel to and from school or seminars shall be considered when determining overtime pay. All overtime work must be clearly reflected on the employee's time sheet before it is allowed.

In lieu of overtime pay, the employee may choose time-off instead, normally referred to as compensatory time or comp time. Such compensatory time shall be provided at not less than one and one-half (1-1/2) hours for every one (1) hour of overtime worked for non-exempt employees and one hour for every one (1) hour worked for exempt employees.

#### **Exemptions From Fair Labor Standards Act (FLSA)**

Department heads and other Executive, administrative and professional employees are exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) and are expected to render necessary and reasonable overtime services with no additional compensation. The salaries of these positions are established with this condition in mind. However, department heads may be allowed to take time off from time to time at the discretion of the City Administrator. (Legal reference: U.S. FLSA of 1938, as amended.)

Each City job description designates whether persons hired in that classification are exempt from, covered by (nonexempt), or not covered by the overtime provisions of FLSA.

#### **6.04 HOLIDAYS WORKED**

The City's basic policy is that each regular employee receives a specified number of paid holidays per year, as set forth in these policies (Section 8). In most instances, if a regular employee is required to work on a holiday, he or she will be paid straight time for the holiday plus one and one-half times his or her regular hourly rate for the total number of hours worked on the holiday.

For employees whose normal work schedule is Monday through Friday, the scheduled holiday is the designated holiday observed by the City, which may or may not be the actual holiday on the calendar. For employees whose normal work schedule is something other than Monday through Friday, the scheduled holiday is the actual holiday on the calendar.

A paid holiday is considered in the same manner as hours worked for the purpose of determining when an employee has reached his or her maximum allowable hours (40 hours per week for most employees). (Legal reference: U.S. FLSA of 1938, as amended.)

## **6.05 TIME REPORTING**

Employees will keep records of all hours worked and released time taken and, where appropriate, hours credited to particular projects. Forms for this purpose are provided by the City.

Time records must be signed by the employee and by the employee's immediate supervisor. It is recommended that these forms be filled out after each day's work in order to maintain an accurate and comprehensive record of the actual time spent on particular projects.

Altering, falsifying, or tampering with time records, or recording time on another employee's time record will result in disciplinary action, up to and including termination of employment.

Each department head is responsible for ensuring that all hours worked and leave time taken are reported on the time sheets sent to the City Clerk and recorded on the individual department's records.

## **6.06 "ON-CALL" TIME**

The vital nature of certain City services requires that some employees be available in an "on call" status in the evenings and over holidays and weekends to ensure the continuity of those vital services.

An employee in "on call" status is required to respond within 30 minutes of receiving a call. When an employee who is "on call" is called to duty, the employee will receive over-time pay or compensation time for being called into work. Consumption of alcoholic beverages is prohibited while serving on-call.

Response time shall not exceed 30 minutes. The employee who is on-call is not restricted to a specific location, provided he or she can meet the 30-minute response time. Non-exempt employees who are called out for work outside of scheduled work hours shall be paid time and one half for all hours worked. All employees called out for work shall receive a minimum of two hours, regardless of actual hours worked. However, employees are not allowed to count additional hours should any number of subsequent calls be received in the two hour period following the initial call; assuming all calls are of such a variety that they may be adequately resolved within the two hour period after the initial call is responded to.

If the job is too large, or the situation warrants as such, another employee may be called out for the same rate of pay. It is the responsibility of the on-call employee to make this determination and the department head should be notified, as soon as is practicable thereafter. The on-call period begins at 7:00 am on Friday and ends on the following Friday at 7:00 am. On-call employees shall be available for call 24 hours a day. Regular duty employees will assume calls during work hours. On-Call employees will receive a City vehicle for the duration of their call period. On-call employees shall earn one day compensatory time for serving on-call. This earned day shall be taken either Friday or Monday following the on-call duty, as agreed upon by the employee and the department head and as workload demands.

## **6.07 OFFICE CLOSINGS**

Short-term emergency or administrative closings of City offices/departments may arise due to unexpected inclement weather, prolonged power failure, or other situations. After the City Administrator communicates with department heads, closings will be communicated to employees. In the event that a situation occurs during non-working hours, which would necessitate emergency closings of City offices/departments, local radio and television stations will be asked by the City Administrator to broadcast an official City Hall closing statement. Employees whose jobs are critical to public health and safety may be required to work during an official closing. If so directed, those employees must report for duty. Employees will be paid for the duration of the closing with no reduction to accrued sick, vacation or compensatory time.

## **7.00 BENEFITS**

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### **7.01 MEDICAL AND LIFE INSURANCE**

Regular full-time employees of the City are eligible for group health benefits (general medical, dental, vision, hospitalization, prescription drug and life insurance benefits). The City pays 100 percent of employees' life insurance coverage and medical/hospitalization coverage. Employees may purchase additional life insurance coverage at their own expense. Such coverage will begin on the first of the month, 30 days after the initial hire date.

Upon employment, each regular full-time employee is given an insurance booklet containing detailed information about the City's insurance programs. See the section of these policies on **Continuation of Group Insurance** (Section 14) for information on continued coverage after certain status changes.

### **7.02 SOCIAL SECURITY**

All employees of the City are covered by Social Security. The City also contributes to the Social Security System on behalf of each employee.

### **7.03 RETIREMENT**

The City is a member of the Texas Municipal Retirement System (TMRS). Regular employees are required to become members of TMRS and are eligible for this benefit immediately upon employment. (TMRS defines regular employees as those working in excess of 1,000 hours per year.) Each eligible employee contributes seven percent of his or her salary and the City matches this amount two-to-one. Employee retirement funds vest after five continuous years of employment with the City. Employees who leave City employment prior to retirement will be refunded, upon request, their portion of the retirement account plus interest earned on their portion. Such requests must be made directly to TMRS by the employee.

Retirement benefits are determined by a formula that involves age, the number of years of creditable service and the amount deposited in the employee's account. A new employee receives a brochure about the City's specific retirement coverage and options under TMRS at the time of employment. The City Clerk has additional information about the retirement plan, which is available upon request.

### **7.04 WORKERS' COMPENSATION**

Employees of the City are covered by the workers' compensation insurance program and the City pays the premium. This coverage provides medical and salary continuation payments to employees who receive bona fide, on-the-job, work-related injuries. Detailed information about workers' compensation benefits is found in the sections of this manual under the main heading **Health and Safety**. (Legal reference: V.T.C.A. Labor Code, Title 5, Subtitle A and Chapter 504.)

### **7.04 UNEMPLOYMENT INSURANCE**

All employees of the City are covered under the Texas Unemployment Compensation Insurance program and the City pays for this benefit. This program provides payments for unemployed workers in certain circumstances. (Legal reference: V.T.C.A. Labor Code, Title 4, Subtitle A.)

**7.05 SEVERANCE PAY**

An employee who does not voluntarily resign or quit his or her employment and whose employment is terminated through no fault of his or her own, or one who is retiring by reason of age, shall be entitled to severance per equal to his or her salary as follows.

1. If his or her employment with the City is less than five (5) continuous years preceding the termination, no severance pay shall be paid.
2. If his or her employment with the City is more than five (5) years, but less than ten (10) years of continuous employment preceding the termination, the severance pay shall equal one week's pay; and
3. If his or her employment is more than ten (10) continuous years preceding the termination, the severance pay shall equal two (2) weeks pay.

A severance package may be offered in the discharge of an employee if determined to be in the best interest of the City, by the City Administrator and City Attorney.

## 8.00 LEAVE TIME

### 8.01 DEFINITIONS

**Leave Time.** Leave time is time during normal working hours in which an employee does not engage in the performance of job duties. Leave time may be either paid or unpaid.

**Holidays.** Holidays are days designated by the City council on which City offices are closed, that otherwise would be regular business days.

**Unauthorized Absence.** An unauthorized absence is one in which the employee is absent from regular duty without permission of the department head. Employees are not paid for unauthorized absences and such absences may result in disciplinary action up to and including termination.

### 8.02 APPROVAL OF LEAVE

The employees' department head must approve leave taken by City employees, except in the instance of official holidays or administrative closures. **Copies of signed leave forms are sent to the payroll office for recording on the central leave records.** Payroll records are verified against these leave records.

Department heads are responsible for determining that leave has been accrued and is available for use in the amounts requested by an employee. In addition, each department is responsible for ensuring that all vacation and sick leave usage is recorded on the time sheet sent to the payroll office for payroll purposes, as well as being recorded in the employee's departmental time record.

### 8.03 VACATION LEAVE

All regular full-time City employees are eligible to accrue paid vacation leave upon date of hire.

**Accrual of Vacation Leave.** All regular full-time employees earn vacation as follows:

<del>One day per Month or (12) days per year.</del>	<del>After ten (10) years of continuous service shall earn fifteen (15) days per year.</del>
<del>—Maximum of thirty (30) days</del>	<del>Maximum of thirty (30) days</del>

Tenure	Annual Accrual	Max Carryover
Day 1 to 5 Years	96 Hours	240 Hours
5 to 10 Years	120 Hours	240 Hours
10 Years +	192 Hours	240 Hours

Temporary and Seasonal employees do not earn vacation leave.

**Scheduling Vacation Leave.** The City will attempt to schedule vacation time to meet the preferences of employees; however, the approval of vacation requests will be subject to the efficient operation of the City. Preferences for available vacation dates will be offered on the basis of seniority one time each year in selection of all vacation time. All vacation schedules are subject to approval of the employee's supervisor.

Vacation leave may be used, upon approval of the supervisor of the employee, upon completion of the probationary period.

Under normal circumstances, employees will be expected to take time off for all vacation for which they are eligible. Under unusual circumstances, because of compelling personal needs or extraordinary work requirements, employees may be eligible for a buy back (of hours over 240 hours) option, however, this eligibility is based on extraordinary circumstances and must be done, in writing, with the approval of the City Administrator.

Under normal circumstances, employees will be expected to take time off for all vacation for which they are eligible. Under unusual circumstances, because of extraordinary work requirements, employees may be eligible to exceed the maximum number of allowable vacation hours, with the written approval of the City Administrator.

#### **8.04 COMPENSATORY LEAVE**

All regular full-time City employees are eligible to accrue paid compensatory leave in lieu of being paid for overtime. Compensatory time accrues at one and a half hours for every one hour of overtime worked. There is a limitation of 480 hours of compensatory time off for all employees.

#### **8.04 SICK LEAVE**

All regular full-time City employees are eligible to accrue paid sick leave upon date of hire.

Regular, full-time employee with accrued sick leave may use that leave if the employee is absent from work due to:

1. Personal illness or physical or mental incapacity;
2. Medical, dental, or optical examinations or treatments;
3. Medical quarantine resulting from exposure to a contagious disease; or
4. Illness of a member of the employee's immediate family who requires the employee's personal care and attention. For this purpose, immediate family is defined as the employee's spouse, children, parent, step-parent, or any other relative of the employee who resides in the employee's household and/or is dependent on the employee for care.

**Accrual of Sick Leave.** Regular full-time City employees are eligible to earn eight (8) hours of sick leave for each full calendar month of employment with the City. Accrued but unused sick leave shall accumulate and be carried forward each month. The sick leave carryover from one fiscal year to another is unlimited.

Temporary and Seasonal employees do not earn sick leave.

**Use of Sick Leave.** Regular full-time City employees may use sick leave, subject to the following conditions:

1. Employees are entitled to sick leave with pay if unable to perform their job due to: Illness, injury or pregnancy, employee medical, dental, or counseling appointment, rehabilitation treatment for the employee, illness or injury of a member of the employee's immediate family, or medical appointment for family members.
2. An employee may not be granted sick leave in excess of an employee's earned balance. An employee who is in need of additional sick leave after exhausting all accrued time may apply for an extension of sick leave if such employee can conclusively prove his or her illness was incurred while in performance of their duty.
3. Employees must notify their supervisor as soon as possible when using sick leave. In addition, an employee shall send the immediate supervisor a written statement stating the cause or nature of the illness or disability



after being absent from work for more than three (3) consecutive working days. This written statement must include a physician statement.

4. A department head or the City Administrator may request an employee in his or her department to furnish and the employee must provide upon request, written verification by a physician of medical disability precluding availability for duty at any time that sick leave benefits are requested for three or more consecutive days.
5. An employee who is ill must call in and report to his or her supervisor, unless the department head has designated another person in the department to accept calls from an absent employee. The call must be placed at least 15 minutes before the scheduled work time. Calls placed by anyone other than the employee are not acceptable, unless prior arrangements have been made with the department head to accept calls from people other than the employee.
6. Accrued sick leave may be taken in half hour increments.
7. Sick leave does not accrue while an employee is on City insurance disability income, extended military leave of absence leave without pay including LWOP while collecting workers compensation.
8. The unauthorized use of sick leave may result in disciplinary action against the employee.

**Exhaustion of Sick Leave.** An employee who has exhausted earned sick leave benefits may request to use accumulated vacation or other paid leave or may request time from sick leave pool or leave of absence without pay. No advance of unearned sick leave benefits will be made for any reason. Extended Sick leave may be granted only in the case of the following.

1. Employee injured on the job or employee with two years of continuous service with the City who is seriously ill or disabled.
2. If extended sick leave is granted, the employee may receive an amount equal to the employee's earned sick leave balance at the onset of the illness or injury up to a maximum of sixty (60) working days. Employees may only be granted extended sick leave one time per illness.

**Illness While on Vacation Leave or on a Holiday.** When an illness or physical incapacity occurs while an employee is on vacation leave, accrued sick leave may be granted to cover the period of illness or incapacity and the charge against vacation leave reduced accordingly. Application for such a substitution must be supported by a medical certificate or other acceptable evidence, if requested. If an employee is sick on a holiday, he or she may not use sick leave for these hours and will not get an alternative day off.

Sick leave may be used, upon approval of the supervisor of the employee, upon completion of the probationary period.

## **8.05 FAMILY MEDICAL LEAVE ACT**

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with job-protected leave for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take up to 12 workweeks of FMLA leave in a 12-month period for:

1. The birth, adoption or foster placement of a child with you
2. Your serious mental or physical health condition that makes you unable to work
3. To care for your spouse, child or parent with a serious mental or physical health condition, and
4. Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military service member

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness may take up to 26 workweeks of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in one block of time. When it is medically necessary or otherwise permitted, you may take FMLA leave intermittently in separate blocks of time, or on a reduced schedule by working less hours each day or week. Read fact sheet #28m(c) for more information.

FMLA leave is not paid leave, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

#### **FMLA Eligibility**

You are an eligible employee if all of the following apply:

1. You work for a covered employer
2. You have worked for a covered employer at least 12 months
3. You have at least 1250 hours of service with your employer during the 12 months before your leave and
4. Your employer has at least 50 employees within 75 miles of your work location
5. Airline flight crew members have different hours of service requirements

You work for a covered employer if one of the following applies:

1. You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year,
2. You work for an elementary or public or private secondary school, or
3. You work for a public agency, such as a local, state or federal government agency. Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

#### **Requesting FMLA Leave**

Generally, to request FMLA leave you must:

1. Follow your employer's normal policies for requesting leave,
2. Give notice at least 30 days before your need for FMLA leave, or
3. If advance notice is not possible, give notice as soon as possible

You do not have to share a medical diagnosis but must provide enough information to your employer so they can determine whether the leave qualifies for FMLA protection. You must also inform your employer if FMLA leave was previously taken or approved for the same reason when requesting additional leave.

Your employer may request certification from a health care provider to verify medical leave and may request certification of a qualifying exigency.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their own serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the US Office of Personnel Management or Congress.

#### **Employer Responsibilities**

Under the Act, your employer must:

1. Allow you to take job-protected time off work for a qualifying reason
2. Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave and
3. Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other

working conditions, including shift and location, at the end of your leave

Your employer cannot interfere with your FMLA rights or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is a reason that may qualify under the FMLA, your employer must confirm whether you are eligible or not eligible for FMLA leave. If your employer determines that you are eligible, your employer must notify you in writing:

1. about your FMLA rights and responsibilities, and
2. how much of your requested leave, if any, will be FMLA-protected leave

More Information may be found through the following resources:  
call 1-866-487-9243 or visit [dol.gov/fmla](http://dol.gov/fmla)

If you believe your rights have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court.

### **8.06 MILITARY LEAVE**

Regular employees who are members of the State Military Forces, or are members of any of the Reserve Components of the Armed Forces of the United States, are entitled to leave of absence from their duties for annual maneuvers, without loss of time or efficiency rating, leave time, or salary on all days during which they are engaged in authorized training or related duty ordered by proper authority, not to exceed 15 days in any one calendar year. Requests for approval of military leave must have copies of the relevant military orders attached.

Regular employees who are ordered to extend active duty with the state or federal military forces are entitled to all of the reemployment rights and benefits provided by law upon their honorable release from active duty. (Legal reference: V.T.C.A., Government Code, Section 431.005 and Section 613.001-613.005; Fed. 38, U.S. Code Ann., Chapter 43.)

### **8.07 CIVIL LEAVE**

Employees are granted civil leave with pay for jury duty, for serving as a subpoenaed witness in an official proceeding and for the purpose of voting. (Legal reference: V.T.C.A. Labor Code, Sec. 52.051; Election Code, Sec. 276.004.)

Paid civil leave for time spent actually serving as a juror or as a subpoenaed witness in an official proceeding, is limited to a maximum of 80 hours. Pay will be at the employee's regular, base rate of pay and no overtime will apply, regardless of the number of actual spent as a juror or subpoenaed witness.

Employees must notify the appropriate supervisor as soon as possible prior to taking civil leave. When an employee has completed civil leave, he or she must report to the City for duty for the remainder of the workday, whether it is before or after the official proceeding. If the employee will be absent from work for more than one workday on civil leave, he or she must notify the appropriate supervisor daily at the beginning of each workday on which he or she will be absent.

An employee who is called for jury duty must provide his or her supervisor with a written acknowledgement of service from the court. Payment received for jury duty is retained by the employee. If a police officer is subpoenaed in a civil case, in conjunction with his or her official police duties, he or she must return the witness fee to the City.

### **8.08 FUNERAL LEAVE**

Funeral leave with pay may be granted to regular employees by the City Administrator in the event of a death in an employee's family. Funeral leave is limited to no more than three working days per occurrence. The length

of time granted for funeral leave must be approved by the City Administrator in advance and will depend on the circumstances. The terms of and reasons for the leave must be documented and filed in the employee's personnel file. Funeral leave cannot be accumulated or carried forward.

For purposes of emergency leave, "family" includes spouse, child, stepchild, stepparent, parent, brother, sister, grandparent of an employee or employee's spouse, or any other relative living in the employee's household.

The City will send flowers to the funeral service of current or former council members, members of appointed boards or commissions, City employees and the parent or child of a City employee.

### **8.09 ADMINISTRATIVE LEAVE OF ABSENCE**

Employees on duty on the date of any national, state, or local election and who are eligible to vote in such elections shall be granted time off without loss of pay or benefits to exercise this right if they cannot reach their polling place outside of working hours before it closes. Evidence of voter registration and voting may be required by the supervisor. The City Administrator may grant an employee administrative leave with pay for the purpose of attending a professional conference on training, legislative proceedings, or civic functions pertaining to the cities interest.

1. Authorized leave without pay may be granted by the City Administrator and the employee in circumstances not falling within other provisions of these rules mutually agreeable terms and conditions between the employee and the City Administrator. Employees taking leave without pay shall not lose or gain seniority and employees' benefits will remain in effect during the leave period granted.

### **8.10 INJURY LEAVE**

For information on occupational disability or injury leave for bona fide, on-the-job, work-related injuries, please see the sections in this manual under the main heading **Health and Safety (Section 9)**.

### **8.11 TEMPORARY DISABILITY LEAVE**

Employees with illness arising from pregnancy, maternity, or other non-occupational illness or injury, shall be entitled to benefits on the same basis as employees with other illnesses be used for any such temporary disability including maternity purpose prior to delivery and for a reasonable time following as may be determined as necessary by her doctor. For maternity purposes, at least ten (10) days' notice of leave, which shall include a statement of the employee's intentions concerning resumption of work is required, except in emergencies. A medical clearance is required for all employees desiring to return to work after leave caused by a temporary disability.

### **8.12 USING LEAVE IN COMBINATION**

When an employee who is on sick leave has exhausted his or her accrued sick leave, the employee will automatically be placed on vacation leave if (1) the employee has accrued vacation leave available and (2) the employee has not requested a temporary leave of absence without pay.

A regular employee who is requesting extended leave for illness or temporary disability has the option of choosing to use all or part of his or her accrued sick and vacation leave in any combination with the requested leave without pay, contingent upon approval of the City Administrator.

Sick leave cannot be used for vacation purposes when vacation leave is exhausted.

With the approval of the employee's department head and the City Administrator, other types of leave may be used in combination or coupled with holidays if it is determined to be in the best interests of the City and the employee.

### **8.13 PERSONAL DAYS**

All employees are entitled to two (2) personal days with pay within a 12-month period. If an employee is hired on June 1<sup>st</sup>, or after, he will receive (1) personal day for that year. These days must be taken within the calendar year and may not be carried over to the next year. Personal days may be taken in combination and with any other leave.

### **8.14 SICK LEAVE POOL**

Employees may donate any accrued sick leave to the sick leave pool for employees who may need additional leave as a result of a catastrophic illness or injury of the employee or all persons within the first degree of consanguinity of the employee or the employee's spouse, subject to the following conditions:

Employees that will maintain a balance of at least 80 hours accrue sick leave are eligible to donate to the pool. A donation application can be picked up from the City Clerk. Only whole hours can be donated.

Donations will be made on a voluntary basis by completing and signing the donation application indicating the number of hours to be donated. All sick leave donations must be approved by the immediate supervisor and City Administrator. No employee shall be coerced or intimidated into sharing sick leave. Anyone guilty of such conduct will be subject to disciplinary action.

Employees who may need additional leave as a result of a catastrophic illness or injury of the employee or all persons within the first degree of consanguinity of the employee or the employee's spouse, may receive sick time from the sick leave pool subject to the following conditions:

Employees who wish to request sick time must submit their request in writing to their immediate supervisor. The written request must include the reason for the request and the expected amount of days that the medical event will require to be off from work. The request must be approved by the immediate supervisor and City Administrator.

Employees are not eligible if the medical event is from a work-related injury for the City employee due to worker's compensation or disability coverage.

The request for sick time will only be approved for a medical event requiring more than 5 consecutive days off work (40 hours).

The request for sick time must be for at least 40 hours of sick time from the pool.

Employees will be limited to receiving 240 hours/30 Days of sick leave through the donation policy in a rolling 12-month period unless prior approval is received from the employee's supervisor and the City manager.

Employees shall not receive or use donated sick hours until they have exhausted all of their leave balances including sick time, comp time and vacation.

Recipients shall be required to reimburse or return hours donated to them if the following occurs:

Compensation is received from another source (workers' compensation, long or short term disability benefits, etc.), unless the compensated coverage doesn't extend the full time off for the medical event.

It was determined that a recipient has abused the program, falsified information, or was otherwise not eligible for leave.

If repayment is required, reimbursement shall be made from future accrued leave from that recipient unless there is separation from the City. If the separation occurs, then the employee is responsible for paying the City through payroll deduction.

Accrued leave will be used during the time the employee is out for the catastrophic event. The accrued sick leave will be used during this time, but the employee can accrue up to a week's worth of combined vacation, holiday and comp time. Once the weeks' worth of combined holiday, vacation and comp has been acquired, anything over that will be used towards the catastrophic leave.

#### **8.16 MENTAL HEALTH LEAVE (POLICE DEPARTMENT)**

Mental Health Leave for licensed Peace Officers is intended to provide full-time Peace Officers who experience a traumatic event that occurs while on duty, time away from work to receive assistance in dealing with the event that was experienced.

The following are examples that may be considered a traumatic event. As these examples will not encompass all traumatic events Peace Officers may potentially encounter, the Sheriff will evaluate requests for leave under this policy to determine if Mental Health Leave is applicable.

- Officer involved shooting
- Vehicle crash involving serious injury or death to an officer or citizen
- Officer being the victim of a felonious assault
- Death of a coworker
- Death or serious injury to someone in custody of officer
- Severe trauma or death of a child
- Homicide Scenes
- Incident involving multiple deaths and/or injuries (natural disaster or terrorist attack)

Peace Officer Mental Health Leave provides paid leave for up to (3) three (8) eight-hour shifts from work, per traumatic event that occurred while on duty, in order for the Peace Officer to seek professional treatment for the handling of the traumatic event in which they were involved.

The Peace Officer will contact the Sheriff of the department and request the use of the leave in order to obtain mental health assistance. The Sheriff may consult with the City Administrator or City Clerk prior to granting the Leave.

Based upon the information provided to the department administration after the event, Mental Health Leave will be granted if ordered by a mental health professional or the Sheriff/designee.

Mental Health Leave hours will be recorded on the timesheet as regular hours, to provide anonymity. However, the City will keep requests to take mental health leave and any medical information related to mental health leave under this policy confidential to the extent allowed by law and separate from the employee's general personnel file. The agency cannot guarantee anonymity of information that is otherwise public or necessary to carry out the agency's duties under the law.

Mental Health Leave provides that Peace Officers will continue to be eligible for all employment benefits and compensation, including continuing their leave accrual, pension benefits and eligibility for health benefit plan benefits for the duration of the leave. While on paid Mental Health Leave, the Peace Officer will not be required to use any other paid leave type (vacation, sick, holiday, compensatory time).

An employee on Mental Health Leave may not work a second job, including self-employment or participate in volunteer work.

If additional time off is needed employees may apply for a Leave of Absence or other leave as authorized under the personnel policies.

1. If a Peace Officer is off work due to Mental Health Leave and the employee qualifies for family and medical leave, it will run concurrently with the Mental Health Leave.
2. Following use of Mental Health Leave, the City may require a Peace Officer to undergo a psychological examination, by a professional of the City's choosing, to determine fitness for continued employment, as may be necessary in order for the City to provide a reasonable accommodation and as otherwise permitted in accordance with applicable laws.

## **8.17 HOLIDAYS**

In an effort to allow employees to spend more time with their families, the City of Mount Vernon traditionally observes selected holidays. All regular full-time employees are eligible to receive holiday pay; hourly pay at the employees regular rate of pay for a normal shift.

The holidays which are celebrated include:

1. New Year's Day
2. Martin Luther King, Jr. Day
3. President's Day
4. Good Friday
5. Memorial Day
6. Juneteenth
7. Independence Day
8. Labor Day
9. Columbus Day
10. Veteran's Day
11. Thanksgiving Day
13. The Friday after Thanksgiving
13. Christmas Day
14. (and the day before or after Christmas)
15. Any other day's as may be declared by the City council.

Holiday pay will be based on the employee's base wage. For example, employees working eight (8) hour days will be paid for eight (8) hours of holiday pay.

### **Work During Holidays**

Employees requested to work on a holiday will receive, in addition to holiday pay, one and one-half times their regular hourly rate for actual hours worked. Employees who are scheduled to work a holiday and fail to do so will not be entitled to holiday pay unless the absence is justified in the opinion of the City.

### **Holidays Falling On Non-Workdays**

This section applies to employees who work on shifts other than Monday through Friday. Whenever a legal holiday on the current year's list of approved holidays falls on a regular employee's regular day off and the employee does not work that day, he or she will (1) be provided with an alternate holiday on what would otherwise have been a regular workday for the employee, or (2) be paid his or her regular salary amount for the pay period involved plus eight additional hours for the holiday.

If an official holiday falls within a regular employee's vacation, the employee will be granted the holiday and not charged for a day of vacation.



## 9.00 HEALTH AND SAFETY

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### 9.01 SAFETY POLICY

It is the policy of the City to make every effort to provide healthful and safe working conditions for all of its employees.

### 9.02 EMPLOYEE RESPONSIBILITIES AND REPORTS

Employees are responsible for conducting their work activities in a manner that is protective of their own health and safety, as well as those of other employees.

Supervisors are responsible for ensuring that all employees wear safety gear appropriate for their jobs, including safety goggles, ear plugs, safety hats, reflective vests appropriate footwear.

After consultation with the department head, a supervisor may require an employee to obtain a medical evaluation of his or her ability to operate equipment or vehicles safely. Such a medical evaluation may be required only if a supervisor has a reason to believe that an employee is incapable of safe operation of assigned equipment or vehicles due to employee's medical condition. The City will pay for required medical evaluations.

An employee must report every on-the-job accident, no matter how minor, to his or her supervisor immediately. The supervisor reports the incident to the City Clerk, who in turn notifies the City Administrator and the City workers' compensation insurance carrier.

The following rules are designed to promote the safety and wellbeing of City employees and are to be observed by employees at all times:

1. No employee may engage in horseplay, wrestling, or practical joking while on duty or operating City equipment;
2. Employees should maintain awareness of potentially dangerous situations that may cause injury to themselves, fellow employees, or the public;
3. Employees must report immediately to their supervisors any conditions that in their judgment threaten the health or safety of employees or the public;
4. An employee who is unable to perform his or her duties safely due to illness must promptly notify his or her supervisor; and
5. Employees must immediately seek proper first aid treatment for all on-the-job injuries, including minor injuries and must immediately report all injuries to their supervisor unless emergency circumstances exist.

Failure to report an on-the-job injury, no matter how minor, may result in disciplinary action.

### 9.03 EMPLOYEE SUGGESTIONS

Employees are encouraged to make suggestions to their supervisors for improvements that would make the City workplace safer or more healthful.

### 9.04 ON-THE-JOB INJURIES

**Insurance.** The City provides workers' compensation insurance for all of its employees. This insurance provides medical expenses and a weekly payment if an employee is absent from work because of a bona fide, on-the-job, work-related injury for more than one week. All workers' compensation insurance claim forms must be submitted to the office manager immediately for appropriate action to be taken. (Legal reference: Workers' Compensation Act, V.T.C.A. Labor Code, Title 5, Subtitle A.)

**Medical Attention** An employee who sustains a bona fide, on-the-job, work-related injury may seek medical attention from the medical facility or professional of his or her choice. The City encourages employees to return to work as soon as they are able to do so. An employee returning to work **must submit a physician's statement of medical condition and release to return to work**, following loss of time accident. As determined by the City Administrator, at the City's expense, an employee may be required to submit to examination by an independent physician. (Legal reference: Workers' Compensation Act, V.T.C.A. Labor Code, Title 5, Subtitle A.)

**Statutory Benefit Compensation** Employees who sustain an injury at work may be eligible to receive benefits prescribed by the Texas Workers' Compensation Act. These benefits include compensation payments, medical care as reasonably required to cure and relieve the effects of the injury or occupational disease(s) and/or death benefits.

Workers' compensation benefits are subject to a seven-calendar-day waiting period. After 28 calendar days of lost time, the seven-day waiting period will be paid retroactively under workers' compensation.

**Exclusion** Injuries caused by willful intent and attempt to injure self or to unlawfully injure another, intoxication, horseplay by the injured employee, an act of God except in certain limited circumstances (i.e., assigned to official duty during a tornado, lightning storm, etc.), or an act of a third party for personal reasons are excluded specifically from coverage by injury leave with pay. Workers' compensation fraud is a crime (misdemeanor or felony, depending upon the dollar value of the benefits received) punishable by fines and/or jail time. (Legal reference: Workers' Compensation Act, V.T.C.A. Labor Code, Title V, Subtitle A.)

**Initiation of Injury Leave** An employee who is put on leave for a bona fide, on-the-job, work-related injury will be provided with a copy of the City's policy on "On-the-Job Injuries" prior to or as soon after the beginning of the leave as is feasible. Injury leave begins on the first scheduled workday of absence due to on-the-job injury and continues until the employee returns to work, his or her eligibility expires, or the employee is removed from injury leave coverage by the City Administrator.

**Compensation** If an employee sustains a bona fide on-the-job, work-related injury which renders him or her unable to performing the duties of the job, that employee must file a workers' compensation claim and will receive such workers' compensation payments as authorized under state statute.

If an employee sustains a bona fide on-the-job, work-related injury that causes him or her to miss more than seven days of work, the City will provide salary continuation benefits in an amount equal to the difference between the employee's regular compensation and the workers' compensation benefits.

At no time will the combined total of the City's salary continuation compensation and the workers' compensation insurance benefits exceed the employee's regular salary. Should an employee receive benefits that, when combined with the City's salary continuation compensation, exceed his or her regular salary, the employee must return the excess City salary continuation compensation. Failure to do so may result in disciplinary action and/or forfeiture of salary continuation compensation.

The City's salary continuation compensation program will extend for a maximum period of 90 days, beginning on the eighth day of absence for a particular injury. At the conclusion of the 90-day period, the employee may begin to use any remaining accrued leave balances. If the employee does not have any unused leave on the books, the employee will receive only workers' compensation payments.

An employee receiving workers' compensation payments does not accrue vacation or sick leave and is not entitled to receive holiday pay.

**Continuation of Group Medical Insurance for Employee and/or Dependent** To continue medical insurance for the employee and/or the employee's dependent(s) while the employee is on injury leave and no longer receiving a regular City paycheck, the City will continue to pay the City's portion of the employee's medical insurance for a period of time not to exceed one year following the employee's injury. During this time period the employee must remit to the City, in a timely manner each month, the amount necessary to cover the portion of the employee's insurance premiums that would have been deducted from the employee's paycheck if the employee were still receiving a regular paycheck. Thereafter, the employee must pay both the employee's and the City's portions of these insurance premiums to the City on the schedule established by the City Clerk in order to maintain coverage.

**Reporting Requirements** While on leave because of a bona fide, on-the-job, work-related injury, each time the employee sees the physician for consultation or treatment, he or she must provide a progress report to the supervisor, who will forward the information to the department head, City Administrator and City Clerk. Any change in the employee's condition, which might affect his or her entitlement to workers' compensation payments, must also be reported to the supervisor. In addition, the injured employee must contact his or her supervisor at least once every two weeks to report on his or her condition. Failure to provide the required medical status reports or to contact the supervisor on the schedule required by the City may result in revoking the employee's leave and may result in disciplinary action.

**Duration of Injury Leave** The maximum duration of injury leave is one year unless the City Administrator expressly authorizes an extension.

Requests for extension may be authorized after careful review by the City Administrator, in no more than three-month increments. Any extension(s) must be reported to the City council.

**Termination of Injury Leave** Injury leave with pay may be terminated at any time without prior notice. After consultation with the City attorney, the City Administrator will terminate the injury leave upon receipt of evidence that the employee, while able to return to work, has not done so.

**Return to Service** A written statement from an appropriate physician certifying that the employee has been released to return to work and specifying the type(s) of work he or she is capable of performing, as well as any limitation(s), must be received by the City before an employee may return to work. All employees on injury leave must return to work after approval of either the employee's attending physician or an independent physician paid by the City. Failure to return to work when directed will result in appropriate disciplinary action, up to and including termination.

The employee's supervisor must notify the City Clerk upon the employee's return to duty so that the City may resume record keeping for purposes of payroll, benefits, leave and length-of-service accruals.

**Temporary Light Duty Status** During the course of an on-the-job injury leave of absence, if an employee is released by his or her physician for light duty, the employee's job or alternative job assignment(s) will be evaluated to determine whether a position is available in which the City can use the employee's limited services for a temporary period of time. If no acceptable light duty assignment can be found, the employee will be placed on inactive status until released by the physician to return to his or her previous job.

An employee who is able to return to work in light duty status is a temporary employee and may be required to work in a different department and perform duties not contained within his or her current job duties. A light duty assignment cannot exceed 90 days.

**Inactive Status** The City may place an employee on injury leave on inactive status:

At any time that a City department head, in consultation with the City Administrator, determines that it is a business necessity to hire a temporary replacement for an employee on injury leave; or  
When an employee on injury leave is unable to return to regular duty for a total of six months unless an extension of injury leave is expressly authorized by the City council.

When an employee on injury leave is placed on inactive status, the employee's department head is free to hire or promote a temporary replacement.

Temporary replacements may be used for a period of six months. If, at the end of that six-month period, the injured employee remains unable to return to work, the temporary replacement may become a regular employee. The injured employee will remain on the City's records in an "inactive" status (not terminated) for the duration of the approved injury leave.

When the injured employee has reached maximum recovery, the City will consider the employee for employment in a capacity for which the employee is qualified, if a position is available.

**Total Disability/Retirement** A determination of total disability may be rendered at any time during the course of the occupational disability or injury leave. Upon such a determination, the director of finance will make the necessary arrangements for an eligible employee's retirement under the "disability retirement" clause of the coverage provided by the City's retirement plan.

**Reasons for Termination of Injury Leave Benefits** An employee will forfeit all rights to injury leave benefits to which he or she would otherwise have been entitled and may be subject to disciplinary action, for the following reasons:

1. Engaging in work, either part-time or full-time and either for pay or as a volunteer, for or behalf of the employee or any other person or employer, while receiving injury leave benefits and workers' compensation payments;
2. Resigning from employment with the City for any reason while receiving injury leave benefits and workers' compensation payments;
3. Termination of employment for any reason;
4. Failure or refusal to comply with or follow the treating physician's instructions, including disregarding or violating the treating physician's instructions;
5. Refusal to perform light, partial, or part-time duty offered by the City when authorized to do so by the treating physician;
6. Refusal to accept or perform a different job with the City that is in the opinion of the employee's treating physician, within the employee's physical capacity and for which the employee is qualified and/or trained;
7. Falsification or misrepresentation of the employee's injured condition, physical capacity, or disability while receiving injury leave benefits and workers' compensation payments;
8. Refusal to return to duty on the workday on which the employee has been released by the treating physician; or
9. Failure to keep the City informed of his or her injury status every two weeks.

**Final Release or Settlement** At the time of final release or settlement of a workers' compensation claim, the employee must furnish the City with a certificate from the employee's physician stating that the employee is able to return to work. The certificate must also specify any limitation(s) on the employee's physical condition and the estimated duration of the limitation(s).

The City will then evaluate the employee's physical condition and determine whether he or she can perform the duties of the job previously held. If (a) the employee cannot perform his or her previous duties, or (b) no

vacancy exists, or (c) no other suitable position is available and (d) a reasonable effort has been made to place the employee in a suitable position, then he or she will be separated and paid accrued benefits.

If the employee is separated from City employment at this point, the City Administrator or his or her designee will:

1. Send him or her a certified, return receipt requested, letter, as well as a letter by regular mail;
2. Explain the circumstances, outlining the reasonable effort made to place the employee in a suitable position; and
3. Inform the employee that he or she has been separated from City employment and that he or she will be mailed a final paycheck, if applicable, for any accrued and payable leave benefits.

**Privacy Protection** The privacy of individuals' personal health information in the form of medical records and other information will be protected in all transmittals to and from insurance carriers and health care providers. In addition, City department heads and officials will protect the privacy of individuals' personal health information: any conversations regarding an employee's medical condition or status will be held only with City personnel with a need to know the information and only in locations where the conversation may not be overheard. (Legal reference: Health Insurance Portability and Accountability Act of 1996.)

## **10.00 DRUG AND ALCOHOL POLICY**

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### **10.01 DRUG-FREE WORKPLACE**

The following policy has been adopted to implement the City's desire to establish itself as a Drug-Free Workplace. In all instances where reference is made to alcohol, drugs, or other controlled substances, the references include inhalants.

1. All employees of the City are hereby notified that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcoholic beverage is prohibited in the workplace of the City and while officially representing the City off premises. Employees who violate this policy will be subject to immediate disciplinary action up to and including termination.
  - a. As a part of discipline and as a condition of continued employment, an employee may be required to obtain substance abuse education, substance abuse counseling and/or enter and complete a substance abuse treatment program.
2. The City has established a drug-free awareness program providing:
  - a. Information about the dangers of drug and alcohol abuse in the workplace;
  - b. The City's policy of maintaining a drug-free and alcohol-free workplace;
  - c. Information about available drug and alcohol counseling and rehabilitation; and
  - d. Information about the penalties that may be imposed on employees for drug or alcohol abuse violations occurring in the workplace.
3. All employees of the City will abide by the terms of this policy and will notify the City of any drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
4. The City will notify any funding agency which requires notification within 10 days after receiving notice under the above paragraph from an employee or otherwise receiving actual notice of such conviction.
5. Any employee so convicted will be subject to disciplinary action up to and including immediate termination.
6. The City will make a good faith effort to continue to maintain a drug-free and alcohol-free workplace through the implementation of this policy and any Drug and Alcohol Abuse Policy.
  - a. (Legal reference: V.T.C.A. Labor Code, Chapter 411, Subchapter G.)

### **10.02 PURPOSE OF DRUG TESTING PROGRAM**

The purpose of this policy is to ensure a safe working environment and to protect the health and safety of the public by requiring that employees and applicants be free from drug dependence, illegal drug use and drug abuse.

The intent of the policy is as follows:

1. To provide clear guidelines and consistent procedures for handling incidents of employees' use of alcohol, drugs, or controlled substances that affect job performance and to make every effort to institute and maintain a drug-free workplace;
2. To ensure that employees conform to all state and federal regulations regarding alcohol, drugs, or controlled substances; and
3. To provide substance abuse prevention education for all employees.

### **General Policy**

City employees shall not take any narcotic or dangerous substance unless prescribed by a person licensed to practice medicine. Any statutory-defined illegal use of drugs by an employee, whether during or outside City employment hours, will not be tolerated.

City employees who have a reasonable basis to believe that another employee is illegally using drugs or narcotics must report the facts and circumstances immediately to their supervisor.

Failure to comply with the intent or provisions of this policy may be used as grounds for disciplinary action.

### **10.03 DRUG AND ALCOHOL TESTS**

Employees who operate vehicles or equipment that require possession of a commercial driver's license or who occupy safety sensitive positions are subject to five types of testing for both drugs and alcohol: pre-employment, post-accident, reasonable suspicion and return to duty. All other City employees are subject to four types of testing: pre-employment, post-accident, reasonable suspicions and return to duty.

**Pre-Employment Testing** The City performs pre-employment drug/alcohol tests on all new employees, after extending a conditional offer of employment, but prior to the first day of work. In addition, the City must and will request the results of U.S. Department of Transportation (DOT) drug tests from previous employers for employees required to hold a commercial driver's license.

**Post-Accident Testing** The City acting through its duly authorized representative may require persons who have been involved in an accident involving bodily injury to themselves or others or property damage in excess of \$100.00 to submit to a drug testing.

**Reasonable Suspicion Testing** All supervisors of covered employees are required to attend two hours of U.S. Department of Transportation-approved training in how to identify the symptoms of drug and alcohol abuse. If a supervisor believes a reasonable suspicion exists that an employee under his or her supervision is abusing alcohol or drugs, the supervisor must obtain the concurrence of the department head or the City Administrator, or in both of their absences, of one other department head, before sending an employee to be tested.

**Return-to-Duty Testing** Before an employee is allowed to return to duty after having been sent home or suspended as a result of a drug or alcohol test, he or she will be tested for illegal drugs and alcohol and must be found to be drug and alcohol free. In addition, an individual randomized drug-testing schedule will be developed for the employee or driver for a time period not to exceed 60 months.

(Legal references: U.S. Drug-Free Workplace Act of 1988, as amended; Texas Workers' Compensation Commission Act, V.T.C.A. Labor Code, Chapter 411, Subchapter G; Omnibus Transportation Employee Testing Act of 1991 and U.S. Department of Transportation 49 CFR Part 382.)

#### **10.04 SEARCHES**

The City reserves the right to make general searches of City property, such as City vehicles, lockers, closets and desks, for alcohol, prohibited drugs, drug paraphernalia, explosives and all types of prohibited weapons and knives without the consent of the employee.

The use of privately owned padlocks or other locking mechanisms for City property is prohibited. If an employee does use a privately owned padlock or other locking mechanism on any City property, the City may remove it at any time and the employee will not be entitled to any reimbursement for damage to the mechanism. The use of any privately owned padlock or other locking mechanism for City property does not create an expectation of privacy with regards to any contents within the locked City property.

Any materials brought into the workplace, such as personal effects, briefcases, vehicles and so on, may be subject to search at any time if a reasonable suspicion exists that alcohol, prohibited drugs, drug paraphernalia, explosives and any type of prohibited weapons or knives may be found. If the employee is available, he or she will be asked to consent to the search. If the employee does not consent, any attempt to conduct a search of materials brought into the workplace will not be continued. However, the employee's refusal to cooperate will be noted in his/her employee file, together with a statement that reasonable suspicion existed to conduct the search. No search of materials brought into the workplace will be conducted in the employee's absence.

Any search will be conducted as privately as possible, involving only persons with a need to know and only with the authorization of the supervising department head or his or her designee.

If illegal paraphernalia is found, it will be confiscated and the employee will be subject to appropriate disciplinary action, up to and including termination, as well as criminal prosecution, if appropriate.



## **11.00 USE OF AND ACCOUNTABILITY FOR CITY EQUIPMENT AND PROPERTY**

### **11.01 GENERAL POLICY ON CITY EQUIPMENT AND PROPERTY**

The City attempts to provide each employee with adequate tools, equipment and vehicles for the job being performed and expects each employee to observe safe work practices and safe and courteous operation of vehicles and equipment in compliance with all applicable regulations. Employees must always wear personal protective equipment while operating equipment.

### **11.02 USE OF TOOLS, EQUIPMENT, PROPERTY AND VEHICLES**

City property, materials, supplies, tools, equipment and vehicles are purchased with taxpayer funds and are intended for use in the operations of the City. Employees who are assigned tools, equipment, vehicles, or any other City property are responsible for them and for their proper use and maintenance. Repairs to vehicles must be done in accordance with City purchasing policies.

City computers and computer software are to be used for City business. No software other than software approved by the City Administrator or individual department heads may be kept on a City computer. This limitation on software is to avoid software that may interfere with the operation of the City's computer systems or may contain computer viruses that could cause operational problems or the loss of City data. Access to the Internet through City computers is to be used for City and departmental business only.

City property, including facilities, desks, files, lockers, vehicles and computers, is subject to inspection and removal of illegal or unauthorized items. There is no expectation of privacy.

No personal or partisan political use of any City property, materials, supplies, tools, equipment, or vehicles is permitted. However, if an employee is on-call and subject to receive an emergency call, the employee may use a City vehicle for reasonable personal use in order to ensure prompt response to a call. The only passenger(s) permitted in a City vehicle at any time are those persons who have an official City business reason to be in the vehicle.

An employee may drive a City owned vehicle home under the following conditions:

1. Drivers of emergency response vehicles (police department), or those drivers at the supervisory level, who live within a thirty (30) minute radius of the City limits for commuting to and from their primary residence, shall be allowed take home vehicles at the discretion of the ~~chief of police, with the approval of~~ the City Administrator. Employees who are actively "on-call" will also be allowed a take home vehicle during the period they are serving in that capacity.

If an employee is in doubt about a circumstance, he or she must check with the department head before proceeding. Violations of this policy may result in termination and possible prosecution.

#### **City Owned/Leased Vehicles:**

Limitations for Use:

Employees are prohibited from using (or allowing others to use) any City vehicle for personal purposes, unless they are assigned a take home vehicle. Take Home Vehicles should be used for no purpose other than commuting to and from work.

An employee to whom a take-home vehicle is assigned, to include temporary assignment, if off duty for more than 2 consecutive days, on vacation, injured or sick, and will be away from duty for a period of time, or are on paid or unpaid suspension or leave shall place their assigned vehicle at the Department until such time as they are back on duty or released to full duty.

Employees that have been assigned a take-home vehicle may drive their assigned vehicle directly to and from their residence if that residence is within the established boundary of 30 miles from the City of Mount Vernon and upon approval of the City Administrator.

The use of a take-home vehicle is a privilege. The City Administrator reserves the discretion to approve or disapprove, with or without cause, which employees may drive their assigned vehicles home regardless of whether the employee is "on-call." Employees are not in course and scope of their job and should not be reporting their drive time to and from work. There should be no drive time reported on timesheets unless they are in course and scope of their job.

Employees shall be attired and conduct themselves in a manner which reflects positively on the City.

The consumption and/or presence of an alcoholic beverage or illegal substance in a City owned/leased vehicle is prohibited except for those instances necessary in the performance of official duties and the transportation of found or evidentiary property.

Vehicles shall not be taken to any location that could reflect unfavorably on the department except by on duty personnel on official business.

Vehicles shall not be operated in any manner that could reflect unfavorably on the department, or the City.

Vehicles shall not be operated outside of the established boundary except by personnel on official business or as authorized by the City Administrator.

#### VEHICLE MAINTENANCE

Each Department assigned a City vehicle is responsible for general maintenance, proper care, and proper appearance of the vehicle.

1. Employees will wash the vehicle at least once every month
2. Employees will change their own flat tires, when on-duty or off-duty
3. Employees are responsible for maintaining current state vehicle inspections
4. Employees will schedule and have performed preventative maintenance

Employees shall not

1. Perform mechanical work or have unauthorized mechanical work performed on the vehicle
2. Alter the body, general design, appearance, markings, or mechanical or electrical systems without the approval of the City Administrator
3. Add accessories or equipment without the approval of the City Administrator

General Responsibilities

1. On-Duty - If a repair cannot be fixed immediately, employee will leave the vehicle and return to their duty assignment
2. Off-duty- If employee spends time waiting for the vehicle, employee will not be compensated

#### VEHICLE SECURITY

Employee will remove all any after market electronics that is not fixed in the vehicle (such as a tablet) when the vehicle is left to be serviced or parked at the residence overnight unless the vehicle is secured in a garage or other enclosed structure

Employees shall secure the vehicle when left unattended or when the vehicle is out of sight or immediate control, whether employee is on-duty or off duty

### **11.03 VALID DRIVER'S LICENSE**

Operators of City vehicles and equipment are required to have the valid State of Texas driver's license necessary for legal operation of that vehicle and are required to keep supervisors informed of any changes in status of the license. Department heads or supervisors will periodically check the driving records of employees who operate City vehicles. Failure to maintain a safe driving record may result in dismissal or reassignment. An employee may be required to participate in a defensive driving course if the employee is cited with a moving violation. Suspension or revocation of the driver's license of an employee who is assigned as a vehicle or equipment operator will result in dismissal or reassignment.

### **11.04 VEHICLE INSURANCE**

The City maintains up-to-date insurance coverage on vehicles owned by the City. Employees who drive a personal vehicle on City business are required to maintain up-to-date insurance coverage and to provide the director of finance with proof of automobile liability insurance as required by the State of Texas. Failure to do so is grounds for disciplinary action, up to and including termination.

### **11.05 ACCIDENT REPORTING**

An employee involved in an accident while operating City equipment or vehicles during working hours must report the accident and any injury to persons or any property damage to his or her supervisor and City Administrator and to the police department immediately, or, in the case of injury to the employee as soon as the employee is able. This policy includes all City vehicles including police vehicles.

Each vehicular accident, no matter how minor, must be reported to the police department so that an official accident report can be filed. Employees involved in accidents shall be required to submit to a drug and alcohol test immediately following the accident. Refusal to submit to the drug and alcohol test will result in disciplinary action up to and including termination.

A copy of each accident report involving City equipment, or vehicles must be forwarded to the City Administrator by the police department as soon as the police report is completed. In cases where an accident involves a police vehicle, the police department will request the Texas Department of Public Safety to investigate the accident and file an official accident report with the City Administrator and Chief of Police. A copy of the accident report will also be filed with the City Clerk for placement in the personnel file of the employee involved in the accident.

## 12.00 DISCIPLINE

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### 12.01 GENERAL

Employees of the City serve “at will” and, within the requirements of state and federal law regarding employment, can be dismissed at any time, with or without notice, for any reason not in conflict with state or federal law or for no reason. Some of the actions that may result in discipline include, but are not limited to, the following:

1. Insubordination
2. Absence Without Leave or Excessive Absence including absence without permission, failure to notify a supervisor of sick leave and repeated tardiness or early departure
3. Endangering the Safety of the Employee and/or Other Persons through negligent or willful acts
4. Possession or Use of Alcohol or Illegal Drugs while on duty or in a City vehicle
5. Alcohol or Drug Abuse which may affect the performance or safety of the employee or other persons
6. Involvement with Alcohol or Drugs in the workplace in violation of the City’s “Drug Free Workplace Policy”
7. Unauthorized Use or Theft of Public Funds or Property
8. Conviction of a felony, or class A or B misdemeanor
9. Conviction of Official Misconduct, oppression, or perjury
10. Falsification of Documents or Records
11. Unauthorized Use of Official Information or unauthorized disclosure of confidential information
12. Unauthorized or Abusive Use of Official Authority
13. Violation of the Sexual Harassment Policy
14. Incompetence or Neglect of Duty
15. Disruptive Behavior which impairs the performance of others
16. Failure to Observe the City’s Policies Regarding Communications with the Public (see **Communications** section in **Employee Responsibilities** chapter); or
17. Other Violation of the Requirements of These Personnel Policies, or of any departmental policies not in conflict with these policies

### 12.02 PROGRESSIVE DISCIPLINE

The City Administrator may take disciplinary action, including termination, against an employee at any time. The severity of the discipline depends upon the nature of the infraction. The City **may**, but not necessarily will, use a progressive discipline system.

While the disciplinary steps may not occur in this order, the progressive discipline includes, but is not limited to, any or all of the following:

1. Oral Warnings, with a written account of each warning maintained by the appropriate department head and another copy placed in the employees personnel file
2. Conference with Supervisor and Department Head and employee, with a written summary of the conference, prepared by the supervisor, one copy of which is given to the employee and another copy of which is placed in the employees personnel file
3. Written Reprimands, which the department head must in all cases cause to be transmitted through the office manager to the employees personnel file
4. Probation (not to exceed 90 calendar days), during which time the employees performance and behavior will be monitored very closely by the supervisor
5. Reduction in pay without demotion
6. Suspension from duty, with or without pay, for up to 30 days and renewable after informal review of the circumstances
7. Demotion; and/or
8. Separation by involuntary dismissal

Disciplinary actions, including steps one through three, above require the authorization of the immediate supervisor and/or Department Head. Actions included in steps four through eight, above require the authorization of the City Administrator. Actions other than oral or written warnings require the advance approval of the City Administrator, normally in consultation with the City attorney, unless an emergency situation exists. Terminations require the approval of the City Administrator. Terminations of Department Heads require the approval of the City Council.

Any written notice of disciplinary action will be included in the employee's personnel file

For additional information regarding procedures to be followed if the discipline results in separation by involuntary dismissal see the following sections of this manual relating to **Separations**.

### **12.03 SUSPENSION FOLLOWING INDICTMENT**

Any employee who is formally charged by indictment or information with a felony offense, or a misdemeanor involving moral turpitude, may be indefinitely suspended by the City Administrator without pay, pending final disposition of such formal charges. In the event such employee is convicted of such crime, either by entering a plea of guilty or nolo contendere to this crime or a lesser offense, or by trial to a judge or jury, he/she may be discharged from employment by action of the City Administrator.

The Department Head must provide notification of suspension without pay in writing to the employee with a second line signature for the City Administrator.

## **13.00 SEPARATIONS**

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### **13.01 TYPES OF SEPARATIONS**

All separations of employees are designated as one of the following types:

1. Resignation
2. Abandonment of Position
3. Retirement
4. Reduction in Force
5. Dismissal
6. Disability
7. Death

### **13.02 RESIGNATION**

A resignation occurs when an employee notifies his or her department head, either orally or in writing, that the employee does not intend to continue working for the City. Once an employee has resigned, either orally or in writing, the department head will acknowledge the resignation immediately in writing and forward the paperwork to the City Administrator and the City Clerk.

An employee who intends to resign is requested to notify his or her department head in writing at least 10 working days prior to the last day of work.

Employees resigning before one year of the training or certification are responsible for paying the costs of the training/certification paid for by the City.

Employees resigning are required to return any City property prior to receiving their final check. Failure to do so may result in a deduction in any subsequent paycheck(s) to cover the cost of said equipment.

### **13.03 ABANDONMENT OF POSITION**

Unauthorized absence from work for a period of two consecutive working days may be considered by the City Administrator as a resignation. Unless the City Administrator determines otherwise, the employee is not eligible for reemployment.

### **13.04 RETIREMENT**

The same notice requirements for resignation apply in the case of retirement except that a longer period of advance notice may be required to start retirement payments promptly.

When an employee retires from City employment as allowed under the Texas Municipal Retirement System guidelines and has been credited with 20 years of continuous service with the City at the time of retirement, the City will compensate the employee for accrued sick leave up to a maximum accrual of 50 days.

Any employee seeking retirement must schedule a conference with a TMRS representative before scheduling a date of retirement with the City. The City Clerk will not offer counseling on retirement options regarding TMRS.

### **13.05 REDUCTION IN FORCE**

An employee may be separated when his or her position is abolished, or when there is either a lack of funds or a lack of work.

When reductions in force are necessary, decisions on individual separations will be made after considering:

1. The relative necessity of each position to the organization
2. The performance record of each employee

3. Qualifications of the employee for remaining positions with the City and
4. The employee's length of service with the City

Employees who have been laid off may reapply to the City for another position. Qualified former employees will be given priority consideration in the event of a vacancy.

When a regular employee who has been employed by the City for 12 continuous months is dismissed as a result of a reduction in force, he or she will be given a minimum of two weeks' written notice and paid in full to the time of discharge including accrued benefits. In addition, the City department head will attempt to guide the employee to any available, suitable job openings in the area for which the employee qualifies.

### **13.06 DISMISSAL**

The City operates under the legal doctrine of "employment-at-will" and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason not in conflict with state or federal law or for no reason. The City will attempt to ensure that employee dismissals are not made in an arbitrary and capricious manner; however, these personnel policies do not constitute or imply a contract, agreement, promise, or guarantee of employment or of continued employment.

The City has the right to change these policies at any time, without prior notice to employees.

The City Administrator must approve all dismissals and the Mayor and City council must be consulted on any termination. In addition, the City Administrator's signature is required on all personnel action forms involving dismissal.

A department head who has been suspended without pay, demoted, or terminated may request an appeal to the City Council within 5 (five) days of the City Administrator's final decision. The City Council shall review the official record of the termination hearing, evaluate any facts or evidence disclosed during the hearing, and interview any persons who testified during the hearing including the department head and City Administrator. The City Council shall essentially serve as an appellate judge and either uphold or deny the decision to terminate.

The decision of the City Council is final.

### **13.07 DISABILITY**

In cases of long-term disability during which an employee is unable to return to work for a period of time that would cause an undue hardship for the City to hold the position open and if no position is available which the employee could perform with a reasonable accommodation by the City, the employee will be separated from employment with the City. (Legal reference: U.S. Americans with Disabilities Act of 1990.)

### **13.08 DEATH**

If a City employee dies, his or her estate receives all pay due and any earned and payable benefits as of the date of death.

### **13.09 EXIT INTERVIEWS AND RECORDS**

Whenever possible an exit interview is conducted with a departing City employee, especially in instances of voluntary resignation. The exit interview record is important and may be instrumental in determining the City's liability, or lack of liability, for unemployment insurance costs.

### **13.10 CONTINUATION OF GROUP INSURANCE**

The federal Consolidated Omnibus Reconciliation Act of 1985 (COBRA) allows certain individuals the option of continuing their group health insurance, at the individuals' full expense, under specific conditions. The following is a summary of the benefits provided under COBRA.

**Eligible Employee** To be eligible for continuation coverage, an individual must be an employee of the City covered by the City's group health plan or an individual who is otherwise covered under the plan.

**Eligible Circumstance** An eligible employee has the right to choose continuation coverage if he or she loses group health coverage because of a reduction in his or her hours of employment or the termination of his or her employment (for reasons other than gross misconduct on the employee's part).

The spouse of an employee or other worker covered by the City's group health plan has a right to choose continuation coverage if he or she loses coverage under the City's group health plan for any of the following reasons:

1. The death of the employee
2. Termination of the employee (for reasons other than gross misconduct)
3. Divorce or legal separation from the employee; or
4. The employee applies for and becomes entitled to Medicare

The dependent child of an employee or other worker covered by the City's group health plan has a right to choose continuation coverage if he or she loses coverage under the City's group health plan for any of the following reasons:

1. The death of a parent
2. The termination of a parent's employment (for reasons other than gross misconduct), or reduction in a parent's hours of employment with the City
3. Parents divorce or legal separation
4. A parent applies for and becomes entitled to Medicare; or
5. The dependent ceases to be a "dependent child" under the City's group health plan.

**Notice** Under COBRA, the covered worker or family member has the responsibility to notify the plan administrator of a divorce, legal separation, or a child losing dependent status under the City's group health plan within 60 days of the event or within 60 days of the date on which coverage would be lost because of the event. The City of Mount Vernon has the responsibility to notify the plan administrator of the covered worker's death, termination of employment, reduction in hours, or entitlement to Medicare.

When the plan administrator is notified that one of the above events has occurred, he or she will notify the covered worker or family member that he or she has the right to choose continuation coverage. The covered worker or family member then has at least 60 days from the date on which he or she would otherwise lose coverage to inform the plan administrator that he or she wants continuation coverage. If the covered worker or family member does not choose continuation coverage, group health insurance coverage will end. If the covered worker or family member chooses continuation coverage, The City of Mount Vernon will provide coverage that, as of the time that coverage is being provided, is identical to the coverage provided under the insurance plan to similarly situated employees or family members.

**Limitations and Extensions** Continuation coverage is limited to 36 months, unless the covered worker or family member lost group health coverage because of a termination of employment or reduction in hours. In that case, the continuation coverage period is 18 months. The 18-month period may be extended to 36 months if other events (e.g., divorce, legal separation, death, or Medicare entitlement) occurring during that 18-month period. Moreover, the 18-month period may be extended for an additional 11 months (for a total of 29 months) if an individual is determined to be disabled (under the rules for Social Security disability benefits) and the plan administrator is notified of that determination within 60 days. An individual who receives the extended coverage due to a disability must notify the plan administrator when it is determined (for the purposes of Social Security disability benefits) that the individual is no longer disabled.



Continuation coverage may be cut short of the full coverage for any of the following reasons:

1. The City no longer provides group health coverage to any of its employees
2. The premium for continuation coverage is not paid
3. The covered worker or family member becomes eligible for Medicare
4. There has been a final determination that the covered employee or family member is no longer disabled (in the case of beneficiaries who qualified for the extra 11 months of continuation coverage based on their disability at termination); or
5. The covered worker or family member becomes covered under another group health plan that does not contain any provision restricting or limiting coverage of a “preexisting medical condition.”

An individual does not have to show that he or she is insurable to choose continuation coverage. A minimum 30-day “grace period” will be allowed for the covered worker or family to pay regularly scheduled premiums. At the end of the continuation coverage period, the covered worker or family member will be allowed to enroll in an individual conversion health plan provided by the current health plan.

(Legal reference: U.S. C.O.B.R.A. of 1985; Health Insurance Portability Act of 1996; and ERISA Technical Release No. 96-1.)1000

Employees can obtain additional information on this subject from the director of finance.

### **13.11 Calculation Of Termination Pay**

Employees who are separated from employment with the City will normally be paid on the next regularly scheduled payday. A regular employee who has completed at least one year of continuous service will be paid for unused vacation leave, up to the limit established by these policies.

Unused sick leave will be canceled upon termination of employment and the employee will not be compensated for it. (See **Retirement** section of these policies for employee retirement exception.)

Payment for such leave balances will be included in the employee’s final paycheck and will be calculated in the following manner:

1. The total work time and allowable vacation and compensatory leave time will be calculated as a total number of hours for which compensation is due. The employee’s regular hourly rate will be determined for most employees by dividing the employee’s regular annual salary by 2,080 working hours per year. Police officers’ regular hourly rate will be determined by dividing their regular annual salary by 2,236 working hours per year.
2. For employees who are subject to the Fair Labor Standards Act (FLSA), any overtime hours worked during the employee’s final pay period which have not been compensated through either of the time-off methods described under “**Overtime Worked**” section in these policies, will be paid in the final paycheck at a rate of one and one-half times the employee’s regular hourly rate for each overtime hour worked.

## 14.00 GRIEVANCES

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### 14.01 POLICY

It is the policy of the City, insofar as possible, to prevent the occurrence of grievances and to deal promptly with those that occur. No adverse action will be taken against an employee for reasons of his or her exercise of the grievance right.

A regular employee may file a grievance on one or more of the following grounds:

1. Improper application of rules, regulations and procedures (but not the rules, regulations and procedures themselves)
2. Unfair treatment
3. Illegal discrimination based on race, religion, color, sex (including sexual harassment), age, disability, or national origin
4. Improper application of fringe benefits
5. Improper working conditions

The City follows a grievance procedure which ensures the employee due process in the City's consideration of his or her work-related grievances: the right to be represented, the right to mount a defense and the right to present written response(s) regarding resolution of the grievance. Terminations, which must be approved by the City Council in consultation with the City attorney, are not grievance actions.

### 14.02 FINAL AUTHORITY

Grievances can be appealed through the employee's supervisor to the City Administrator whose decision is final. Employees in a position at the department head level may appeal the City Administrator's decision to the City Council.

### 14.03 PROCEDURE

**Informal Grievances** The first step in the grievance procedure is for the employee to attempt to resolve the grievance by informal conference with his or her supervisor. If this informal conference does not result in a resolution of the problem(s) that is satisfactory to the employee, he or she must file a formal, written grievance.

**Formal Grievances** Formal grievances must be in writing, using the City's grievance form, signed by the employee and presented to the employee's supervisor within 10 working days after the alleged grievance occurred. A statement of the specific remedial action requested by the employee must be included in the written grievance.

An employee may be represented throughout the grievance process by another City employee of his or her choosing who has not been an employee representative in any other City grievance proceeding within the previous 12-month period.

After being presented with a written and signed grievance, the supervisor will:

1. Meet with the employee and such other persons as may be necessary to gather the facts
2. Notify his or her supervisor and department head, who must notify the City Administrator's office immediately upon learning that a grievance has been filed
3. Attempt to resolve the grievance with the employee and, if requested by the employee, with the employee's representative; and
4. Communicate the decision to the employee in writing within 15 working days after receipt of the grievance, sending a copy of the proposed resolution to the City coordinator and the department head

If an employee either receives no written resolution from the supervisor within 15 working days from the date on which the grievance was filed, or if the employee is not satisfied with the proposed resolution, he or she must

file a written appeal with the department head within 10 working days after the time period for the receipt of a proposed resolution has elapsed. The department head will review the facts and the file; meet with the parties involved; attempt to resolve the grievance within five working days after receipt of the grievance appeal; and respond in writing to the employee within 10 working days of the date on which the appeal was received in the department head's office, sending a copy to the City Administrator.

If the employee either receives no written resolution from the department head within 10 working days from the date on which the appeal was filed with the department head, or if the employee is not satisfied with the department head's proposed resolution of the appeal, the employee must file a written appeal with the City Administrator within 10 working days. The City Administrator will then review the facts and the file and meet with the parties involved, if deemed appropriate, before responding in writing to the employee within 15 working days of the date the appeal was received in the City Administrators' office. The City Administrators' decision is final, except for grievances filed by department heads, who may appeal to the City council if they are alleging discrimination or sexual harassment against them by the City Administrator.

**Maximum Time Periods** At each stage of the grievance process, the time periods specified are maximums. Grievances should be dealt with promptly and written responses provided as quickly as possible, preferably within five working days in simple grievance matters.

**Documentation** Copies of all documentation relating to the grievance will be forwarded to the City Administrators' office immediately upon conclusion of each step in the grievance process and will be placed in the employees' personnel file.

**Grievances Relating to Sexual Harassment or Discrimination** Any employee may file a grievance related to alleged sexual harassment or discrimination on the basis of race, religion, color, sex, national origin, age, or disability. The initial written grievance may, at the employee's option, be submitted directly to the City coordinator immediately. If the grievant is a City department head alleging discrimination or sexual harassment by the City Administrator, he or she may file a grievance directly with the City council within 10 working days of the alleged discriminatory act. In such instances, to allow adequate time for proper investigation, the total cumulative time period which would have been allowed at the other steps in the grievance process is available to the appropriate authority before his or her written resolution of the grievance is required to be received by the employee. In all instances of alleged discrimination or sexual harassment, the City attorney will be consulted before a written resolution is provided to the grievant.

**Requirement for Appeal if Dissatisfied** If the employee is dissatisfied with any proposed resolution during the grievance process, he or she must appeal to the next step within the established time period. Failure to appeal implies that the employee is satisfied with the latest resolution.

## **15.00 JOB (CLASS) DESCRIPTIONS AND PERFORMANCE EVALUATIONS**

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### **15.01 JOB DESCRIPTIONS**

The City Administrator establishes and periodically reviews an official job (class) description for each position in the City.

### **~~16.02~~ 15.02 DISTRIBUTION**

During the employee's orientation, the job description for his or her position will be (1) given to each employee; (2) reviewed by the employee; and (3) placed in the employee's personnel file along with a certification that the employee reviewed it. Each employee is also given a copy of the job description to keep.

### **15.03 REQUESTS FOR CLARIFICATION**

In the absence of any request for clarification, each employee is considered to understand the responsibilities assigned to the position that he or she occupies.

### **15.04 EMPLOYEE PERFORMANCE EVALUATION**

Supervisory personnel normally conduct performance evaluations of each City employee together with an evaluation interview at the end of the first full consecutive six (6) months of employment and, after that, annually. Performance evaluation records are maintained in individual employee personnel files.

The supervisor provides a copy of the evaluation form and discusses the job performance factors with the employee when he/she is hired.

Consideration for annual merit increases may be based on each employee's performance as documented in the formal performance evaluations and on other documented performance-related information.

If the employee disagrees with a performance evaluation, he or she should note the disagreement in the space provided on the evaluation form.

See the paragraph in these policies on **Merit Increases** for more information.

### **15.05 RESPONSIBILITY OF ADMINISTRATOR/SUPERVISORS**

Each Administrator/Supervisor is required to:

1. Establish expectations so employees know what they are supposed to do and how well they are expected to do it.
2. Provide orientation and training so that employees learn the skills and knowledge needed to perform up to standard.
3. Provide timely feedback to ensure that employees receive the information needed to improve their performance and achieve and maintain performance expectations.
4. Hold employees accountable for job performance through regularly scheduled documented conferences. Employee representatives are not allowed in supervisory/management conferences.
5. Complete performance evaluation to comply with City Policy and submits any comments/rebuttals by the employee in a timely manner to the Human Resource Office.
6. Take disciplinary action when appropriate.

## **15.06 RESPONSIBILITY OF EMPLOYEES**

Each employee is expected to:

1. Learn what is expected in the job
2. Develop job skills by attending and participating in orientation and training as required or other job opportunities
3. Come to work as scheduled and perform the job duties to meet the City's expectation
4. Inform the supervisor when there are barriers in meeting job expectations
5. If the employee chooses to write a rebuttal to his/her performance evaluation, it is submitted to the supervisor within one week of receiving his/her evaluation

## **16.00 PERSONNEL FILES**

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### **16.01 GENERAL**

The City Clerk maintains employee personnel records. Employee Personnel Records consist of an administrative file and a confidential file. Additionally, all I-9s are kept separately. Generally, personnel files shall be kept confidential and may not be divulged for purposes unconnected with City personnel management. However, unless otherwise provided by law, information in an employee's administrative (just a thought) file is public information and must be disclosed upon request unless specific items are accepted from disclosure by law. No information from any record placed in an employee's file will be communicated to any person or organization except by the City Administrator or by an employee authorized to do so by the City Administrator. Requests for personnel information will be handled in accordance with the Texas Open Records Act.

Each employee may choose whether the City discloses the employee's home address and telephone number to the public on request. If a new employee does not request confidentiality within the first 14 days of employment, the home address and telephone number on file are considered public information, with the exception of police officers, whose addresses and telephone numbers are not public information. However, employees may change their election for disclosure or confidentiality at any time. A form for designating this information as confidential or public is available from the City Clerk. (Legal reference: Public Information Act, V.T.C.A. Government Code, Sec. 552.024.)

An employee or his or her representative designated in writing may examine the employees' personnel file upon request during normal working hours at the City offices. An employee may request copies of items or materials in his or her file but may not remove anything from the file.

When a supervisor requires access to the administrative file of an employee under his or her supervision for the handling of personnel matters, the City Clerk will provide access to the specific file(s).

Employees must inform their supervisor of any changes in or corrections to information recorded in their individual personnel files such as home address, telephone number, person to be notified in case of emergency, or other pertinent information.

(Legal reference: Article 6252-17a, V.T.C.S.)

### **16.02 PERSONNEL ACTION FORM**

The Personnel Action Form is the official document for recording and transmitting each personnel action to the personnel file. A Personnel Action Form must be signed by the supervisor and the City Administrator and submitted to the payroll office before it becomes effective. This form is used to promote uniformity in matters affecting:

1. Employment Category,
2. Position Title and Classification,
3. Pay Group and Rate and
4. Other Actions Affecting the Employee's Status

Each Personnel Action Form becomes a permanent part of the employee's personnel file; a copy is given to the employee each time an action occurs.

### **16.03 CONTENTS OF PERSONNEL FILES**

An employees' administrative file contains all documents related to an that individuals' employment relationship with the City; application and resume, status changes, disciplinary actions, policy acknowledgments and similar documents.

I-9 forms and supporting documents for all City employees are filed alphabetically in a single file that is separate from individual administrative or confidential files and kept according to applicable retention procedures.

An employees confidential file will contain such documents as medical-related forms, workers compensation claims, benefits enrollments, financial institution information and similar documents.

#### **16.04 LEAVE RECORDS**

Official records of vacation leave and sick leave accrual and of leave usage are kept for each employee by the City Clerk. Leave records are updated at the end of each pay period. Leave balances are shown on the official record to reflect any remaining leave to which an employee is entitled. Supervisors must submit a copy of an approved leave request to the payroll office for any paid leave time used by an employee under his or her supervision. The approved leave request forms must be attached to the payroll information sent to the payroll office at the end of each pay period.

## **17.00 PROFESSIONAL DEVELOPMENT**

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### **17.01 GENERAL POLICY**

The City encourages its regular full-time employees to take advantage of educational or training opportunities and professional memberships that are related to and will enhance their performance of work with the City.

### **17.02 REQUIRED ATTENDANCE AT SEMINARS AND CONFERENCES**

When the City requires an employee to attend any educational or training course, conference, or seminar, the City will provide the necessary time off with pay and will reimburse the employee for associated costs, including tuition or registration fees and authorized travel, meals and lodging. When appropriate, the City may prepay registration fees, hotel costs and/or airline or other public transportation costs directly to the entity involved. See additional information in the chapter of these policies **Travel/Expense Reimbursement**.

### **17.03 PROFESSIONAL MEMBERSHIPS AND SEMINARS**

Subject to the prior approval of the City Administrator, an employee who joins a professional association related to his or her work at the City may be reimbursed for dues and necessary travel expenses when meetings are judged to offer special training or information of value to the employee in his or her work at the City. Likewise, subject to the City Administrators prior approval, an employee may be reimbursed for conference or seminar expenses if the conference or seminar is related to his or her work.



## 18.00 TRAVEL/EXPENSE REIMBURSEMENT

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### 18.01 GENERAL TRAVEL/EXPENSE REIMBURSEMENT POLICY

The policy of the City is that employees should not pay for all necessary and reasonable job-related expenses incurred in the authorized conduct of City business, including business-related travel of their own monies. When making travel plans, consideration should be given to determine which method is the most appropriate and economical. Any travel covering a distance of more than 400 miles must be approved by the City Administrator.

### 18.02 TRANSPORTATION

Travel by City employees outside the City must be authorized in advance by the department head and does not exceed budgetary limitations. Travel advances or reimbursement for travel is based upon the most economical conveyance that is reasonably available.

Air travel may be used when travel by automobile will exceed 4 hours or as approved by the City Administrator. Air travel must be booked at the most discounted fare whenever possible. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is not an allowable expense, except when less-than-first-class air accommodations are not reasonably available.

Employees are expected to use a City vehicle when traveling whenever possible. However, when authorized by the City Administrator, an employee may use a personal vehicle and shall be paid an amount per mile; equivalent to the current IRS approved rates. An employee who receives a car allowance will only be paid for round trip mileage when traveling more than fifty (50) miles from City Hall, one way. In instances of approved private vehicle use, reimbursement will also be made for tolls and parking fees. When two or more employees are going to the same event, employees are expected to travel in one vehicle and only one employee will receive mileage. Receipts are required for toll and parking fees, as well as for taxi cabs and other modes of transportation. The City will pay for rental vehicles upon written approval of the City Administrator (or designee).

### 18.03 ALLOWANCE FOR MEALS

If the travel requires being away from the City limits for an extended period of any given workday, employees will be allowed a daily amount for meals, as determined by current the U.S. General Service Administration amounts.

Eligibility for meal allowance consists of travel or training that prevents the employee from being back in the City limits after the following times:

<i>Breakfast</i>	<i>Lunch</i>	<i>Dinner</i>
<i>Overnight Stays Only</i>	<i>1:00 pm</i>	<i>6:00 pm</i>

If an employee will not be back in the City limits until, after a reasonable amount of time for travel from the scheduled training or event; after the above set times, then meal per diem is allowed.

### 18.04 OTHER EXPENSES

Within the limits of approved departmental budgets, employees engaged in necessary and authorized travel in the conduct of City business will be reimbursed for actual costs of reasonable and documented expenses necessary to conduct the business for the City. Reimbursable subsistence expenses will generally be for registration, lodging, official telephone calls, parking, tolls, taxi and reasonable gratuities. Receipts or other documentation acceptable to the City Administrator must accompany any request for reimbursement.

**18.05 EXPENSE REPORT**

Any employee traveling away from the City will complete a pre-travel form and submit it to the City Clerk the week prior to the planned trip. Meals and allowed mileage per diem will be reported on this form. Employees will receive a check for this amount only. Any funds used over the predetermined amounts will be the responsibility of the employee.

Any other expenses; hotel, airfare, or other approved expenses shall either be charged to a City credit card, or pre-paid before the travel occurs. Registration checks will be made payable only to the organization sponsoring the conference.

Any un-anticipated expenses; determined by the City Administrator to be a reasonable expense; unexpected parking fees, or similar will be reimbursed at actual cost as supported by itemized receipts submitted within two (2) business days of return from the trip and submit these documents along with a post travel form.

**18.06 PROHIBITED EXPENDITURES**

Costs of personal entertainment, meals of family members, amusements, social activities, alcoholic beverages, traffic citations, personal telephone calls, other items of a personal nature or illegal activities are not eligible for reimbursement.

Employees determined to be abusing the travel and training guidelines stated above, in any manner will be subject to disciplinary action, up to and including termination.

**Employee Acknowledgement of Personnel Policy**

I hereby acknowledge that I have been given a copy of the Personnel Policy Manual, (adopted this 13<sup>th</sup> day of May, 2024) for the City of Mount Vernon. I understand it is my duty to review it and request clarification of my supervisor concerning any policy which is unclear to me.

I agree to abide by the policies established in the Personnel Policy, as it now exists or as hereafter amended so long as I remain in the employment of the City of Mount Vernon.

I understand that at termination of employment, I will be obligated either to return the Personnel Policy Manual or sign an affidavit that it has been lost and is no longer in my possession.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_