



PERSONNEL POLICY MANUAL

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FOREWORD

This manual (including any modifications) is prepared for informational and guideline purposes only and does not constitute a contract in any respect between the City and its employees. Employment with the City is at-will, and either the employee or employer may terminate the relationship at any time for any or no reason and with or without notice. The City Manager may remove, with or without cause, any employee of the City. This removal power is subject to any exceptions in the applicable provisions of the civil service laws for police and firefighters and the City Charter.

The City Manager may make non-substantive changes or amendments to these policies and procedures as deemed necessary for clarification and make exceptions when in the best interest of the City. All statements in this manual regarding the at-will status of City employees, or any benefits provided herein, shall control any contradictory statements by any other person, whether oral or written.

The at-will status of any employee may not be modified or rescinded by any oral or written statements by any person, including appointed or elected officials, any employee handbooks, employment applications, City of Harlingen memoranda, or other materials provided to employees in connection with their employment. Similarly, the City's policies and practices, with respect to any matter or any benefits now offered, may be terminated at any time and are not to be considered as creating any contractual obligation on the City's part.

Statements of specific grounds for termination set forth in this manual or in any other City documents are examples only, are not all-inclusive lists, and are not intended to restrict the City's right to terminate at will.

Completion of an introductory period and/or achieving "regular status" does not change an employee's status as an employee-at-will or in any way restrict the City's right to terminate such an employee or change the terms or conditions of employment.

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200 Introduction

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I. PURPOSE

The purpose for these policies and procedures is to provide a uniform system of personnel administration throughout the city.

II. POLICIES AND PROCEDURES

In the event of any conflict between these policies and any City ordinance, City Charter, State or Federal law, the terms and conditions of that ordinance, charter, rule or law shall prevail. In the event of any conflict between these policies and procedures and any internal departmental rules, the personnel policies and procedures shall prevail. In the event of the amendment of any ordinance, rule or law incorporated in this document or upon which these provisions rely, these policies shall be deemed amended in conformance with those changes.

The issuance of this manual does not constitute a contract between the City and its employees.

A. OBJECTIVES

- To ensure that recruitment, selection, placement, promotion, retention and separation of City employees are based upon employee's qualifications and fitness, and are in compliance with Federal and State laws;
- To promote communication between Department Directors, supervisors and employees; and
- To ensure, protect and clarify the rights and responsibilities of employees.

B. RESPONSIBILITIES

The Manager has the general authority and responsibility to control all departments and divisions that may be created by the City Commission/HWWS Utility Board of Trustees and to supervise and direct all employees of the City. The exceptions to this authority are matters reserved to the City Commission by Charter provisions. The Manager may delegate authority and/or assign responsibility for personnel management as necessary.

The Human Resources Director shall advise and support management in all areas, including employee-management relations; introductory and career development; classification; compensation; benefits; retirement programs; and morale.

Department Directors are responsible for enforcing these policies and for cooperating with the Human Resources Director and his/her designee(s) on all matters pertinent to their organizational units. All employees have a responsibility and role in the implementation of these policies and procedures.

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C. APPLICABILITY

These policies and procedures apply to all City employees including the Waterworks System, except in the following circumstances:

- When policies and procedures are inconsistent with the proper application of the Local Government Code Chapter 143 of the State Firemen's and Policemen's Civil Service Law and standard operating procedures.
- When specific appointment and removal power is vested in the City Commission/HWWS Utility Board of Trustees by the City Charter for the position of Manager.
- For elected officials, members of appointed boards or commissions, persons employed under contract to supply professional and technical services, and personnel appointed to serve without pay.

D. DISTRIBUTION AND ACCESS

These policies and procedures will be distributed to all City employees.

E. MANUAL REVISION AND MAINTENANCE

The Human Resources Department is delegated the responsibility for developing, administering, interpreting and maintaining these policies and procedures. The Manager may make non-substantive changes or amendments to these policies and procedures as deemed necessary for clarification and make exceptions when in the best interest of the City.

All employees are responsible for updating the personnel policy manual in their custody.

Copies of new and revised policies and procedures will be given to each department.

III. GENERAL PROVISIONS

The general provisions include at-will, equal employment opportunity, and personnel file provisions.

A. AT WILL PROVISIONS

All employees of the City of Harlingen, except for those covered by Civil Service, are at-will employees and have no expectation of continued employment, promotion or any other personnel benefit including but not limited to, sick leave, vacation leave, compensatory time, group health and life insurance except as required by federal and state law.

B. EQUAL OPPORTUNITY

The City realizes that equal employment opportunity benefits the City and its employees through the full utilization of all human resources.

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The City has and will continue to provide equal employment opportunity to all qualified persons and reaffirms its commitment that there shall be no discrimination against or harassment of applicants or employees because of race, color, sex, religion, national origin, age, disability, veteran status, genetic information, sexual orientation, gender identity, or gender expression or any other protected status. The City will continue to recruit, hire, promote, transfer, take corrective action and make all personnel decisions, including those related to compensation and benefits, non-discriminately and in accordance with applicable laws. Further, the City will make reasonable accommodations for applicants and employees with known disabilities who can perform the essential job functions with or without such accommodations.

The City requires all employees to bring to the City's attention any information regarding any incident of possible discrimination or harassment so that the matter can be investigated and appropriate action taken. Any employee who violates the City's policy will be subject corrective action and/or termination of employment.

C. PERSONNEL FILES

The City maintains personnel file and records for every City employee. These files contain documentation regarding all aspects of your tenure with the City, such as performance appraisals, corrective action notices, letters of commendation, etc. The City maintains any required medical information in a separate confidential file.

You may inspect your own personnel file and medical file. This may be done by contacting the Director of Human Resources and arranging a mutually convenient time to do so. These files must be reviewed in the office and presence of the Director of Human Resources.

You may request a copy of any document in your own personnel file. Such copies will be made by the Director of Human Resources. You may also submit information for inclusion in your file, such as a response to a performance appraisal or new credentials earned. You may also request the correction or removal of inaccurate, irrelevant, outdated, or incomplete information from your records.

The City reserves the right to withhold from an employee's access any documents in his or her file which the City deems to invade, impair, compromise, or in any way affect the rights or legitimate expectations of others to privacy or confidentiality. The City further reserves the right to withhold comments which it deems private, confidential, or privileged.

The City will respect and protect your privacy. It will not voluntarily disclose or disseminate personnel or medical information without your prior permission. However, supervisors may be allowed to review parts of employees' files on a need to know basis. Regulatory agency representatives, in the course of their business may be permitted access to personnel files.

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Further, emergency or medical personnel on a need to know basis will be able to review medical records during an emergency medical situation.

The City of Harlingen considers falsification of personnel records to be a serious offense and upon discovery can lead to corrective action and/or termination.

D. MANAGEMENT FUNCTIONS

The City retains the right to exercise customary managerial functions, including, but not limited to, the right to:

- Select, hire, assign, supervise, correct and dismiss employees.
- Decide and change performance standards and expectations, and evaluate employees' performance.
- Decide and change reporting times, quitting times and shifts.
- Transfer employees within Departments or into other Departments and other job classifications.
- Decide and change the size and qualifications of the workforce.
- Decide and change the methods by which operations are carried out.
- Manage and control the premises and equipment
- Assign duties to employees according to operational needs and requirements.
- Establish, change and abolish policies, practices, procedures, rules, and regulations.

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201 Definitions

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I PURPOSE

The following definitions apply to this policy unless the context clearly indicates otherwise.

A. REGULAR FULL-TIME NON-EXEMPT EMPLOYEE

An employee who works forty (40) hours or more per week and who has successfully completed his/her introductory period and is not exempt from the provisions of the Fair Labor Standards Act (is eligible for overtime pay) and who receives full benefits as provided by the City.

B. REGULAR FULL-TIME EXEMPT EMPLOYEE

An employee who is salaried and may or may not work more than forty (40) hours per week, has successfully completed his/her introductory period, is exempt from the provisions of the Fair Labor Standards Act (not eligible for overtime pay) and who receives full benefits as provided by the City.

C. REGULAR PART-TIME EMPLOYEE

An employee hired on the basis of less than 30 hours a week. Part-time employees do not receive benefits such as: vacation, sick leave, health insurance, etc.

D. TEMPORARY/SEASONAL EMPLOYEE

Employee(s) hired, part-time or full-time, for a specific period of time, with an anticipated date of termination indicated at the time of appointment and who are not entitled to benefits. This type of employment may be renewed.

E. INTRODUCTORY EMPLOYEE

An employee who is hired in a non-temporary position who has not completed his/her introductory period of employment with the City.

F. RETIREE

A retiree of the City of Harlingen is a Civil Service or non-Civil Service employee who has ceased working from his/her active vocation or profession with the City upon meeting eligibility requirements of either the Texas Municipal Retirement System or Firemen's Relief and Retirement Fund. Employees under the 401(A) retirement that meet the 20 years of service with the City or have reached the age of 60 and have 5 years of service will be defined as retirees.

G. ENTITY

The City of Harlingen or Harlingen Waterworks System.

H. REVIEW DATE

The date of an employee's last promotion, demotion or department transfer date.

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I. EMPLOYMENT DATE

The date on which an employee begins service with the City.

J. MANAGER

Reference to City Manager or Waterworks General Manager shall apply, as the context requires.

K. DEPARTMENT DIRECTOR

An employee who is responsible for the administration of a department(s).

L. SUPERVISOR

An employee responsible for directing the work of others.

M. SEPARATION

Any termination of employment. Termination may include death, discharge, lay-off, seasonal employment, resignation, and retirement or work completion.

N. HUMAN RESOURCES DEPARTMENT

Reference to the Human Resources Department for the City or Waterworks System shall apply, as the context requires.

O. MANAGEMENT INFORMATION SYSTEMS

Reference to the Management Information Systems Department/Director also applies to the Information Technology (IT) Department/Director for the Waterworks System.

P. RISK MANAGEMENT DEPARTMENT

Reference to the Risk Management Department applies to the Safety Office and/or the Human Resources Department for the Waterworks System.

Q. WEAPON

Weapons include, but are not limited to the following: any firearm, air pistol, air rifle, any switchblade knife, dagger, or other knife with a blade longer than five and one-half inches in length (unless such a knife is used as a regular tool in the performance of the employee's duties) explosive materials, toxic agents, mace, or any other weapon or device intended for use or in its manner of use is used as a tool of actual or threatened violence (e.g., chains, brass knuckles, bats or handles, tire iron, tools).

R. CITY VEHICLE

Any owned, leased or rented passenger car, pick-up, truck, or other similar type vehicle in or by which a person or property is or may be transported or drawn on a public highway as defined by TRC § 502.001.

S. MOTORIZED EQUIPMENT

Any motor driven or propelled vehicle required to be registered under the laws of the State of Texas.

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202 Vacant Positions

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I. PURPOSE

This policy describes procedures for filling vacant positions.

II. POLICIES AND PROCEDURES

This policy describes procedures to be used by the City of Harlingen to fill vacant positions within the organization. The procedures cover hiring, promoting, transferring and demoting. Exceptions must be signed/approved by the Manager.

A. VACANCY IDENTIFICATION

Department Directors shall notify Human Resources when a vacancy occurs (or is imminent) by submitting an online Request for Employee Form.

B. VACANCY ANNOUNCEMENT

Human Resources shall publicly announce, by appropriate means, all City vacancies. Job opportunity announcements will be prepared, posted and distributed only when there is or will soon be a vacancy. Each announcement, insofar as practical, shall specify the title, salary and nature of the position available, the required qualifications, and essential functions. The announcements for city employees only will be posted for five (5) working days.

Announcements to the public may specify a deadline for application (normally five days after initial public posting). This period may be shortened or extended, depending upon the circumstances. In high-turnover or critical-skill situations which make application deadlines unrealistic, announcements can be posted as "open until filled." Human Resources shall maintain a bulletin board of announced vacancies for public inspection.

C. VACANCY APPLICATION

Applications for initial employment, promotion or transfer shall be submitted as specified in the job opportunity announcement or as prescribed by Human Resources. Only applications officially received in the prescribed manner shall be considered. All information submitted is subject to verification.

D. PRE-EMPLOYMENT PROCESS

The hiring department and Human Resources shall work through the application process jointly to ensure that applicants are treated equally. The departmental application processing steps are explained below:

1. Minimum Qualification Verification

After the application deadline, Human Resources will review the applications and eliminate those that do not meet the minimum qualifications specified in the job announcement. Only applications meeting the minimum qualifications will be sent to the

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interviewing department. Exceptions may be granted by the Human Resources Director upon request by the Department Director depending on recruiting circumstances.

2. Applicant Evaluation

The hiring Department Director or supervisor will review the applications and Human Resources will schedule interviews. Interviewers shall complete an Applicant Referral Form following each interview process. After all reviews have been completed, the applications and Applicant Referral Form(s) shall be returned to Human Resources indicating the supervisor's choices in rank order.

3. Applicant Disqualification

Applicants may be disqualified from consideration for any of the following reasons:

- a. They do not meet the necessary position-performance qualifications or any State or Federal requirements.
- b. They make false statements on the application form or supplements.
- c. They commit or attempt to commit a fraudulent act at any stage of the selection process.
- d. They are in violation of the City of Harlingen Substance Abuse Policy.
- e. They are not legally permitted to work in the United States due to their alien status.

4. Nepotism

Employment may be restricted when an applicant or current employee is related by blood (consanguinity) or marriage (affinity) to another City employee or official.

- a. Nepotism restrictions are as follows:

- (1) An individual related within the third degree of consanguinity or second degree of affinity to a member of the City Commission, or the Manager, shall not be appointed to serve or be employed in any position in the City.
- (2) An individual related within the third degree of consanguinity or second degree of affinity to a Department Director shall not be hired into a position within that department.
- (3) An individual shall not be hired into any position directly supervised by someone to whom he/she is related within the third degree of consanguinity or second degree of affinity.
- (4) An individual shall not be hired into any position if the appointment would create a close working relationship within the department or functional area that could affect the health, safety or welfare of the employees; or the efficient departmental operation; or the best interests of the City.

- b. Relatives employed as of the effective date of this rule are exempt.

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- c. Should a current employee become a relative of another employee and fall under the provisions of this rule, one of the employees must transfer to another area, resign or face termination. This rule applies to full-time, part-time, regular and temporary positions.

5. Residency

Residency requirements or reasonable response time requirements may be established for certain positions. These requirements will depend on the duties of the position.

6. Screenings and Examinations

All persons selected for initial appointment shall undergo a drug screening test. Some job requirements may require a thorough medical examination.

Each of these tests will be conducted at the City's expense and in a manner prescribed by Risk Management. Employment shall be contingent upon successful completion of the required screening(s) and medical examination(s).

7. Background Checks

The City of Harlingen may conduct criminal history records checks on all new employees, including those in part-time, temporary and selected volunteer positions. Applicants selected may be offered provisional employment pending results. If applicants have not provided accurate information regarding their criminal history, they may be dismissed from employment.

NOTE: A criminal conviction will not necessarily disqualify an applicant for employment. The conviction will be reviewed against the job requirements.

E. PROMOTIONS

Promotions are position changes to classes with higher maximum salaries. Qualified employees may apply for promotion to vacant positions when positions are advertised or posted.

Employees in their introductory period are not eligible for promotion. Exceptions may be granted by the Manager when such promotion is in the best interest of the City.

The following process shall be utilized for promotions:

1. Application

An employee applying for any position must complete an employment application.

2. Contacts

Qualified employees referred to the hiring department shall be contacted by the Human Resources department for interview arrangements.

3. Promotional Transfer Dates

If an employee is selected to fill the vacancy, the hiring department shall contact the employee's current department to establish a mutually agreed-upon transfer date. The

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department may require the employee to give two weeks' notice. Promotions should be effective the first day of a payroll period.

4. Promotional Transfer Initiation

The gaining department will initiate an Employee Action Form to promote the employee.

5. Temporary Positions

Temporary promotions may be authorized to ensure the proper performance of City functions if a position is vacant or the regular incumbent is absent. Temporary promotions are intended to be temporary and shall not be used to circumvent the normal selection process. The employee(s) involved shall not acquire any permanent status or rights to the positions to which they are temporarily promoted.

F. LATERAL TRANSFERS

A lateral transfer is the assignment of an employee from one position to another position in the same salary range. Qualified employees may apply for transfers to vacant positions when the positions are advertised or posted.

Employees in their introductory period are not eligible for lateral transfers. Exceptions may be granted by the Manager when such lateral transfer is in the best interest of the City.

The transfer process is described below:

1. Application

Employees must complete an employment application.

2. Contacts

Qualified employees referred to the hiring department will be contacted by the Human Resources department for interview arrangements.

3. Transfer Dates

If an employee is selected to fill the vacancy, the hiring department shall contact the employee's current department to establish a mutually agreed-upon transfer date. The department may require the employee to give two weeks' notice. Transfers must be effective the first day of a payroll period.

4. Transfer Initiation

The gaining department will initiate an Employee Action Form to transfer the employee.

5. Lateral Transfers

Lateral transfers may be implemented at any time for administrative convenience.

G. DEMOTIONS

A demotion occurs when an employee moves from a position in one job classification to another position which is classified in a lower pay grade/range. A downgrade may be employee or employer initiated.

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202 Vacant Positions

Revised 03/2019

Employees in their introductory period are not eligible for voluntary demotion.

City of Harlingen

Personnel Policy Manual

203 Introductory Period

Revised 03/2019

I. PURPOSE

To ensure that all newly hired and promoted employees meet acceptable performance and other standards during their introductory period in order to be retained as employees of the city.

II. POLICIES AND PROCEDURES

This policy establishes introductory period requirements for all City departments.

It is the purpose of the introductory period to provide a time by which both employee and the City can decide whether to continue regular employment. Introductory employees and City supervisors should therefore utilize this time to examine all aspects of the job and the respective conduct of the employee and the City, as well as actual performance of duties and/or choice of action.

A. INTRODUCTORY PERIOD

Every person initially appointed to or promoted in City service under a regular appointment shall successfully complete an introductory period.

1. Non-Civil Service Employees

Employees shall serve up to a 90 day introductory period.

2. Civil Service Employees

Employees shall serve an introductory period in accordance with state laws.

3. Unsatisfactory Performance

Unsatisfactory introductory period performance can occur at any time within the introductory period. Unsatisfactory introductory period performance is not part of the corrective action process.

- a. Prior to dismissal of an introductory employee, a Department Director shall consult with Human Resources Director or his/her designee. Employees who are in “introductory period” status do not have the right to file a complaint.
- b. A promoted employee with unsuccessful introductory period performance may return to his/her former job type, provided a position is available.

4. Personnel Transactions

Newly hired employees are not eligible for promotion, lateral transfer or voluntary demotion during the introductory period. Exceptions may be granted by the Manager when such promotion, lateral transfer or voluntary demotion is in the best interest of the City.

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Personnel Policy Manual

204 Outside Employment

Revised 03/2019

I PURPOSE

This procedure describes the City of Harlingen's policy regarding outside employment of City employees.

II POLICIES AND PROCEDURES

A. CONFLICT OF INTEREST

Employees may not engage in outside employment, including self-employment, where such employment would constitute a conflict of interest or would affect the employee's performance for the City.

B. APPROVAL

Outside employment must be reported in writing, and approved by, the Department Director and the Manager.

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205 Compensation

Revised 03/2019

I PURPOSE

The City of Harlingen intends to provide an equitable compensation and classification plan for all employees. Merit is the key factor determining salary increases. The plan is concerned with providing a compensation system to encourage the development of each employee and is designed to reward outstanding performance. All employees will be compensated fairly regardless of race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, veteran status, or other characteristics immaterial to job performance or protected status.

II OBJECTIVES

The objectives of the City of Harlingen compensation and classification program are:

- A. To motivate, attract and retain quality employees with the payment of financial compensation that is commensurate with the individual's responsibility and contribution for the accomplishment of the City's goals.
- B. To clearly define the duties and responsibilities of each position through written job descriptions.
- C. To establish and maintain proper and equitable wage differentials between each position.
- D. To establish and maintain a sound and realistic competitive salary structure.
- E. To establish policies and procedures that will insure uniformity and equity in administration of salary issues.
- F. To provide incentives for superior performance.
- G. To provide an easily administered pay system that can be understood and accepted by the employees.

III COMPENSATION AND CLASSIFICATION PLAN

Job classification process. Each job is classified solely on the basis of the position's written job description. This objective process is based upon the position requirements, duties and responsibilities stated in the job description. Recognizing that each job has an inherent minimum and maximum value, jobs are classified without consideration of any particular person who might hold or apply for the position. No position of employment within the City may be filled unless the job has been first classified and assigned to its appropriate Grade based upon a written job description.

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205 Compensation

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The role of the job description. The job description establishes the minimum qualifications for employment in a job. Every job in the City will have a written job description using the format prescribed by the Human Resource office. The job description is to be considered a working document, to be reviewed periodically and changed as needed. It is not meant to be restrictive or all inclusive but is meant to describe the essential functions of the job. The job description:

- a) Serves as the main basis for the job evaluation of the job into a pay Grade.
- b) Serves as the main basis for the performance appraisal of the employee.
- c) Defines what is expected of the employee performing the job.
- d) Permits comparison to other jobs in salary surveys.

The City Manager will be responsible for approving and signing off on each job description and establishing an effective date for the job description.

Factors determining compensation. The City Manager has determined that the level of compensation appropriate for each job depends upon certain compensable factors. These factors have been rated by the City Manager and have been assigned a range of point values. Each job will be evaluated in light of these factors and scored. Jobs will then be placed within their appropriate Grade on the basis of total points scored. The compensable factors are:

- a) Knowledge and Training
- b) Initiative and Complexity
- c) Accountability
- d) Management Skills
- e) Cooperation and Contact
- f) Physical Effort
- g) Guidance Received
- h) Working Conditions

Job evaluation. Job evaluation is the process used to determine the relative worth of all jobs in the City. The evaluation considers the job in light of the compensable factors. This method requires evaluating the requirements of the job, assuming its competent performance, and not who is in the job. Each job in the City will be evaluated upon the basis of a written job description and classified in a grade level, which determines the salary range applicable to the job.

As new jobs are created or if a Department Head makes a request for reclassification of an existing position, a job evaluation committee will evaluate or re-evaluate the job or jobs. The job evaluation committee should consist of three department heads selected by the Human Resource Director. The committee will recommend a grade placement to the City Manager for consideration. The decision of the City Manager in placing a position in a grade level is final.

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Process of job evaluation. Each job evaluation utilizes:

- a) The Compensable Factor Evaluation forms;
- b) The Job Evaluation Point Table; and
- c) The Grade Conversion Chart.

A compensable factor evaluation form has been prepared for each compensable factor and is maintained by the Human Resource office. An evaluation of the job is made using each form so that all compensable factors are considered. As each compensable factor is considered, the job evaluation committee must select the factor rating on each form, which most closely applies to the job. This rating is made solely on the basis of the written job description and without considering any particular person.

The second step of the evaluation process utilizes the Job Evaluation Point Table, which is prepared and maintained by the Human Resource office. In this step, the job evaluation point table is used to assign a specific amount of points to each factor rating level. The points assigned to each compensable factor are then totaled to determine the job's overall point totals.

The final step of the process uses the Grade Conversion Chart, which is prepared and maintained, by the Human Resource office. The grade conversion chart utilizes the job's overall point total to determine the placement of each job in the appropriate grade. By placing the job within its appropriate Grade, the range of compensation applicable to the job is established.

Job classification table. A Job Classification Table, which reflects the classification and applicable Grade of each job of the City, is prepared and maintained by the Human Resource office. The table is amended from time to time as necessary to reflect the classification of new jobs or any reclassification of existing jobs.

How compensation established. The compensation paid each employee is determined by:

- a) the job's classification Grade; and
- b) the employee's qualifications and performance.

Grade Structure. The City has established a job classification structure consisting of Grades 1 through 15 and Grades E25 to E31. Each Grade has been assigned a base annual compensation range, which establishes the minimum and maximum compensation applicable to the Grade. When a job is classified within a particular Grade, the compensation range applicable to the Grade establishes the minimum and maximum levels of base annual compensation, which may be paid to an employee holding the job.

The compensation ranges applicable to each range have been established upon the basis of a survey of salaries paid by comparable cities and similar jobs in the Harlingen market. For the

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purposes of establishing compensation ranges particular reliance was placed upon certain “benchmark jobs” which are commonly found in surveyed markets and which are generally similar in terms of qualifications and duties.

The current grade structure and salary ranges are prepared and maintained by the Human Resource office. The salary ranges should be reviewed annually, and revised as necessary to reflect changing competitive positions, economic conditions and compensation objectives.

Starting salary. In all cases, the starting salary shall be at least the minimum of the Grade range. When justified by the prospective employee’s qualifications and experience the starting salary may exceed the minimum compensation applicable to the job. All starting salaries shall be coordinated with the Human Resource Director. A starting salary above 15 percent over the minimum shall require the approval of the City Manager. The starting salary above the minimum shall be justified in writing by the hiring manager and placed in the personnel file.

- a) If a prospective employee meets the minimum qualifications of the pay range, then the hiring manager should offer the minimum salary range of the pay range.
- b) If the prospective employee meets the minimum qualifications plus some job related experience or education beyond the minimum qualifications for the job, then one to ten percent over the minimum pay range might be considered.
- c) If the prospective employee meets minimum qualifications plus substantial job related experience or education over and above the minimum qualifications for the job, then the offer of eleven to fifteen percent over the minimum might be considered.
- d) If there are extenuating circumstances the City Manager can approve a starting pay for a position anywhere between the minimum and maximum pay ranges.

Performance Appraisal. Each employee will receive an annual written performance appraisal. This performance appraisal will form the primary basis for adjustments to the salary of the employee. The performance appraisal should be made within thirty days of the anniversary of the employee’s anniversary date. Supervisors will utilize one of the performance appraisal manuals to evaluate the employee.

Performance based salary increases. Each employee whose base annual compensation is less than the maximum base annual compensation applicable to the job is eligible for an annual merit increase. Merit increases are given following the employee’s annual performance appraisal and reward acceptable to outstanding work. An employee’s whose performance is rated at less than acceptable is ineligible for a merit increase.

Merit increases are given as a percentage of the employee’s base salary. The amount of the percentage increase for which an employee is eligible will vary, with the smallest increase being given to those whose rating is merely acceptable and the greatest increase given to those with a rating of outstanding. The amount of the increase is indicated by a performance appraisal conversion chart which indicates the appropriate percentage increase applicable to the

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employee's performance rating. The performance appraisal conversion chart is prepared and updated annually based on the labor market and economic factors.

Salary increases on promotion. A promotion occurs when an employee moves from one job to a new job, which is in a higher classification Grade. Movement between jobs within the same grade is lateral transfers and not promotions. To recognize and reward the assumption of responsibilities associated with a job in a higher classification, the base annual salary of a promoted employee must be increased to the minimum base compensation applicable to the new job or by 10 percent over the compensation previously paid for the old job, whichever is greater.

Adjustments to maintain minimum compensation levels. No employee may be paid less than the minimum compensation applicable to the employee's job. At the beginning of each fiscal year, any employee paid less than the applicable minimum shall receive an increase to the required minimum compensation.

Exceptions to maximum and minimum compensation levels. With approval of the City Manager, an employee may be paid less than the applicable minimum compensation under the following circumstances:

- a) When a period of training is required to demonstrate the employee's ability to perform the duties, for a period not normally in excess of six months; and
- b) When the employee is temporarily assigned to a position in a higher grade, normally not to exceed one month.

Unless first approved by the City Manager, no employee may be paid in excess of the maximum compensation applicable to the employee's job.

Other adjustments to compensation. Recognizing that other adjustments to compensation may be necessary to correct situations adversely affecting the City's competitive position in the employment market or to address situations, which adversely affect internal equity; the City Manager may authorize other appropriate salary adjustments.

IV

PLAN ADMINISTRATION

The City Manager and the Human Resource office will be responsible for the administration of the compensation and classification system. The Human Resource office will be responsible for insuring that all job descriptions are kept current and that performance appraisals are conducted at least annually.

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The City Manager will be responsible for recommending changes in the compensation and classification policy. The Human Resource Director will be responsible insuring that all evaluations are done on a timely basis and appointing all job evaluation committees. The City Manager will be responsible for recommending salary increase budgets, recommending salary administration guidelines and insuring that the salary administration guidelines are implemented and periodically updated.

V

POLICE AND FIRE CIVIL SERVICE , AIRPORT AND WATERWORKS

The provisions of this plan are not applicable to the probationary or classified members of the Police and Fire Departments who are below the rank of Department Head and whose employment, compensation or discharge is subject to the civil service provisions of Chapter 143, Texas Local Government Code. These personnel are cover by a separate compensation system.

The provisions of this plan are not applicable to employees of Valley International Airport and to Waterworks employees.

VI

EFFECTIVE DATES

The City Manager will be implementing portions of this merit based pay system throughout the 2007 fiscal year. The plan should be fully implemented beginning October 1, 2007.

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Personnel Policy Manual

206 Wage & Hour Administration

Revised 03/2019

I PURPOSE

To establish a wage and hour administration policy in compliance with the Fair Labor Standards Act (FLSA).

II LEGAL REQUIREMENTS

A. Exempt Employees

Exempt status is based on the duties and responsibilities of an individual position, the required educational level and the salary received. Exempt employees are not entitled to overtime pay or compensatory time.

Exempt employees are those who are not covered by applicable wage and hour laws. Exempt employees are expected to put in the hours necessary to complete their assignments in a timely and quality basis.

B. Non-Exempt Employees

Nonexempt employees are paid on an hourly basis and are entitled to overtime pay at one and one-half times their "regular hourly rate" for any hours they work in excess of 40 hours during the workweek. Regular hourly rate is defined as the calculated average hourly rate for that pay period. For example, the regular hourly rate must include shift differentials, "on call" pay and multiple rates of pay, if applicable.

III WORK SCHEDULES

The normal work schedule for most City employees is 8 hours a day, 5 days a week. Supervisors will advise employees of the times their schedules will normally begin and end. Employee needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Flexible scheduling, or flextime, is available in some cases for non-exempt employees to allow employees to vary their starting and ending times each day within established limits. Flextime may be approved if a mutually workable schedule can be negotiated with the supervisor involved. However, such issues as employee staffing needs, the employee's performance, and the nature of the job will be considered before approval of flextime.

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A. Reporting Time Worked

It is the responsibility of each employee to sign his or her time card/sheet each pay period to certify the accuracy of all time recorded, including overtime. Employees using a computer based time clock will certify to the accuracy of time recorded by approving their time in electronic time clock system. The supervisor will review and initial the time record before submitting it for processing. If corrections or modifications need to be made to the employee's time record, both the employee and the supervisor must verify the accuracy of the changes and initial the time record. Altering, falsifying, tampering with time records, or recording another employee in or out will likely result in corrective action, and/or termination of employment.

B. Attendance and Punctuality

It is important that employees are at work on time every day and that they work the hours scheduled for the position. Absenteeism and tardiness reduce the efficiency of our operations. More importantly, they place a hardship on co-workers who report to work regularly and punctually. Thus, both absenteeism and tardiness must be kept to an absolute minimum.

Satisfactory attendance and punctuality are conditions of employment. Unsatisfactory attendance and tardiness will result in corrective action and/or termination of employment.

We recognize that occasionally an employee may not be able to report to work on time or at all. It is the employee's responsibility to notify their supervisor before their usual starting time. If the immediate supervisor is unavailable, employees are to leave a message with any other supervisor stating why they will be late or absent, when they are expecting to report to work, and a telephone number where they can be reached. Leaving a voice mail message or a message with a coworker is not sufficient.

Corrective action may be taken if an employee;

- Fails to timely notify the City as specified above.
- Are absent excessively.
- Do not have an acceptable excuse for being late or absent.

The City may require that employees provide a physician's statement documenting an absence related to illness or injury which lasts three (3) or more consecutive work days and cases in which the attendance has become unsatisfactory.

Employees are subject to termination of employment if they are absent without acceptable notification or without satisfactory reason for such absence.

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IV PAYDAYS

All employees are paid biweekly. Each paycheck will normally include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday falls on a day off such as a holiday, employees will normally receive pay on the last day of work before the regularly scheduled payday.

If a payday falls during an employee's vacation, the employee's paycheck will be available as per department guidelines. Employees will receive an itemized statement of wages when the City makes direct deposits.

A. Payroll Deductions

In addition to their paycheck, employees will receive a statement showing gross pay, deductions and net pay. Some payroll deductions are required by law, *e.g.*, federal income tax withholding, Social Security (FICA), and court ordered child support. Employees may elect to have certain other deductions made from their pay (*e.g.*, insurance premiums) if they authorize the deductions in writing. Deductions other than those specifically authorized by the Manager are not permitted.

In the unlikely event that there is an error in the amount of a deduction, or any other payroll error, the employee should let his/her supervisor know as soon as possible. At the end of each calendar year, employees will be given a Wage and Tax Statement Form (W-2). This statement summarizes income and deductions for the year.

V OVERTIME

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. All overtime work must receive the appropriate supervisor's prior authorization.

A. Eligibility

Overtime pay or compensatory time will be paid to non-exempt employees for each overtime hour worked.

B. Non-Exempt Positions

Overtime pay is based on **actual** hours worked. This means that time off on sick leave, vacation leave, or any other absence, whether paid or unpaid, will not be considered hours worked for purposes of performing overtime calculations.

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Overtime will be paid at the rate of one and one-half (1.5) times the employee's regular hourly rate. Compensatory time will be credited at the rate of one and one-half hour (1.5) per overtime hour worked.

C. Accumulation

Non-exempt employee will be allowed to accumulate up to 80 hours of compensatory time, unless a lower maximum is set by department policy, based on operational demands. Once a non-exempt employee has reached his/her accrual cap, any overtime worked will be paid for in cash rather than in compensatory time accrual.

D. Payment upon termination

Non-exempt employees will be paid for accumulated, unused compensatory time upon termination, regardless of the reason for termination.

E. Record keeping

Department Directors are responsible for accurate recording of compensatory time in the payroll system for their non-exempt employees.

F. Prior Authorization Required Before Working Overtime

All nonexempt employees must receive the appropriate supervisor's **prior** authorization **before** performing any overtime work. This means employees may not begin work prior to the start of their scheduled work day, and may not continue working beyond the end of the their scheduled workday, without prior authorization from the appropriate supervisor. Similarly, employees may not work through their lunch break without prior authorization from the appropriate supervisor. On the employee's time card/sheet, the appropriate supervisor must also approve any overtime before the time card/sheet is submitted for processing and payment. Working overtime without receiving proper authorization will result in corrective action, up to and including possible termination of employment.

Overtime is budgeted annually. The City Manager must approve all overtime that exceeds a department's budgeted amount.

G. Use of Accrued Compensatory Time

Employees requesting use of compensatory time will be allowed to take the compensatory time within a reasonable period after making the request. If use of requested compensatory time would be disruptive, the Department Director may elect to pay the employee in lieu of approving the requested time off. In fact, the City may, at any time, elect to pay an employee

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for any or all of the employee's accrued compensatory time. The City may also require employees to take time off in order to reduce their accrued compensatory time.

VI MEAL/BREAK PERIODS

A 30-minute to 1-hour allowance for meal breaks is customarily granted to regular full-time employees. This meal period is not considered work time if employees are completely relieved of their work duties.

If employees must continue their work duties through the meal or break period, this work time must be approved in advance by a supervisor and recorded as work time. Approved break periods of 20 minutes or less will be considered hours worked.

VII ON-CALL DUTY

On-call assignments are typically not compensable if:

- ◆ Employees can be contacted by a pager or telephone; and
- ◆ Have free (personal) use of the time while waiting for an assignment.

A. Eligibility

Non-exempt employees designated by their supervisors as scheduled to serve on-call for a specific period of time.

B. Minimum Callback Time

Non-exempt employees called back to work after their shift has ended, will be paid for one hour at their regular rate of pay or for the actual time worked, whichever is greater. Time worked immediately after regularly scheduled working hours at the request or approval of the supervisor will not be considered call-back and will be paid at the regular rate of pay until overtime requirements are met.

Employees exempt from overtime are not eligible for compensation under the provisions of this policy.

The City provides for after-hours service needs when required by allowing some departmental operations to designate nonexempt employees to be on-call. Certain exempt personnel may also be designated as on-call. Employees designated to be on-call are expected to respond to departmental after-hour service needs as required by procedures established by each Department where on-call personnel are utilized. Exempt employees are not entitled to extra compensation for on-call or call-back time.

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Return to work provisions- When an employee is designated to be available for on-call and subject to call back, he/she is free to pursue personal activities but may be required to respond to call back (via paging, phone, or radio) within designated guidelines set by the Department. This on-call status is not considered time worked and is not compensable unless the employee responds to a call back. All employees designated to be on-call are expected to be fit (mentally and physically) to accomplish services needed within the time frame required. An employee is considered on-call only when approved by his/her supervisor in accordance with procedures established by his/her department.

Departments may establish guidelines for varying levels of response to call-back situations depending upon the nature and importance of services to be completed.

VIII TRAVEL TIME

Travel time during regular work hours is compensable for non-exempt employees. Travel time, which is outside of regular working hours, is not compensable, unless the employee is performing work approved by supervisor.

IX TIMEKEEPING

Federal and State laws require the City to keep an accurate record of the time worked by all nonexempt employees. Accordingly, accurately recording time worked is the responsibility of every nonexempt employee. Time worked is all the time actually spent on the job performing assigned duties. Nonexempt employees must accurately record the time they begin and end their workday, as well as the beginning and ending time of each meal period. Nonexempt employees may not begin working prior to their scheduled start time without prior approval from their supervisor. They must also record the beginning and ending time of any split shift, break or departure from work for personal reasons. Overtime work must **always** be approved **before** it is performed.

It is the employee's responsibility to sign his or her time sheet each pay period to certify the accuracy of all time recorded. The supervisor will review and then initial the time record before submitting it for payroll processing. If corrections or modifications need to be made to the time record, both the employee and the supervisor must verify the accuracy of the changes and initial the time record. Altering, falsifying, tampering with time records, or recording another employee in or out will likely result in corrective action, and/or termination of employment.

X APPENDIX

A. Wage Deduction Authorization Agreement

CITY OF HARLINGEN
WAGE DEDUCTION AUTHORIZATION AGREEMENT

I _____ understand and agree that my employer, the City of Harlingen, may deduct money from my pay from time to time for reasons that fall into the following categories:

1. My share of the premiums for the City's group medical plan;
2. Any contributions I may make into a retirement or pension plan sponsored, controlled or managed by the City of Harlingen;
3. If I receive an overpayment of wages for any reason, repayment of such overpayments to the City;
4. My share of the premiums for all voluntary insurance or voluntary products;
5. The cost to the City of personal long distance calls I may make on the City's phones or on the City's accounts, of personal faxes sent by me using the City's equipment or the City's accounts, or of non work-related access to the Internet or other computer networks by me using the City's equipment or accounts;
6. The cost of repairing or replacing any of the City's supplies, materials, equipment, money or other property that I may damage (other than normal wear and tear), lose, fail to return or take without appropriate authorization from the City during my employment;
7. The cost of uniforms and/or of cleaning the uniforms; and
8. If I take paid vacation or sick leave in advance of the date I would normally be entitled to it and I separate from the City before accruing time to cover such advance leave, the value of such leave taken in advance that is not so covered;

I agree that the City of Harlingen may deduct money from my pay under the above circumstances or any other situations which will result in me owing money to the City.

Employee Signature

Date

City Representative

Date

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207 Performance Management

Revised 03/2019

I PURPOSE

Each entity (i.e. City and HWWS) will refer to their own performance management process under separate cover.

The City evaluates the performance of non-Directors based on its June 1999 Performance Planning/Evaluation Manual. The City evaluates Directors using the Department Director evaluation form.

The Harlingen Waterworks System evaluates performance based on its June 2000 Evaluation System.

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208 Tuition Reimbursement

Revised 03/2019

I PURPOSE

To establish a policy for reimbursement of tuition and related expenses for eligible courses.

II POLICIES AND PROCEDURES

City of Harlingen's regular full-time employees are eligible to apply for reimbursement for tuition, books and related fees for eligible courses including on-site, on-line, or correspondence courses.

A. ELIGIBILITY

To apply for reimbursement, City of Harlingen employees must have completed at least one year of full time employment and have a current evaluation that meets or exceeds overall performance standards. In order for a course to be eligible for reimbursement, it must be from an accredited college, university, technical or vocational school and be related to the employee's current position or a position listed in the city's position classification system.

The Human Resources Director will review each reimbursement request to determine eligibility.

Job-related seminars, workshops or other courses, which are short term are ineligible for tuition reimbursement. Short term courses should be funded through a department's training fund and applied for through the employee's respective department.

Tuition Fee Schedules at state-supported colleges and universities will be used as official guidelines in determining eligible fee rates.

B. GRADES REQUIRED

An employee must successfully complete course(s) stipulated in their application by receiving a grade of "C" or better, or passing, for undergraduate course(s), "B" or better, or passing for graduate course(s) is required. If an employee drops the course or does not receive a "C" or better, or passing for undergraduate courses or "B" or better, or passing for graduate courses, it will be the responsibility of the employee to make up the course at their expense. The employee will be ineligible for further participation in the City's Tuition Reimbursement program until he/she makes up the course.

C. TUITION REIMBURSEMENT

Reimbursement shall be for tuition, eligible fees and required textbooks. The City will participate in these costs up to a maximum of \$250.00 per course with a total FY maximum of \$750.00 per employee. Program participation will be contingent upon the availability of funds.

Course times and schedules that interfere with daily work schedules must be approved by the Department Director **prior to registering for the class**. Changes in work schedules to fit class

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schedules must comply with the needs of the department and the City. This policy in no way guarantees time off or schedule rearrangement.

If an employee wishes to secure his/her GED, the City will pay the base fee. This will be limited to two (2) tests per fiscal year.

D. REIMBURSEMENT PROCEDURES

To secure reimbursement under the Tuition Reimbursement Program, employees must:

- submit a Tuition Reimbursement Application approved by their supervisor and Director. (Appendix A)
- attach a copy of the fee receipt(s) to the Tuition Reimbursement Application,
- submit the Tuition Reimbursement Application and corresponding fee receipts to the Human Resources Department **no later than ten (10) days after registration.**

If approved by the Human Resources Department, the request for reimbursement will be forwarded to the Finance Department for further processing and payment.

Upon completion of the employee's coursework, the employee must submit a copy of their grade report (for the class for which reimbursement was requested), to the Human Resources Department.

Employees who leave City employment within twelve (12) months of receiving assistance (due to voluntary or involuntary termination), shall reimburse the City all tuition reimbursement monies paid to them within the past twelve months of their separation date.

Employees are required to reimburse the City if the course is failed or dropped.

As a participant of the Tuition Reimbursement Program, the employee authorizes the City to deduct tuition reimbursement owed from his/her paycheck or any other final payments due the employee. The employee also understands that, if sufficient funds are not available to satisfy the tuition reimbursement owed to the City, the employee will pay the pending balance by personal check, cash, or money order.

III APPENDIX

A. Request for Tuition Reimbursement Form

TUITION REIMBURSEMENT APPLICATION

INSTRUCTIONS FOR USING THIS FORM:

- Fill out Section 1. Attach a copy of the fee receipt(s) to this form and give it to your supervisor.
- Section 2 will be completed and approved/disapproved by supervisor and Department Director. If approved, all paperwork is then forwarded to Human Resources (no later than 10 days after registration).
- If approved, request for reimbursement to the employee will be submitted to the Finance Department.
Upon completion of the class, a copy of your grade sheet should be sent to Human Resources.

SECTION 1. PERSONAL/COURSE INFORMATION

Name _____ Emp.# _____ Degree Plan _____
Current Position Title _____ Dept/Div _____ Supervisor _____
School Name _____ Semester _____
Course Title(s) / Cost
(1) _____ / \$ _____
(2) _____ / \$ _____
(3) _____ / \$ _____
Total Reimbursement Requested This Semester: \$ _____

I certify that I have not received any assistance (see #6 on reverse side) for the amount I am requesting to be reimbursed and that I do not qualify to be reimbursed for these expenses from any other source during this fiscal year. (Maximum allowed is \$250 per course and a total Fiscal Year maximum of \$750 per employee).

Employee Signature

Date

SECTION 2. DEPARTMENTAL APPROVAL

I _____ **approve** _____ **disapprove** reimbursement for this course(s).

Supervisor Signature / Date

Department Director Signature / Date

HUMAN RESOURCES USE ONLY

Grade(s): (1) _____ (2) _____ (3) _____

Reimbursement:

_____ **Approved** - Amount of this reimbursement \$ _____ Reimbursement FYTD \$ _____

_____ **Disapproved** - No reimbursement until failing subject is retaken and proof of grade submitted.

Human Resources Director Approval

Date

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I PURPOSE

Though there are a number of reasons to provide a user network access, by far the most common is granting access to employees for performance of their job functions. This access carries certain responsibilities and obligations as to what constitutes acceptable use of the City of Harlingen network. This policy explains how City of Harlingen information technology resources are to be used and specifies what actions are prohibited. While this policy is as complete as possible, no policy can cover every situation, and thus the user is asked additionally to use common sense when using City resources. Questions on what constitutes acceptable use should be directed to the user's supervisor.

Since inappropriate use of City of Harlingen systems exposes the City to risk, it is important to specify exactly what is permitted and what is prohibited. The purpose of this policy is to detail the acceptable use of City of Harlingen information technology resources for the protection of all parties involved.

The scope of this policy includes any and all use of City of Harlingen IT resources, including but not limited to, computer systems, email, the network, and the City of Harlingen Internet connection.

II ACCEPTABLE USE

A. EMAIL-USE

Personal usage of City email systems is prohibited. Users should use City of Harlingen email systems for business communications only.

- The following is never permitted: spamming, harassment, communicating threats, solicitations, chain letters, or pyramid schemes. This list is not exhaustive, but is included to provide a frame of reference for types of activities that are prohibited.
- The user is prohibited from forging email header information or attempting to impersonate another person.
- Email is an insecure method of communication, and thus information that is considered confidential or proprietary to the City may not be sent via email, regardless of the recipient, without proper encryption.
- It is City policy not to open email attachments from unknown senders, or when such attachments are unexpected.
- Email systems were not designed to transfer large files and as such emails should not contain attachments of excessive file size (50Mb).

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Please note that detailed information about the use of email may be covered in the City's Email Policy.

B. CONFIDENTIALITY

Confidential data must not be A) shared or disclosed in any manner to non-employees of the City, B) should not be posted on the Internet or any publicly accessible systems, and C) should not be transferred in any insecure manner. Please note that this is only a brief overview of how to handle confidential information, and that other policies may refer to the proper use of this information in more detail.

C. NETWORK ACCESS

The user should take reasonable efforts to avoid accessing network data, files, and information that are not directly related to his or her job function. Existence of access capabilities does not imply permission to use this access.

D. UNACCEPTABLE USAGE

The following actions shall constitute unacceptable use of the City of Harlingen network. This list is not exhaustive, but is included to provide a frame of reference for types of activities that are deemed unacceptable. The user may not use the City of Harlingen network and/or systems to:

- Engage in activity that is illegal under local, state, federal, or international law.
- Engage in any activities that may reflect poorly on the reputation of or reasonably cause harm to the City.
- Disseminate defamatory, discriminatory, prejudiced, sexist, racist, abusive, insulting, threatening, obscene or otherwise inappropriate messages or media.
- Engage in activities that cause an invasion of privacy.
- Engage in activities that cause disruption to the workplace environment or create a hostile workplace.
- Make fraudulent offers for products or services.
- Perform any of the following: port scanning, security scanning, network sniffing, keystroke logging, or other IT information gathering techniques when not part of employee's job function.
- Install or distribute unlicensed or "pirated" software.
- Reveal personal or network passwords to others, including family, friends, or other members of the household when working from home or remote locations.

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E. BLOGGING AND SOCIAL NETWORKING

Blogging and social networking by the City's employees are subject to the terms of the social media policy, whether performed from the City of Harlingen network or from personal systems. Blogging and social networking is never allowed from the City of Harlingen computer network. In no blog or website, including blogs or sites published from personal or public systems, shall the City be identified, City business matters discussed, or material detrimental to the City published. The user must not identify himself or herself as an employee of the City in a blog or on a social networking site. The user assumes all risks associated with blogging and/or social networking.

F. OVERUSE

Actions detrimental to the computer network or other City of Harlingen resources, or that negatively affect job performance are not permitted.

G. WEB BROWSING

The Internet is a network of interconnected computers of which the City has very little control. The employee should recognize this when using the Internet, and understand that it is a public domain and he or she can come into contact with information, even inadvertently, that he or she may find offensive, sexually explicit, or inappropriate. The user must use the Internet at his or her own risk. The City is specifically not responsible for any information that the user views, reads, or downloads from the Internet.

Personal Use. The City recognizes that the Internet can be a tool that is useful for both personal and professional purposes. Personal usage of City computer systems to access the Internet is permitted during lunch, breaks, and before/after business hours, as long as such usage follows pertinent guidelines elsewhere in this document and does not have a detrimental effect on the City or on the user's job performance.

H. COPYRIGHTED INFRINGEMENT

The City's computer systems and networks must not be used to download, upload, or otherwise handle illegal and/or unauthorized copyrighted content. Any of the following activities constitute violations of acceptable use policy, if done without permission of the copyright owner: A) copying and sharing images, music, movies, or other copyrighted material using P2P file sharing or unlicensed CD's and DVD's; B) posting or plagiarizing copyrighted material; and C) downloading copyrighted files which employee has not already legally procured. This list is not meant to be exhaustive, copyright law applies to a wide variety of works and applies to much more than is listed above.

I. PEER TO PEER FILE SHARING

Peer-to-Peer (P2P) networking is not allowed on the City of Harlingen network under any circumstance.

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J. STREAMING MEDIA

Streaming media is not permitted for any purpose.

K. MONITORING AND PRIVACY

Users should expect no privacy when using the City of Harlingen network or City resources. Such use may include but is not limited to: transmission and storage of files, data, and messages. The City reserves the right to monitor any and all use of the computer network. To ensure compliance with City policies this may include the interception and review of any emails, or other messages sent or received, inspection of data stored on personal file directories, hard disks, and removable media.

L. BANDWIDTH USAGE

Excessive use of City bandwidth or other computer resources is not permitted. Large file downloads or other bandwidth-intensive tasks that may degrade network capacity or performance must be performed during times of low City-wide usage.

M. PERSONAL USAGE

Personal use of City computer systems is not permitted under any circumstances.

N. REMOTE DESKTOP ACCESS

Use of remote desktop software and/or services is allowable as long as it is provided by the City. Remote access to the network must conform to the City's Remote Access Policy.

O. CIRCUMVENTION OF SECURITY

Using City-owned or City-provided computer systems to circumvent any security systems, authentication systems, user-based systems, or escalating privileges is expressly prohibited. Knowingly taking any actions to bypass or circumvent security is expressly prohibited.

P. USE FOR ILLEGAL ACTIVITIES

No City-owned or City-provided computer systems may be knowingly used for activities that are considered illegal under local, state, federal, or international law. Such actions may include, but are not limited to, the following:

- Unauthorized Port Scanning
- Unauthorized Network Hacking
- Unauthorized Packet Sniffing
- Unauthorized Packet Spoofing
- Unauthorized Denial of Service
- Unauthorized Wireless Hacking
- Any act that may be considered an attempt to gain unauthorized access to or escalate privileges on a computer or other electronic system

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- Acts of Terrorism
- Identity Theft
- Spying
- Downloading, storing, or distributing violent, perverse, obscene, lewd, or offensive material as deemed by applicable statutes
- Downloading, storing, or distributing copyrighted material

The City will take all necessary steps to report and prosecute any violations of this policy.

R. NON-CITY OWNED EQUIPMENT

The user must obtain written permission from the MIS Director before installing outside or non-City-provided computer systems on the City network. Once this permission is obtained, and dependent on any conditions granted along with such permission, the user can connect a non-City-owned system to the network. Reasonable precautions must be taken to ensure viruses, Trojans, worms, malware, spyware, and other undesirable security risks are not introduced onto the City network.

S. PERSONAL STORAGE MEDIA

Personal storage devices represent a serious threat to data security and are expressly prohibited on the City's network.

T. SOFTWARE INSTALLATION

Installation of non-City-supplied programs is prohibited. Numerous security threats can masquerade as innocuous software - malware, spyware, and Trojans can all be installed inadvertently through games or other programs. Alternatively, software can cause conflicts or have a negative impact on system performance.

U. REPORTING OF SECURITY INCIDENT

If a security incident or breach of any security policies is discovered or suspected, the user must immediately notify his or her supervisor and/or follow any applicable guidelines as detailed in the City Of Harlingen Incident Response Policy. Examples of incidents that require notification include:

- Suspected compromise of login credentials (username, password, etc.).
- Suspected virus/malware/Trojan infection.
- Loss or theft of any device that contains City information.
- Loss or theft of ID badge or keycard.
- Any attempt by any person to obtain a user's password over the telephone or by email.
- Any other suspicious event that may impact the City's information security.

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Users must treat a suspected security incident as confidential information, and report the incident only to his or her supervisor. Users must not withhold information relating to a security incident or interfere with an investigation.

III PASSWORDS

A solid password policy is perhaps the most important security control an organization can employ. Since the responsibility for choosing good passwords falls on the users, a detailed and easy-to-understand policy is essential.

The purpose of this policy is to specify guidelines for use of passwords. Most importantly, this policy will help users understand why strong passwords are a necessity, and help them create passwords that are both secure and useable. Lastly, this policy will educate users on the secure use of passwords.

This policy applies to any person who is provided an account on the organization's network or systems, including: employees, guests, contractors, partners, vendors, etc.

A. CONSTRUCTION

The best security against a password incident is simple: following a sound password construction strategy. The organization mandates that users adhere to the following guidelines on password construction:

- Passwords should be at least 8 characters
- Passwords should be comprised of a mix of letters, numbers and special characters (punctuation marks and symbols)
- Passwords should be comprised of a mix of upper and lower case characters
- Passwords should not be comprised of, or otherwise utilize, words that can be found in a dictionary
- Passwords should not be comprised of an obvious keyboard sequence (i.e., qwerty)
- Passwords should not include "guessable" data such as personal information about yourself, your spouse, your pet, your children, birthdays, addresses, phone numbers, locations, etc.function.

Creating and remembering strong passwords does not have to be difficult. Substituting numbers for letters is a common way to introduce extra characters - a '3' can be used for an 'E,' a '4' can be used for an 'A,' or a '0' for an 'O.' Symbols can be introduced this way as well, for example an 'i' can be changed to a '!'.

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Another way to create an easy-to-remember strong password is to think of a sentence, and then use the first letter of each word as a password. The sentence: 'The quick brown fox jumps over the lazy dog!' easily becomes the password 'Tqbfjotld!'. Of course, users may need to add additional characters and symbols required by the Password Policy, but this technique will help make strong passwords easier for users to remember.

B. CONFIDENTIALITY

Passwords should be considered confidential data and treated with the same discretion as any of the organization's proprietary information. The following guidelines apply to the confidentiality of organization passwords:

- Users must not disclose their passwords to anyone except as described by the City Social Media Policy
- Users must not share their passwords with others (co-workers, supervisors, family, etc.) except as described by the City Social Media Policy
- Users must not write down their passwords and leave them unsecured
- Users must not check the "save password" box when authenticating to applications
- Users must not use the same password for different systems and/or accounts
- Users must not send passwords via email
- Users must not re-use passwords

C. CHANGE FREQUENCY

In order to maintain good security, passwords should be periodically changed. This limits the damage an attacker can do as well as helps to frustrate brute force attempts. At a minimum, users must change passwords every 180 days. The organization may use software that enforces this policy by expiring users' passwords after this time period.

D. INCIDENT REPORTING

Since compromise of a single password can have a catastrophic impact on network security, it is the user's responsibility to immediately report any suspicious activity involving his or her passwords to the MIS Director. Any request for passwords over the phone or email, whether the request came from organization personnel or not, should be expediently reported. When a password is suspected to have been compromised the MIS Director will request that the user, or users, change all his or her passwords.

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IV NETWORK ACCESS AND AUTHENTICATION

Consistent standards for network access and authentication are critical to the City's information security and are often required by regulations or third-party agreements. Any user accessing the City's computer systems has the ability to affect the security of all users of the network. An appropriate Network Access and Authentication Policy reduces risk of a security incident by requiring consistent application of authentication and access standards across the network.

The purpose of this policy is to describe what steps must be taken to ensure that users connecting to the City of Harlingen network are authenticated in an appropriate manner, in compliance with City standards, and are given the least amount of access required to perform their job function. This policy specifies what constitutes appropriate use of network accounts and authentication standards.

The scope of this policy includes all users who have access to City-owned or City-provided computers or require access to the City of Harlingen network and/or systems. This policy applies not only to employees, but also to guests, contractors, and anyone requiring access to the City of Harlingen network. Public access to the City's externally-reachable systems, such as its City of Harlingen website or public web applications, are specifically excluded from this policy.

A. ACCOUNT SETUP

During initial account setup, certain checks must be performed in order to ensure the integrity of the process. The following policies apply to account setup:

Positive ID and coordination with Human Resources is required.

- Users will be granted least amount of network access required to perform his or her function.
- Users will be granted access only if he or she accepts the Acceptable Use Policy.
- Access to the network will be granted in accordance with the Acceptable Use Policy.

B. ACCOUNT USE

Network accounts must be implemented in a standard fashion and utilized consistently across the organization. The following policies apply to account use:

- Accounts must be created using a standard format (i.e., firstname lastname, or firstinitial lastname, etc.)
- Accounts must be password protected (refer to the Password Policy for more detailed information).

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- Accounts must be for individuals only. Account sharing and group accounts are not permitted.
- User accounts must not be given administrator or 'root' access unless this is necessary to perform his or her job function.
- Occasionally guests will have a legitimate business need for access to the City of Harlingen network. When a reasonable need is demonstrated, temporary guest access is allowed. This access, however, must be severely restricted to only those resources that the guest needs at that time, and disabled when the guest's work is completed.
- Individuals requiring access to confidential data must have an individual, distinct account. This account may be subject to additional monitoring or auditing at the discretion of the MIS Director or executive team, or as required by applicable regulations or third-party agreements.

C. ACCOUNT TERMINATION

When managing network and user accounts, it is important to stay in communication with the Human Resources department so that when an employee no longer works at the City, that employee's account can be disabled. Human Resources must create a process to notify the MIS Director in the event of a staffing change, which includes employment termination, employment suspension, or a change of job function (promotion, demotion, suspension, etc.).

D. AUTHENTICATION

User machines must be configured to request authentication against the domain at startup. If the domain is not available or authentication for some reason cannot occur, then the machine should not be permitted to access the network.

E. USE OF PASSWORDS

When accessing the network locally, username and password is an acceptable means of authentication. Usernames must be consistent with the requirements set forth in this document, and passwords must conform to the City's Password Policy.

F. REMOTE NETWORK ACCESS

Remote access to the network can be provided for convenience to users but this comes at some risk to security. For that reason, the City encourages additional scrutiny of users remotely accessing the network. The City's standards dictate that username and password is an acceptable means of authentication as long as appropriate policies are followed. Remote access must adhere to the Remote Access Policy.

G. SCREENSAVER PASSWORDS

Screensaver passwords offer an easy way to strengthen security by removing the opportunity for a malicious user, curious employee, or intruder to access network resources through an idle

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computer. For this reason screensaver passwords are required to be activated after 15 minutes of inactivity.

H. MINIMUM CONFIGURATION FOR ACCESS

Any system connecting to the network can have a serious impact on the security of the entire network. A vulnerability, virus, or other malware may be inadvertently introduced in this manner. For this reason, users should update their antivirus software, as well as other critical software, to the latest versions before accessing the network.

I. ENCRYPTION

Industry best practices state that username and password combinations must never be sent as plain text. If this information were intercepted, it could result in a serious security incident. Therefore, authentication credentials must be encrypted during transmission across any network, whether the transmission occurs internal to the City network or across a public network such as the Internet.

J. FAILED LOGONS

Repeated logon failures can indicate an attempt to 'crack' a password and surreptitiously access a network account. In order to guard against password-guessing and brute-force attempts, the City must lock a user's account after 3 unsuccessful logins. This can be implemented as a time-based lockout or require a manual reset, at the discretion of the MIS Director.

In order to protect against account guessing, when logon failures occur the error message transmitted to the user must not indicate specifically whether the account name or password were incorrect. The error can be as simple as "the username and/or password you supplied were incorrect."

K. NON-BUSINESS HOURS

This section does not apply to the Harlingen Fire And Police departments or top City Administrators. Since the City's business does not require overnight network access, the City must restrict account logon during off hours. To allow for reasonable non-business-hours work, for these purposes 'off hours' is defined as the hours between 10:00PM and 5:00AM local time on weekdays. On weekends, account access should be disabled 24 hours per day. However, this will be implemented at the discretion of the MIS Director depending on the business need for weekend or off-hours access.

Note: Additional exceptions to this policy will be granted on a case-by-case basis.

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V EMAIL

Email is an essential component of business communication; however it presents a particular set of challenges due to its potential to introduce a security threat to the network. Email can also have an effect on the City's liability by providing a written record of communications, so having a well thought out policy is essential. This policy outlines expectations for appropriate, safe, and effective email use.

The purpose of this policy is to detail the City's usage guidelines for the email system. This policy will help the City reduce risk of an email-related security incident, foster good business communications both internal and external to the City, and provide for consistent and professional application of the City's email principles.

The scope of this policy includes the City's email system in its entirety, including desktop and/or web-based email applications, server-side applications, email relays, and associated hardware. It covers all electronic mail sent from the system, as well as any external email accounts accessed from the City network.

A. PROPER USE OF EMAIL SYSTEMS

Users are asked to exercise common sense when sending or receiving email from City accounts. Additionally, the following applies to the proper use of the City email system.

1. Sending Email

When using a City email account, email must be addressed and sent carefully. Users should keep in mind that the City loses any control of email once it is sent external to the City network. Users must take extreme care when typing in addresses, particularly when email address auto-complete features are enabled; using the "reply all" function; or using distribution lists in order to avoid inadvertent information disclosure to an unintended recipient. Careful use of email will help the City avoid the unintentional disclosure of sensitive or non-public information.

2. Personal Use and General Guidelines

Personal usage of City email systems is prohibited. Users should use City of Harlingen email systems for business communications only.

- The following is never permitted: spamming, harassment, communicating threats, solicitations, chain letters, or pyramid schemes. This list is not exhaustive, but is included to provide a frame of reference for types of activities that are prohibited.

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- The user is prohibited from forging email header information or attempting to impersonate another person.
- Email is an insecure method of communication, and thus information that is considered confidential or proprietary to the City may not be sent via email, regardless of the recipient, without proper encryption.
- It is City policy not to open email attachments from unknown senders, or when such attachments are unexpected.
- Email systems were not designed to transfer large files and as such emails should not contain attachments of excessive file size.

Please note that the topics above may be covered in more detail in other sections of this policy.

3. Business Communications and Email

The City uses email as an important communication medium for business operations. Users of the City of Harlingen email system are expected to check and respond to email in a consistent and timely manner during business hours.

Additionally, users are asked to recognize that email sent from a City account reflects on the City, and, as such, email must be used with professionalism and courtesy.

4. Email Signature

An email signature (contact information appended to the bottom of each outgoing email) is required for all emails sent from the City email system. At a minimum the signature should include the user's:

- Title
- City Name
- Phone number(s)
- Fax number if applicable
- URL for corporate website

Email signatures may not include personal messages (political, humorous, etc.). The IT department is able to assist in email signature setup if necessary.

5. Auto-Responders

The City recommends the use of an auto-responder (if the email system is equipped with such a feature) if the user will be out of the office for an entire business day or more. The auto-response should notify the sender that the user is out of the office, the date of the user's return, and who the sender should contact if immediate assistance is required.

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6. Opening Attachments

Users must use care when opening email attachments. Viruses, Trojans, and other malware can be easily delivered as an email attachment. Users should:

- Never open unexpected email attachments.
- Never open email attachments from unknown sources.
- Never click links within email messages unless he or she is certain of the link's safety. It is often best to copy and paste the link into your web browser, or retype the URL, as specially-formatted emails can hide a malicious URL.

The City may use methods to block what it considers to be dangerous or emails or strip potentially harmful email attachments as it deems necessary.

7. Monitoring and Privacy

Users should expect no privacy when using the City of Harlingen network or City resources. Such use may include but is not limited to: transmission and storage of files, data, and messages. The City reserves the right to monitor any and all use of the computer network. To ensure compliance with City policies this may include the interception and review of any emails, or other messages sent or received, inspection of data stored on personal file directories, hard disks, and removable media.

8. City Ownership of Email

Users should be advised that the City owns and maintains all legal rights to its email systems and network, and thus any email passing through these systems is owned by the City and it may be subject to use for purposes not be anticipated by the user. Keep in mind that email may be backed up, otherwise copied, retained, or used for legal, disciplinary, or other reasons. Additionally, the user should be advised that email sent to or from certain public or governmental entities may be considered public record.

9. Access to Email from Mobile Phones

Many mobile phones and smartphones, provide the capability to send and receive email. This can present a number of security issues, particularly relating to the storage of email, which may contain sensitive data, on the phone. Users are not to access, or attempt to access, the City's email system from a mobile phone without the permission of his or her supervisor.

Note that this section does not apply if the City provides the phone and mobile email access as part of its remote access plan. In this case, permission is implied. Refer to the Mobile Device Policy for more information.

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B. EXTERNAL AND/OR PERSONAL EMAIL ACCOUNTS

The City recognizes that users may have personal email accounts in addition to their company-provided account. The following sections apply to non-City provided email accounts:

1. Use for City Business

Users must use the City of Harlingen email system for all business-related email. Users are prohibited from sending business email from a non-company-provided email account.

2. Use for Personal Reasons

Users are required to use a non-City provided (personal) email account for all non-business communications. The City of Harlingen email system is for City communications only. Users must follow applicable policies regarding the access of non-company-provided accounts from the City network.

C. CONFIDENTIAL DATA AND EMAIL

The following sections relate to confidential data and email:

Passwords

As with any City passwords, passwords used to access email accounts must be kept confidential and used in adherence with the Password Policy. At the discretion of the MIS Director, the City may further secure email with certificates, two factor authentication, or another security mechanism.

D. CITY ADMINISTRATION OF EMAIL

The City will use its best effort to administer the City's email system in a manner that allows the user to both be productive while working as well as reduce the risk of an email-related security incident.

1. Filtering of Email

A good way to mitigate risk from email is to filter it before it reaches the user so that the user receives only safe, business-related messages. For this reason, the company will filter email at the Internet gateway and/or the mail server, in an attempt to filter out spam, viruses, or other messages that may be deemed A) contrary to this policy, or B) a potential risk to the City's IT security. No method of email filtering is 100 percent effective, so the user is asked additionally to be cognizant of this policy and use common sense when opening emails.

Additionally, many email and/or anti-malware programs will identify and quarantine emails that it deems suspicious. This functionality may or may not be used at the discretion of the MIS Director.

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2. Email Disclaimers

The use of an email disclaimer, usually text appended to the end of every outgoing email message, is an important component in the City's risk reduction efforts. The City requires the use of email disclaimers on every outgoing email, which must contain the following notices:

- The email is for the intended recipient only
- The email may contain private information
- If the email is received in error, the sender should be notified and any copies of the email destroyed
- Any unauthorized review, use, or disclosure of the contents is prohibited

An example of such a disclaimer is:

NOTE: This email message and any attachments are for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by replying to this email, and destroy all copies of the original message.

The City should review any applicable regulations relating to its electronic communication to ensure that its email disclaimer includes all required information.

3. Email Deletion

Users are encouraged to delete email periodically when the email is no longer needed for business purposes. The goal of this policy is to keep the size of the user's email account manageable, and reduce the burden on the company to store and backup unnecessary email messages.

However, users are strictly forbidden from deleting email in an attempt to hide a violation of this or another City policy. Further, email must not be deleted when there is an active investigation, a pending Texas Public Information Request for that email, or litigation where that email may be relevant.

The City must note and document here any applicable regulations or statutes that apply to email deletion.

Unless otherwise indicated, for the purposes of backup and retention, email should be considered operational data.

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4. Address Format

Email addresses can be constructed in any manner, at the request of the user and discretion of the MIS Director. Email address format does not need to be consistent across users of the City email system.

5. Account Activation

Email accounts will be set up for each user determined to have a business need to send and receive City email. Accounts will be set up at the time a new hire starts with the City, or when a promotion or change in work responsibilities for an existing employee creates the need to send and receive email.

Accounts on the City email system will never be provided to non-employees of the City.

6. Account Termination

When a user leaves the company, or his or her email access is officially terminated for another reason, the company will disable the user's access to the account by password change, disabling the account, or another method. The City is under no obligation to block the account from receiving email, and may continue to forward inbound email sent to that account to another user, or set up an auto-response to notify the sender that the user is no longer employed by the City.

E. PROHIBITED ACTIONS

The following actions shall constitute unacceptable use of the City of Harlingen email system. This list is not exhaustive, but is included to provide a frame of reference for types of activities that are deemed unacceptable. The user may not use the City of Harlingen email system to:

- Send any information that is illegal under applicable laws.
- Access another user's email account without A) the knowledge or permission of that user which should only occur in extreme circumstances, or B) the approval of City executives in the case of an investigation, or C) when such access constitutes a function of the employee's normal job responsibilities.
- Send any emails that may cause embarrassment, reflect poorly on or damage the reputation of, or cause other harm to the City.
- Disseminate defamatory, discriminatory, vilifying, sexist, racist, abusive, rude, harassing, annoying, insulting, threatening, obscene or otherwise inappropriate messages or media.
- Send emails that cause disruption to the workplace environment or create a hostile workplace. This includes sending emails that are intentionally inflammatory, or that include information not conducive to a professional working atmosphere.
- Make fraudulent offers for products or services.

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- Attempt to impersonate another person or forge an email header.
- Send spam, solicitations, chain letters, or pyramid schemes.
- Knowingly misrepresent the company's capabilities, business practices, warranties, pricing, or policies.
- Conduct non-City-related business.

The City may take steps to report and prosecute violations of this policy, in accordance with City standards and applicable laws.

1 Data Leakage

Data can leave the network in a number of ways. Often this occurs unintentionally by a user with good intentions. For this reason, email poses a particular challenge to the City's control of its data.

Unauthorized emailing of City data, confidential or otherwise, to external email accounts for the purpose of saving this data external to company systems is prohibited. If a user needs access to information from external systems (such as from home or while traveling), that user should notify his or her supervisor rather than emailing the data to a personal account or otherwise removing it from company systems.

The City may employ data loss prevention techniques to protect against leakage of confidential data at the discretion of the MIS Director.

2 Sending Large Emails

Email systems were not designed to transfer large files and as such emails should not contain attachments of excessive file size. The company asks that the user limit email attachments to 50Mb or less.

The user is further asked to recognize the additive effect of large email attachments when sent to multiple recipients, and use restraint when sending large files to more than one person.

VI DEFINITIONS FOR SECTION 209

Antivirus Software An application used to protect a computer from viruses, typically through real time defenses and periodic scanning. Antivirus software has evolved to cover other threats, including Trojans, spyware, and other malware.

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Authentication A security method used to verify the identity of a user and authorize access to a system or network.

Biometrics The process of using a person's unique physical characteristics to prove that person's identity. Commonly used are fingerprints, retinal patterns, and hand geometry.

Encryption The process of encoding data with an algorithm so that it is unintelligible without the key. Used to protect data during transmission or while stored.

Password A sequence of characters that is used to authenticate a user to a file, computer, or network. Also known as a passphrase or passcode.

Smart Card A plastic card containing a computer chip capable of storing information, typically to prove the identity of the user. A card-reader is required to access the information.

Token A small hardware device used to access a computer or network. Tokens are typically in the form of an electronic card or key fob with a regularly changing code on its display.

Blogging The process of writing or updating a "blog," which is an online, user-created journal (short for "web log").

Instant Messaging A text-based computer application that allows two or more Internet-connected users to "chat" in real time.

Peer-to-Peer (P2P) File Sharing A distributed network of users who share files by directly connecting to the users' computers over the Internet rather than through a central server.

Remote Desktop Access Remote control software that allows users to connect to, interact with, and control a computer over the Internet just as if they were sitting in front of that computer.

Streaming Media Information, typically audio and/or video, that can be heard or viewed as it is being delivered, which allows the user to start playing a clip before the entire download has completed.

Two Factor Authentication A means of authenticating a user that utilizes two methods: something the user has, and something the user knows. Examples are smart cards, tokens, or biometrics, in combination with a password.

Auto Responder An email function that sends a predetermined response to anyone who sends an email to a certain address. Often used by employees who will not have access to email for an extended period of time, to notify senders of their absence.

Certificate Also called a "Digital Certificate." A file that confirms the identity of an entity,

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such as a City or person. Often used in VPN and encryption management to establish trust of the remote entity.

Data Leakage Also called Data Loss, data leakage refers to data or intellectual property that is pilfered in small amounts or otherwise removed from the network or computer systems. Data leakage is sometimes malicious and sometimes inadvertent by users with good intentions.

Email Short for electronic mail, email refers to electronic letters and other communication sent between networked computer users, either within a City or between companies.

Mobile Device A portable device that can be used for certain applications and data storage. Examples are PDAs or Smartphones.

Spam Unsolicited bulk email. Spam often includes advertisements, but can include malware, links to infected websites, or other malicious or objectionable content.

Smartphone A mobile telephone that offers additional applications, such as PDA functions and email.

VII ENFORCEMENT

The MIS policy will be enforced by the MIS Director and/or executive team. Violations may result in corrective action, which may include suspension, restriction of access, or more severe penalties up to and including termination of employment. Where illegal activities are suspected, the City may report such activities to the applicable authorities. If any provision of this policy is found to be unenforceable or voided for any reason, such invalidation will not affect any remaining provisions, which will remain in force.

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I PURPOSE

To provide a uniform leave benefit policy.

II POLICIES AND PROCEDURES

This procedure describes the methods used by the City of Harlingen to provide uniform leave benefits. The procedure covers vacation, sick leave, holidays, qualified leave, military leave, bereavement leave, jury/court duty, administrative leave, unauthorized leave, family medical leave, natural disasters and national emergencies.

A. VACATION

Regular full-time employees, except fire department civil service shift personnel, earn vacation leave as follows based on 26 pay periods per year:

Years of Service	Bi-Weekly	Max. Annual Accrual
00 - 05 years	4.62 hours	15 days
05+ - 10 years	4.92 hours	16 days
10+ - 15 years	5.23 hours	17 days
15+ - 20 years	5.54 hours	18 days
20+ - 25 years	5.85 hours	19 days
25+ - 30 years	6.15 hours	20 days
30+ - 35 years	6.46 hours	21 days

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Fire department civil service shift personnel earn vacation leave as follows:

Years of Service	Bi-Weekly	Max. Annual Accrual
00 - 05 years	6.92 hours	15 days
05+ - 10 years	7.38 hours	16 days
10+ - 15 years	7.85 hours	17 days
15+ - 20 years	8.31 hours	18 days
20+ - 25 years	8.77 hours	19 days
25+ - 30 years	9.23 hours	20 days
30+ - 35 years	9.69 hours	21 days

Vacation leave accrues bi-weekly at the beginning of the pay period from the total service date.

1. Usage

Employees are encouraged to use a substantial portion of their vacation leave each year.

Unused vacation may be carried over as per each employee's anniversary date as follows:

Years of Service	Annually	Fire Shift Personnel
00 - 05 years	120 hours	180 hours
05+ - 10 years	128 hours	192 hours
10+ - 15 years	136 hours	204 hours
15+ - 20 years	144 hours	216 hours
20+ - 25 years	152 hours	228 hours
25+ - 30 years	160 hours	240 hours
30+ - 35 years	168 hours	252 hours

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2. Scheduling

Departments will schedule and approve leave considering their customers' needs, employees' interests and departmental operations. The following requirements apply:

- a. Vacation leave shall not be taken in less than fifteen minute increments.
- b. Vacation leave shall not be advanced.
- c. Vacation leave shall not be transferred from one employee to another.

3. Transfers, Promotions and Demotions

Laterally transferred, promoted or demoted employees shall retain accrued vacation leave.

4. Separation/Termination

Employees who have separated from their employment and have completed 90 days of employment with the City may be paid up to 144 hours of accrued leave. Fire department civil service shift personnel will be paid up to 216 hours of accrued leave.

5. Rehire

Any employee who separates from the City and is rehired will be eligible to use past service for determining the rate to accrue vacation. Prior service must have been served in a regular full-time position.

6. Full-time to Part-time

Employees transferring from regular full-time to regular part-time positions will not accrue vacation leave. Any full-time employee transferring to a part-time position will be paid for unused vacation leave; in accordance with paragraph #4 of this leave policy "Separation/Termination" above.

7. Regular Part-time, Temporary and Seasonal Employees

Regular part-time, temporary and seasonal employees do not accrue vacation leave.

B. SICK LEAVE

1. Full-time Employees

All regular full-time employees, except fire department civil service shift personnel, earn 4.62 hours of sick leave bi-weekly based on 26 pay periods per year. Sick leave accrues bi-weekly at the beginning of the pay period. Fire department civil service shift personnel earn 6.92 hours of sick leave bi-weekly (i.e. maximum annual accrual of sick leave cannot exceed 15 days per 12 month period).

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2. Full-time to Part-time

Any full-time employee transferring to a part-time position will be paid for unused sick leave; in accordance with paragraph #10 of this leave policy “Non Civil Service Employees Separation/Termination Pay” below.

3. Regular Part-time, Temporary and Seasonal Employees

Regular part-time, temporary and seasonal employees do not accrue sick leave.

4. Accumulation

Accumulation of sick leave is unlimited.

5. Well Pay Program

After one year of employment, employees who use less than five (5) days of sick leave and accrue a minimum of ten sick days during a fiscal year qualify for this program. Employees who select this option receive \$50 for each day up to a maximum of \$250 per fiscal year. FMLA sick leave taken will count as days used. For the purposes of this program, Civil Service Emergency Leave will count toward sick leave days taken. See chart below:

Days used	Days Paid	Days Accrued	Amount Paid
0	5	10	\$250
1	4	10	\$200
2	3	10	\$150
3	2	10	\$100
4	1	10	\$50

Employees who use a total of four (4) hours or less during the fiscal year for preventative health measures, will qualify for the maximum of five (5) days paid.

Payment checks will be distributed annually on the second pay period in November.

6. Usage

Sick leave may be taken in quarter- hour increments for personal illness and injury or routine health care appointments that cannot reasonably be scheduled outside work hours.

7. Care of Family Members

To assist eligible family members, employees may take accrued sick leave. This assistance will include care for a family member’s illness, disability or health appointment. For the purpose of using sick leave, an eligible family member shall be the employee’s child, stepchild, parent, stepparent and spouse. A child is defined as a biological, adopted or foster child, stepchild, child of an employee who is a legal or designated guardian or legal

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ward of the employee. The child must be under 18 years of age, or 18 years of age or older but incapable of self-care because of a mental or physical disability. Leave is limited to twelve weeks per year or the accrued balance of sick leave, whichever is greater.

8. Proof of Illness

Department Directors or their designees may require satisfactory proof of illness at any time the employee is using sick leave. A Department Director may disallow use of sick leave in the absence of satisfactory proof of need.

A Department Director may require the employee to furnish a statement from the attending physician confirming the employee's ability to resume his/her job duties before permitting the employee to return to work.

9. Illness While on Vacation

Employees who become ill or are injured during vacation may request that the vacation be terminated and the illness or injury time be converted to sick leave. Employees will be required to provide medical evidence of the illness or injury.

10. Non-Civil Service Employees Separation/Termination Pay

Non-civil service employees will be eligible to receive pay for unused sick leave upon separation as follows:

Months of F/T Service	Payment Eligibility (percent)	Maximum Paid Hours
0-24	0%	-0-
25 +	50%	Up to 360

Non-civil service employees will be paid up to 360 hours of accrued sick leave upon separation.

Sick leave payment for police and fire department personnel shall be in accordance with city policy and state law as follows:

Months of Full-time Service	Payment Eligibility (percent)	Maximum Paid Hours
0-12	0%	-0-
13 +	100%	Up to 720 (1080 for Fire shift personnel)

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Civil Service employees will be paid up to 720 hours of accrued sick leave upon separation. (Fire department civil service shift personnel may be paid for up to 1080 hours.)

C. USE OF LEAVE BY EXEMPT EMPLOYEES

Exempt employees of the City will be placed on unpaid leave for absences due to illness or injury of less than one full day when leave is not used by the employee because the employee's accrued leave has been exhausted;

Provided that the employee is paid according to the City's pay system established by a policy established pursuant to the principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the City employee's pay to be reduced for such absences.

D. EXTENDED SICK LEAVE

An extended sick leave program, as described below, is available to all full-time employees in the event of a catastrophic illness or injury suffered by the employee. This program is available, subject to donated time and other restrictions set forth, after all paid leave has been exhausted.

- (a) A catastrophic illness or injury is one that is life threatening and one that completely incapacitates an employee from performing any type of work. Examples include, but are not limited to, cancer, heart attack, or serious injuries from an automobile accident.
- (b) A catastrophic illness or injury is limited to personal, catastrophic, unplanned events and excludes on-the-job injuries covered under Workers' Compensation. No illness or injury of an employee's family will be considered for this program.
- (c) A physician's statement may be required by the Human Resources Director before an employee can be considered for this benefit.
- (d) A qualified recipient may receive up to a maximum of 720 hours of sick leave per fiscal year (90 days).
- (e) Full-time employees may donate a minimum of 8 and a maximum of 120 sick leave hours per fiscal year to a qualified recipient. No full time employee is required to donate any sick leave days under any circumstances.
- (f) Any person may advise the Human Resources Department that a full time employee is potentially a qualified recipient. Human Resources shall contact the potentially qualified recipient to ascertain if he/she wants the Human Resources Director to notify the employee's co-workers of his/her situation and solicit the donation of the co-workers' sick leave days. If the qualified employee requests the solicitation to be made, he/she shall submit a written request to the Human Resources Director. The Human Resources Director shall decide whether an employee is a qualified recipient of donated sick leave.

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If the Director determines that the employee is a qualified recipient of donated sick leave, the Human Resources Director shall solicit donations from employees.

- (g) Donations of sick leave shall be made and received at the rate of one day's pay, regardless of the salary of the donor or the done.

E. SCHEDULE OF HOLIDAYS

Official City of Harlingen holidays will be published and distributed annually.

1. Official Holidays

- New Year's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving and the day after
- Christmas Eve
- Christmas Day

An employee on unauthorized leave on the working day immediately preceding and/or following a holiday shall lose pay for the holiday as well as for the other day or days off.

Employees desiring to observe religious or other holidays not coinciding with official holidays may be given time off without pay or may be authorized to use accrued vacation leave.

If a holiday falls on Saturday, the preceding Friday shall be observed, and if a holiday falls on Sunday, the following Monday shall be observed. If one or more of the Christmas Holidays fall on a weekend, the City Manager will designate the official days of observance.

Holidays falling within an employee's vacation period or within a period of absence properly chargeable to illness shall not be counted against vacation or sick leave.

2. Regular Part-time, Temporary and Seasonal Employees

Regular part-time, temporary and seasonal employees shall not be compensated for holidays unless they work on those holidays.

In the event that a regular part-time, temporary or seasonal employee is scheduled to work during an observed holiday, he/she shall be compensated at the rate equal to two times the regular rate of pay.

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3. Department Schedules

The policy of the City will be for as many employees as possible to have approved holidays off consistent with the maintenance of essential city functions. Work schedules shall be based on department needs, and supervisors will determine holiday work schedules based on these needs.

At the Department Director's discretion, regular full-time employees scheduled to work on holidays will be scheduled for another day off, or may be compensated at a rate equal to the regular rate of pay for every hour worked on that day plus the 8 hour holiday pay.

4. Shift Schedules

Department Directors shall ensure that eligible shift workers and other employees working unusual schedules receive benefit of the full number of official holidays.

Fire department civil service shift personnel will receive 12 hours of holiday leave for each official City of Harlingen holiday regardless of whether the employee worked the holiday.

F. QUALIFIED LEAVE

Employees are entitled to four hours of leave (6 hours for fire shift personnel) for not using sick leave. The eligibility period includes 13 bi-weekly pay periods from October to March and from April to September of each year.

G. MILITARY LEAVE

1. Zero to 120 Hours

Employees are entitled to military leave with pay in accordance with state and federal laws for a cumulative maximum of 120 hours in a fiscal year.

This includes both active duty training and regular active duty. The term "with pay" means full and regular pay for days and times the employee would ordinarily have been working.

Employees must notify their supervisors before their pending duty.

2. Duty Verification

Employees shall provide written performed duty verification as soon as possible, but no later than their return to work. Verification is necessary in order to confirm payment of military pay and to confirm any veterans' re-employment rights.

Verification may include, but is not limited to, orders, drill letters, introductory schedule and a signed duty verification from the officer in charge.

H. BEREAVEMENT LEAVE

Department Directors/supervisors, after ascertaining the exact circumstances, may grant a regular full-time employee up to 16 work hours per fiscal year of paid leave for deaths within the employee's immediate family. (Fire department civil service shift personnel may receive up to 24 hours per year.) (For the purpose of bereavement leave, a "family

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member” shall be defined as a spouse, parent*, parent-in-law, child*, brother*, sister*, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, grandchild or grandparent-in-law.) Vacation or sick leave may be used to supplement bereavement leave, upon request and approval. Employees may be required, at the discretion of the supervisor, to present proof of immediate family death.

*Also includes step-.

I. JURY/COURT DUTY

A full-time regular employee who is called for jury duty or subpoenaed to serve as a witness in a court case in which the employee is not a principal (a plaintiff or a defendant) will be granted time off with regular pay for a maximum of five days. Accrued vacation or time off without pay must be used to cover any additional time needed for such purposes.

To be eligible for jury duty/court time pay, you must notify your immediate supervisor that you have received a summons or subpoena by the next workday after receiving it. Additionally, you must submit a copy of the statement from the court showing the dates you served on jury duty or as a subpoenaed witness to your immediate supervisor on the first workday following your return from court service. You are expected to work, if reasonably possible, that portion of your normal workday not spent in court performing duties in connection with court service.

1. Personal/Private Business

Employees will not be paid for time off to conduct personal or private legal business. Vacation or compensatory time may be used if approved by the supervisor and/or Department Director.

J. ADMINISTRATIVE LEAVE

1. With Pay

Employees may receive paid administrative leave for official business or other work-related matters as designated by the Department Director or designee. Other authorized purposes may include, but not be limited to, voting in official elections, investigative proceedings, jury duty, professional conferences, conventions, training activities, legislative proceedings, civic functions or any other purpose deemed to be in the City's best interests.

2. Without Pay

Administrative leave without pay will be utilized when employees have: (a) exhausted all accrued paid leave, or (b) been placed on such leave by Department Directors.

Employees on leave without pay status for 80 hours or more will not accrue benefits for that period. Employees may pay for continuing dependent health insurance coverage.

K. UNAUTHORIZED LEAVE

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Employees failing to report for duty or failure to remain at work as scheduled without proper notification, authorization or excuse shall be considered to be on unauthorized leave of absence and shall not be in pay status for the time involved. Unauthorized leave of absence for three consecutive work days shall be considered voluntary resignation by the employee.

L. FAMILY AND MEDICAL LEAVE

Eligibility for leave under the Family and Medical Leave Act (FMLA) requires that employees must have worked for the city for a total of twelve months and at least 1,250 hours in the previous 12 months. Up to 12 work weeks of Family Medical Leave may be granted during a 12-month period (see Section 212). Up to 26 work weeks of Military Family Leave under the Family Medical Leave Act may be granted during a 12-month period.

M. DISCRETIONARY LEAVE

Discretionary leave for exempt employees will be approved at the discretion of their Department Director or designee. This leave is not to be treated as compensatory time for exempt employees. It should be used on very limited occasions for exempt employees that work an unusually high number of hours.

N. NATURAL DISASTERS AND NATIONAL EMERGENCIES

During a natural disaster or national emergency, employees of the City of Harlingen may be required to work. This may require separation from family members for extended periods. Refusal to work during such emergencies may result in corrective action.

III APPENDICES

- A. Extended Sick Leave Request
- B. Sick Leave Donation Memo
- C. Extended Sick Leave Donation Form

EXTENDED SICK LEAVE REQUEST

Employee Name (Print)

Address

Employee Number/Department

City

State

Zip

Date of Hire

Telephone (home/work)

Briefly describe the nature of the illness or injury: _____

1. What is your current sick leave balance? _____ hrs; vacation leave balance? _____ hrs; compensatory time balance? _____ hrs.

2. What is your current status? (check whichever is appropriate)

☐ Working, but anticipating an extended absence due to surgery or hospitalization scheduled on or about (date) _____.

☐ Currently hospitalized or convalescing at home.

☐ Working off and on, due to ongoing medical treatments which require convalescence.

☐ Other (describe) _____

3. What date do you anticipate returning to work? _____

Employee Signature/ Date

Department Director Signature/Date

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To: City Employees

From: _____, Human Resources Director

Re: Sick Leave Donation to _____

Date:

_____ is an employee in the _____ Department. He/she has been out sick for some time and has exhausted his/her leave. We ask that you consider a voluntary contribution of some sick leave time to _____'s account.

In doing so, please be aware of the following:

1. The hours you donate will be deducted from your sick leave balance and you will notice this change on your check stub.
2. You may donate a minimum of 8 hours and a maximum of 120 hours during this calendar year to this employee.
3. You are not required to donate any sick leave time to any employee. Any donation is strictly voluntary.

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EXTENDED SICK LEAVE DONATION FORM

Donor Name _____ Position Title _____

Employee # _____ Department _____

To be completed by employee only:

Total number of accrued sick leave hours as of today's date: _____

I freely and voluntarily authorize the donation and transfer of _____ hours of my currently accrued sick leave to _____'s sick leave account. I understand and agree that these donated hours will not be returned or repaid to me in any form whatsoever.

I understand that I am not required to donate any of my accrued sick leave to any employee.

Employee Signature

Date

Confirmed by:

Department Director/Timekeeper

Date

Submit completed form to the Human Resources Department

Copy: Employee's Personnel File

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211 Dress Code

Revised 03/2019

I. PURPOSE

To outline grooming and personal appearance standards.

II. POLICIES AND PROCEDURES

All City employees, uniformed and non-uniformed, are required to report to work neat, clean, well groomed, and dressed appropriately and modestly in acceptable attire so as to present a positive, professional public image. Employees are expected to dress appropriately in business casual attire. Jeans, t-shirts, shirts without collars, shorts, and footwear such as flip flops, sneakers, and sandals are not appropriate for business casual attire. This policy is not designed to conflict with established uniform or safety codes of the individual departments.

Any employee who does not meet the standards of this policy will receive corrective action, which may include leaving the premises. Nonexempt employees will not be compensated for any work time missed because of failure to comply with this policy. Violations of the dress code may result in corrective action.

The Department Director is responsible for monitoring and enforcement of this policy.

Casual Fridays

The exception to this policy is on “casual Fridays” when less formal clothing is authorized. The employees are still expected to present a neat appearance and are not permitted to wear untidy or torn clothing, athletic wear, or similarly inappropriate clothing, this includes clothing with profane language statements or clothing that promotes causes that include, but are not limited to, politics, religion, sexuality, race, age, gender, and ethnicity.

Jewelry

All employees are prohibited from attaching, affixing, or displaying objects, articles, jewelry or ornamentation to or through the nose, tongue, or any exposed body part (includes visible through clothing) while on duty. Body piercing (except ear lobe) that is or may be visible at anytime while on duty is prohibited.

Tattoos and Brands

All employees are prohibited from exposing tattoos or brands anywhere on the body that are offensive or that advocate sexual, racial, or religious discrimination while on duty and/or uniform.

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212 Family Medical Leave

Revised 03/2019

I PURPOSE

To provide eligible employees with family and medical leave benefits, in accordance with the Family and Medical Leave Act.

II POLICIES AND PROCEDURES

Unpaid leave may be granted for any of the following reasons:

- For birth, or placement for adoption or foster care. (must conclude within 12 months of the birth or placement). In addition, if an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, or to care for a parent (but not a parent-in-law) who has a serious health condition.
- To care for the employee's spouse, son or daughter, or parent, who has a serious medical condition or
- For a serious health condition that makes the employee unable to perform the employee's job.
- For a spouse, son, daughter, or parent who is a member of any branch of the Armed Services and has been deployed or called to active duty (or has been notified of an impending call or order to active duty). FMLA eligible employees are also entitled to a combined total of 26 weeks of unpaid leave to care for certain relatives with a serious injury or illness and who are or have been military service members.

1. Serious Health Condition

For purposes of this policy, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- **inpatient care** (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of **incapacity** (i.e., the inability to work, attend school or perform other regular daily activities), or any subsequent treatment in connection with such inpatient care;

2. Continuing Treatment

Continuing treatment by a health care provider which includes one or more of the following:

- a period of **incapacity** of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves

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212 Family Medical Leave

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treatment: (i) two or more times by, or under the direct supervision of, under orders of, or on referral by, a health care provider, or (ii) by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;

- any period of incapacity due to pregnancy, or for prenatal care;
- any period of incapacity or treatment for such incapacity due to a chronic serious health condition which (i) requires periodic visits for treatment by, or under the direct supervision of, a health care provider, or (ii) continues over an extended period of time (including recurring episodes of a single underlying condition; and (iii) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
- a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, or the terminal stages of a disease);
- any period of absence to receive multiple treatments (including any period of recovery there from) by, or under the supervision of, under orders of, or on referral by, a health care provider either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

Unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease are **not** serious health conditions. In addition, routine physicals, eye examinations, and dental examinations are not considered treatment.

3. Other Employment

Under no circumstances may an employee on FMLA leave work another job, whether for pay, as a volunteer or as self-employment, unless expressly authorized in writing by the Department Director and the City Manager.

III ELIGIBILITY

The City of Harlingen will provide up to twelve (12) weeks of *unpaid*, job protected leave to all “eligible” employees in any 12-month rolling period measured backward from the date an employee uses any FMLA leave. Employees are eligible if they have worked for The City of Harlingen for at least one year, *and* for 1,250 hours in the 12-month period immediately preceding the leave.

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The City of Harlingen will require that the employee substitute for any portion of the family and medical leave all *accrued* sick leave or vacation leave. The employee may volunteer to also use his/her comp time or use leave without pay.

All substitute paid and unpaid time (including sick leave, vacation, compensatory and workers' compensation), if applicable, will run concurrently with the Family and Medical Leave.

Family and Medical Leave Act (FMLA) begins when an FMLA-qualifying situation takes place. FMLA does **not** begin when all company paid benefits have been exhausted.

IV PROCEDURE FOR REQUESTING LEAVE

In all cases, an employee requesting leave must complete an "Application for Family and Medical Leave" and return it to Human Resources for processing.

The completed application must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave.

An employee intending to take family or medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty (30) days. In the event of medical leave for planned medical treatment for the employee or for the employee's spouse, child or parent, the employee is required to make a reasonable effort to schedule the treatment so as not to unduly disrupt the City's operations.

All supervisors must **immediately** notify their Department Director if they have reason to believe an employee's absence is due to an FMLA-covered reason. (Note: Under the FMLA, an employee requesting paid or unpaid leave for an absence covered by the FMLA is not required to expressly mention FMLA. If the employee states a reason that qualifies as FMLA leave, the employee, will likely have met the FMLA's notice requirements).

V MEDICAL CERTIFICATION

An application for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Medical Certification Statement" completed by a health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. In the case of intermittent leave, the certification must also provide the dates and duration of the treatments necessitating the intermittent leave. The City of Harlingen may request a second or third medical opinion, if necessary, at the City of Harlingen's expense.

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If the employee is needed to care for a spouse, child or parent, the certification must so state, along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

Employees must also provide periodic reports during FMLA leave as to their status and intent to return to work, and will be required to submit a "fitness-for-duty" certification before an employee can return to work. In some cases the City may also require periodic recertification of the serious health condition.

If an employee fails to provide any required certification within 15 days, the City may deny leave until the certification is provided.

If an employee elects to take FMLA leave in order to care for a family member, the employee may be required to provide reasonable documentation confirming a family relationship.

VI REDUCED WORK SCHEDULE

Eligible employees may take FMLA leave on an intermittent or reduced schedule basis only if "medically necessary," or otherwise approved by their Department Director. In such cases, the employee may be temporarily transferred to alternative positions with equivalent pay and benefits. The transfer is to better accommodate recurring leave periods.

VII BENEFITS COVERAGE DURING LEAVE

During a period of family or medical leave, an employee will be retained on the City of Harlingen's health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to timely make any contributions that he or she made to the plan before taking leave. Arrangements need to be coordinated with the Risk Management Department. The City may recover premiums if paid to maintain health coverage for an employee who fails to return to work from FMLA leave, unless the employee is unable to return due to a serious health condition or something else beyond the employee's control. Medical certification is required under such circumstances. An employee is not entitled to the accrual of any seniority or employment benefits that would have occurred if not for the taking of unpaid FMLA leave. An employee who takes family or medical leave will not lose any employment benefits that accrued before the date leave began.

Retirement - Employee contributions to the retirement system may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave without pay status. It is the employee's responsibility to initiate such an arrangement by timely contacting the City's Human Resources Department and completing the necessary paperwork.

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VIII RESTORATION TO EMPLOYMENT FOLLOWING LEAVE

An employee eligible for family and medical leave - with the exception of those employees designated as “highly compensated employee” - will be restored to his or her old position or to a position with equivalent pay, benefits, and other terms and conditions of employment. The City of Harlingen cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an “equivalent position” will be made by the City of Harlingen.

An employee must complete a **“Notice of Intention to Return from Family or Medical Leave”** before he or she can be returned to active status. If an employee wishes to return to work prior to the expiration of an extended family or medical leave of absence, notification must normally be given to the employee’s supervisor at least two (2) working days prior to the employee’s planned return, where feasible.

The failure of an employee to return to work upon the expiration of a family or medical leave of absence may result in termination of employment unless an extension is granted. An employee who requests an extension of family or medical leave must do so in writing and prior to the expiration of the approved leave.

Certain highly compensated key employees may be denied reinstatement when necessary to prevent “substantial and grievous economic injury” to the City’s operations. A “key” employee is a salaried eligible employee who is among the highest paid ten percent of employees within 75 miles of the worksite. Employees will be notified of their status as a key employee, when applicable, after they request FMLA leave.

IX COORDINATION WITH OTHER PROGRAMS

If, due to business necessity, the department needs to fill the position during the leave period, authorization may be requested from and coordinated with the HR department for the hiring of a temporary employee.

X TEMPORARY REPLACEMENTS

If, due to business necessity, the department needs to fill the position during the leave period, authorization may be requested from and coordinated with the HR department for the hiring of a temporary employee.

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XI

FLSA CONSIDERATIONS

Salaried executive, administrative, and professional employees of the City who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the “salary basis” requirements for the FLSA’s exemptions extends only to eligible employees’ use of leave required by the FMLA.

XII

OTHER PROVISIONS

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

This policy is intended to explain benefits available to eligible employees under the FMLA. It is not intended to create any rights to leave beyond those created by the FMLA. If you would like additional information on the FMLA, please contact the Human Resources Department. When an employee gives notice of the need for FMLA leave, the employee will be given additional information as to his or her rights and responsibilities under the FMLA.

FMLA is enforced by the Wage and Hour Division of the U.S. Department of Labor. The agency investigates complaints of violations. For information on how to file a complaint contact the Wage and Hour Division. To locate the nearest Wage-Hour Office, telephone their toll-free information and help line at 1-866-487-9243.

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213 Employee Assistance Program

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I PURPOSE

The City of Harlingen recognizes issues may arise including personal problems that can sometimes affect an employee's attendance or work performance. This employee assistance program (EAP) is designed to help employees and their families work through personal difficulties.

II POLICIES AND PROCEDURES

The City's employee assistance program is provided through a professional behavioral health vendor. Its professional counselors can assist employees with a wide range of issues, including family problems, depression, financial concerns, stress, interpersonal conflicts, alcohol or drug abuse and other issues. Employees may be referred to the EAP Services in one of two ways:

- Voluntary self-referral
- Job performance referral

A. VOLUNTARY SELF-REFERRAL

An employee may voluntarily contact the EAP provider at any time for assistance. This self-referral can be completely of his/her own initiative. The self-referral can also be in response to informal suggestions by supervisors, through whom employees are made aware of the EAP services.

In most cases, appointments are available after normal working hours. If appointments are necessary during normal work hours, the time will be charged to accrued sick leave. If sick leave is not available, other leave may be used.

Up to three assessment visits may be provided free of charge by the EAP provider to each employee per occurrence. If additional treatment sessions are necessary, they will be covered according to the specifications of the employee's health plan.

Information regarding the reasons employees are seeking assistance through the EAP provider is strictly confidential. Supervisors should not ask what the reasons are and, if an employee volunteers any information, it should be treated confidentially.

B. JOB PERFORMANCE REFERRAL

A job performance referral by a Department Director may occur in conjunction with some form of corrective action, such as a performance improvement plan, based on documented performance deficiencies.

If a director feels that he or she should refer an employee to the EAP, the Director will contact the Human Resources Director with the initial information that the employee has been encouraged to contact the EAP provider within 24 hours. (The director may or may not have previously talked to the employee informally about seeking assistance from the EAP.). The

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director should then tell the employee that he/she is encouraged to contact the EAP within the 24-hour time period to schedule an appointment.

In most cases, appointments are available after hours. Scheduled appointments during working hours for a maximum of five (5) assessment visits should be recorded as time worked. An employee should not have his or her time docked for job performance referred the EAP provider assessment appointments up to a maximum of five (5) visits.

Up to five assessment visits may be provided at no charge by the EAP provider to the employee. If additional treatment sessions are necessary, they will be covered according to the specifications of the employee's health plan and may be charged to sick leave or other paid or unpaid leave.

Although case specifics will be treated confidentially, the EAP provider will inform the Human Resources director whether an employee has attended the scheduled appointments.

If job performance does not improve, the director may continue the performance management process, whether or not the employee contacted the EAP.

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214 Separation of Employment

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I PURPOSE

To provide employees with various types of separation from City service in good standing.

II POLICIES AND PROCEDURES

This policy provides good-standing separation procedures for resignations, retirements, long term absence, layoffs and military service.

A. RESIGNATION

Employees may resign from City service in good standing by submitting their written resignations at least two weeks before their termination date.

B. RETIREMENT

Eligible employees may retire from City service in accordance with applicable programs.

C. INCAPACITY- Non Civil Service Employees

Incapacity can result from on-the-job injuries or from injuries or illnesses not related to the job or workplace. Incapacity occurs when an employee, for medical or psychological reasons, is unable to perform his/her essential job functions.

Should an employee's ability to physically or mentally perform his or her job duties be questioned, the Department Director may require the employee to submit medical or psychological information from the employee's physician or mental health care provider which evaluates fitness to perform essential job duties, as established in the employee's job description.

Incapacity policies are discussed below:

1. Work-Related Incapacity

An employee may be terminated for work-related incapacity after one year, or at the expiration of the employee's paid sick leave, whichever is later. In addition to collecting benefits under Texas Workers Compensation Act, the employee may utilize accrued paid leave (comp time, vacation and sick leave) to supplement his/her temporary income benefit. In order to ensure adequate staffing, the City will elect to pay an employee his/her remaining unused sick leave after one year's absence from employment (remaining unused sick leave period). Nothing in this section precludes the City from hiring an employee to perform the duties previously performed by the injured employee. Employees who are off on work-related incapacity shall be placed on FMLA leave immediately following the injury.

2. Non-Work-Related Incapacity

An employee may be terminated due to non-work-related incapacity after one year, or at the expiration of the employee's paid sick leave, whichever is later. For employees who have

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accrued less than one year's paid sick leave, vacation and other paid leave, the one year's leave of absence may be a combination of paid and unpaid time off. In order to ensure adequate staffing, the City may elect to pay an employee his/her remaining unused sick leave after one year's absence from employment. Nothing in this section precludes the City from hiring an employee to perform the duties previously performed by the incapacitated employee. Employees who are off work due to non-work-related incapacity shall be placed on FMLA leave immediately upon the occurrence of the incapacity.

3. Benefits During Incapacity

During the time that an employee is off work due to a work or non-work related incapacity, the employee will be able to continue his/her coverage under the City's medical insurance. The employee's share of the insurance shall be paid by the City during the period in which the employee has accrued sick leave; however, once accrued sick leave is exhausted or bought out, the employee is responsible for paying the premiums for his/her dependent coverage. At all times, the employee remains responsible for paying the employee's share of the premiums for dependents, if they are covered under the City's plan.

4. Incapacity Determination

Once an employee has exhausted the one year period, or all of his/her sick leave (unless the City has paid the employee for his unused sick leave in excess of one year), whichever period is longer, the City will determine whether the employee is qualified to return to work or will be separated from the City's employment. In making this determination, the supervisor and Department Director must determine whether the employee can then perform the essential functions of his/her position. The employee will be required to submit a doctor's report detailing the employee's ability to perform those essential functions.

The City may require a second opinion from a health care provider of the City's choice. If there is a conflict between the employee's physician's report and the opinion from the second health care provider, then the City may require a third medical opinion from a health care provider selected by the City. All costs associated with obtaining the second and third opinions shall be paid by the City.

In determining whether the employee will be separated from the City's service at the expiration of the leave period, the City will also consider whether the employee has a disability for which an accommodation may be made.

D. LONG TERM ABSENCE/TERMINATION

Brief appearances at work during a long term absence will not prevent the City from terminating the employee under this policy if it is determined to be in the City's best interest. Likewise, any employee who reports to work (e.g., in a light duty capacity) but is unable to perform the duties of his or her actual position for a one year period will be terminated. (Refer to the City's Limited Duty Policy).

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This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act and FMLA.

E. LAYOFFS

Layoffs may be necessitated in the best interests of the citizens and the organization. Criteria for layoffs associated with a reduction in work, service level or funding will be different from those associated with a change in duties or organization. Layoff criteria will be prepared and layoffs must be approved by the City Manager.

Layoff lists will be determined from demonstrated employee job performance; an employee's unique qualifications, knowledge and skills; and corrective action history. Layoffs shall not be considered corrective actions.

Laid-off employees, including temporary employees separated upon completion of duties, may be routinely recalled at any time, provided they remain qualified to perform the essential job functions.

F. MILITARY SEPARATION

Employees leaving City service in good standing to enter active duty or for active-duty training with the armed forces of the United States shall be eligible for reinstatement in accordance with applicable state and federal laws.

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215 Reinstatement

Revised 03/2019

I PURPOSE

This procedure describes the City of Harlingen's policies concerning reinstatement and eligibility for re-employment.

II POLICIES AND PROCEDURES

A. LAID-OFF EMPLOYEES

Employees who were laid off, including former temporary employees separated upon completion of duties, may be routinely recalled to work at any time, provided they remain qualified to perform the duties of the positions.

B. VETERANS

Employees who left the City service in good standing to enter active duty or for active-duty introductory with the armed forces of the United States shall be eligible for reinstatement in accordance with applicable state and federal laws.

C. ELIGIBILITY FOR REEMPLOYMENT

Former employees not eligible for reinstatement under the above provisions of this procedure may be considered for employment as members of the general public, depending upon the circumstances of their separation from city employment. Reemployed employees will be at-will employees and subject to the introductory period requirements.

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216 Corrective Action

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I PURPOSE

To provide a uniform and consistent policy for employee corrective action and establish guidelines for management actions designed to correct the conduct of employees who have engaged in unacceptable conduct.

II POLICY

Subject to the rights reserved in Section VIII, it is the policy of the City of Harlingen to use, when appropriate, positive measures and a process of corrective action to minimize and/or resolve employee performance or conduct problems before more serious actions must be taken.

III POLICY GOAL

It is the goal of the corrective action process to give employees, when appropriate, the opportunity to improve by identifying what specific actions they must take in order to meet conduct standards; and to ensure that corrective action procedures are applied fairly and consistently, in accordance with relevant facts, City policies, ordinances, and work rules.

IV APPLICATION OF POLICY

1. Introductory Employees

This policy does not apply to introductory employees. An introductory employee may be discharged without right to review or appeal unless otherwise required by law.

2. Regular Employees

Situations involving employees who have completed their introductory period may be dealt with corrective action.

V PROHIBITED ACTIVITIES

Corrective action will be imposed for violations of City or Departmental policies and procedures, codes of conduct, rules and regulations, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulations, yet may adversely affect the City or put the health and safety of fellow employees or citizens at risk, may also result in corrective action. It is impossible to list all the forms of

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behavior that are considered unacceptable in the workplace. The following are some examples of conduct that will likely result in corrective action, up to and/or termination of employment:

- Inappropriate removal or use of property not your own
- Falsification of timekeeping or other records, including employment application
- Working under the influence of alcohol or illegal drugs or abuse of legal drugs
- Sexual or other form of harassment
- Excessive absenteeism or tardiness or absence without notice
- Breaks in excess of the allotted time allowed
- Violation of smoking policy
- Profanity or abusive language
- Violation of safety or health rules and failure to immediately report an on-the-job injury
- Coercion, intimidation, or threats against citizens, supervisors, coworkers, or City officials
- Making or publishing false, vicious, or malicious statements about the City, a coworker, or a supervisor
- Possession, distribution, sale, transfer, or use of alcohol, illicit drugs or illegal inhalants in the workplace, while on duty, or while operating City-owned equipment
- Interfering with work schedules or another employee's ability to work
- Misuse of City telephones, computers, mail systems, etc.
- Unauthorized disclosure of confidential information
- Violation of City or Departmental policies, codes of conduct, rules and procedures
- Failure to be considerate of coworkers, citizens or others
- Unsatisfactory performance or conduct
- Disruptive activity in the workplace
- Fighting, provoking or instigating a fight, or threatening violence in the workplace
- Conduct which results in waste or damage of coworkers', City or citizen-owned property
- Possession of weapons on City time, City premises, or while on City business (except for licensed peace officers and animal control officers required to carry a weapon as part of their job duties)
- Failure to timely return to work upon conclusion of authorized leave or corrective action suspension

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- Outside employment that conflicts with, or potentially conflicts with, City interests
- Insubordination or other disrespectful conduct
- Violation of local, state or federal laws
- Lying or willful omission of fact
- Failure or refusal to follow lawful orders
- Sleeping on the job (except for Fire Department personnel who are governed by applicable Fire Department Rules and Regulations)
- Dishonesty, including misrepresentation during hiring process

VI SUSPENSIONS AND TERMINATIONS

Engaging in certain misconduct subjects an employee to suspension and/or termination, rather than providing an opportunity for correction of behavior through corrective action.

VII CORRECTIVE ACTION PROCESS

The following outlines the corrective action process. Depending on the circumstances of each individual case, corrective action may consist of one or more of the following:

A. INFORMAL DISCUSSION/COUNSELING

When a problem or behavior problem is first identified, the problem is discussed with the employee, along with the steps that need to be taken in an effort to resolve the problem.

B. VERBAL REPRIMAND

If counseling fails to produce the desired changes, the employee receives verbal notice of unacceptable behavior, and a warning that future unacceptable behavior may result in further corrective action. The warning includes:

- The employee's name
- The date of the warning
- The specific offense and date of occurrence.
- A specific statement of expected performance.
- Any explanation or other information that is necessary to make the warning effective.
- Name of Supervisor issuing warning.
- Notation whether employee warning is being given during the employee's introductory period.

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C. WRITTEN REPRIMAND

If the problem which was the subject of a verbal warning persists or if the employee engages in other unacceptable conduct, the employee may receive a written reprimand. In addition, the employee will be advised that continuation of the problem may lead to suspension without pay for a stated period of time and/or termination. The employee is provided an opportunity to demonstrate the behavior is not likely to occur in the future. The written reprimand includes:

- The employee's name
- The date of the warning
- The specific offense and date of occurrence
- References to previous verbal and/or written warning(s)
- A specific statement and date of expected performance and/or changes of behavior.
- Any explanation or other significant information.
- The employee's signature acknowledging receipt, or notation of refusal to sign
- Notation whether reprimand is being given during the employee's introductory period.
- Consequences

Records of all corrective actions must be kept in an employee's official personnel file.

D. DECISION MAKING LEAVE

Decision-making leave with pay may be appropriate in some situations. It may be used alone, as an alternative to corrective action. The purpose of decision-making leave with pay is to give employees time to decide if they wish to remain employed by the City, and if so, if they can and will correct their behavior. Decision-making leave with pay may only be used one time for the same employee and cannot exceed one day or one shift, as appropriate.

E. SUSPENSION OR INVOLUNTARY DEMOTION

If verbal and written warnings fail to bring about a change in conduct, the employee, following an informal opportunity to present the employee's side of the story, may be suspended without pay, or involuntarily demoted and informed in writing that further occurrences will likely lead to notice of intent to terminate.

- There may be an investigative suspension with pay pending the completion of the City's investigation. If warranted, the investigative suspension may be replaced by suspension pending a termination review by the Human Resources Director or designee.
- The employee shall sign the notice of suspension or involuntary demotion acknowledging receipt of the notice or the employee's refusal to sign shall be noted.
- If the City determines no misconduct occurred, the City may, in its sole discretion, make the employee whole by reimbursing for lost pay, if any, and returning the employee to work.

Exempt employees may only be suspended without pay in week-long increments (e.g., one week or three weeks), unless the suspension is for a serious violation of City or departmental safety rules.

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F. TERMINATION

When unacceptable conduct is severe enough or continues after verbal warnings (s), written warnings(s) and suspension, the City will initiate termination.

The termination of any employee is considered to be a very serious situation that requires a carefully conducted prior review. Accordingly, no supervisor is authorized to cause the discharge of any employee without prior review and approval. This review and approval will involve the Department Director, the Human Resources Director and the City Manager.

An employee who is terminated because of violation of City policy will not be permitted to return to his department or work area, or to any other department or work area other than the Human Resources Department, without specific approval by his Director and the Human Resources Director.

All termination notices shall be hand delivered or sent certified mail.

VIII RIGHTS RESERVED

The City may bypass any or all forms of corrective action, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, frequency or combinations of infractions, the employee's length of service and any mitigating circumstances.

A. OPPORTUNITY TO RESPOND

Where action involves suspension of one day or one shift (or more), a reduction of an employee's rate of pay, involuntary demotion and/or termination, the employee will be given an opportunity to respond to the allegations prior to action being taken.

B. REVIEW BY HUMAN RESOURCES DIRECTOR

Any proposed corrective action in excess of a written reprimand must be reviewed by the Human Resources Director prior to being given to the employee. This applies to both introductory and non-introductory employees.

C. AT WILL PROVISIONS

All employees of the City of Harlingen, except for those covered by Civil Service, are at will employees and have no expectation of continued employment, promotion or any other personnel benefit including but not limited to, sick leave, vacation leave, compensatory time, group health and life insurance except as required by federal and state law.

Employees who do not have a written, individual employment contract, signed by the City Manager and the affected employee, for a specific, fixed term of employment, are employed at will. This means that no individual supervisor has the authority to create an employment

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contract with an employee for any specified length of time. Either the employee or the City may terminate the employment relationship at any time, without notice or cause.

IX FELONIES AND MISDEMEANORS

Employees must immediately notify their supervisor and/or their Department Director if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead nolo contendere to any misdemeanor or felony; provided, however, employees who do not drive as part of their job duties with the City are not required to report minor traffic violations. An employee arrested, charged or indicted for a felony or misdemeanor, or accused of official misconduct or other serious criminal violation, may be placed on administrative leave (with or without pay) until the charge, indictment or information is dismissed or fully adjudicated without trial, and, if tried, until the trial and appeal (if any) are completed and all related administrative matters are concluded. Such a determination will be made by the appropriate Department Director and the City Manager. An employee on administrative leave may be reinstated to the position held before being placed on administrative leave (if available) if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.

The City reserves the right to conduct criminal checks on employees at any time, to determine if an employee has been arrested, convicted or has otherwise disposed of a criminal charge. In the event an employee has failed to report an arrest, conviction, deferred adjudication or other disposition of a criminal matter, as required in this Section, the employee may receive corrective action and/or discharge.

X NO RIGHT OF APPEAL

There shall be no appeal of suspension, involuntary demotion or termination and the decision of the Manager is final.

XI APPENDICES

- A. Verbal Reprimand
- B. Written Reprimand
- C. Suspension

VERBAL REPRIMAND

TO: (Employee's Name and Title)

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Verbal Reprimand

Note to Supervisor---- check one:
Is employee on initial introductory period? ____Yes ____No

You are hereby notified that you are receiving a verbal notice of unacceptable behavior as a result of the following:

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in corrective action and/or termination as outlined in Section 216 of the Personnel Policy.

Supervisor's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

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WRITTEN REPRIMAND

TO: (Employee's Name and Title)

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Written Reprimand

Note to Supervisor---- check one:
Is employee on initial introductory period? ____Yes ____No

You are hereby notified that you are being reprimanded as a result of the following:

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in corrective action and/or termination as outlined in Section 216 of the Personnel Policy.

Supervisor's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

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SUSPENSION

TO: (Employee's Name and Title)

FROM: (Supervisor's Name and Title)

DATE:

SUBJECT: Suspension

Note to Supervisor----- check one:
Is employee on initial introductory period: ____Yes ____No

You are hereby notified that you are being suspended without pay for (indicate number of working days) beginning on (date) thru (date). You are to report back to your assigned duties, as scheduled on (date).

Reason For Action:

CHARGE: Violation of (specify written law, rule, regulation, policy, procedure, etc.)

SPECIFICATION: (Facts)

You shall refrain from further misconduct of this nature. Any recurrence in the future or any other conduct that is a violation of City policies and procedures or not in the City's best interest will likely result in corrective action and/or termination as outlined in Section 216 of the Personnel Policy.

Manager's Signature

Date

I acknowledge receipt of this memorandum.

Employee's Signature

Date

cc: Human Resources-Personnel File

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217 Internal Complaints

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I PURPOSE

To provide an administrative procedure that allows employees access to the City's chain of command, including the City Manager, for certain categories of complaints specified in this policy.

II POLICY

It is the policy of the City of Harlingen to provide an appeal procedure through the administrative chain of command, including the City Manager to bring certain categories of complaints to the attention of the City Manager.

III GROUNDS FOR COMPLAINT

A complaint is an allegation by an individual non-civil service employee who contends that a co-worker or supervisor has violated a City or Department rule or regulation and that this violation has negatively affected the aggrieved employee.

The complaint procedure provided in the following sections is not available to an employee who has been involuntarily dismissed from employment with the City of Harlingen or to an employee who has not completed his or her initial introductory period.

IV COMPLAINT PROTECTION

Employees who use this complaint procedure in good faith shall not suffer any adverse action for utilizing the complaint procedure. However, an employee who abuses the complaint process may be subject to counseling and corrective action if the City Manager finds the complaints to be not only unfounded, but also misleading, grossly inaccurate, untruthful, or frivolous.

V INFORMAL COMPLAINT

Any grievance or complaint that an employee may have must first be brought to the attention of supervisory personnel, and a reasonable effort must be made to resolve the complaint at the lowest appropriate level of the chain of command. Any department policy that addresses complaint processing must be followed as well.

Therefore, the first step in the complaint procedure is for the employee to attempt to resolve the grievance by an informal conference with his or her immediate supervisor within a reasonable

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time after the events upon which the complaint is based. A reasonable time shall depend on the facts and circumstances of the particular complaint, but this policy will presume that most complaints should be brought to the attention of the chain of command within ten working days.

If an informal conference with the supervisor does not result in a resolution of the problem(s) that is satisfactory to the employee, the employee may file a formal grievance.

If the complaint is against the employee's immediate supervisor, a formal complaint must be filed with the next level of supervision or up to the Department Director level.

If the complaint is against the Department Director, a formal complaint must be filed against the Department Director with the Human Resources Department.

VI

FORMAL COMPLAINT

Formal complaints shall be in writing, signed by the employee, and presented to the Department Director or to the City Manager, as appropriate, within ten (10) working days after the informal conference is held.

All complaints must be written and submitted to the employee's Department Director, on the City's grievance form. The grievance form must be fully completed by the employee before it will be considered.

A formal complaint to the department director or to the City Manager must contain the following minimum information:

1. the employee's name, title, department, and contact information;
2. a description of the incident or event that is the subject of the complaint, to include the date, time, location, and circumstances of the incident or event;
3. a listing of all persons who have personal knowledge of the incident or event in question;
4. a listing, or copies, of the rules, regulations, or policies that the grievant claims have been violated;
5. a statement of what steps have been taken to resolve the matter within the existing chain of command; including the informal conference, if any. If no such effort has been attempted, the reasons for this shall also be explained; and,

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6. a statement of what remedy is sought and the reasons for that request.

The complaint must be both signed and dated by the grievant to be considered.

The City Manager shall, within a reasonable time depending on the nature of the grievance:

- 1) Investigate the complaint and come to a decision on the grievance;
- 2) Communicate the decision on the complaint to the employee, in writing, within a reasonable time after submission of the formal complaint for City Manager review.
- 3) The decision made by the City Manager shall be final. No appeal to the City Commission is allowed.

Group Complaints shall not be allowed. However, if the nature of the complaint involves the application or interpretation of a policy decision that affects other similarly situated employees, this affect should be brought to the attention of the department director or the City Manager.

VII

INVESTIGATION PROCEDURE

The manner of investigating the complaint shall be left to the discretion of management, but will normally involve, at minimum, an interview with all parties identified as being involved and a review of all documents relative to the complaint.

VIII

APPENDICES

A. Complaint Form

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**City of Harlingen
Employee Complaint Form**

_____ **Supervisor**
_____ **Dept. Director**
_____ **H.R. Director**
_____ **City Manager**

Employee Information

Name of Employee claiming incident: _____

Employee's Job Title: _____

Incident Information

Date/Time of Incident: _____

Location of Incident: _____

Description of Incident: _____

Witnesses to Incident: _____

In your opinion, was this problem / incident in violation of a City policy?

Yes ____ No ____ If yes, specify which policy and how the incident violated City policy

What ideas do you have for resolving/remedying the situation? _____

Is there any other information you feel is relevant to this situation? _____

Signature of person preparing report: _____ Date: _____

*At each level of review, the responding party must attach a dated and written decision regarding the complaint.

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I PURPOSE

The citizens and taxpayers of the City of Harlingen expect that the City workplace will be free from the harmful influences of intoxicating beverages, illicit drugs and illegal inhalants. Likewise, it is the City's desire to provide a drug-free, healthful and safe workplace for its employees. Accordingly, the following is established as the City of Harlingen Substance Abuse Policy, which shall be applicable to all employees of the City of Harlingen, unless otherwise noted.

II POLICIES AND PROCEDURES

A. DEFINITIONS

1. **Performing safety sensitive functions, as used in subsection J of this policy (Random Testing of City Employees),** shall mean:
 - a. Sworn police officers;
 - b. Employees required to carry a firearm as part of their job duties;
 - c. Fire fighters whose job duties include driving or operating a fire apparatus;
 - d. Employees in positions requiring a Commercial Driver's License (CDL) and/or functioning in a safety sensitive position covered by DOT/FMCSA drug and alcohol testing regulations, to include those employees driving, operating, being on-call or on standby to drive or operate a "commercial motor vehicle" which is a vehicle that is designed to carry 16 or more passengers and/or weighs 26,001 pounds or more, and includes those employees whose job duties include loading, unloading, inspecting, and/or working on such vehicle(s) in any way which would affect vehicular performance or safety; and
 - e. Any other employee as may be designated by the Manager or his/her designee.
2. **Illicit drugs** shall mean those substances deemed unlawful and/or illegal, including drugs which are legally obtainable but which were not legally obtained, and prescribed or over-the-counter drugs which are not being used as prescribed or as intended by the manufacturer.
3. **On the job or on duty** is defined as follows:
 - a. Presence at any place or location during working hours or while on duty;
 - b. Presence in a City-owned or City-leased vehicle at any time;
 - c. Presence in a privately owned vehicle which is being used to conduct City business or perform City functions;
 - d. At any time when conducting City business or performing City functions;

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- e. While operating or using any City-owned or leased property or equipment; or
- f. While wearing a City uniform.

4. Under the influence of illicit drugs shall mean having present in the body or urine a quantity of an illicit drug sufficient to register a positive test result.

5. Under the influence of alcoholic beverages is defined as follows:

- a. Having an alcohol concentration equal to or greater than 0.04 grams of alcohol per 100 milliliters of blood; or
- b. Having an alcohol concentration equal to or greater than 0.04 grams of alcohol per 210 liters of breath.

6. Alcoholic beverages shall mean alcohol or any other substance containing more than 1/2 of 1 percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

7. Reasonable suspicion shall mean a suspicion based upon facts which would lead a reasonably prudent person to believe it likely that the employee in question was under the influence of illicit drugs, inhalants or alcoholic beverages as defined herein.

For purposes of this policy, reasonable suspicion is a belief based on articulable observations (*e.g.*, observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury or “near miss”, evidence of possession of substances or objects which appear to be illicit drugs, or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illicit drugs, inhalants or alcoholic beverages.

8. Employee Assistance Program (EAP) shall mean a counseling service or agency currently under contract with or utilized by the City of Harlingen to provide counseling, assistance, referral or related support to City employees suffering from problems related to drug and/or alcohol abuse.

9. Under the influence of illegal inhalants shall mean not having the normal use of mental or physical faculties by reason of the introduction of illegal inhalants into the body. Illegal inhalants includes abusable volatile chemicals as defined in Chapter 485 of the Texas Health and Safety Code.

10. Refusal to submit (to an alcohol or controlled substance test) shall mean:

- a. Failure to provide adequate breath for testing without a valid medical explanation after receiving notice of the requirement;
- b. Failure to provide adequate urine for controlled substances testing without a valid medical explanation after receiving notice of the requirement;
- c. Engaging in conduct that obstructs or impairs the testing process.

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B. PROHIBITED CONDUCT

All employees of the City of Harlingen are hereby prohibited from engaging in the following conduct:

1. **Illicit Drugs** – Using or possessing without a valid treating physician prescription, purchasing, selling or otherwise distributing illicit drugs while on the job or on City property.

Further, nothing contained herein is intended to authorize, permit or condone the possession, sale, distribution or use of any illegal or controlled substance, including, without limitation, any and all "designer drugs." The possession, sale, distribution or use of such illegal or controlled substances will likely result in termination of employment.

2. **Alcoholic Beverages** - Using, purchasing, possessing, serving, selling or otherwise distributing alcoholic beverages while on the job unless expressly authorized in writing by the City Manager. The term "on the job" includes lunch and all authorized breaks. The term "possessing" shall not apply to bottles or containers which are sealed and located in a nonpassenger compartment of a privately owned vehicle.

The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. At no time may an employee under the influence of alcohol drive a City-owned or leased vehicle or operate or use other City-owned or leased property or equipment. Further, an employee on duty or conducting City business, including City-related business entertainment, may not drive his or her own personal vehicle while under the influence of alcohol.

Absent specific approval by the City Manager, City employees may **not** bring alcoholic beverages on City premises, including parking lots adjacent to City work areas, and may **not** store or transport alcohol in a City-owned or leased vehicle.

Certain City Police Department employees are required to be in possession of alcohol and/or illicit drugs in carrying out their job duties. Such employees will be exempted from certain portions of this policy under certain limited conditions; these employees will be advised in writing of the specific exemptions applicable to them. Additional guidelines will be established by Police Department operating procedures.

3. **Illegal Inhalants** - Using, purchasing, possessing, selling or otherwise distributing illegal inhalants in violation of Chapter 485 of the Texas Health and Safety Code.
4. **Reporting for work**, remaining on the job while under the influence, or testing positive for any of the following:
 - a. Illicit drugs,
 - b. Alcoholic beverages, or
 - c. Illegal inhalants

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5. Drug Related Paraphernalia -This policy also prohibits the use, possession, distribution and sale of drug-related paraphernalia while on City premises or while on duty. Drug-related paraphernalia includes material and/or equipment designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing illicit drugs into the body.

6. On-Call Employees - Employees scheduled to be on-call are expected to be fit for duty upon reporting to work. Any employee scheduled to be on-call who is called out is governed by this policy. Sometimes an employee who is not scheduled to be on-call may nevertheless be called out. If this occurs and the employee called out is under the influence of illicit drugs and/or alcohol such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty; the employee will not be required to report to work.

7. Off-Duty Conduct- The City may take corrective action, and/or termination of employment, if an employee's off-duty use or involvement with illicit drugs, alcoholic beverages and/or inhalants is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use or involvement adversely affects the employee's job performance.

C. PERMISSIVE USE

- 1. Permissive Use of Prescribed and Over-the-Counter Drugs** -The legal use of prescribed and over-the-counter drugs is permitted while on the job and while on City premises only if it does not impair an employee's ability to perform the essential functions of the job (or operation of a vehicle, property or other equipment) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion, or trembling.
- 2. Permissive Use of Alcohol** - Reasonable alcohol consumption is not objectionable at certain City-sponsored social events, certain City parties, business entertainment if appropriate (but not during business lunches) and as may otherwise be specifically approved in advance by the City Manager. However, **no employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol.**

D. DRUG/ALCOHOL TESTING

Any time there exists a reasonable suspicion that an employee has violated the provisions of Paragraph II.B. hereof, the City may require the employee to submit to drug or alcohol testing. Likewise, the City may require testing after a workplace injury or accident or "near miss" or in connection with any required treatment or rehabilitation. Failure of the employee to submit to drug or alcohol testing will likely result in disciplinary action up to and including termination.

E. SUBSTANCE ABUSE AMONG CURRENT EMPLOYEES

This section sets forth the procedures for enforcing the provisions of the City of Harlingen Substance Abuse Policy.

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- 1. Testing** - Drug testing of an employee for illicit drugs, illegal inhalants or alcoholic beverages will be conducted only upon written authorization by the Manager or the Department Director, working together with the Human Resources Department. A written (Reasonable Suspicion Observation Form, Appendix D) form will be required from the person(s) who observed the employee, describing the specific behavior that supports testing (e.g., the who, what, when, where of the employee's behavior and other symptoms from other employees or third parties, and other evidence supporting the reasonable suspicion testing). In all cases, consultation with the Legal and/or Human Resources departments is required prior to testing.

To the extent possible, testing will normally be done during the employee's normal work time. Testing should be arranged as soon as possible after the articulable observations. If testing is required after normal business hours, the supervisor should call the Risk Manager (the Safety Coordinator or Human Resources Director, if employed with HWWS) who will refer them to the appropriate testing facility.
- 2. Observation** - Observable facts which may provide a basis for "reasonable suspicion," include, but are not limited to, one or more of the following: the odor of alcoholic beverages or other intoxicants, significant confusion or disorientation, slurred speech, erratic behavior, excessive or unexplained tardiness or absenteeism, or an on-the-job accident, or injury or "near miss".
- 3. Awareness** - Any employee having knowledge that another employee is in violation of the substance abuse policy is strongly encouraged to report such information to his/her supervisor, Department Director or to the Human Resources Director.
- 4. Authorization** - If drug and/or alcohol testing is authorized, the employee will be required to sign a consent form. After giving his/her consent, the employee will be transported immediately to an appropriate facility and required to provide a blood, breath or urine sample as appropriate.
- 5. Analysis** – All urine is collected as a split specimen and will be analyzed by a licensed toxicology laboratory or other appropriate facility designated by the City. If such analysis yields a positive result, a confirmatory analysis will be performed. If the employee challenges the validity of the test, the employee has the option of a second test at the employee's expense. All breath samples will be analyzed by a trained breath alcohol technician. An alcohol concentration of 0.04 or greater is considered a positive test result, and will likely result in dismissal. An alcohol concentration of 0.02 or greater, but less than 0.04, may result in dismissal; however, at the Department Director's discretion and based on the individual circumstances, the employee may receive a lesser corrective action.
- 6. Administrative Leave** – Any employee required to provide a specimen or sample under "Reasonable Suspicion", may be placed on administrative leave with or without pay pending receipt by the City of written results of the drug and/or alcohol testing. If the results indicate violation of Paragraph II.B. of the policy, a dismissal action will be initiated.

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- 7. Grounds for Dismissal** - Violation of Paragraph II.B., II.D., II. K., or any other section of this policy may in dismissal.

Nothing contained herein shall be construed to limit, restrict, modify or condition the investigation by appropriate law enforcement officers of any alleged criminal activity.

F. PRE-EMPLOYMENT TESTING

Post offer applicants for employment with the City of Harlingen will be required to submit to pre-employment drug testing prior to hiring. The City of Harlingen will post public notices that pre-employment drug testing will be required. Only applicants who have completed the interviewing and selection process and are still being considered for employment will be required to submit to drug testing. Any job offer that is extended to an applicant will be contingent upon test results that do not indicate a positive result.

The applicant will be requested to sign a Controlled Substances and/or Alcohol Test Authorization/Consent Release Form. If the applicant is a minor, he/she and his/her parent or legal guardian must also sign a Parental Consent and Release Form. Any applicant who refuses to sign a consent form or who refuses to undergo the drug testing will be ineligible for future employment consideration with the City of Harlingen.

If the analysis indicates the presence of illicit drugs as defined in the City of Harlingen's Substance Abuse Policy, a confirmatory test will be performed. If this second test confirms the positive test result, the applicant will be given the opportunity to provide written proof within 24 hours that the applicant has a current, valid prescription for the substance in question, failing which, the applicant will be denied employment and disqualified for further consideration.

G. INTERDEPARTMENTAL PROMOTIONS AND TRANSFERS

Drug testing shall be administered for employees who are transferring into positions requiring Department of Transportation testing if the previous position did not require that testing.

H. EMPLOYEE ASSISTANCE PROGRAM

An Employee Assistance Program is available to employees who voluntarily seek assistance or are referred under this policy for substance abuse problems.

- 1. EAP Availability** - Prior to a suspected violation under Sections II.B., II.D., II.K., or any other section of this policy, any employee may avail himself/herself of the Employee Assistance Program. In order to do so, the employee must do the following:
- a. Communicate to his/her Department Director, or Human Resources that he/she is, or may be, suffering from illicit drug, illegal inhalant, or alcohol abuse or addiction;
 - b. Agree and commit in writing to undergo or participate in a program of counseling, treatment or therapy prescribed or recommended by the Employee Assistance Program;
 - c. Execute a release which will authorize any and all doctors, counselors, therapists or other care providers to provide to Human Resources, upon written request, a statement as to whether the employee is fulfilling all the requirements or obligations of his/her Program,

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whether the Program has been successfully completed, and whether the employee is released to continue work with the City; and

- d. Agree in writing, upon successful completion of the Program, to pass an initial test for illicit drugs and/or alcohol before returning to work and to submit to periodic and/or random drug and alcohol testing for a period of at least six months following completion of the Program. This agreement is a condition of continued employment.
- e. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, corrective action may request approval to take a one-time leave of absence to participate in a rehabilitation or treatment program. (An employee may not enroll in a rehabilitation or treatment program in lieu of corrective action.) The one-time leave of absence may be granted in the City's sole discretion and as may otherwise be required under the Family Medical Leave Act. Factors considered by the City in deciding whether to grant leave include the length of the employee's employment with the City, the employee's prior work and corrective action history, the employee's agreement to abstain from the use of the problem substance and follow all other requirements of the rehabilitation/treatment program, the reputation of the program and its reasonable likelihood of a successful outcome, the employee's compliance with City policies, rules, and prohibitions relating to conduct in the workplace, and the resulting hardship on the City due to the employee's absence.

2. **Employee Protection** - So long as the employee is fulfilling all requirements and obligations of the Program, he/she will not be subject to corrective action for prior violation(s) of the Substance Abuse Policy, unless there is a subsequent violation of this policy.

I. TREATMENT PROGRAM AVAILABILITY

An employee who seeks services by a treatment program other than the City's Employee Assistance Program is encouraged to check with his/her medical carrier to determine the availability and level of insurance coverage for such services. There are a number of drug/alcohol treatment programs available. An employee who wants to know more about the Employee Assistance Program and its services may contact Human Resources or may call the Employee Assistance Program directly.

J. RANDOM TESTING OF CERTAIN CITY EMPLOYEES

The City, at its discretion, will conduct separate random drug and/or alcohol testing for all employees performing safety sensitive functions.

1. Testing will be conducted on a random, unannounced basis. Individuals will be randomly selected via computer by the clinic under contract with the City of Harlingen for the testing services.
2. Prior to the implementation of random drug testing for newly designated safety sensitive positions, all affected employees will be given a 30 days notice that the program will be implemented.

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K. REFUSAL TO COMPLY

Any conduct resulting in obstruction of the testing policy is considered a violation of this policy. It includes but is not limited to the following:

1. Refusal to submit to any type of required drug testing and/or alcohol testing covered by this policy;
2. Refusal to report to the testing facility on the day and time the employee was told to report;
3. Refusal to sign or complete any documents required by the City of Harlingen or by the testing facility;
4. Tampering with a specimen or attempting any form of adulteration of a specimen;
5. Failing to remain readily available for testing after an accident, injury or “near miss” (when applicable under this policy); or
6. Failing to provide adequate breath or urine for testing purposes without a valid medical explanation.

An applicant violating this section will not be hired and will be ineligible for employment. An employee violating this section may be terminated and may also be ineligible for future employment with the City of Harlingen.

L. RECORDS RELATING TO DRUG AND ALCOHOL TESTING

All records relating to drug or alcohol testing results, or relating to participation in the City's Employee Assistance Program, will be maintained separately from the general personnel files of the City. Any medical-related information will be confidential and only accessible by designated City representatives on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City. These records will be accessible only with prior approval of the Human Resources Director, and will be given only after consultation with the City Attorney. If a representative of any other governmental entity or any member of the public requests access to such records, whether pursuant to the Texas Public Information Act or otherwise, the request shall be referred to the office of the City Attorney for further consideration.

M. CONDITION OF EMPLOYMENT

Each employee of the City of Harlingen will be informed of the Substance Abuse Policy set forth in this section and may be required to sign a statement acknowledging the acceptance of the requirements and terms thereof as a condition of continued employment with the City. An

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employee is however, subject to this policy even if he/she has not, for whatever reason, signed such a statement.

N. ALCOHOL AND DRUG TESTING PURSUANT TO DEPARTMENT OF TRANSPORTATION REGULATIONS

The Department of Transportation and the Federal Motor Carrier Safety Administration require alcohol and drug testing of employees in safety sensitive positions, including those requiring commercial driver's licenses by the State of Texas or a higher authority. The City will abide by applicable federal regulations governing drug and alcohol testing of employees in such safety sensitive positions. In addition to the other sections of this policy, City employees governed by DOT and FMCSA regulations are also subject to this subsection N of the City's Substance Abuse Policy as well as applicable DOT and FHA rules and regulations. Below is a summary of DOT/FMCSA testing regulations. The City will comply with all applicable DOT/FMCSA regulations and where any provision of this policy conflicts with applicable DOT/FMCSA regulations, such regulations shall control.

1. Prohibited Alcohol and Drug Use

- a. Performance of safety-sensitive functions is prohibited under the following conditions:
 - While having a breath alcohol concentration of 0.04 or more as indicated via breath test;
 - While using alcohol; or
 - Within four hours after using alcohol.
- b. Illicit use of drugs by safety-sensitive drivers is prohibited both on and off duty.

2. Alcohol and Drug Tests Required

- a. Pre-employment – Drug and alcohol tests will be conducted after an offer of employment is made, but before actually performing safety-sensitive functions for the first time. These tests are also required when employees are promoted or transferred into safety sensitive driver positions.
- b. Post-accident testing– Drug and alcohol tests will be conducted on employees performing “safety sensitive functions” when any of the following occur: (i) if the employee is issued a moving violation; (ii) if one or more of the vehicles involved is disabled to the extent that it must be towed from the scene; (iii) if any person involved in the accident is injured to the extent that he/she requires and receives immediate medical treatment away from the scene of the accident; or (iv) an accident that involved a fatality.
- c. Reasonable suspicion testing is conducted when a trained supervisor determines that an employee-driver may be in violation of this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable factors concerning the appearance, behavior, speech, or body odors of the suspected employee-driver.

The following requirements must also be followed:

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- (i) The supervisor must consult with the Department Director and affirm the bases of his or her suspicion; if the Department Director concurs, he or she may order the employee-driver to undergo testing;
- (ii) If alcohol testing cannot be administered within two hours after the observation, a written statement must be promptly prepared and retained that explains why the alcohol test was not promptly administered;
- (iii) If alcohol testing cannot be administered within eight hours after the observation, the City will cease attempts to administer an alcohol test, and state the reasons that the alcohol test was not administered.

Note: On reasonable-suspicion testing, the Department Director must consult with the Legal and/or Human Resources departments prior to making the final decision to test.

- d. Random - Alcohol tests will be conducted on an unannounced basis just before, during or just after performance of safety-sensitive functions. Individuals will be randomly selected via computer by the clinic under contract with the City of Harlingen for the testing services.

Drug tests will be conducted at any time regardless of what task is being performed.

- e. Return-to-duty and follow-up - Conducted when an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced, and at least six tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. Return-to-duty and follow-up tests are applicable only for those seeking assistance and, based on individual circumstances, for those who may have had an alcohol concentration of 0.01 or greater, but less than 0.04.
- f. Refusal to test – Refusal to be tested in any of the above circumstances will result in non-selection for an applicant or dismissal for an employee.

3. Consequences of Positive Alcohol Test

An employee-driver who is tested and has an alcohol concentration of 0.04 or greater will be terminated. An employee-driver who is tested and has an alcohol concentration of .02-.39 will not be permitted to perform his/her duties for a minimum of 24 hours and will receive corrective action and/or termination of employment. If the employee-driver is not terminated, then he or she will receive a mandatory referral to a substance abuse professional through the City of Harlingen's Employee Assistance Program, and any non-compliance with the treatment recommendations of the substance abuse professional will result in corrective action, and/or termination of employment. (The employee-driver will be placed on administrative leave without pay during the treatment period. That employee may utilize any accrued sick leave.)

4. Alcohol Testing Procedure

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Tests will be conducted by a trained breath alcohol technician. If the alcohol concentration is 0.01 or greater, a second confirmation test will be conducted, the results of which will determine any actions taken.

5. Drug Testing Procedure

Drug testing is conducted by analyzing a driver's urine at a certified laboratory. "Split" urine specimens provide employee -drivers with an opportunity for a second opinion, if needed.

If the employee-driver challenges the validity of the test, the he/she may seek a second test at an approved location at his/her own expense.

6. Drugs Tested For

Department of Transportation requires testing for the following drugs:

- Marijuana
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine (PCP)

A screening test is performed first. If it is positive for one or more of the drugs listed, then a confirmation test is performed.

7. Results Interpretation

All drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City of Harlingen.

8. Consequences of a Positive Drug Test

A positive drug result will result in termination.

9. Confidentiality

Test results may be released only to the driver, employer, substance abuse professional, laboratory officials and medical review officer. They cannot be released to others without the written consent of the driver. All test results will be kept in a confidential file under the employee's name.

Note: For new hires, promotions and transferred employee-drivers, the City of Harlingen is required, with the driver's written consent, to obtain information from previous employers regarding alcohol test results of 0.04 or greater, positive drug test results and refusals to test within the preceding two years.

10. Use of Law Enforcement Tests

In post-accident situations, the City of Harlingen reserves the option to substitute a blood or breath alcohol test and a urine drug test performed by local law enforcement officials, using procedures required by their jurisdictions, providing such test results are received directly from the local jurisdiction or the driver. If the City substitutes a law enforcement based

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post-accident test, it will take the actions appropriate to the result (as outlined in Subsection N.3. and 8. above).

O. DRUG-FREE WORKPLACE

Under the Drug-Free Workplace Act, employees must, as a condition of employment, do the following:

1. Abide by the terms of this Substance Abuse Policy; and
2. Notify their immediate supervisor or department director in writing of any citation received, arrest for or conviction under any criminal drug statute or Driving While Intoxicated statute no later than five (5) calendar days from such receipt, arrest or conviction. Violations of this reporting policy will subject an employee to disciplinary actions up to and including termination.

The Human Resources Department will notify the applicable federal agencies in writing within ten (10) calendar days after receiving written notice from an employee of his/her conviction for a violation of a criminal drug statute occurring in the workplace.

III. APPENDICES

- A. Reasonable Suspicion Observation Form

**CITY OF HARLINGEN
REASONABLE SUSPICION OBSERVATION FORM
(STRICTLY CONFIDENTIAL)**

Employee Name:

Date/Time of Incident

Director's Name :

Supervisor's Name:

This checklist is to be completed when an incident has occurred or when a supervisor has been given information which provides reasonable suspicion that an employee is under the influence of an illicit drug(s) or alcohol. The Supervisor(s) shall note all pertinent behavior and physical signs or symptoms which lead you to reasonably believe that the employee has recently used or is under the influence of an illicit drug(s) or alcohol. Mark each applicable item on this form and detail any additional facts or circumstances which you have noted.

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

- ☐ 1. Observed/reported possession or use of a prohibited substance.
- ☐ 2. Apparent drug or alcohol intoxication
- ☐ 3. Observed abnormal or erratic behavior
- ☐ 4. Arrest or conviction for drug-related offense
- ☐ 5. Evidence of tampering on a previous drug test
- ☐ 6. A work related injury or accident or "near miss"
- ☐ 7. Deteriorating work performance that is not attributable to other factors
- ☐ 8. Other (e.g., violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job) (please specify)

B. UNUSUAL BEHAVIOR

- ☐ 1. Verbal abusiveness
- ☐ 2. Physical abusiveness
- ☐ 3. Extreme aggressiveness or agitation
- ☐ 4. Withdrawal, depression, mood changes, or unresponsiveness
- ☐ 5. Inappropriate verbal response to questioning or instructions
- ☐ 6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, confusion) (please specify)

C. PHYSICAL SIGNS OR SYMPTOMS

- ☐ 1. Possessing, dispensing, or using what appears to be an illicit drug, or alcohol
- ☐ 2. Slurred or incoherent speech
- ☐ 3. Unsteady gait or other loss of physical control; poor coordination
- ☐ 4. Dilated or constricted pupils or unusual eye movement
- ☐ 5. Bloodshot or watery eyes
- ☐ 6. Extreme fatigue or sleeping on the job
- ☐ 7. Excessive sweating or clamminess to the skin
- ☐ 8. Flushed or very pale face
- ☐ 9. Highly excited or nervous
- ☐ 10. Nausea or vomiting
- ☐ 11. Odor of alcohol
- ☐ 12. Odor of marijuana
- ☐ 13. Dry mouth (frequent swallowing/lip wetting)
- ☐ 14. Dizziness or fainting
- ☐ 15. Shaking hands or body tremors/twitching
- ☐ 16. Irregular or difficult breathing
- ☐ 17. Runny sores or sores around nostrils
- ☐ 18. Inappropriate wearing of sunglasses
- ☐ 19. Puncture marks or "tracks"
- ☐ 20. Other (please specify)

D. WRITTEN SUMMARY

Must summarize in detail and explain the items checked above and the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. You must note the date, times, and location of reasonable suspicion testing or note if employee refused test. Attach additional sheets as needed.

Signature of Supervisor

Date/Time

Signature of Department Director

Date/Time

APPENDIX D

City of Harlingen

Personnel Policy Manual

219 Sexual and Other Form of Harassment

Revised 03/2019

I PURPOSE

The City of Harlingen is committed to providing a work environment which is free of harassment and intimidation. This policy applies to all City employees, citizens, vendors, and visitors to the workplace. City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, vendors and citizens. Employees are also required to refrain from prohibited harassment of citizens, employees, and vendors.

II POLICIES AND PROCEDURES

Sexual harassment and other forms of harassment are contrary to basic standards of conduct between individuals. Any employee who engages in any harassing behavior will be subject to corrective action up to and/or termination of employment. Because of the City's strong disapproval of such inappropriate or offensive behavior, all employees must avoid any action, conduct, or behavior which could be viewed as sexual or other forms of prohibited harassment.

No retaliation will be permitted against employees who make a good faith charge or report of prohibited harassment.

A. DEFINITION

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

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting an individual; or
- Such condition has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of prohibited conduct include unwelcome discussion of sexual activities, touching, display of sexually explicit or suggestive pictures or cartoons, use of sexually suggestive gestures, sexual remarks about physical attributes, unwelcome propositions, profanity and off-color jokes.

B. OTHER FORMS OF PROHIBITED HARASSMENT

Harassment of employees on the basis of race, religion, color, marital status, national origin, age, disability, sexual orientation, gender identity, gender expression or any other characteristic, protected by law is also prohibited. Slurs, jokes, offensive or derogatory comments, or other verbal or physical conduct based on these characteristics is unlawful. Slurs, epithets, offensive

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jokes, and derogatory comments have no place in the workplace. Conduct, comments, or innuendos that may be perceived by others as offensive, are wholly inappropriate and are strictly prohibited. This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, stories, etc., via paper, facsimile, internet, texting, social media, voice mail, or other means.

C. COMPLAINT REVIEW PROCEDURES

Human Resources is responsible for the review of sexual and other harassment complaints. Investigators from other departments may conduct and/or assist Human Resources with harassment complaint investigations. The procedures for handling harassment complaints are as follows:

1. Reporting

Any employee who feels he or she has been subjected to harassment, who observes prohibited harassment in the workplace, or who otherwise becomes aware of it must report it immediately to his or her Department Director. If for any reason the employee does not feel comfortable discussing the matter with the Department Director, or if the Department Director has not been able to resolve the matter satisfactorily, the employee must contact the City's Human Resources Director, his/her designee, or the Manager.

Any Supervisor, Manager or Department Director who becomes aware of possible sexual or other unlawful harassment must immediately advise the Human Resources Director or the Manager.

If Human Resources is initially notified of a complaint, Human Resources will immediately notify the appropriate Department Director. All reports of sexual harassment will be fully investigated immediately.

2. Investigation

Each sexual or other harassment complaint will be investigated, regardless of when it was reported. The individuals will be interviewed regarding the nature of the allegations and instructed not to discuss the details of the incident(s) with anyone other than the complaint investigator, while the investigation is pending. Upon request, the complainant may be interviewed by a representative of the same sex. At the discretion of the investigator, interviews may be recorded in written, audio and/or video format.

3. Administrative Leave

When warranted, the Department Director may place the respondent and/or complainant on administrative leave with pay pending complete investigation.

4. Allegation Discussion

If appropriate, investigators will meet with the respondent's Department Director to discuss the allegation.

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5. Determination Filing

Within ten workdays of the investigation conclusion, the City Attorney and the respondent's Department Director will be provided with a determination as to the validity of the complainant's allegations.

D. DEPARTMENT DIRECTOR ACTION

Department Directors will take the following actions:

1. Corrective Action Decisions

Corrective action, and/or termination of employment, will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. (Note: A transfer of the complainant may be considered only upon the complainant's request and/or approval.)

2. Department Director Respondents

If the Department Director is the respondent, these actions will be taken by the appropriate Manager.

3. Sexual Harassment Prevention

It will be the ongoing responsibility of the Department Director or his/her representatives to monitor work areas for inappropriate sexual and other inappropriate displays, comments or behavior and take necessary action.

E. RECORDKEEPING

All records concerning sexual and other harassment investigations, except those affected by civil service statutes, are to be kept in a separate locked file in Human Resources. Access shall be approved by the Human Resources Director.

III. APPENDICES

A. Sexual and Other Harassment Complaint Form

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**CITY OF HARLINGEN
SEXUAL AND OTHER UNLAWFUL HARASSMENT
COMPLAINT FORM**

Name _____ Date _____

Department _____ Division _____

Immediate Supervisor _____

The information you provide is essential to the City's investigation efforts. Please be as specific and accurate as you can in your statements.

1. a. **Where** did the incident occur? _____
 b. On what **date(s)** did it occur? _____

2. As accurately and specifically as possible, **describe the act(s)** which is(are) the basis for this complaint and identify the person(s) involved.

3. Was this the first such incident? ☐ Yes ☐ No
 If "No," where did the previous incident occur and who was involved? _____

4. Were there any witnesses? ☐ Yes ☐ No
 If "Yes," **who**? _____

APPENDIX A

COMPLAINT OF SEXUAL HARASSMENT (Continued)

5. Have you mentioned your concern/complaint to others? ☐ Yes ☐ No If so, who and when?

6. Do(es) the person(s) you are complaining about know you are filing this formal complaint?
☐ Yes ☐ No If "Yes," how does he/she know? _____

7. Did your supervisor or other member of management know about your concern/complaint prior to your filing of this complaint? ☐ Yes ☐ No If so, who and when?

Please attach any other information pertinent to our investigative efforts.

The information provided above is, to the best of my knowledge, factual.

Printed Name

Date

Signature

Received by

Date

APPENDIX A

City of Harlingen

Personnel Policy Manual

220 Workplace Searches

Revised 03/2019

I PURPOSE

This procedure describes the City of Harlingen's policy regarding workplace searches.

II POLICIES AND PROCEDURES

- A. The City of Harlingen reserves the right to conduct searches due to reasonable suspicion of alcohol, controlled substance and/or drug paraphernalia, as well as for purposes of monitoring compliance with work and safety rules and policies, anywhere on City property including but not limited to lockers, desks, file cabinets, and City vehicles.
- B. Employees should be aware that the City does not recognize any personal privacy interests in City-owned property or equipment provided to employees to perform their jobs.
- C. The primary focus of any search would generally be for the administration of the City's personnel policies; provided, however that employees should be aware that the City may be compelled to release or produce the product of any search by virtue of legal or judicial process that the City does not control.
- D. All such searches must be authorized and conducted under the direction of the Human Resources Director or designee unless pursuant to legal or judicial process.
- E. A search is not an accusation of any wrongdoing, but is merely part of an investigation.
- F. An employee who refuses to cooperate during such searches will be subject to disciplinary action up to and including termination.

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221 Workplace Violence

Revised 03/2019

I PURPOSE

The City of Harlingen prohibits workplace violence to ensure a safe workplace.

II POLICIES AND PROCEDURES

A. PROHIBITED CONDUCT

The City does not tolerate any type of threats or violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. The following list of behaviors, while not all inclusive, provides examples of conduct that is prohibited.

- Causing physical injury to another person;
- Making threatening remarks;
- Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Intentionally damaging employer property or property of another employee;
- Possession of a weapon,
- Employees, with the exception of those described in the following paragraph, are prohibited from possessing, carrying, or storing a concealed handgun or any other weapon (see definitions) while on duty or performing services for the City, or while in City uniform or in a City vehicle, regardless of whether the employee is on City property or not.
- Licensed peace officers employed by the City as peace officers and employees assigned by the Chief of Police to perform reserve officer or security officer duties may possess and store a concealed handgun or other weapon (see definitions) while on duty or performing services for the City.
- While off duty, employees are prohibited from possessing, carrying, or storing a handgun or any other weapon on the property leased, owned or controlled by the City of Harlingen. This paragraph does not apply to public streets or sidewalks, nor does it prohibit an off-duty employee from traveling through the airport and transporting firearms, as long as the transportation is in compliance with all laws.
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

Employees who violate this policy may receive corrective action up to and including immediate termination of employment.

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221 Workplace Violence

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B. REPORTING PROCEDURES

Any potentially dangerous situations must be reported immediately to a supervisor, Department Director, or the Human Resources Department. Behaviors include:

- Discussing weapons or bringing them to the workplace;
- Displaying overt signs of hostility, or anger;
- Making threatening remarks;
- Sudden or significant deterioration of performance;
- Displaying irrational or inappropriate behavior.

Reports can be made anonymously and all reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation may be counseled.

All individuals who apply for or obtain a protective or restraining order which lists City locations as being protected areas, must provide to management a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent. Likewise, all employees must immediately advise their Department Director or the City Manager's Office if any protective or restraining order is issued against them.

C. EMERGENCY SITUATIONS

Employees who confront or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm, make constant eye contact and talk to the individual. If a supervisor can be safely notified of the need for assistance without endangering the safety of the employee or others, such notice should be given. Otherwise, cooperate and follow the instructions given.

D. ENFORCEMENT

Threats, threatening conduct, other acts of aggression or violence, or any other conduct in violation of this policy. Such acts will result in action, and/or termination of employment. Non-employees engaged in violent acts on the employer's premises will be reported to the proper authorities and fully prosecuted.

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222 Employment Verifications

Revised 03/2019

I PURPOSE

To provide direction on how reference checks and/or employment verifications are to be handled by staff.

II POLICIES AND PROCEDURES

The City does not provide and no Director or supervisor is authorized to provide employment-related letters of recommendation. However, the City will respond to all employment reference check inquiries from other employers. The Human Resources Director is authorized to provide reference information on current and former employees.

Responses to these inquiries will usually be limited to first day of work, last day of work and job title. However, if an employee has authorized in writing the release of wage rate or salary, this information will also be revealed.

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223 Social Media

Revised 03/2019

I PURPOSE

The purpose of this policy is to establish standards and responsibilities regarding the authorized use of social media by City of Harlingen Departments. These standards ensure that City employees using social media tools are compliant with existing policies and legal requirements. Personal use of City social media outlets by City employees is prohibited.

The City would like to supplement its public relations efforts and increase communication methods with its citizens through the use of social media avenues. This policy applies to all City of Harlingen sponsored events and use of social media sites and to all City employees, approved volunteers, consultants, service providers and contractors performing business on behalf of the City who use social media for City events, business and other informational purposes.

II POLICY OVERVIEW

In order to increase the methods in which residents communicate and obtain information online, City departments are encouraged to use social media to reach a broader audience, streamline processes, enhance communication, collaboration, information exchange, promote City events and assist in dissemination of information to the public.

Additionally, the City supports the use of social media to further the goals of the City and its mission statement: "Ensure a business-friendly climate focused on economic growth, quality of life and efficient delivery of excellent services to our community." Use of social media must not compromise data confidentiality and integrity and must be done in a manner that is in good taste and is not offensive to our citizens.

Approved social media sites for City business, but are not limited to: Facebook, YouTube, Twitter, Pinterest, Google Plus, Instagram, Flickr, Vine, Snapchat and Tumblr.

III POLICY AND GUIDELINES

Departments use of social media technology shall conform to the guidelines, responsibilities, and procedures contained or referenced in this policy.

A. General Guidelines

1. Each official City social media site(s) or service is considered an extension of the City's information network and is governed by City policies, including e-mail, Internet usage and applicable Personnel Policies.

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2. Department Heads utilizing social media will review, approve and monitor all use of social media for their departments. Official use by the department of social media services is ultimately the responsibility of the Department Head.
3. Department Heads utilizing social media will review, approve and monitor all use of social media for their departments. Official use by the department of social media services is ultimately the responsibility of the Department Head. Employees may only post or otherwise manipulate the data on the City's social media with the express approval of their Department Head.
4. Employees who publish to social media in the scope of their work for the City are acting as representatives of the City via social media and accordingly must conduct themselves at all times in accordance with City policies and the Social Media Policy. Employees who fail to conduct themselves in an appropriate manner shall be subject to corrective action.
5. Departments must keep, in a secure place and manner, an updated list of all user names and passwords associated with the Department's official social media accounts. The Department Director shall be responsible for giving all user names and passwords for each account to the Management and Information Systems (MIS) Director. It is important for the Department to have access to each account at any time in case of the unavailability of the person(s) who normally maintain each account, and the Department's designated users are required to update the Department with login information.
6. Departments should never "follow", "like", or link to political campaign sites. Departments may retweet, follow, like, share, and/or comment on posts by elected officials unless doing so would appear to endorse a political candidate or campaign. Departments should also not use social media to take positions regarding political issues that are pending before the Harlingen City Commission and should avoid "following" or "liking" partisan sites that take positions on candidates or campaigns (including but not limited to other social media sites).
7. Departments that use social media are responsible for complying with applicable federal, state, county and city laws, regulations, and policies. This includes adherence to established law and policies regarding copyright, Health Insurance Portability and Accountability Act (HIPAA), privacy laws, and information security policies established by the City. These guidelines attempt to address the most common concerns.

B. Roles and Responsibilities

1. **MIS Director** - The Director is responsible for periodically reviewing these guidelines and presenting any revisions needed to management. To periodically check with Department Heads to make certain the MIS Department has the most current login information for each social media account. To assist Departments establish social media accounts only when authorized by the Department Director and Manager and to provide training on posting information to approved social media accounts.

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2. **Department Heads** - Have the ability to establish (with Manager approval) and terminate social media sites/use at the department level. They shall also be responsible for monitoring social media sites within their departments for ensuring the appropriateness of content, compliance with Social Media Policies and established City policies as well. Department Heads must also establish who will have access to the site for inputting and updating information to the established sites. Only City of Harlingen employees shall be given access to social media accounts established for official city use.

3. **City Employees and Volunteers** - No employee or volunteer shall under any circumstances utilize the City Logo on their personal social media sites.

C. Social Media Networks

1. Departments shall only utilize City approved social media networks for hosting official content from the City. Approved sites are listed on Section 1.3.

2. **Approved Social Media Networks** - New social media networks under consideration that are not listed in Section 1.3 will be reviewed and approved by the City Manager with guidance from MIS, Human Resources and Legal Departments.

3. **Authenticity** - Departmental social media sites shall have the City logo to distinguish the site as an official City social media site. Use of the City logo on non official City sites or personal sites is strictly prohibited. Contact information should display an official City e-mail address, references to personal e-mail addresses as the contact information is prohibited.

4. **Site Content** - Department Directors are responsible for establishing and maintaining content posted to their respective social media sites and shall review site activity daily for exploitation or misuse.

5. **Updating Account Content** - Departments should monitor accounts regularly to update the sites as appropriate. Sites should be updated to include information for upcoming events, meetings, festivals, concerts or general information the Department Director deems appropriate to provide. Departments that provide emergency and support services during an emergency situation shall provide updates to the public on their social media sites regarding precautionary measures the public should take before and during the emergency. Those departments that provide these services that do not have access to social media sites shall provide the information on the City's Web Site. If assistance is needed uploading the information to the Web Site, the Department Director should contact the MIS Director for assistance.

Acceptable forms of content include, but are not limited to: text; video and photographs; graphics and hyperlinks.

D. Unacceptable Content - Content may be removed from Social Media sites that violates this section of the Policy. The following are examples of content that are prohibited and shall be removed from the site:

- Profane language or content.
- Explicit sexual or harassing content including likes to such content.

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- Violent or threatening content.
- Solicitation of commerce, commercial activities, fund-raising or sponsorship.
- Illegal activity.
- Information that may compromise the safety or security of the public or public systems.
- Political activities by City employees.
- Personal information about employees.

E. Content Deletion - Unacceptable content should be removed as soon as possible. A copy of every deleted item must be retained. The following can be used to warn individuals whose content has been removed, about their posts.

"Your recent post is in violation of the City of Harlingen's Social Media Policy. The City reserves the right to remove, hide, or block such content. As a result, your recent post violated this Policy and your post was removed. Please refrain from posting similar content in the future. Thank you for your understanding."

Removing or blocking an individual from future posting on social media sites is not recommended. Departments should consult with Management who will ask for a legal opinion on blocking an individual if the postings are habitual.

Tagged material that has a hash-tag with a link to a Twitter account, Facebook page, etc., should be monitored by the department to ensure appropriateness. If the tag violates this policy the Department Director shall remove the tag promptly.

IV SOCIAL MEDIA GUIDELINE FOR EMPLOYEES

Guidelines for City Employees who use Social Media for City Business

Employees with the City who are required to use social media for City related business, including managing a department's use of a social media site in their official capacity, are required to comply with the following guidelines.

A. You are Responsible for What You Publish. You are responsible for the content you publish on your department's social media site. Be mindful that what you publish will be public.

B. Stick to Your Area of Expertise. For example, if Planning receives question about Public Works on their network, it is not appropriate for Planning to answer the question since it's not the department's area of expertise. Instead, the employee should direct the question to the appropriate department and notify the individual their question was forwarded to the appropriate department.

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C. Commenting on other Social Media Sites about Department Business. During the course of City business, it may become necessary to publish City content on other social media sites. For example, publishing a comment on an upcoming City festival on another festival social media site. When this becomes prudent to further City events, approval from the Department Director must be obtained before the comments may be posted. Posting City business or commenting about City issues on non related social media sites is prohibited.

D. Protect Confidential Information. Do not provide your department's confidential information or other protected information.

E. Prohibited Content. Employees are prohibited from using ethnic slurs, personal insults, or obscenity or engage in any conduct that would not be acceptable in the workplace. It is generally inappropriate for the government to take a stand on political or religious issues.

F. Use the Social Media Site to Contribute to Your Department's Mission. Refer to Section 1.3 for the City's Mission Statement. When you contribute to your department's social media site, provide worthwhile information that contributes to the mission of serving the public by:

- Helping you and your co-workers better perform your jobs;
- Informing citizens about relevant information, government services and how to access services, events, and festivals;
- Encouraging civic engagement and participation.

V GUIDELINES FOR CITY EMPLOYEES WHO USE SOCIAL MEDIA OUTSIDE OF WORK

Whether or not a City of Harlingen employee chooses to create or participate in a blog, wiki, online social network or any other form of online social media outside of the workplace is his or her own decision. These guidelines have been created to address some of the choices that individual employees, contractors, consultants or volunteers may face using online social media sites.

A. Employee's conduct. While an employee's use and comments made on social media sites are subject to First Amendment protections, employees are not permitted to engage in off-duty conduct that impacts the performance of their duties or that reflects unfavorably on the City.

B. Employee's personal use must not be attributable to the department, City, or employee's job function at the department. Any personal use made of social media sites outside of work must not be attributable to the department, City or employee's job function at the City. The following is a non-exhaustive list of prohibited conduct:

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- Employees may not use a work e-mail address to register for social media or other sites unless the purpose is directly related to the employee's job.
- Employees may not display the City of Harlingen logo or other official emblems or patches on personal social media/networking accounts.
- Employees may not represent, imply, or permit the perception that the employee speaks for the City, department or elected officials.

C. Protect your privacy. Employees are personally responsible for the content they publish on blogs, wikis or any other social media site. The City of Harlingen is not responsible for the personal content of your social media site(s). Be mindful that what you publish may be public for a long time.

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Personnel Policy Manual

224 Vehicle Operation Policy

Revised 03/2019

FAILURE TO COMPLY WITH THE VEHICLE OPERATION POLICY MAY RESULT IN CORRECTIVE ACTION AND/OR TERMINATION FROM EMPLOYMENT

I PURPOSE

- A. Establish a policy for City of Harlingen employees and applicants required to operate City vehicles or motorized equipment or for the use of their personal vehicle while on City business.
- B. Establish compliance with federal regulations and liability insurance by-laws to control the exposure to motor vehicle accidents and reduce the potential for litigious actions.
- C. More effectively manage the City's loss exposure and liability by improving the quality of drivers and allowing only individuals with a valid Texas driver's license, acceptable driving record and in compliance with the Texas Financial Responsibility Statute, to operate City vehicles and equipment or to perform driving functions on City business.
- D. Place into practice the City's value of Professionalism, Integrity, Legal Compliance, Teamwork and Accountability.
- E. Establish consistent, standardized, objective procedures for qualifying and assuring continued qualifications of employees subject by law or liability coverage by-laws to acceptable driving behavior.

II DRIVERS

A. APPLICABILITY

- 1. An applicant seeking a position that requires operation of a "*City Vehicle*" or "*Motorized Equipment*".
- 2. Employees who by an accurate job description do or may operate a City vehicle/equipment, or a personal vehicle on City business, and are required to possess a valid Texas driver's license. Vehicles/equipment includes all units requiring a state license tag and registration to operate on the public roads.

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3. Employees who receive a monthly automobile allowance or mileage reimbursement from the City.

B. EVALUATION:

1. Employees who meet any of the above definitions will be evaluated pursuant to the "Driver Evaluation Form". Employees with a point value totaling four points or more will be required to take an approved Driver Safety Course to reduce their score to or below four points within 30 days of notice by the Risk Manager. No employee will be included on the Authorized Driver Roster with an evaluation over four points. Participation in the required Driver Safety Course will not affect the employee's opportunity to take the Driver Safety Course in the future for point reduction.

C. DRIVER QUALIFICATION CONDITIONS:

1. The City of Harlingen will require all employees with driving responsibilities to have the appropriate driver's license required by the State of Texas. Individuals that apply for positions and/or transfer to positions requiring a valid Texas Class A or B CDL must have successfully passed the written portion of the appropriate Commercial Driver's License examination. **Failure to obtain and maintain the proper license and/or insurability shall be grounds for disciplinary action up to and including termination.**
2. **The qualifications stated below shall apply to individuals described in paragraph E.**
 - a) Possess a valid Texas driver's license in the appropriate classification established in the official position description.
 - b) Be eighteen years of age to operate City-owned/leased vehicles or operate motorized equipment covered under this Vehicle Operation Policy.
 - c) Not be a *habitual violator* * of traffic laws as defined by the TEXAS Motor Vehicle Laws.
*Definition: A "***habitual violator***" is a person with four or more convictions that arise out of different transactions in twelve consecutive months, or seven or more convictions that arise out of different transactions in twenty-four months. § TRC 521.294
 - d) Must be identified on the Authorized Driver Roster and meet the driver safety criteria established by the Driver Review Committee or be individually qualified for the roster by compliance with specific instructions and/or conditions established by the Driver Review Committee.

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III ADMINISTRATIVE PROCEDURES

1. The Risk Management Coordinator is responsible for conducting Motor Vehicle Driving Record (MVR) reviews and completing driver evaluation forms.
2. Verification of driver's license and driving responsibilities will be conducted as follows:
 - a) Risk Management will maintain a current list of City employees authorized to operate City owned vehicles or motorized equipment or a privately owned vehicle on City business. Only those employees listed may operate it. The Risk Manager shall follow administration policies and practices established by the Driver Review Committee and shall make additions to and removal from the list.
 - b) Risk Management will verify each applicant's driver's license to determine if the applicant has the appropriate, valid driver's license for the type vehicle to be operated.
 - c) Employees promoted to a position that requires driving must provide their supervisor a legible photocopy of their Texas driver's license, which will be attached to the payroll data change form. The promotion is subject to verification of the employee's MVR, license and proof of liability insurance.
 - d) Department directors are responsible for assuring that employees maintain the appropriate driver's license designated in their official job description.
3. Points will be assigned for the type(s) of violation(s) appearing on the MVR of an employee covered by this policy (using the Driver Evaluation Form).
4. Employees subject to this Policy may complete an approved Driver Safety Course at their expense, once per calendar year in order to reduce their evaluation total by two points.
5. This policy hereby establishes a "Driver Review Committee" consisting of four current members of the Safety Committee and the Risk Management Coordinator who shall be a non-voting, ex officio member. Members will be appointed by the City Manager.
6. The Driver Review Committee is responsible for establishing policies, procedures and criteria for the authorized driver list. Such policies will be fair and equitable for all employees.

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7. An employee may appeal the decision of the Driver Review Committee. It must be presented in writing to the employee's Director within five business days of the suspension notification date. The Director must present the appeal to the City Manager within five business days for a decision. The City Manager's decision will be final.
8. Any employee, employee's supervisor or director may request to have his/her driving record reviewed by presenting applicable information to the Risk Management Coordinator.
9. Any employee involved in a motor vehicle accident will cooperate with all investigators representing the City of Harlingen in determining the cause of an accident. This includes but is not limited to a physical exam and a drug screen.

DEFINITION: "Motor Vehicle Accident" - Any accident reported on the individual's MVR or resulting in bodily injury and/or property damage to any individual and to an estimated extent equal to or in excess of \$500 in which the employee is deemed to be at fault. Injury and property damage can be to either party involved in the accident.

10. Motor Vehicle Driving Records are verified annually for employees with driving duties as described in this Section.
11. An employee may be liable for damage resulting from a motor vehicle or equipment accident or vehicle/ equipment abuse. The Director shall take appropriate disciplinary action.

Vehicle/equipment abuse includes but is not be limited to the following:

- a) Excessively racing a cold engine,
- b) Abusing a clutch or transmission,
- c) Continuing to operate a vehicle or item of equipment when engine instruments or warning lights indicate malfunctions such as low oil pressure, engine overheating, low air pressure, etc.
- d) Continuing to operate a vehicle that is producing unusual or abnormal noises,
- e) Overloading a vehicle or item of equipment, or using the vehicle or equipment for purposes other than those for which it is designed.

IV TRAINING

- 1) The Risk Management Department is responsible for coordinating NSC sanctioned Driver Safety training of employees, excluding Police and Fire Department sworn employees.

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- 2) Police and Fire Department management is responsible for providing appropriate driver training for its driver personnel.
- 3) Management of each City department utilizing trucks or special off-road type equipment is responsible for training its employees and operators to safely operate the equipment.
- 4) Department management will verify* employees are qualified to operate the vehicles and specialized equipment. (* Texas D/L, CDL and training)
- 5) New employees required to operate City vehicles will complete a Driver Safety Course within 90 days after assignment. An employee classified as driver or equipment operator must complete a Driver Safety Course every three years.

V DRIVER AND DEPARTMENT RESPONSIBILITIES

A DRIVER SUBJECT TO THE APPLICATION OF THIS POLICY MUST...

- A. Develop awareness and understanding of the City Vehicle Operation Policy and develop skills to promote safe operations.
- B. Observe and report unsafe occurrences involving City vehicles or privately owned vehicles on City business to their Supervisors.
- C. Be responsible for the safe operation of the vehicle, the safe condition of any auxiliary equipment attached to the vehicle and the cargo placed in or on the vehicle.
- D. Report accidents in accordance with the City's Accident Reporting Guidelines and departmental guidelines.
- E. Notify his/her supervisor whenever his/her driver's license is *suspended* permanently or for a limited time period. Should a driver receive a traffic citation while operating a vehicle on City business, he/she must notify his/her supervisor within 24 hours excluding holidays and weekends. The supervisor will advise the Risk Manager of such citations and the driver, depending upon the points assessed, may be required to attend *DSC*, at their expense, in an effort to control further citations/violations or accidents.
- F. Inform his/her supervisor, within ***five calendar days***, if *arrested for DWI or DUI*, involved in a vehicular accident, convicted of a moving violation, or any other moving violation off the job. Supervisors must then forward this information to the Risk Manager for evaluation and recommendation to the Department Director for continued driving responsibilities.

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VI DRIVER REQUIREMENTS

A DEPARTMENT WITH DRIVERS SUBJECT TO THE APPLICATION OF THIS POLICY MUST...

- A. Be certain vehicles with obstructed or limited rearward vision will not be operated in reverse gear without the aid of a spotter or visibly verifying outside the cab prior to backing. Any radio, stereo, or other device utilizing earphones will not be worn by any driver while operating a City vehicle, except in fire and police vehicles where the employees are required to wear authorized communication devices.
- B. In those cases where it is absolutely necessary to transport workers in the rear bed of a truck, the workers must sit on the bed of the truck with their backs against the truck cab or headboard. In no case will workers be allowed to ride in a standing position in the back of a truck, sitting on the wheel wells, or with any part of their body extending over the side or rear of the truck body.
- C. Ensure that all occupants are properly seated wearing the appropriate seat restraints, such as seat belts and shoulder harnesses prior to placing the vehicle in motion.
- D. Not allow unauthorized passengers to be transported in City-owned vehicles. "Unauthorized passenger" is any individual, not an employee of the City, whom the employee would not have reason to be transporting in the course and scope of normally assigned work duties. Department directors have the authority to distinguish between "authorized" and "unauthorized" passengers in their respective departments.
- E. Prohibit the consumption or presence of alcoholic beverages or controlled substances in a City vehicle (by a driver or passenger). Violation of this policy will result termination. (See **Substance Abuse Policy "Prohibited Conduct"**)

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DRIVER EVALUATION FORM

NAME: _____ DEPARTMENT: _____

D.L.#: _____ DATE: _____

The following guidelines will be used by the City Safety Committee to evaluate driving records for City of Harlingen employees as defined in Section D of the Driver Policy. An employee who's MVR (Motor Vehicle Record) is evaluated greater than four will be removed from a driving position. Applicants for a driving position will be considered with an evaluated score of three or less.

Number of Chargeable Accidents

None	0.0
One	1.0
Two	2.0
Three or more	5.0

Major Moving Violations

FTY or Disregard of a Stop Sign/Traffic Signal	1.0
Hit & Run	6.0
Leaving the scene of an accident	6.0
Any felony, manslaughter or homicide involving use of a motor vehicle	6.0
Driving while intoxicated*	5.0
Racing	4.0
Excessive speeding (20mph over)	4.0
Reckless, negligent, or careless driving	4.0
License suspension or revocation	3.0
Speeding	2.0
Failure to Comply with the Texas Financial Responsibility Law	2.0

Other Moving Violations

None	0.0
One to two	1.0
Three and over	1.5

*All "Other moving violations" will count no more than 1 point total when received at the time of a DWI.

Grading

0-1	City Standard (Zero Accidents)
2-3	Below City Standard (Requires counseling with supervisor)
4-5	<u>Unacceptable (Requires counseling with supervisor and DSC)</u>
6	<u>Unacceptable (Requires counseling with supervisor and DSC)</u>
Greater than 6	<u>Unacceptable</u>