



## EMPLOYEE HANDBOOK

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## **WELCOME ABOARD!**

The City of Fulshear welcomes you to our staff. We are happy you chose to join us in service to the citizens of Fulshear, and we want to make your first days on the job as pleasant and comfortable as possible. Our goal is to make our community a better place to live and do business while providing efficient, friendly service to our citizens and the public.

As a new employee you may have questions about City policies, procedures, and expectations of you as an employee. This handbook will answer most of those questions.

The information in this handbook is to provide a consistent guide to you on policies and other personnel matters. It is not intended to give specific guidelines for every conceivable personnel interaction. These guidelines are sufficiently broad to provide the latitude of discretion, which may be needed in individual situations. However, the degree of discretion shall not be permitted to violate the policy's intent. This policy should be referred to regularly when making decisions affecting City personnel. It will help ensure that decisions are fair, consistent, and in accordance with the desires of City Management. It is your responsibility to ask questions if you do not understand any policy or procedure.

Many of the policies and descriptions in this Handbook are summarized from laws, rules, plans, insurance policies and other official documents which control specific matters. These official documents take precedence over this Handbook in all cases. The Human Resources representative is responsible for providing access to the official documents during normal working hours.

This handbook is subject to the City's Charter, constitution and laws of the State of Texas and the United States. It is the City's policy to fully comply with all applicable local, state, and federal law, including any amendments to such law that become effective after this Handbook is adopted by City Council. Accordingly, to the extent protections provided by local, state, and federal law ever exceed those provided in this Handbook for any reason it is the City's policy to comply with such law as if it were fully incorporated in this Handbook. It is your responsibility as an employee to read, understand and comply with all policies, procedures, guidelines, and practices of both the City and individual departments. If you have questions, please contact your Department Director, Supervisor, Human Resources, or the City Manager. We look forward to working with you!

Sincerely,

Human Resources Department

# **ABOUT FULSHEAR**

## **Form of Government**

The City of Fulshear, Texas, is a Home-Rule municipality. The form of government established by the City of Fulshear Charter is known as a “Council-Manager” form of government. The elected officials include the Mayor and City Council.

The City Manager serves as the Chief Executive Officer and is appointed by City Council. The City Manager is responsible for managing all City personnel, except where the City’s Charter provides otherwise. The City Manager may authorize a Department Director as their designee to execute any policy set forth in this Handbook, subject to the City Manager’s direction and authority. The City Manager shall also designate an Acting City Manager who shall act as the City Manager in their absence, pursuant to Section 4.03 of the City of Fulshear Charter.

## **Vision Statement**

Fulshear is a community, where residents, businesses and civic leaders are committed to partners in service to build a City of Excellence.

## **Vision Elements**

1. Reputation/Level of Service
2. Economic Development
3. Community Development
4. Infrastructure
5. Recreation Services (Quality of Life)

## **Mission Statement**

The Mission of the City of Fulshear is to:

- Provide the highest quality of life through the provision of exceptional public service including infrastructure, public safety, and recreation;
- Welcome diverse economic growth within the constraints of fiscally responsible government; and
- Build a community that is sustainable for generations by preserving and honoring our history, small town character and natural environment and providing opportunities for growth in population and employment.

# **SECTION 1: ADMINISTRATION AND GENERAL INFORMATION**

## **101 PURPOSE**

The purpose of this Employee Handbook is to provide for the proper administration of the affairs of the City and to provide a reference for employees about what is expected of the employee and what the employee can expect from the City as an employer.

### **Role of City Employee**

The purpose of City government is to serve the community. Employees of the City are public employees, subject to public scrutiny, with a responsibility to the people, businesses, and visitors of Fulshear. The quality of service provided by the City to the people of Fulshear depends upon the quality of the City's workforce. The strength and future of the community depends upon employee contributions, that is, employee conduct on the job and the way employees perform their duties. Contact employees may have with the public are often the only basis on which the City government is judged.

### **Applicability**

All policies and procedures contained within this handbook shall apply to all employees, unless otherwise indicated, restricted by proper authority, or prohibited by state or federal law. All employees are charged with the responsibility of being thoroughly familiar with all provisions of this handbook.

Any statement within a policy or procedure found to be illegal, incorrect, and/or inapplicable shall not affect the validity and intent of the remaining content of said policy and procedure. Titles utilized shall not govern, limit, modify, or affect the scope of meaning or intent of any provision.

### **Responsibilities**

Each department director, manager and supervisor are responsible for enforcing the provisions of the employee handbook and ensuring the policies and procedures are fairly administered and equitably enforced.

City employees are responsible for complying with and adhering to the employee handbook, all rules of their department and to the directions provided by departmental management in the fulfillment of City personnel policies, and all other City rules, policies, ordinances, the City Charter, and the laws of the State of Texas and the United States.

It is the responsibility of each employee to read, retain, understand, and update their employee handbook when provided with applicable revisions and additions.

### **Administration**

The employee policies established herein are intended to cover all employees of the City of Fulshear except where otherwise provided by the City Charter of the City of Fulshear. The Director of Human Resources, under the direction of the City Manager, shall administer the employee policies. Questions about employee policies should be directed to a department supervisor, department director, or to Human Resources. The Director of Human Resources shall monitor these policies and shall make good faith effort to ensure compliance not only with the letter but also with the spirit of the objectives set forth in these policies.

### **Changes to Policies**

The City Manager shall authorize changes in the format of the employee handbook as necessary for clarification or proper administration. The City Manager may change or amend the provisions of the policies within the employee handbook as deemed necessary for the proper administration of the affairs of the City. No City of Fulshear supervisor or employee is authorized to modify this handbook or make exceptions to policies for any employee or to enter into any agreement, oral or written.

Policy changes having financial implications to the City are subject to the approval of the City Council as per the City Charter.

### **Policy Distribution and Availability**

It is the responsibility of the Director of Human Resources to ensure that each employee receives a copy of the employee handbook at their initial employment orientation.

The Director of Human Resources will ensure the most current version of the employee handbook is available on the City's website [www.fulsheartexas.gov](http://www.fulsheartexas.gov) and in the Human Resources office.

## **102 AT WILL EMPLOYMENT**

The policies and procedures set forth in this employee handbook are general guidelines only and none of its provisions are binding or contractual in nature. Employment with the City is "at-will" meaning that employment may be terminated at any time, with or without notice, for any reason or no reason, by either the City or the employee. No verbal statements or promises made by anyone at the time of hire or thereafter contrary to this policy are binding on the City in any manner.

This employee handbook does not guarantee employment for any specific period. Either the City or the employee may end this relationship at any time, with or without cause, notice or reason. No department director, supervisor or representative other than the City Manager has the authority to enter into any agreement guaranteeing employment for any specific period or to make any written or oral promises, agreements, or commitments contrary to this policy. Further, any employment agreement entered by the City Manager will not be enforceable unless it is in writing and, when required, approved by the City Council.

## **103 EQUAL EMPLOYMENT OPPORTUNITY**

The City is an Equal Opportunity Employer. The City does not discriminate against qualified applicants or its employees in its employment policies, practices, and access to its services. In accordance with law, the City prohibits discrimination against or preference for any person in recruitment, hiring, pay, benefits, membership, training, examination, appointment, promotion, retention, discipline, termination, or any other aspect of employment because of race, color, sex, age, religion, national origin, veteran status, marital status, disability, or genetic information, and all other categories protected by law. The City will not allow discrimination in the workplace and conduct found to violate the City's policies relating to discrimination and harassment may lead to discipline, up to and including termination.

Refer to Section 205 - EMPLOYMENT AUTHORIZATION VERIFICATION for additional information.

### **Responsibility**

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. Violations of the City's policy will result in corrective action and/or dismissal.

### **Complaints**

Any employee who feels discriminated against or subjected to unlawful harassment may file a complaint in accordance with Section 6 – Standards of Conduct & Employee Discipline.

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

The City is committed to complying with all applicable provisions of the Americans with Disabilities Act (ADA) as amended by the ADA Amendments Act (ADAAA) and ensuring equal opportunity in employment for qualified individuals with disabilities. It is the City's policy not to discriminate against any qualified employee or applicant about any terms or conditions of employment because of such individual's disability or perceived disability (as defined by the Act) so long as the employee can perform the essential functions of the job, with or without reasonable accommodations. Consistent with this policy on nondiscrimination, the City will provide reasonable accommodations determined through an interactive process, to a qualified individual with a disability as defined by the ADA, who has made the City aware of his or her disability and/or need for accommodation, provided that such accommodation does not place an undue hardship upon the City.

### **Applicability**

This policy applies to any individual offered employment with the City of Fulshear and requesting a reasonable accommodation, or any individual currently employed who seeks a reasonable accommodation to fulfill the essential functions of the employee's position with the City.

### **Designation**

The Director of Human Resources shall be the designated ADA Coordinator and shall be responsible for coordination and implementation of the City's policies prohibiting disability discrimination and providing employees with reasonable accommodations.

### **Procedure for Requesting an Accommodation**

Accommodation requests will be evaluated on a case-by-case basis through an interactive process. In response to an accommodation request, a member of Human Resources and the employee's supervisor will meet with the employee to discuss and identify the precise limitations resulting from the disability and the potential accommodation that the City might make to enable the employee to perform the essential functions of his or her job. If the employee seeks accommodation but is unable to suggest an appropriate accommodation, the City may consult with outside agencies and organizations to identify reasonable accommodation options for the specific situation.

The City will determine the feasibility of the requested accommodation considering various factors including, but not limited to, the nature and cost of the accommodation, the City's overall financial resources, and the accommodation's impact on the operations of the City and the individual department and/or division, including its impact on the ability of other employees to perform their duties and on the City's ability to conduct business.

The City will inform the employee of its decision on the specific accommodation request, any alternative accommodation proposed, or how to implement the approved accommodation. If the accommodation request is denied, the employee will be advised of the right to appeal the decision

to the City Manager by submitting a written statement explaining the reasons for the request, within five (5) business days. If the request on appeal is denied, that decision is final. If an employee's circumstances or needs change, he or she may restart the interactive process and request a reasonable accommodation, even if an earlier request has been denied.

The City does not need to provide an accommodation if doing so would cause an undue hardship, meaning the accommodation is unduly costly, extensive, substantial, or disruptive or would fundamentally alter the nature or operation of City business.

The ADA does not generally require the City to make the best possible accommodation, to reallocate essential job functions, or to provide personal use items at the City's cost (i.e., eyeglasses, hearing aids, wheelchairs, etc.).

Employees who fail to return to work after the conclusion of an approved leave, including any extensions of leave granted as a reasonable accommodation, shall be regarded as having voluntarily resigned their position.

### **Appeal**

If the ADA Coordinator denies a request for reasonable accommodation or determines an individual is not a qualified individual with a disability as defined by the ADA, the individual may file an appeal in accordance with the Employee Grievance and Appeals Policy as established by federal law.

### **Appeal Procedure**

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City. The City's Employee Handbook governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to the ADA Coordinator.

Within 15 calendar days after receipt of the complaint, the ADA Coordinator or their designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the ADA Coordinator or their designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the City and offer options for substantive resolution of the complaint.

If the response by the ADA Coordinator or their designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the City Manager or their designee.

Within 15 calendar days after receipt of the appeal, the City Manager or their designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the City Manager or their designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA Coordinator or their designee, appeals to the City Manager or their designee, and responses from these two offices will be retained by the City for at least three years.

### **105 PREGNANT WORKERS FAIRNESS ACT (JUNE, 2023)**

As required by the federal Pregnant Workers Fairness Act (PWFA), the City will provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause undue hardship to the City's operations.

An employee or applicant may request an accommodation due to pregnancy, childbirth, or a related medical condition by submitting the request in writing to human resources (HR). The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed and any alternative accommodation(s) that might be reasonable. Depending on the nature of the accommodation, the individual may be requested to submit a statement from a health care provider substantiating the need for the accommodation.

Upon receipt of a request for accommodation, HR will contact the employee or applicant to discuss the request and determine if an accommodation is reasonable and can be provided without significant difficulty or expense, i.e., undue hardship.

While the reasonableness of each accommodation request will be individually assessed, possible accommodations include allowing the individual to:

- Sit while working.
- Drink water during the workday.
- Receive closer-in parking.
- Have flexible hours.
- Receive appropriately sized uniforms and safety apparel.
- Receive additional break time to use the bathroom, eat and rest.
- Take time off to recover from childbirth.
- Be excused from strenuous activities and/or activities that involve exposure to compounds deemed unsafe during pregnancy.

An employee may request paid or unpaid leave as a reasonable accommodation under this policy; however, [Company Name] will not require an employee to take time off if another reasonable accommodation can be provided that will allow the employee to continue to work.

The City prohibits any retaliation, harassment, or adverse action due to an individual's request for an accommodation under this policy or for reporting or participating in an investigation of unlawful discrimination under this policy.

## **106 FAIR LABOR STANDARDS ACT (FLSA)**

The City complies with the Fair Labor Standards Act (FLSA). The FLSA established minimum wage, overtime, record keeping and child labor standards and applies to all full-time and part-time employees. The FLSA provides the option for compensatory time in lieu of overtime compensation for non-exempt employees.

Refer to Section 3 – WAGE & SALARY ADMINISTRATION for additional information.

## **107 PERSONNEL RECORDS**

### **Retention and Inspection**

Human Resources shall maintain the official personnel file for each employee and shall retain those records in accordance with the City's records retention schedule. An employee's personnel file is available for inspection by appointment in the Human Resources office by that employee and/or the employee's immediate supervisor, manager, director, Assistant City Manager, or the City Manager. Personnel files of employees are the property of the City, and access to the information they contain is restricted. However, the information contained in an employee's personnel file may be subject to disclosure in accordance with the Texas Public Information Act.

### **Information Requests and Employment References**

Requests for information from employee files received from other departments and inquiries from outside the City, including requests for references on former employees, will be directed to Human Resources. Supervisors and other employees are prohibited from providing personal or employment references on former or current employees.

### **Information Update**

Each employee shall report to Human Resources within thirty (30) days any changes in name, address, telephone number, and family status (births, deaths, marriages, divorce, legal separation, and change in dependents). This information will be added to the employee's personnel file.

## **108 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

The Health Insurance Portability and Accountability Act (HIPAA) requires the City to ensure that all medical information regarding an employee is maintained in a confidential manner; and protects health insurance coverage for employees and their families when they change or lose their jobs. In compliance with this Act, the City maintains all medical information separate from all personnel files; and provides employees with notices regarding their rights to continued coverage and ensures the City health insurance providers comply with this Act.

It is the policy of the City to limit the use or disclosure of protected health information:

- only as permitted or required by the Privacy Rule, as described in the Notice of Privacy Practices; or
- as authorized in writing by the individual who is the subject of the information.

### **Applicability**

This policy applies only to those administrative functions by the City associated with health, dental, vision, prescription drug, and flexible spending account benefits provided by the City of

Fulshear. This policy does not apply to the responsibilities of the carriers that provide the City's health, dental, vision, prescription drug, and flexible spending benefit plans to comply with the Privacy Rule. Further, this policy does not apply to individually identifiable health information that is maintained by the City in its role as employer. For example, this policy does not apply to information learned during pre-employment or drug testing, in processing workers' compensation, or in complying with the Family Medical Leave Act. As such, the City is considered a "hybrid entity" under the provisions of the Privacy Rule, and this policy shall apply only to the health care components previously described.

### **Safeguards**

The City will maintain reasonable and appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information. These safeguards reasonably prevent the intentional or unintentional use or disclosure of protected health information and limit incidental use and disclosure of protected health information.

### **HIPAA's Effect on other Health Care Information**

Neither HIPAA nor this policy protect individually identifiable health care information required for life insurance, disability insurance, workers' compensation, or employment records kept by the City in its capacity as an employer.

**Privacy Notice. The Privacy Notice may be obtained by contacting Human Resources.**

## **109 DEPARTMENTAL POLICIES**

Each Department Director, with the approval of the Director of Human Resources, may develop and implement departmental policies, procedures, codes of conduct, practices, rules, and regulations which are separate from, or in addition to, the personnel policies contained within the Employee Handbook so long as they are not in conflict with the policies and procedures within this Employee Handbook. All such departmental rules/policies may be more restrictive, but not less restrictive than City personnel policies. In the event of any conflict or incompatibility between departmental policies and the City's personnel policies, the City's personnel policies shall control. Department Directors shall review departmental policies and correct any inconsistencies, conflicts, or incompatible provisions with the City personnel policies, and future amendments to City personnel policies.

Copies of departmental policies shall be on file in Human Resources and distributed to all affected employees. It is the responsibility of the issuing department to distribute the policy to affected employees and enforce the policy.

## **110 STANDARD OPERATING PROCEDURES (SOPs)**

Standard Operating Procedures (SOPs) are detailed, written instructions to achieve uniformity of the performance of a specific function. In the event of any conflict or incompatibility between SOPs and the City's personnel policies, the City's personnel policies shall control. Citywide SOPs and individual department SOPs are stored on the City's computer system. These SOPs are available to any employee with access to a City computer terminal/network. Employees without access to the City's computer network shall be able to obtain copies of City SOPs and/or department SOPs from their immediate supervisor.

## **111 REVISIONS TO HANDBOOK**

This handbook is our attempt to keep you informed of the terms and conditions of your employment, including City of Fulshear policies and procedures. This handbook is not a contract. The City reserves the right to revise, add, or delete from this handbook as we determine to be in our best interest, except the policy concerning at-will employment. When changes are made to the policies and guidelines contained herein, we will endeavor to communicate them in a timely fashion, typically in a written supplement to the handbook or in a posting on employee notification boards.

## **SECTION 2: RECRUITMENT & EMPLOYMENT**

### **201 POSTING OF VACANCIES**

The City desires to promote qualified employees from within where it believes that is possible, consistent with the need to assure that all positions are staffed by highly competent individuals. New job openings generally will be announced via email and posted on our internet sites for a minimum of three (3) days.

### **202 EMPLOYMENT APPLICATIONS**

The City accepts employment applications for vacant positions approved in the budget.

Employment applications of candidates shall be maintained on file for the retention period specified by the City's retention schedule.

### **203 RECRUITING**

Recruitment is conducted to attract and select the candidate who best fits the vacancy while complying with all federal, state, and local laws. Applicants will be evaluated for positions based on the best overall fit and minimum job description requirements, including, but not limited to education, experience, skills, and ability to meet the essential functions of the position.

#### **Disqualification from the Process**

An applicant may be disqualified from consideration for a position for many reasons, including, but not limited to the following:

- Does not meet minimum qualifications necessary for performance of the duties of the position,
- Has made any false statement of fact on the application form (consideration will be given to the seriousness, willfulness, and applicability of the false information to the position sought),
- Has intentionally omitted information of fact on the application form (consideration will be given to the seriousness, willfulness, and applicability of the omitted information to the position sought),
- Has committed or attempted to commit a fraudulent act at any stage of the selection process,
- Is not legally permitted to hold the position, or
- Any other reasonable grounds relating to job requirements at any time in the process.

### **204 PRE-EMPLOYMENT SCREENING AND CONDITIONAL OFFERS**

#### **Pre-employment Screening**

Applicants selected for hire and provided conditional offers of employment will be required to successfully complete pre-screening requirements that may be deemed appropriate for the position. All pre-employment screening shall be conducted in accordance with applicable federal and state employment laws and will be kept confidential to the greatest extent possible.

### **Conditional Offer of Employment**

Human Resources shall coordinate any required preemployment screening after a conditional offer of employment is made to the applicant. Upon successful completion of pre-employment screenings, Human Resources and the hiring department shall establish the hire date and inform the candidate.

### **205 EMPLOYMENT AUTHORIZATION VERIFICATION**

New hires will be required to complete Section One of Federal Form I-9 on the first day of paid employment and must present acceptable documents authorized by the U. S. Citizenship and Immigration Services proving identity and employment authorization no later than the third business day following the start of employment with the City. If you are currently employed and have not complied with this requirement or if your status has changed, inform your Supervisor.

If you are authorized to work in this country for a limited period, you will be required to submit proof of renewed employment eligibility prior to the expiration of that period to remain employed by the City.

### **206 CRIMINAL BACKGROUND CHECKS**

The City of Fulshear shall conduct criminal history background checks on applicants who have been provided a conditional offer of employment.

#### **Review of Criminal History**

A criminal history does not serve as an automatic bar to employment with the City. Rather, disqualification will only occur based on a justified business necessity. Factors to be considered may include but are not limited to:

- The seriousness of the offense,
- When it occurred,
- The remoteness or any extenuating circumstances of the offense,
- The duties of the applicable job position.

Criminal histories may not be used to discriminate against an individual because of the person's race, color, sex, religion, national origin, age, genetic information, disability, veteran status, or any other protected status.

#### **False Statements**

An applicant making a false statement or omitting information relating to a prior conviction on the application shall be disqualified from consideration for employment.

#### **Confidentiality and Retention**

All criminal history information shall be treated as confidential as possible, and the City shall limit the number of people who have access to criminal history information.

#### **Final Determination**

The City Manager, or their designee, shall make a final decision regarding the suitability of the applicant for the position. The City may rescind a conditional job offer of employment or terminate an active employee provided it can demonstrate that the history shows conduct which indicates unsuitability for a particular position. This provision does not alter the City's status as an at-will employer.



With respect to Criminal History Record Information, in determining the eligibility or the disqualification of a candidate from employment based on their criminal history background, the City will consider the nature of the job, the nature and seriousness of the offense, and the length of time since it occurred. The City will decide on eligibility or disqualification in the interest of public safety and security which is job related, and on a case- by-case basis.

## **207 FAIR CREDIT REPORTING ACT**

The Fair Credit Reporting Act (FCRA) requires employers utilizing consumer reports for employment purposes to:

Notify applicants, in writing, that a consumer report may be obtained. A written authorization of the applicant or employee is required prior to requesting the report.

Before rejecting an applicant or taking other adverse action, provide the applicant or employee a notice that includes a copy of the consumer report relied upon in making the decision and notice of their rights under the Act.

After an adverse action is taken, notify the applicant or employee that the adverse action is taken based on the consumer report.

For more information on the FCRA, contact Human Resources.

## **208 PROVISIONAL PERIOD**

All employees shall serve a provisional period. This applies to new hires or employees who are promoted, transferred, or demoted. Civilian personnel shall be required to serve a provisional period of six (6) months and sworn police uniformed personnel shall be required to serve a provisional period of twelve (12) months. The provisional period allows time for supervisors to closely observe and evaluate the work of provisional employees and to aid and encourage them in adjusting to the position.

As part of the provisional process, the Human Resources department will conduct a comprehensive ninety (90) day review for all new hires. These reviews provide an opportunity to evaluate performance, address questions or concerns, and offer constructive feedback. The purpose of these reviews is to support the integration of new employees, align expectations, and foster a collaborative work environment.

During the provisional period of employment, employees are not permitted to take vacation days. This policy is designed to ensure that new employees have ample time to focus on learning their job responsibilities, becoming familiar with company policies, and establishing a solid foundation within the organization.

Extension of Provisional: Under certain circumstances a provisional period may be extended. The approval of the department director and the Director of Human Resources is required to extend a provisional period.

Promotional or Lateral Provisional: An employee who transferred or promoted to a new position whose work has not been satisfactory during the provisional period may, with the approval of the department director, revert to the employee's former job position, providing a vacancy exists for the position.

Vacancies During Provisional Period: An employee that is in a provisional status is not eligible to apply for internal vacant positions without the prior approval of the City Manager. This applies to new hires, or employees who are promoted, transferred, or demoted.

### **Review of Work**

During the provisional period, the provisional employee's supervisor is responsible for reviewing the quality and efficiency of the employee's work.

### **Right of Appeal**

A new employee who has been dismissed from City service for failure to successfully complete the provisional period shall not have the right to appeal, except as provided under the unlawful discrimination complaint procedures. Employees who are promoted, transferred, or demoted into a new position and have been dismissed from City service for failure to successfully complete the provisional period shall have the right to appeal.

### **Effect of Provisional Period**

The successful completion of the provisional period, and the existence of and access to the appeal procedure shall not constitute any limitation on the rights of the City to manage its affairs. All employees hold their positions at the will and pleasure of the City and may be terminated with or without cause when, in the opinion of the direct supervisor, department director, or City Manager, such action is in the best interest of the City.

## **209 NEPOTISM**

The City restricts the employment of relatives in some situations and prohibits the involvement of relatives in personnel decisions to prevent conflicts of interest, to avoid perceptions of biased conduct, and to maintain the confidentiality of restricted information. In certain circumstances, relatives are permitted to work together. This policy establishes guidelines for relatives in the workplace.

If an individual has a concern regarding a conflict of interest or biased conduct because of the employment or potential employment of relatives in the workplace, they shall inform their department director, Human Resources Director, Assistant City Manager, or City Manager of their concern. For this policy, a relative is defined as the following:

Blood and Marriage Relationships: Relationships in the first, second, and third degree of consanguinity (blood) or affinity (marriage). The same restrictions apply to adoptive relationships.

	<b>Blood (Consanguinity)</b>	<b>Marriage (Affinity)</b>
First Degree	Child Mother Father	Spouse Mother-in-law Father-in-law Step-child Step-mother Step-father
Second Degree	Brother Sister Half-brother Half-sister Grandchild Grandparent	Step-brother Step-sister Brother-in-law Sister-in-law Step-grandchild Step-grandparent
Third Degree	Uncle Aunt Nephew Niece First Cousin Great-grandparent Great-grandchild	Step-uncle Step-aunt Step-nephew Step-niece Step-first cousin Step-great-grandparent Step-great-grandchild

Common Law Marriages: Common Law marriages, as recognized by the State of Texas.

Cohabitants: Persons who live together in a romantic relationship or domestic partnership, but are not married, nor are declared to be married.

Roommates: Employees who share the same living quarters.

### **Restrictions**

The below restrictions apply to applicants and employees. A department director may establish stricter written nepotism policies for their department if employees are notified of the policy and a copy of the policy is approved by and on file with human resources. Department directors are encouraged to carefully review the below restrictions associated with nepotism, evaluate the risks associated with hiring and employing relatives, and establish departmental policies accordingly.

No relative of the Mayor or a City Council Member shall be eligible for full-time employment, and the Mayor or a City Council Member may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of a relative of the Mayor or any City Council Member for employment with the City. A full-time employee who is or becomes related to an individual who is elected as Mayor or as a City Council Member is or would be eligible for continued employment under Section 573.062 of the Texas Local Government Code. Relatives of the Mayor or City Council may work for the City in a part-time capacity.

No relative of the City Manager, Assistant City Manager, or Director of Human Resources shall be offered employment, accept employment, or be allowed continued employment.

No relative of any employee in the City Manager's Office or Human Resources department shall be offered employment, accept employment, or be allowed continued employment.

Relatives who are members of a division of the City Manager's Office shall be permitted to be offered employment, accept employment, or be allowed continued employment if no other restrictions exist.

No relative of a department director shall be offered employment, accept employment, or be allowed continued employment in the same department as the department director.

No employee shall be regularly supervised directly or indirectly by a relative. Employees shall not be transferred or promoted into positions that would cause them to be in a direct or indirect supervisor/subordinate relationship with a relative.

Employees shall neither initiate nor participate, directly or indirectly, in personnel decisions or employment actions involving relatives. Personnel actions may include decisions or actions regarding initial employment or appointment, retention, promotion, demotion, disciplinary action, grievance, performance review, discharge, assignment, transfer, time-off, pay, salary, work assignment, leave of absence, or any other employment action. In addition, an employee may not act on behalf of a relative or use their position to influence an employment action of a non-relative if such action would benefit one's relative.

### **Disclosure**

The following disclosure is required by current employees and applicants for employment:

Applicants: An applicant for employment with the City is required to disclose any relative who is employed by the City, as well as any relative who serves as the Mayor or as a City Council member.

Employees: An employee who becomes a relative of an employee is required to disclose the relationship to the Director of Human Resources or their department director as soon as the employee becomes aware of the relationship or within five business days of the creation of the relationship. Failure to disclose the relationship shall result in disciplinary action, up to and including termination.

### **Relatives after Employment**

If an employee becomes a relative after employment of another employee holding a position for which continued employment is prohibited under this policy, one of the employees must secure a position not prohibited under this policy within six (6) months of the date the employee's become relatives. If no other position is available within the City or one of the employees fails to secure a position not prohibited under this policy within the six-month period, one of the employees must vacate employment or the employee hired most recently shall be involuntarily terminated. At no time will the City create a position to resolve the conflict.

### **Exceptions**

In certain circumstances, the City Manager may allow for exceptions of this policy when it is in the best interest of the City to do so and when it is known that the restricted relationship will cease to exist within six (6) months.

## **210 PHYSICAL FITNESS/MENTAL HEALTH**

A person who has received a conditional offer of employment from the City may be required to take a medical and physical examination at City expense given by a doctor designated by the City. The offer of employment will be conditioned upon the results of the physical examination. The scope of the physical examination will be specific and limited to the job tasks the employee will be expected to perform.

It is the responsibility of each employee to maintain the standards of physical fitness required for performing the duties of their position. When it is suspected the mental health or physical fitness condition of an employee alters the state of readiness to perform employment duties, the employee may be instructed to undergo an occupational, physical, and/or mental health assessment at the expense of the City.

Any employee who becomes aware of any physical/mental disability that may impact their ability to perform their assigned job function should inform their Department Director and the Human Resources Department immediately.

An employee may be separated for incapacity for medical reasons when the employee no longer meets the standards of fitness required for the position with or without reasonable accommodation from the City in accordance with Section 10 - Separation of Employment.

## **211 OUTSIDE EMPLOYMENT**

Employees may engage in an outside employment activity or enterprise if it does not constitute a conflict of interest, adversely affecting the employee's job performance with the City, or unfavorably reflect upon the City.

Employees may engage in outside employment only with the approval of their department director.

Except for part-time, temporary, or seasonal employees, the City of Fulshear shall remain the primary employer.

The employee shall not be covered by the City's workers' compensation insurance for work performed for another employer.

Approval for outside employment as set out in this policy does not authorize an employee on FMLA leave, sick leave, disability leave, workers' compensation leave, administrative leave, or an unpaid leave of absence or on modified/light duty to engage in any outside employment. Any exceptions must be expressly authorized in writing by the City Manager or their designee.

## **212 RE-EMPLOYMENT**

Consideration for re-employment of any former employee may be granted to those applicants who can demonstrate acceptable prior service with the approval of the City Manager. Employees who leave the employment of the City and are re-hired shall be treated as new hires in respect to their hire date, service, benefits, and longevity.

## **SECTION 3: WAGE & SALARY ADMINISTRATION**

### **301 CATEGORIES OF EMPLOYMENT**

For purposes of salary administration, employment, and other personnel matters, it is necessary to classify employees into certain categories. The definitions of these categories are as follows:

FULL TIME EMPLOYEES: employees who work more than thirty (30) hours a week, typically 2,080 hours or more annually in a budgeted full-time position. Such employees are eligible for all City benefits. Full-time employees are further classified in one of the following categories:

- **EXEMPT** – An employee who is not subject to the overtime provisions of the FLSA. Exempt employees primarily include those individuals occupying a bona fide executive, administrative, and/or professional position under the FLSA.
- **NON-EXEMPT** – An employee covered by overtime provisions of the FLSA. Non-exempt employees include hourly employees, where pay is directly related to the number of hours worked.

PART-TIME EMPLOYEES: employees scheduled to work on average less than thirty (30) hours per week. Part-time employees are eligible for annual performance evaluations but are not eligible for any City benefits except those required by law.

PEACE OFFICERS: a person employed by the City in the Police Department as a peace officer.

TEMPORARY/SEASONAL EMPLOYEES: employees hired for a temporary period and are scheduled and limited to work less than 1,000 hours for a period of six months or less from the date they begin working. Temporary employees are not eligible to receive holiday pay or benefits available to full-time employees. Temporary employees must be separated from City employment prior to completing 999 hours of temporary employment unless they have written authorization from the City Manager to continue as a temporary employee. This includes interim employment and emergency employment.

INTERNS: a student hired for a specific period (i.e., summer, school semester) for the purpose of career development or field experience. Intern positions do not replace or displace employees and will not exceed 999 hours in a calendar year.

AT-WILL: employment relationship between the City and an employee in which either party may terminate employment at any time, with or without cause. All Full-time, Part-time, Temporary, and Interns are considered At-will employees.

### **302 WORK SCHEDULES**

The City Manager determines the hours City offices and departments are open for business. Work schedules for employees will vary due to the position they hold. Supervisors will advise employees of their individual work schedules. Staffing 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. The City reserves the right to schedule and/or change all hours and schedules of work as deemed necessary. The City also reserves the right to require employees to work to maintain minimum staffing levels and to provide required services and nothing contained herein shall be construed as a guaranteed work week.

WORK WEEK: The defined work week begins on Sunday at 12:00 a.m. (midnight) and ends on Saturday at 11:59 p.m. While many City services are provided on a 24-hour basis, seven days per week, the City has established its core business hours as 8:00 a.m. to 5:00 p.m., Monday through Thursday and 8:00 a.m. to 3:00 p.m. on Friday.

WORK PERIOD FOR LAW ENFORCEMENT: Section 207(k) of the FLSA allows employees engaged in law enforcement to be paid overtime on a work period basis. The City has defined the work period for law enforcement to be 14-days.

WORK SCHEDULES FOR EXEMPT EMPLOYEES: Exempt employees work at the discretion of their director. Therefore, directors may define the work hours and hold the employee accountable to a specific schedule without affecting the exempt status under the FLSA.

Directors shall be available and accessible during the City's core business hours, as well as outside of those established hours as needed to ensure City services and programs are available.

WORK SCHEDULES FOR NON-EXEMPT EMPLOYEES: Non-exempt employees in all City departments will observe a forty-hour work week. Directors, with the approval of the City Manager, may establish the work schedules, and meal/rest periods of their non-exempt employees based on providing the most comprehensive customer service to the public and to internal customers.

MEAL/REST BREAK PERIODS: Each Department Director will establish a system for taking breaks and eating meals. Employees may be required to stagger breaks and meals to ensure that an employee is always available. Once a system has been established, employees shall not exceed the allowed time period. During an emergency situation, the system may be altered. Lunch breaks are non-compensable unless the employee is required to work through the lunch break or is allowed to do so. Except in emergency situations, Supervisors are required to make sure that employees observe lunch breaks. Office employees shall take their lunch break away from their desk or workstation. If an employee works through the meal break this must be noted on the employee's time entries.

Police Officers receive paid lunch periods because they are often interrupted by work requirements during their lunch.

Regular Full-time employees may be allowed two (2) fifteen (15) minute rest breaks at the discretion of the Department Director. Rest breaks are not to be considered an employee's right, but a privilege. Rest breaks are not to be accumulated for later use, combined with meal periods, used to shorten the workday, or take precedence over the work situation on any given day.

### **303 PAY PROCEDURES**

The City of Fulshear operates on a bi-weekly payroll system and earning statements are issued twenty-six (26) times per calendar year, except every seven (7) years, there are twenty-seven (27) pay periods. A pay period shall be two (2) consecutive work weeks, on the conclusion of which payroll is completed.

### **304 DIRECT DEPOSIT AND EARNING STATEMENTS**

Direct deposit offers a cost-effective way of ensuring that all employees are paid in a timely manner. Therefore, all employees are required to have direct deposit for their pay. Earning Statements are e-mailed to employees following each pay period. The City will deposit funds into

the financial institutions of the employee's choice. Employees are responsible for notifying Human Resources of current emails and updating banking information with account changes.

Each bank will post deposits at different times. The City is not responsible for any financial institutions banking policies.

### **305 WITHHOLDING AND DEDUCTIONS**

Employees may experience payroll deductions in association with their participation in some benefit plans. Additionally, the City withholds standard Federal and State mandated funds such as Federal Income Tax, FICA (Social Security taxes), and Medicare, as well as other court ordered garnishments, such as child support.

### **306 ERRORS IN PAY**

It is the employee's responsibility to notify Human Resources if the employee detects errors in a paycheck. This includes over and under payments, errors in deductions, and other information that would cause a discrepancy in the net or gross income of the employee. If an error occurs which results in an overpayment to an employee, the employee will be required to reimburse the overpayment to the City within a reasonable time. If the error occurs on the employee's final paycheck, corrections must be made in cash or cashier's check. If the error results in underpayment, the Finance Department will make the correction as soon as possible, or no later than the next regularly scheduled pay period.

### **307 SAFE HARBOR**

It is the policy of the City to comply with the salary basis requirements of the FLSA. Therefore, improper deductions from the salaries of exempt employees are prohibited. If it is felt that an improper deduction has been made to your salary, you should immediately report this to the Human Resources Director. Reports of improper deductions will be promptly investigated, and reimbursements provided if it is determined improper deductions occurred.

### **308 CATEGORIES OF PAY**

#### **Overtime Pay**

All employees may be required to work overtime, when necessary, as determined by departmental management. All overtime must be pre-approved. Specific overtime assignments shall be rotated and allocated as evenly as possible among employees qualified to do the work. Employees are expected to respond to a reasonable request to work overtime and may be subject to disciplinary action for failing to stay or report for overtime work.

Overtime pay is based on actual hours worked. Compensatory time, personal, sick leave, vacation, bereavement, holiday pay, or any leave of absence will not be considered hours worked for purposes of performing overtime calculations.

Overtime is any time worked over forty (40) hours by non-exempt employees in a seven-day work week, except law enforcement personnel. Non-exempt law enforcement personnel receive overtime for any time worked over eighty (80) hours in a 14-day work period.



Non-exempt employee, except law enforcement personnel, may choose to receive overtime in either pay at the rate of one and one half (1 ½) times the employee's regular hourly rate, or in the form of compensatory time off at the rate of one and one half (1 ½) hours for every hour of work over forty (40) hours in a seven-day work week. Law enforcement personnel may choose to receive overtime in either pay at the rate of one and one half (1 ½) times the employee's regular hourly rate or in compensatory time off at the rate of one and one half (1 ½) hours for every hour of work over eighty (80) hours in a 14-day work period.

The Human Resources Department shall maintain a listing of all positions, showing their designation as either exempt or non-exempt.

### **Compensatory Time**

Non-exempt employees, except law enforcement personnel, may accrue a maximum of 240 hours of compensatory time. Law enforcement personnel may accrue a maximum of 480 hours of compensatory time. When compensatory time is used, it is not counted as time worked for calculation of overtime.

A non-exempt employee who has accrued the maximum number of compensatory hours shall thereafter be paid wages for any overtime hours worked until such time that the employee's compensatory time balance has been reduced below the maximum permitted.

Compensatory time cannot be earned and used in the same work week or work period.

When a non-exempt employee is promoted to an exempt employment status, the employee shall have the compensatory time balance cashed out prior to or at the effective date of the promotion at the base hourly rate of pay on the day before the effective date of the promotion.

### **Daylight Savings Time Pay**

Non-exempt employees who are on shift at the time the clocks are advanced one hour (Spring) will be paid for the entire shift of hours actually worked. Non-exempt employees who are on shift at the time the clocks are reversed one hour (Fall) will be paid for the entire shift plus one hour. This hour will be counted as time worked in the calculation of overtime. The salary for exempt employees will not be affected by daylight savings time.

### **On-Call and Call Back Pay**

"On-Call Time" is defined as the time outside of regularly scheduled working hours when an employee is assigned to be available to work if called upon. On-Call Time is not considered time worked and is not compensable at the employee's regular hourly rate of pay. The employee is free to pursue personal activities during On-Call Time but must respond to summons within designated guidelines determined by the employee's respective Department Director. Employees must abide by the guidelines set out in the Drug Free and Alcohol-Free Workplace Policy of the Employee Handbook in accordance with the Employee Handbook and during all periods of assigned On-Call Time. An employee may receive a stipend of \$10.71 per day for being "on-call."

"Call back Time" is generally defined as the time the City of Fulshear requires an employee assigned to a period of On-Call Time (an "On-Call Employee") to return to work on an unscheduled or emergency basis to work outside of the employee's regular scheduled work hours. However, there are times when the On-Call Employee must call in another employee with a particular

expertise to fix an issue. This person is also considered to be on Call back Time under this policy. The time that a non-exempt On-Call Employee is assigned to Call back Time will be considered as hours worked if, during that time, the On-Call Employee is required to perform the On-Call Employee's regular duties.

When an employee is on an "On-Call" status and is called to work, compensation will be given to the On-Call Employee in accordance with the guidelines outlined below:

1. **Return to the On-Call Employee's Usual Place of Work:** Any time worked less than one (1) hour (e.g., twenty-six (26) minutes), will still be deemed one (1) hour of work, in accordance with the Fair Labor Standards Act. Any matter exceeding one (1) hour of work will be paid according to the length of time requiring the On-Call Employee's attention.
2. **Accessing a Telephone or Computer:** Any time spent working telephonically, electronically, or remotely will be paid for the actual time spent working in this capacity with a minimum of fifteen (15) minute increments. Examples include:
  - a. If an On-Call Employee receives a telephone call and resolves the matter within five (5) minutes it is counted as fifteen (15) minutes.
  - b. If the On-Call Employee takes two (2) telephone calls within the same fifteen-minute period, then the time counted shall be fifteen (15) minutes not thirty (30) minutes.
  - c. If the telephone call lasts twenty (20) minutes, the time is calculated at twenty (20) minutes. If the employee received two, five (5)-minute calls, separated by more than fifteen (15) minutes, in the circumstances shall be counted as two, separate fifteen-minute calls.

Time spent working telephonically, electronically, or remotely will not qualify for the one-hour minimum pay.

The following provisions also apply to Call back Time and associated pay:

- Call back Time does not change the number of hours scheduled as "on-call."
- If a non-exempt On-Call Employee is subject to call back, any hour(s) worked during the period of Call back Time will be paid at a rate of one and one half (1 ½) times the regular rate of pay, regardless of the actual number of hours worked in the work week.
- Call back Time that occurs on a City of Fulshear observed holiday or designated holiday will be paid at two times the On-Call Employee's regular rate of pay, regardless of the actual number of hours worked in the work week.
- Callback Time pay is not associated with time where employees are asked to remain at work or during times when employees may be held over for a shift. If an employee is asked to remain at work after their shift, pay will be subject to the Fair Labor Standards Act guidelines.
- All overtime earned during a call back is excluded from the employees overtime pay for hours worked in excess of 40 hours per week (29 C.F.R. §778.201).
- Exempt employees are not eligible for Call back Time pay.

Department Directors can make respective policies concerning what positions will be mandated for On-Call Time and what the length of response time must be for On-Call Employees to return to the work site.

On-call Time and Call back Time must be reported on the employee's bi-weekly timesheet, in accordance with the guidelines listed above.

### **Premium Holiday Pay**

Non-exempt employees who work on a designated holiday shall, in addition to their holiday pay, be compensated a premium pay at a rate of one and one half (1 ½) times the employee's regular hourly rate for hours actually worked on the designated holiday, regardless of whether the FLSA overtime hours worked requirement is satisfied.

Non-exempt employees working a standard workweek schedule will receive premium holiday pay for hours worked on the day in which the holiday is observed and City offices are closed.

Non-exempt law enforcement employees working a standard work period (14 day schedule) will receive premium holiday pay for hours worked on the actual holiday.

Premium Holiday Pay is excluded from the employees overtime pay for hours worked in excess of 40 hours per week (29 C.F.R. §778.201).

For purposes of applying the Premium Holiday Pay provision, a holiday period shall run from midnight to midnight on the date of the actual or the recognized holiday.

### **Emergency Event Pay**

Compensation for hours worked during a declared State of Emergency or during a Hazardous Weather Event are defined within Section 807 - EMERGENCY EVENTS & HAZARDOUS WEATHER.

### **Longevity Pay**

All Full Time employees shall receive, in addition to all other compensation paid, longevity pay of four (4) dollars per month for each year of service to the City, not to exceed twenty-five (25) years. Longevity Pay will be calculated and paid annually, in a lump sum, as determined by the City Manager.

### **Step-Up Pay, Interim Pay & Assignment Pay**

#### **A. Step-Up Pay**

Step-up pay applies only to non-exempt employees who are temporarily assigned to perform the full range of duties of a higher-classified position on a short-term basis due to the absence of an employee in a higher-classified position, or the vacancy of such position as determined by the City Manager. The employee who is temporarily assigned will receive an increase in pay in the amount of 5% for a classification that is one grade higher, 10% for a classification that is two grades higher, or the minimum of the range of the position, whichever is greater, for performing duties of a higher classification on a short-term basis.

#### **B. Interim Pay**

Interim pay may apply to positions that are "At-Will" and that are vacant. Interim pay assignments must be approved by the City Manager. The employee who is temporarily assigned to perform the full range of a higher classified position on an extended term basis, i.e., for a period of four (4) work weeks or more due to the extended absence of an employee in a higher classified position or the vacancy of such position, may receive an increase in

pay in the amount of up to 10% for performing duties of a higher classification on an extended-term basis.

#### C. Merit Pay During a Step-Up or Interim Assignment

If a merit increase is awarded during an interim placement, the incumbent shall receive the appropriate increment, which is based on the original salary, with the step-up or interim assignment pay recalculated according to the employee's new base hourly rate.

#### D. Assignment Pays

Employees in certain roles may receive additional compensation at various agreed upon rates of pay for performing additional specific duties or specialized assignments not to exceed 4.5% of the employee's hourly rate of pay. Examples of this type of assignment pay include Training Officer, Canine, Solo Motorcycle Detail, Customer Support, and Evidence Management.

### **Incentive Pay**

Incentive pay adjustments for exempt employees to encourage a superior performance may be made at any time during the fiscal year and such amounts as authorized may be paid as either a lump sum or pro-rated over the remaining portion of the fiscal year as directed by the City Manager. Such amounts shall not become a permanent part of any employee's regular base rate of pay, but shall be only a temporary incentive pay adjustment not extending beyond the end of the fiscal year in which such incentive pay is authorized.

Incentive pay must be related to an employee's work involvement with a project having significant organizational impact that requires effort beyond the employee's regular duties.

### **Travel Time Pay**

#### A. Commute Time for Day Trips

Trips such as organization meetings, one day seminars, site visits, board meetings, background checks, etc. are not considered overnight travel, if they do not meet the test outlined in the City's Travel and Training Policy. They are then considered day trips. All hours spent traveling on trips occurring within one day are compensable for non-exempt employees.

#### B. Overnight Travel

Travel time is compensable when it occurs during the non-exempt employee's normal work hours. Moreover, if the travel occurs during the normal working hours of a non-exempt employee, even if on nonworking days (i.e., Saturday or Sunday), the time is compensable. Travel time that occurs outside of regular working hours when the employee is a passenger and free to relax does not count as working time. However, if the non-exempt employee is required to drive or perform work, then the time is compensable. Supervisors are encouraged to work with employees to accommodate compensatory travel or training outside of normal work hours by offsetting excess hours in one day with reduced hours in another day in the same workweek.

## **309 JOB CLASSIFICATION SYSTEM**

### **Position Classification System**

The City maintains a position classification system for all workers to apply sound principles of measurement to determine an internally equitable market value of each position in the City. Jobs are grouped according to job duties, responsibilities, knowledge, education, training, skills, and abilities.

For each job classification, there is a job title, job description, and compensation pay range which describes the essential functions of the job, the minimum qualifications required to perform the job, and the pay range for the job.

Job descriptions provide a general summary of the purpose, essential duties, responsibilities, and requirements of a position. It is not intended to be a comprehensive listing of all tasks associated with the position nor an implied contract between the City and the employee. Job descriptions are required for all positions and will define the position as exempt or non-exempt.

The Fair Labor Standards Act (FLSA) sets the minimum wage, overtime pay, equal pay, record keeping and child labor standards for employees. Additionally, the FLSA classifies employees into two main categories: exempt and non-exempt, which determine the positions that should be paid overtime. The City of Fulshear complies with these standards.

The Human Resources Department maintains the City's Position Classification and Pay Plan. The administration of the pay system is under the direction of the Human Resources Director. The HR Director shall recommend to the City Manager the assignment of each job position to its appropriate compensation pay range and the designation of each job position as exempt or non-exempt in accordance with the law. The request for new positions will occur during the budget process each year unless an exception is made by the City Manager.

### **Position Evaluation and Range Assignment**

All positions, existing and new, will be evaluated by the Human Resources Department and approved by the City Manager prior to developing a position description and advertising the vacant position.

Justification for position changes (i.e., reclassification due to changes in position duties and responsibilities) shall require the completion of the Job Description Questionnaire (JDQ) to assist the Human Resources Department and the individual department in finalizing a new/revised position description.

When requesting a new position, the requesting department must complete a Job Description Questionnaire (JDQ). Based on the information provided, the Human Resources Department will develop a position description.

Positions under consideration must be evaluated by Human Resources, following the JDQ evaluation system and benchmarked to the market (if applicable) and compared with other positions to establish internal equity. The City Manager shall have the final approval of a position within the appropriate salary structures, as determined by the JDQ evaluation system.

### **Salary Ranges and Quartiles**

A salary range is an established range of pay organized into salary grades. Each job is assigned a salary grade that represents the pay commensurate of each position performing similar work utilizing similar knowledge, skills, and abilities. Since employees have different levels of experience and education, the City will utilize quartiles to determine where an employee should be placed in the salary range.

### **New Hires**

Employees start at the minimum rate of the pay grade (First Quartile) if the employee has the minimum knowledge, skills, and abilities required in the job description. Through the completion of a Placement Matrix form, the hiring supervisor, with the approval of the Human Resources Director, can start experienced individuals through the Second Quartile of the range. Any requests for placement beyond the Second Quartile may occur only with concurrence of the Human Resource Director, and the approval of the City Manager.

### **Public Safety**

Peace Officers start on Step 1 of the pay grade if they have the minimum knowledge, skills and abilities required in the job description. The hiring supervisor, with the approval of the Human Resources Director, can start experienced officers between Steps 2-6 depending on experience. The hiring supervisor shall use the Placement Matrix to justify placement in an additional step.

The City recognizes the dedication and contribution of military service. Military service credit will be given in equivalence of a bachelor's degree for public safety positions.

### **Reclassification of Positions and/or Authorizations**

Each year during the budget process, based on the budget instructions, each department will be given the opportunity to make requests for reclassifications. Only on rare occasions will requests made outside the budget process be approved by the City Manager.

To reclassify a position is to retitle or reassign a new salary range to a current position. A reclassification is based upon:

- A change in essential job duties/responsibilities, or
- A change due to market conditions, or
- Reorganization of department/division.

A position can be reclassified either up or down the salary structure depending on the addition or reduction of essential job functions and/or market conditions. If there is only one qualified person that meets the qualifications of the position, then the position will not be opened, and the individual will be reclassified to that position.

The City Manager may reclassify an employee's position at their sole discretion.

#### **A. SALARY CONSIDERATIONS**

Incumbents in positions that are reclassified upward due to a change(s) in the essential position functions resulting in the position moving to a higher salary range shall receive a 5% pay increase for a classification that is one grade higher, 10% for a classification that is two grades higher or the minimum of the range for the new classification, whichever is greater.

Incumbents in positions that are reclassified upward due to market conditions resulting in the position moving to a higher salary range shall be placed in the new salary range with no added adjustment unless the incumbent's salary is below the minimum of the new salary range and taking into consideration other incumbents in the department in similar situations.

Reclassifications that occur within the public safety salary structure will be offered a salary that is provided by that structure by placing the employee in the step closest to what they were earning.

If a reclassification study indicates that a position shall be classified at a lower salary range, the incumbent(s) shall remain at the current salary. If the employee's salary is above the maximum rate for the range, the employee's pay will be frozen until it no longer exceeds the maximum rate of the range. The employee will also retain the annual review date.

Title changes and minor changes in job descriptions may not warrant a change in salary, which will be determined by the Human Resources Director.

## **B. RECLASSIFICATION DUE TO REORGANIZATION**

Reorganizations can occur which result in departments creating a classification that is a promotional opportunity but are going to use another budgeted position within their department to pay for the newly created position. There will be no head count change, only a reorganizing of head count. If there are several employees that could qualify for the position within the same classification, then the job will be opened to employees only within the same department. (As an example, a department may need another Maintenance Tech II position and not as many Maintenance Tech I positions. The Maintenance Tech II position is opened for applications only to the employees within that department.) When the position is filled, the position that is vacated will be closed, and the funds will be used to partially fund the new position.

An employee reduced in salary range through reorganization will retain their current salary if it is within the pay range. If the employee's salary is above the maximum rate for the range, the employee's pay will be frozen until it no longer exceeds the maximum rate of the range. The employee will also retain the annual review date.

### **Promotions**

Incumbents in non-public safety positions having a minimum of six (6) months of service, or incumbents in public safety positions (i.e., peace officers) having a minimum of one (1) year of service with the City may be eligible for consideration for advancement or promotion. An exception to these service requirements may be made at the discretion of the Department Director and with the concurrence of the Human Resources Director.

General guidelines for salary adjustments relating to advancement or promotion are as follows:

1. The equivalent to the minimum of the new salary range or up to 5% increase above the individual's present salary, whichever is greater, will be awarded for a one (1) salary range promotion.

2. The equivalent to the minimum of the new salary range or up to 10% increase above the individual's present salary, whichever is greater, will be awarded for a two (2) or more salary range promotion.
3. An employee promoting from one department to another will be evaluated by the department they are leaving at the time of the transfer. The new supervisor will evaluate the employee from the start date in which they were promoted to the new position until the end of the evaluation period. On the annual review date, the two (2) ratings will be combined to determine the merit (if applicable).
4. Employees promoting from a non-exempt position to an exempt position may be eligible for up to a 5% increase.
5. Part-time employees promoting into a regular full-time position will have their full-time salary set in accordance with the Employment Process Policy.

Refer to section 904 - PROMOTIONS for additional information.

### **Lateral Transfers**

A lateral transfer is movement from one position to another position within the same pay range. In the event an incumbent is transferred, whether voluntary or involuntary, to a position with the same pay range, the incumbent shall remain at the same salary.

An employee laterally transferring from one department to another will be evaluated by the department they are leaving at the time of the transfer. The new supervisor will evaluate the employee from the start date that they transferred to the new position until the end of the evaluation period. On the annual review date, the two (2) ratings will be combined to determine the merit (if applicable).

The City Manager may transfer an employee within the same department or to another department at their sole discretion.

Refer to section 905 - ADMINISTRATIVE TRANSFERS for additional information.

### **Demotions**

An employee who is involuntarily demoted from one position to another position in a lower salary range may have their pay reduced to equate to the new job duties of the position they will fill. It is possible a reduction in pay may occur to be placed in the proper salary range.

An employee who voluntarily requests a demotion from one position to another position in a lower salary range may incur an appropriate reduction in pay. Any changes in salary shall be determined by the Human Resources Department to ensure that consistent and equitable treatment is given. If an employee demotes to a previously held position, they will return to the previous salary and retain any earned increases they have incurred. If an employee demotes to a position not previously held, the Department Director and Human Resources Director will ensure that consistent and equitable treatment is given in consideration of the other incumbents in that position. However, at no time will the salary exceed the maximum of the salary range.



## SECTION 4: LEAVE

### 401 HOLIDAYS

Paid holidays are extended to all regular, full-time employees. Every other employee is extended the official holiday, without pay. There is no waiting period for employees to receive holiday pay.

The following holidays will be observed by the City:

New Year's Day	Martin Luther King, Jr. Day
Good Friday	Memorial Day
Juneteenth	Independence Day
Labor Day	Fort Bend County Fair Day
Veteran's Day	Thanksgiving Day
Day after Thanksgiving	Christmas Eve
Christmas Day	Floating Holiday

#### Holidays on Weekends

When a holiday occurs on a Saturday, it shall be observed on the preceding Friday, but when the holiday occurs on a Sunday, it shall be observed on the following Monday ("Observed Holidays").

#### Floating Holiday

Employees are afforded one floating holiday per fiscal year. The floating holiday may be taken as a full day off on a workday of the employee's choice, subject to their supervisor's approval. The floating holiday shall not count as hours worked toward overtime eligibility. The floating holiday may not be carried over. If it is not used on or before September 30, of each year, it will be forfeited.

#### Holidays Occurring During Scheduled Time Off

An official holiday occurring while on vacation, sick or FMLA leave is being taken will be reflected as a holiday on the payroll and no deduction from vacation or sick leave balance will be made for the holiday.

#### Pay

Regular full-time employees shall receive holiday pay equivalent to a standard eight (8) hour workday. Eight hours of pay for regular employees is equal to 12 hours of pay for police officers on the 24-hour shift schedule. Holiday pay hours do not count as "time worked" for the purposes of calculation of the City's FLSA overtime obligations, if any.

If an employee is scheduled to work and actually works on a City designated or observed holiday, the employee will receive Premium Holiday Pay.

An employee shall not receive pay for a holiday if he or she:

- Is absent without approved leave either the day before or the day following an official holiday; or
- Is absent without approved leave on a holiday on which the employee is scheduled to work.

Employees who designate their last day of employment on an official City holiday shall not receive holiday pay for the holiday.

The City shall not pay compensation to any employee upon separation from the City, regardless of the cause of such separation, for any unused floating holiday.

#### **402 PERSONAL LEAVE**

The City will provide all regular, full-time employees three (3) days of Personal Leave each fiscal year. Use of Personal Leave is subject to prior approval of the department director. If the employee does not use all Personal Leave by the end of each fiscal year, the employee forfeits such leave, and the City shall not pay compensation to an employee for unused Personal Leave. Additionally, the City shall not pay compensation to an employee for unused Personal Leave if the employee separates from the City, regardless of the cause of such separation.

#### **403 VACATION LEAVE**

##### **Accrual**

All regular full-time employees shall accrue vacation leave. Accrual rates are based on the length of continuous full-time service with the City of Fulshear. The calendar year in which an employee begins employment (Date of Employment) in their initial regular, full-time position shall be considered as their first year for determining the amount of vacation the employee is entitled to receive. Vacation leave shall not be advanced. Vacation leave shall not accrue when an employee is on a leave of absence without pay for an entire pay period. An employee is on leave of absence without pay when they have exhausted all available paid leave, and they are not eligible for or have exhausted available family medical leave in accordance with the Family Medical Leave Act Policy.

<b>Months of Service</b>	<b>Per Period Accrual Rate (Estimated Annual Accrual)</b>	<b>Maximum Accrual Allowed</b>
0-60 months (First year through end of fifth year)	3.08 hours per pay period (2 weeks)	240 Hours
61- 240 months (beginning year six through end of twentieth year)	4.62 hours per pay period (3 weeks)	240 Hours
241 months or more	6.15 hours per pay period (4 weeks)	240 Hours

**Maximum Accrual Allowed**

Employees shall not accrue more than 240 hours of vacation leave at any time. Vacation leave shall cease to accrue when an employee’s vacation balance reaches the maximum accrual allowed until the employee uses vacation hours to reduce the balance to less than 240 hours.

**Scheduling Vacation**

Employees shall schedule vacation in advance with the employee’s supervisor or Department Director, who shall give due consideration to the employee’s needs and the remaining employees’ ability to perform all essential tasks of the department while the employee is on vacation. Vacation requests by Department Directors are subject to approval of the City Manager or their designee. Vacations shall only be scheduled when workload permits; however, every reasonable effort shall be made to accommodate individual requests. Employees are responsible for ensuring that vacation leave is requested within a reasonable amount of time and confirm they will have adequate leave accruals to cover the requested time off. Supervisors may deny requests for time off when the employee does not have sufficient vacation accrual available for the request or when it cannot be accommodated due to business needs. Employees on a provisional period are not eligible to schedule vacation until the provisional period is complete.

**Cash Out of Unused Vacation Leave**

An employee may cash out unused vacation one time annually (12 month period) in forty (40) hour increments. All written requests should be submitted to Human Resources and payment will be processed as soon as reasonable, but no later than thirty days from the date the request is received. An employee must have a minimum balance of 120 vacation hours to be eligible to cash out vacation leave. Following the cash-out, employees must maintain a minimum ending vacation balance of forty (40) hours.

**404 SICK LEAVE**

Regular, full-time employees are eligible to accrue and use sick leave.

**Accrual**

Sick leave shall be accrued at the rate of 4.62 hours per pay period for a total of 120 hours per calendar year. Sick leave shall not be advanced. Sick leave shall not accrue when an employee

is on a leave of absence without pay for an entire pay period. An employee is on leave of absence without pay when they have exhausted all available paid leave, and they are not eligible for or have exhausted available family medical leave in accordance with the Family Medical Leave Act Policy.

### **Uses of Sick Leave**

Sick leave may be taken for the following reasons:

- An employee's illness or physical incapacity,
- The illness or physical incapacity of the employee's Immediate Family that requires the presence of the employee,
- Medical and dental appointments or essential preventive medical procedures that cannot be scheduled during off-duty hours,
- The enforced quarantine of the employee,
- The birth, adoption, or initial foster care placement, of a child, and in order to care for that child within the first twelve (12) months following the child's birth, adoption, or initial foster care placement, as applicable.

### **Notice of Absence**

An employee not reporting to work for any of the reasons stated above shall notify, or cause to be notified, his or her Department Director, as soon as possible, and preferably prior to the time at which the employee is required to report to work.

### **Limitations on Excessive Use or Abuse of Sick Leave**

Department Directors will monitor use of sick leave by employees to identify cases of potential excessive use or abuse of sick leave. Noticeable patterns of sick leave use may be subject to further review by Human Resources. An employee who is determined to be using excessive sick leave, abusing sick leave, or whose absence from work interferes with the ability of the Department Director to maintain the expected level of service within that department is subject to disciplinary action including termination.

### **Health Provider Certificate Required**

An employee who takes sick leave for a period of more than three (3) consecutive working days shall provide to their Department Director a written statement from a licensed practicing physician, physician's assistant (P.A.), or nurse practitioner (N.P.) certifying that the employee's condition prevented him or her from performing the duties of his or her position. The City Manager may require that the employee present a physician's, P.A.'s, or N.P.'s statement certifying that the employee is able to safely return to work and perform the essential functions of his or her job, with or without reasonable accommodations, prior to the date on which the employee intends to return to work. The City Manager may require a physician's, P.A.'s, or N.P.'s statement to justify an employee's use of sick leave for a period of time that is three (3) consecutive working days or less.

### **Absence for Less Than a Day**

Sick leave may be used in one (1) hour increments for absences of less than one (1) workday in connection with categories of sick leave stated above.

### **Work Related Injuries and Illness**

Employees shall report all work-related injuries or illness to their Department Director as soon as possible but in no event later than 24 hours. The Department Director shall assist the

employee with the completion of a First Report of Injury Form and shall then forward such form to Human Resources. Human Resources will assist the employee with filing a claim.

Before returning to work, the employee must present a physician's, P.A.'s, or N.P.'s statement certifying that the employee is able to safely return to work and perform the essential functions of his or her job, with or without reasonable accommodations, prior to the date on which the employee intends to return to work.

If the injured employee is not cleared for full duty, upon receipt of a list of light duty assignments that the physician, P.A., or N.P. feels the employee can safely perform, the City may accommodate the injured employee by providing light duty, if available, and if it is in the best mutual interest of the employee and the City. If an employee's injury or illness does not arise out of or in the course of their employment, the City may provide light duty at the discretion of the Department Director.

### **Sick Leave Upon Separation of Employment**

Employees who are separated from City employment for any reason other than retirement shall not be entitled to receive pay for accumulated sick leave. Upon retirement, an employee shall be eligible to receive a lump sum payment for accrued sick leave remaining to his or her credit in an amount that does not exceed 240 hours when he or she:

- Retires from City employment under the City sponsored program and is immediately eligible to receive retirement payments; and has at least ten (10) years of continuous employment with the City of Fulshear.

### **Attendance Incentive Program**

On a calendar year basis, employees who have not used any sick leave in the previous twelve months may convert 40 hours of sick leave to vacation leave. The employee must have a minimum balance of 120 hours of sick leave in order to convert hours to vacation leave and the vacation leave may not exceed the maximum accrual allowable.

## **405 CATASTROPHIC SICK LEAVE POOL**

The City of Fulshear maintains a sick leave pool to provide for the alleviation of hardships incurred by an employee and the employee's immediate family, if a catastrophic illness or catastrophic injury forces the employee to exhaust all available sick, personal, vacation, and compensatory leave. The sick leave pool is intended to lessen financial hardship caused to employees by providing a source of additional paid sick leave. Routine pregnancy/maternity and elective surgeries are not considered a catastrophic illness or catastrophic injury. However, severe pregnancy related illness or complications afflicting mother or child may be considered.

### **Definitions**

1. Immediate Family Member is defined as an employee's spouse, child, or parent.
2. Catastrophic Illness or Injury - A catastrophic illness or injury is a serious debilitating illness, injury, impairment, or physical or mental condition that is:
  - a. Terminal, life-threatening, or very severe.
  - b. Reasonably expected to be present for a minimum of thirty consecutive calendar days.
  - c. Forcing the employee to exhaust all their accrued leave.
  - d. Involving:

- i. A period of illness or injury or treatment connected with inpatient care (e.g. overnight stay) in a hospital, hospice, or residential medical care facility for ten or more consecutive days; or
- ii. A period of illness or injury requiring absence from work of ten or more consecutive workdays, and that also involves continuing treatment by (or under the supervision of) a licensed physician; or
- iii. A period of illness or injury that is long-term due to a condition for which treatment may be ineffective (e.g., stroke, cancer, terminal disease, etc.) and requires absence from work for ten or more consecutive workdays; or
- iv. An absence of at least ten consecutive workdays to receive multiple treatments (including any period of recovery therefrom) either for restorative surgery after an accident or other injury, or for a chronic condition (e.g., cancer or kidney disease).

Examples of catastrophic illness/injuries generally considered include, but are not limited to: cancer, HIV, myocardial infarction, stroke, chronic obstructive pulmonary disease, chronic liver or kidney disease and other major illnesses and injuries as determined by a licensed physician, including physical or mental health condition or being exposed to contagious disease that may jeopardize other employees by continuing to work.

One Day of Leave – is eight (8) hours of accrued sick or vacation leave earned by the employee, and twelve (12) hours for sworn police officers on a shift schedule.

Sick Leave Pool – the accumulated sick leave hours donated by employees for use in accordance with this policy.

Sick Leave Pool Committee – the committee made up of the Director of Human Resources or designee, affected employee’s Department Director, and the City Manager designated to administer the Catastrophic Sick Leave Pool Policy.

Licensed Physician – a medical doctor (MD) or a doctor of osteopathy (DO) who is authorized to practice in the United States, licensed in the State of Texas, and who is performing within the scope of his or her practice as defined under applicable law.

### **Contributing to the Pool**

Full-time City of Fulshear employees will have the opportunity to voluntarily contribute sick or vacation hours to the Sick Leave Pool. A donation drive will be conducted at least annually; however, drives may occur throughout the year depending on the Sick Leave Pool’s balance.

An employee exiting the organization (either resignation or retirement) may contribute a portion of their sick or vacation accruals up to a maximum of 40 hours to the Sick Leave Pool.

Contributing employees must complete and sign a Sick Leave Pool Contribution Form.

No employee may stipulate who is to receive his/her contributions to the Sick Leave Pool.

Employees who contribute to the Sick Leave Pool cannot take back donated hours.

Employees must contribute a minimum of one working day annually to be eligible to receive Sick Leave Pool benefits.

Contributions shall be made no later than September 1<sup>st</sup> to participate in the Sick Leave Pool for the approaching fiscal year.

New hires will be given a ninety (90) day window from their start date to contribute the minimum hours to meet eligibility requirements.

Hours contributed outside of the minimum eligibility requirement may not exceed one-fourth (1/4) of the employee's total sick or vacation leave balance at the time of donation.

#### Eligibility to Receive Pool Benefits

The injury or illness must meet the definition of Catastrophic Illness or Injury for the employee, or an Immediate Family Member as defined in this policy.

Employees must deplete all accrued sick, vacation, and compensatory leave before using any donated time.

Employees off work because of an on-the-job worker's compensation injury are not eligible for catastrophic leave.

#### Written Request and Approval Process

1. An employee's Written Request for Catastrophic Assistance shall include the following:
  - a. Request for Assistance. An employee must request assistance in writing. If possible, it is recommended that leave be requested prior to depleting all sick, vacation, and compensatory leave to allow for processing time. If an employee's condition makes it impracticable for him or her to submit a request in writing, then a family member, or the employee's Director, may submit the request on the employee's behalf.
  - b. Supporting Medical Documentation. Documentation of need (illness, injury or other medical condition) must be provided to the Sick Leave Pool Committee in order for the Committee to review the request. Supporting documentation must include certification from the treating Licensed Physician or a letter from a treating Licensed Physician with adequate information, describing the nature and duration of the illness, injury or other medical condition. The employee or patient must sign a HIPAA release. Such release may be revoked by the employee or patient, as applicable. If revoked, however, the employee may lose his/her right to receive catastrophic leave under this Catastrophic Sick Leave Policy.
  - c. Recommendation from Director. The employee's Director and the Director of Human Resources will review the requesting employee's work history, including leave usage and evaluated performance, and will provide the Sick Leave Pool Committee with a recommendation regarding the employee's eligibility for assistance.
2. The Written Request will be provided to Human Resources and then distributed to the Committee.
3. Employees must be on an approved Family Medical Leave or Leave of Absence.
4. All requests will be reviewed, and then approved or denied as soon as practicable, but no later than three (3) weeks after receipt of the written request by the Committee. Any supervisor who receives a written request must deliver it to Human Resources within one business day.
5. Requests may be made no more than once per month for up to four (4) weeks leave at a time. An employee may make additional requests for leave; however, total leave requests from a full-time employee may not exceed 480 hours (12 weeks) per fiscal year, and no more than 960 total hours (24 weeks) while employed by the City.

6. Requests may not be granted retroactively for absences without pay taken prior to the pay period in which assistance is granted.

### **Policy Administration**

1. Any employee's bi-weekly use of Catastrophic Assistance shall not exceed the employee's base pay, per pay period.
2. Employees using Catastrophic Assistance will not accrue any sick or vacation leave while utilizing this benefit. Accruals will remain deactivated until the employee has a qualified return to work. All other benefits will remain active.
3. The use of Sick Leave Pool hours will not be considered "hours worked" in the calculation of overtime.
4. An employee who has been granted assistance will continue to be eligible up to the maximum leave available for the catastrophic illness, injury, or other medical condition for which they were approved regardless of the leave crossing calendar or fiscal years.
5. Sick Leave Pool leave is not subject to cash outs. Upon an employee's return to work with full release, termination, resignation, retirement, or death, all unused catastrophic leave assistance will be returned to the Pool.
6. Employees may be required to participate, based on treating physician evaluation, on light-duty assignments while drawing leave from the Catastrophic Assistance program. It is the responsibility of the employee who receives a light duty release to provide that release to Human Resources within one business day of receipt.
7. Any tax liability associated with any donations of time will be the responsibility of the employee receiving leave from the Sick Leave Pool, in compliance with Internal Revenue Service (IRS) Revenue Ruling 90-29. Paid time will be subject to all tax liability associated with regular pay, including federal and FICA withholding, as well as TMRS contributions and benefits deductions.
8. If the employee is receiving disability benefits, the combined disability paid hours and Sick Leave Pool hours cannot exceed 100% of the employee's scheduled work hours (e.g. 60% disability + 40% donations of employee's scheduled work hours).

### **406 QUARANTINE LEAVE**

The City provides paid quarantine leave to peace officers in accordance with Chapter 180.008 of the Texas Local Government Code.

The use of quarantine leave may be granted after a Peace Officer has had possible or known exposure to a communicable disease while on duty. The City's Health Authority will determine when a threat of highly communicable or life-endangering diseases are immediately present and may release orders for applicable or essential workers to follow general quarantine protocols. When this occurs, department supervisors will allow for the use of the quarantine leave based on the Health Authority's protocols for appropriately dealing with the disease or its prevention of community spread. Employees will be released from quarantine leave based on guidance from the local Health Authority.

Quarantine Leave runs concurrently with workers' compensation. Employees on paid quarantine leave will be treated consistent with other worker's compensation policies.

When applicable, employees who must be quarantined may be eligible for reimbursement of reasonable costs related to quarantine, including lodging, medical, and transportation expenses.



The employee must receive approval from Human Resources prior to incurring quarantine expenses. Employees will be expected to provide receipts for reimbursement which will be presented to Human Resources for appropriate review and processing in coordination with the Finance Department.

## **407 MENTAL HEALTH LEAVE**

The City provides paid mental health leave that meets the requirements set by Subchapter A-1 of Chapter 614 of the Texas Government Code.

### **Eligibility**

All full-time employees of the City are eligible to request mental health leave in writing within thirty days of experiencing a traumatic event in the course and scope of their employment.

### **Traumatic Event**

A traumatic event is an extraordinary event or series of events that occurs in the scope of an employee's employment and causes significant emotional reaction and/or stress likely to impact the mental health or mental wellbeing of said employees experiencing the event. Traumatic events include, but are not limited to:

- Suicide
- fatal accident, homicide
- line of duty death
- or suicide of a department employee
- use of force resulting in death or serious bodily injury
- in-custody death
- any incident in which the employee, while acting in the scope of their employment, suffers serious bodily injury or threatened bodily injury by another person(s)
- participation in recovery efforts related to a natural disaster
- participation in response and recovery efforts relating to a terroristic attack

### **Components of Mental Health Leave**

An employee on mental health leave shall, for the entire period in which they are on mental health leave:

- Be placed on mental health leave status and receive their regular pay,
- Remain eligible to participate in, and to have their dependents continue to participate in, the City health benefit plan(s) under the applicable terms and conditions of the plan(s) applicable to active employees,
- Not be required to take annual vacation, sick leave, or state compensatory time while on mental health leave status,
- Be subject to any other rights and duties applicable to an employee on mental health leave status under applicable laws and policies.

### **Duration**

For each traumatic event, mental health leave may be granted via the process noted below for up to 36 hours for employees. The employee may be granted additional days if documented

justification is provided to the Department Director (as applicable). The following will suffice as documented justification when provide to the Department Director:

- Physician note
- Therapist/Counselor note
- Department Director in consultation with the Human Resources Director has determined the need for additional days

### **Anonymity**

An employee's request for mental health leave will be treated with discretion, professionalism, respect, and dignity. To the extent practicable, an employee's request for mental health leave and leave status will not be shared outside the chain of command, Department Administration, Office of the City Attorney, and Human Resources.

### **Administrative Leave**

When an employee is placed on administrative leave after a critical incident, that time is not considered mental health leave. It is understood that following a critical incident, the employee(s) involved will be placed on administrative leave per department/City policy and is separate and apart from an employee making a request for mental health leave. A request for mental health leave can follow administrative leave but administrative leave is not a substitute for mental health leave. Similarly, mental health leave can be requested and granted in the absence of administrative leave. For the involved employee on administrative leave, they may choose to request mental health leave once all immediate steps are completed in the administration/criminal investigation or at the conclusion of the administrative leave, prior to returning to full active duty.

### **Workers' Compensation**

Mental health leave, as authorized by Section 614.015 of the Texas Government Code and this policy, is entirely separate and independent of workers' compensation. A request for mental health leave does not trigger any reporting requirements related to workers' compensation claims. Nothing in this policy limits or prohibits an employee's right to file a workers' compensation claim.

### **Reporting Responsibilities**

A supervisor who becomes aware of behavioral changes in an employee involved in a traumatic event should strongly recommend to the employee that they seek mental health leave and/or the assistance of a physician and/or mental health professional. The supervisor should monitor the employee and the concern expressed to ensure that there is support and intervention as needed. The Department Director shall be notified of such concerns.

### **408 MILITARY LEAVE**

The City provides fifteen (15) days paid military leave to eligible employees per fiscal year. An employee who serves in any State or Federal uniformed services, including the armed forces, Texas State Military forces, United States Military Reserve, National Guard, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency, and is required to engage in annual training exercises or is called to active duty, shall be granted leaves of absence for military duty in accordance with federal and state law that comply with the Uniformed Services Employment and Reemployment Act (USERRA).

## **409 BEREAVEMENT LEAVE**

Regular, full-time employees may take no more than three (3) days of Bereavement Leave per qualifying event as needed for travel, attending/preparation of services, and related needs. Bereavement Leave must be approved by the Department Director. An employee requesting Bereavement Leave shall provide written documentation verifying the qualifying event. Qualifying events shall include the death of an employee's spouse, child (step or foster children), spouses of children, parent, step-parent, grandparent, grandchild, sibling. This will also include in-law relatives equivalent to those direct employees' relations listed.

## **410 CIVIC DUTY**

An employee called for jury service shall be granted special absence with pay during such service and shall retain the fee paid by the courts.

An employee excused or released from jury service during working hours shall report to their workstation unless otherwise instructed.

A copy of the jury summons shall be submitted to their supervisor to be submitted to payroll.

An employee will be excused with pay to fulfill their civic duty to testify as a witness in a judicial proceeding where the employee has no personal benefit when they are served with a subpoena.

If it is a personal matter or there is personal benefit in the proceeding, the employee may use vacation, compensatory time off, or personal time off.

All employees eligible to vote at national, state, county, or municipal elections shall, when necessary, be allowed sufficient time off with pay to vote, if polls close within two (2) consecutive hours of the employee's regular work hours.

## **411 PARENTAL LEAVE**

The City of Fulshear will provide up to six (6) weeks of Paid Parental Leave (PPL) to employees following the birth of an employee's child or the placement of a child with an employee in connection with adoption or foster care. The purpose of paid parental leave is to enable the employee to care for and bond with a newborn or a newly adopted or newly placed child. Eligible employees will receive up to three (3) weeks of PPL in the event of pregnancy/birth-related medical conditions. This policy will run concurrently with Family and Medical Leave Act (FMLA) leave, as applicable.

Eligible employees must meet the following criteria:

- Have been employed with the City of Fulshear for at least 12 continuous months prior the start of PPL.
- Have worked at least 1,250 hours during the 12 consecutive months immediately preceding the date the leave would begin.
- Be a full time, regular employee.

In addition, employees must meet one of the following criteria:

- Be a new parent by birth or surrogacy of a child.
- Be a spouse or committed partner of a woman who has given birth to a child.

- Have adopted a child or been placed with a foster child (in either case, the child must be age 17 or younger).
- Be the prospective parent or spouse of a prospective parent that recently experienced a miscarriage, stillbirth, or related medical condition.

*This policy applies to a child that is newly added to the household through birth, surrogacy, adoption, or placement for adoption and not a child who has been a member of the household for over a year. This policy also does not apply to the adoption of a stepchild by a stepparent.*

### **Amount, Time Frame and Duration of Paid Parental Leave**

Eligible employees will receive a maximum of six (6) weeks of paid parental leave per birth, adoption, or placement of a child(ren). The fact that a multiple birth, adoption, or placement occurs (e.g., the birth of twins or adoption of siblings) does not increase the total amount of paid parental leave granted for that event. In addition, in no case will an employee receive more than six (6) weeks of paid parental leave in a rolling 12-month period, regardless of whether more than one birth, adoption or foster placement event occurs within that 12-month time frame.

The paid parental leave is compensated at 100 percent of the employee's regular, straight-time bi-weekly pay. Paid parental leave will be paid on a bi-weekly basis on regularly scheduled pay dates.

Approved paid parental leave may be taken at any time during the 3-month period immediately following the birth, adoption, or placement of a child with the employee. Paid parental leave may not be used or extended beyond this 3-month time frame.

Employees must take paid parental leave in one continuous period of leave and must use all paid parental leave during the 3-month time frame indicated above. Any unused paid parental leave will be forfeited at the end of the 3-month time frame.

Upon termination of the individual's employment with the City, he or she will not be paid for any unused paid parental leave for which he or she is eligible.

### **Coordination with Other Policies**

Paid parental leave taken under this policy will run concurrently with leave under the FMLA; thus, any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or placement of a child due to adoption or foster care, the leave will be counted toward the 12 weeks of available FMLA leave per a 12-month period. All other requirements and provisions under the FMLA will apply. In no case will the total amount of leave – whether paid or unpaid – granted to the employee under the FMLA exceed 12 weeks during the 12-month FMLA period. Please refer to the FMLA Policy for further guidance.

After the paid parental leave is exhausted, the balance of FMLA leave (if applicable) will be compensated through employee's accrued sick, vacation, and personal time. Upon exhaustion of accrued sick, vacation, and personal time, any remaining leave will be unpaid unless the employee receives a donation of leave. Please refer to the Donation of Leave and FMLA Policies for further guidance.

Vacation and sick leave benefits will continue to accrue during the period of paid parental leave. The City will continue to pay its share of the cost of an eligible employee's group health insurance during paid parental leave. The eligible employee's share of any premiums will be deducted from the eligible employee's pay in accordance with normal practices.

If a City holiday occurs while the employee is on paid parental leave, such day will be changed to holiday pay; however, such holiday pay will not extend the total aid parental leave entitlement.

### **Requests for Paid Parental Leave**

An eligible employee must submit a completed Leave Request Form, requesting FMLA leave, to his or her supervisor and the Human Resources department at least thirty (30) days prior to the anticipated date of the leave. To the extent the 30-day notice is not possible; the employee must submit a Leave Request Form to his or her supervisor and Human Resources as soon as possible.

An eligible employee will be required to furnish appropriate medical documentation for the birth of a child. If applicable, the medical certification requirements for FMLA leave will govern. The medical documentation must be completed and signed by the individual's health care provider.

An eligible employee will be required to furnish appropriate adoption documentation, such as a letter from an adoption agency, or from the attorney in cases of private adoptions.

A fraudulent request for paid parental leave is grounds for discipline, up to and including termination of employment. As is the case with all City policies, the organization has the exclusive right to interpret this policy.

### **412 PROFESSIONAL LEAVE**

Employees in exempt positions do not receive overtime pay regardless of the number of hours they work in a work week. Recognizing that exempt employees may be required to work on behalf of the City outside of the City's core business hours or the expected work schedule, they may from time-to-time be granted leave during the City's core business hours as determined appropriate or necessary without using accrued vacation time, so long as their duties are adequately performed.

Professional Leave is not intended to be hour for hour and is at the discretion of the City Manager. Professional Leave may be allowed, up to one business day during any one work week, to recognize the employee for an unusual number of hours worked, including night or weekend work hours. An exempt employee may not accrue professional leave. No entitlement is intended to be created by this policy.

### **413 LEAVE OF ABSENCE**

In certain circumstances, eligible employees may take up to ninety (90) days of unpaid job-protected leave each year for the employee's own injury or illness.

Leave of Absence (LOA) is typically unpaid unless the absence also qualifies for paid leave under another City policy, at which time the LOA and paid leave will run concurrently.

Sick Leave: If an employee has any available accrued sick leave, it must be used concurrently with any available LOA time, provided the employee's absence is covered by the City's sick leave policy and the employee satisfies that policy's procedural requirements.

Vacation, Compensatory Time & Holiday: If a qualifying LOA is not covered by the City's sick leave policy or if the employee has exhausted all accrued sick leave, the following leave time will be applied and will run concurrently with any remaining LOA time in this order: accrued vacation, comp time and then holiday leave.

Sick Leave Pool: Employees on LOA may use (if eligible) time concurrently from the City's Catastrophic Sick Leave Pool in accordance with the procedures of that policy.

Disability & Workers' Compensation Leave: Workers' compensation and long-term disability absences will run concurrently with City LOA. Employees being paid either workers' compensation wage benefits or long-term disability benefits while on leave are not required to use accrued sick, holiday, comp time or vacation leave while collecting workers' compensation or disability benefits.

City LOA if Not Eligible for FMLA: Employees who have been employed less than one year may qualify for the City LOA for the employee's own injury or illness. This leave is available from their first day of employment and offers up to 90 calendar days of job protected leave based on a rolling calendar.

City LOA if FMLA is Exhausted: The City LOA provides eligible employees an additional 90 consecutive **calendar** days of unpaid job-protected leave each rolling calendar year after FMLA has been exhausted. Employees must have FMLA leave available to then be eligible for City LOA. This would provide FMLA qualifying employees a total of almost 6 months of job protected leave for the employee's own injury or illness.

Benefits Only Status: Employees on a City leave who do not receive a paycheck from the City of Fulshear will be transitioned to a Benefits Only status. During this period, employees will no longer accrue vacation, holiday, and sick leave or paid for holidays, and must pay their benefit premiums to the City of Fulshear while on LOA.

### **Eligibility**

Full-time employees are eligible for the City LOA on the first day of employment. The City will grant City leave if the employee has a serious health condition (as defined by the FMLA policy) which makes the employee unable to perform all essential functions of their position.

### **Employee Responsibility**

Employees must give the City sufficient information so that it can decide as to whether the employee's absence qualifies for City LOA. If an employee fails to explain the reasons, leave may be denied. Employees must also indicate on their time records when an absence or tardy is or may be covered by City LOA. The City may retroactively designate leave as qualifying as City LOA upon notice to the employee. Absences of three days or more due to a serious health condition must be reported to the City's Human Resources Department.

At Least 30 Days' Notice Required for Foreseeable Leave: Employees must provide their Department Director or Human Resources with at least 30 days' advance notice, or as much notice as possible, when the need for City leave is foreseeable.

Notice as Soon as Practicable for Unforeseeable or Emergency Leave: If the need for City leave is not foreseeable, employees must provide their Department Director or Human Resources with as much advance notice as practicable, in accordance with their Department's normal call-in procedures. The employee must also provide an explanation as to why they are unable to provide at least 30 days advance notice of the need for leave.

Content of Notice: Employees must provide the City with at least verbal notice of the reason(s) for the leave and the anticipated timing and duration of the leave, if known. If possible, a written request is preferred. If the employee has previously taken City leave for the same reason, they must specifically reference the qualifying reason for leave or the need for City leave. The City may seek additional information from the employee, and the employee is obligated to provide sufficient

information so the City can determine whether the absence qualifies for City leave. The employee must notify the City as soon as practicable if the dates of their scheduled leave change or are extended or were initially unknown (generally the day following notification by treating physician of change or confirmed date).

Compliance with City's Call-In Procedures: Employees must comply with their Department's normal call-in procedures for reporting absences, tardies, and requesting leave, e.g., contacting a specific supervisor by a certain time. Notice may be given by the employee's spokesperson only if the employee is physically unable to do so personally. When an employee does not comply with the City's and Department's normal call-in procedures and no unusual circumstances justify the failure to comply, City leave may be delayed or denied.

Consequences for Failing to Provide Required Notice: If the employee fails to timely explain the reasons for their need for leave, City LOA may be denied or delayed for up to 30 days. The employee may also be subject to disciplinary action in accordance with City policy. Likewise, if an employee fails to respond to the City's reasonable inquiries regarding a leave request, the employee may not be granted the City LOA protection.

Scheduling Planned Medical Treatment: When an employee intends to take leave for planned medical treatment for themselves, the employee is expected to consult with their supervisor and try to schedule the treatment so as not to disrupt unduly the City's operations, subject to the approval of the treating health care provider. This should be done prior to the scheduling of treatment to work out a treatment schedule which best suits the needs of both the employee and the City.

Periodic Check-In While on City LOA: Employees must check in periodically with their supervisor and with the Human Resources designated representative regarding their status and intent to return to work. Prior to taking leave, or as soon as practicable thereafter, employees will be advised regarding the frequency and method by which they are expected to check in. If the employee discovers that the amount of leave originally anticipated is no longer necessary, the employee must provide the City with reasonable notice (*i.e.*, within two business days) of the changed circumstances, if foreseeable.

### **Employer Responsibility**

The Human Resources designated representative is responsible for the verification, approval, and notification of the City LOA. The Human Resources designated representative may designate leave as City leave if it determines that a qualifying event has occurred.

Eligibility and Responsibilities Notice: The Human Resources designated representative will notify an employee of their eligibility to take City LOA within five business days (absent extenuating circumstances) of its receipt of the employee's request for City leave (or from when the City otherwise determines that an employee's absence may qualify for City LOA). Employee eligibility is determined at the commencement of the first instance of leave for each qualifying reason in the applicable 12-month rolling calendar period. A letter of notification will be mailed to the employee's home address on file. This letter will also detail the City's specific expectations, the employee's obligations, and consequences to the employee of not meeting their obligations. If an employee's eligibility status changes or if any of the specific information changes, the Human Resources designated representative will so notify the employee within five business days of the receipt of the changed information, absent extenuating circumstances.

Certification Forms & Other Required Documentation: The Human Resources designated representative is responsible for determining the completeness and authenticity of certification forms, fitness-for-duty/return to work certifications, and for review and coordination of all other City LOA documentation required by this policy.

Supervisors & Department Directors: So that the Human Resources designated representative can comply with deadlines outlined in this policy, supervisors must immediately notify both their Department Director and the Human Resources designated representative if they have reason to believe an employee's absence is due to a City LOA-covered reason. Supervisors must make this report even if the employee is using paid time off to cover the absence, e.g., sick leave, comp time, vacation, holiday, workers' compensation, or long-term disability. Supervisors and Department Directors must report to Human Resources' designated representative any time an employee misses work for three or more days because of their own illness or injury. Supervisors and Department Directors may not contact health care providers when employees are sick. Only the Human Resources designated representatives will contact health care providers when necessary.

### **Medical Certification**

In all instances in which the City's designated representative requests a certification from an employee, it is the employee's responsibility to provide the Human Resources designated representative with medical certification. Failure to do so may result in the denial or delay of the City LOA.

Certification: An employee must provide the Human Resources designated representative with complete and sufficient medical certification supporting the need for City leave due to a serious health condition affecting the employee. The certification must set forth the beginning and expected ending dates of the leave. In the case of intermittent leave, the certification must also provide the dates and duration of the treatments necessitating the intermittent leave. The employee is responsible for any expenses associated with providing the City's designated representative with a required certification. The employee must turn in the required certification to the Human Resources designated representative within 15 days after it is requested, unless not practicable under the circumstances.

Second & Third Opinions: In some cases, the City's designated representative may require a second or third medical opinion (at the City's expense).

Recertification: Except for injuries or illnesses under workers' compensation or disability benefits, employees may be asked to periodically recertify the need for City LOA. The recertification must be provided within 15 days or as soon as practicable under the particular facts and circumstances. The employee is responsible for any expenses associated with providing the City's designated representative with any required recertification.

- a. **30-day rule:** The City's designated representative may request recertification no more than every 30 days and only in connection with an absence by the employee unless paragraphs b or c below applies.
- b. **More than 30 days:** If the certification indicates that the minimum duration of the condition is more than 30 days, the City's designated representative will wait until that minimum duration expires before requiring a recertification, unless paragraph c below applies.



- c. **Less than 30 days:** The City's designated representative may request recertification in less than 30 days if the employee requests an extension of leave, circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of the absence, the nature or severity of the illness, complications, a pattern of unscheduled absences), or the City's designated representative receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

Fitness-for-Duty/Return to Work Certification: The City's designated representative may refer an employee for a medical exam upon their return to duty and determination that such an exam is necessary in accordance with City policy. The certification must specifically address the employee's ability to perform their essential job functions but is limited to the health condition that caused the employee's need for the City LOA. The Human Resources designated representative may contact the employee's health care provider for purposes of clarifying and authenticating the fitness-for-duty/return to work certification.

The employee is responsible for any expenses associated with providing the City with the required certification and is not entitled to be paid for the time or travel costs spent in acquiring the certification. The City will not require second or third opinions of fitness-for-duty certifications. The Human Resources designated representative will schedule the fit-for-duty exam and the employee must successfully complete this exam to return to full duty.

An employee who fails to timely provide the City's designated representative with the required certification will not be allowed to return to work. An employee who exhausts all available leave and does not provide the required fitness-for-duty certification is no longer entitled to job reinstatement and may be subject to disciplinary action. The City is permitted to authenticate/clarify the physician's certification that the employee is fit for duty and is permitted to require the employee to submit to a medical exam in order to determine that they can safely perform their job duties, particularly when objective evidence exists that the employee is experiencing side effects related to the medication that interferes with the employee's ability to perform essential job duties.

Employees in positions requiring a post job offer physical ability test may be required to complete and pass the fit-for-duty physical ability test prior to returning to work from a City leave if the leave was due to the employee's serious medical condition. While the City will not require a fitness-for-duty certification to return to duty for each absence taken on an intermittent or reduced leave schedule, it will require a fitness-for-duty certification up to once every 30 days if reasonable safety concerns (*i.e.*, a reasonable belief of significant risk of harm to the employee or others) exist as to the employee's ability to perform their duties, based on the serious health condition for which the employee took leave.

Failure to Provide Certifications & Deficient Certifications: If an employee fails to provide a required certification within 15 days after the date of the written request by the City's designated representative, the City's designated representative may deny leave until the certification is provided. If the employee never produces the certification or recertification, the employee is not eligible for City LOA protection. If the certification is incomplete or insufficient, the Human Resources designated representative will notify the employee, in writing, and advise the employee what additional information is required. The City's designated representative will provide the employee with seven additional days from the date the Human Resources designated representative sends written notice to cure any deficiency. If the deficiencies are not cured within

the seven-day deadline, the City's designated representative may deny the taking of City LOA. The Human Resources designated representative may contact the health care provider for purposes of clarification and authentication after giving the employee the opportunity to cure any deficiencies.

### **Intermittent Leave**

An eligible employee may take City leave on an intermittent or reduced schedule basis, only if medically necessary, for planned medical treatment, or as otherwise approved by the Department Director.

Notice: The employee must inform the City's designated representative of the reasons why the intermittent or reduced leave schedule is necessary and of the schedule for treatment, if necessary.

Scheduling Planned Medical Treatment: When an employee intends to take leave for planned medical treatment for themselves, the employee is expected to consult with their supervisor and try to schedule the treatment so as not to unduly disrupt the City's operations, subject to the approval of the treating health care provider. This should be done prior to the scheduling of treatment to work out a treatment schedule which best suits the needs of both the employee and the City.

Temporary Transfer: The City may, at its sole discretion, temporarily transfer the employee to an alternative position (with equivalent pay and benefits, but not necessarily equivalent duties) to better accommodate an employee's intermittent or reduced leave schedule. Temporary transfers must be pre-approved by Human Resources.

Minimum Increments: Intermittent leave, including time away from work for less than a full shift, will be counted as full days so that any leave hours used will be counted as full days against the 90 calendar days of City leave.

Exempt Employees: Exempt employees using unpaid intermittent or reduced schedule City leave may be docked for absences of less than one day without jeopardizing their exempt status under the Fair Labor Standards Act (FLSA).

### **Continuation of Benefits**

Group Health Insurance: During any period of City LOA, the City will continue to pay its portion, if any, of any group insurance coverage for the employee on the same terms as if the employee had continued to work. Where applicable, the employee must timely pay his or her share of insurance premiums while on City LOA. The City's designated representative will advise the employee of the terms and conditions for making such payments. Failure to pay premiums in a timely manner will result in suspension of group coverage until the employee makes the payments or returns to work. The City may recover premiums it paid to maintain coverage for an employee who fails to return to work from City LOA, unless the employee is unable to return due to a serious health condition or another reason beyond the employee's control. Medical certification is required under such circumstances.

Other Benefits: The employee's use of City LOA will not result in the loss of any employment benefits that accrued prior to the start of the employee's leave, and seniority will not be affected while on City LOA. However, benefit accruals such as vacation and sick leave may be suspended during any unpaid leave.

Holidays: When an employee takes a full work week of City LOA and a holiday occurs within that week, the full week (7 days) is counted against the 90 allowed calendar days.

TMRS: Contributions to TMRS will cease when an employee on unpaid leave ceases to receive a paycheck from the City and will resume after the employee returns to a paid status.

### **Job Restoration After City LOA**

Upon return from City LOA, an employee will normally be restored to their original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions. An employee, however, has no greater right to reinstatement than if they had been continuously employed during the period of City LOA. Further, the City may delay restoration to original jobs for employees who fail to timely provide a fitness-for-duty certification to return to work.

### **Other Employment During City LOA**

Employees may not engage in outside employment while on an active City LOA status, unless expressly authorized in writing in advance by the Department Director, Human Resources Director, and the City Manager.

### **Fraud**

An employee who fraudulently obtains City leave is not protected by the City leave of absence job restoration or maintenance of benefits provisions. Further, an employee who commits fraud will be subject to disciplinary action up to and including termination from City employment.

## **414 ADMINISTRATIVE LEAVE**

The City may grant administrative leave with or without pay to an employee, at the discretion of the City Manager (or designee), when no other paid leave category is available or applicable.

Department Directors in consultation with Human Resources may designate administrative leave with pay only pending a disciplinary decision or drug/alcohol screening results, or during an internal investigation.

Written notice of administrative leave shall be provided to the employee and a copy forwarded to the Human Resources Department for record keeping purposes.

## **415 FAMILY MEDICAL LEAVE ACT**

The Family and Medical Leave Act of 1993 (FMLA) is intended to provide job and benefit protection for eligible employees who must take certain types of leave. To qualify for Family Medical Leave (FMLA), an employee must have worked for the City for at least 12 months and worked at least 1,250 hours during the 12-month period immediately prior to the start of the leave.

An eligible employee may take up to 12 weeks of leave under this policy during any 12-month period. For purposes of this policy, the City will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any qualified leave.

### **Basic Leave Entitlement**

Eligible employees may take leave for one or more of the following reasons:

- For incapacity due to pregnancy, prenatal medical care, or childbirth, or
- To care for the employee's child after birth or placement for adoption or foster care, or

- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition, or
- For a serious health condition that makes the employee unable to perform the essential functions of their job.

### **Military Family Leave Entitlement**

The National Defense Authorization Act of 2008 amended the FMLA to provide two military leave entitlements:

**Qualifying Exigency Leave** – eligible employees with a spouse, son, daughter, or parent on active duty or called to active-duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

**Military Caregiver Leave** – eligible employees who are the spouse, parent, child, or next of kin of a covered service member who incurred a serious injury or illness on active duty may take up to 26 weeks of leave to care for the covered service member during a single 12-month period.

A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves.

Under certain circumstances leave may be taken intermittently rather than consecutively or arrangements may be made for the employee to work a part time schedule in accordance with this manual.

If a husband and wife both work for the City, they will be limited to a combined total of 12 weeks in the rolling 12-month period if the leave is taken for the birth of a child or to care for the newborn, placement, or care of an adopted or foster child, or to care for a parent who has a serious health condition. If the leave is taken to care for a covered service member with a serious injury or illness, the husband and wife will be limited to a combined total of 26 weeks in the rolling 12-month period.

Entitlement to leave for birth or placement for adoption or foster care expires at the end of the 12-month period from the date of birth or placement. Additionally, leave must be concluded within the twelve-month period.

### **Employee's Notice Requirements**

In order for the City to accommodate an employee's workload during their absence, an employee seeking to take FMLA should provide both their Department Director and Human Resources with at least 30 days' advance notice when the leave is foreseeable.

In the event of medical leave for planned medical treatment for the employee or for the employee's spouse, child or parent, the employee should make a reasonable effort to schedule the treatment so as not to disrupt unduly the City's operations. If the leave is not foreseeable, an employee is expected to provide both their Department Director and Human Resources with as much advance notice as possible and should follow the City's and their department's usual and customary call-in procedures for reporting unscheduled absences.

All supervisors must immediately notify both their Department Director and Human Resources if they have reason to believe an employee's absence is due to an FMLA covered reason.

### **Process**

The FMLA regulations provide for a two-step process whereby an initial notice is provided by the employer regarding the FMLA, and the employee's rights and responsibilities thereunder, whether the employee is eligible and, if appropriate, directing the employee to provide the applicable medical certification. Thereafter, once any required certifications have been received and reviewed (but within 5 business days of receiving the information), a designation notice is provided by the employer which will notify the employee whether the leave has been approved or denied, or whether more information is needed to decide. If sufficient information is available at the time of the first notice to make the determination on whether the leave is approved, the employer may send the designation notice concurrently with the initial notice.

### **Medical Certification**

Any employee requesting FMLA for a serious health condition of the employee or of an eligible family member must submit a Certification of Health Care Provider form. If an employee fails to provide any required certification within 15 days, the City may deny leave until the certification is provided. The certification form must be completed by the patient's health care provider(s) and must contain at least the following:

1. Date condition began.
2. Probable duration of condition.
3. Appropriate medical facts about the condition.
4. Statement that the employee is needed to care for the ill family member or, in the case of their own illness, is unable to perform their job.
5. In the case of intermittent leave, dates and duration of the treatments necessitating the intermittent leave.

An employee must also provide periodic reports during their FMLA as to their status and intent to return to work and may be required to submit a "fitness-for-duty" certification before the employee can return to work.

The City may, at its expense, require a second opinion from a health care provider of its choice if the City has reason to question the Certification of Health Care Provider submitted by the employee. If the opinions of the two health care providers conflict, the City may require, at its own expense, a third medical opinion from a health care provider mutually agreed upon by the employee and the City. The third opinion shall be considered final and binding on both the employee and the City.

### **Designation**

It is the responsibility of the City, not the employee, to designate leave. When an employee requests FMLA or the City acquires knowledge that leave may be for a FMLA purpose, the City will notify the employee of their eligibility to take leave and inform the employee of their rights and responsibilities under FMLA. When the City has enough information to determine that leave is being taken for a FMLA-qualifying reason, the City will notify the employee within five (5) business days that the leave is designated and will be counted as FMLA.

### **Accrued Leave for FMLA**

In accordance with federal law, FMLA leave is unpaid; however, an employee who is placed on FMLA will be required to use accrued paid leave for what would otherwise be unpaid FMLA where appropriate. Accrued paid leave will be used in the following order: sick leave, vacation leave, and then compensatory time. The use of these types of paid leave will run concurrently with FMLA and must be exhausted before an employee can take unpaid leave.

Workers' Compensation leave, to the extent that it qualifies, will automatically be treated, and designated as FMLA and will run concurrently with FMLA.

It is the responsibility of the employee's supervisor/manager to designate absences as FMLA when reporting the employee's hours in the payroll system.

### **Continuation of Insurance Benefits**

While the employee is on FMLA, the City will continue to provide its share of contributions toward the cost of insurance. The employee must continue to pay their share of premiums. If the employee is receiving pay by utilizing accrued sick, vacation, or compensatory time while they are on leave, the employee's share of premium will continue to be deducted from their paycheck.

If the leave is unpaid, the employee must make arrangements with the payroll department to continue paying their share of the premium as well as any voluntary deductions.

If an employee chooses not to pay their share of premiums or payment is more than thirty (30) days late, the employee's coverage may be cancelled for the duration of the leave. The City will provide fifteen (15) days' notification prior to the employee's loss of coverage.

When an employee whose coverage was cancelled due to non-payment of premiums returns from FMLA, their benefits will be restored at the same level of coverage that they would have had if leave had not been taken and the premiums had been paid.

### **Failure to Return to Work**

Employees failing to return to work after FMLA may be required to reimburse the City for insurance premiums paid by the City while the employee was on FMLA.

### **Benefit Accrual**

Any employee on unpaid FMLA will not accrue vacation or sick leave.

### **Intermittent Leave/Reduced Work Schedule**

Under specific circumstances, FMLA may be taken intermittently or on a reduced leave schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the City's operation. Leave due to qualifying exigencies may also be taken on an intermittent basis.

- 1. Birth/Child Placement** - If leave is taken after the birth or placement of a child for adoption or foster care, the employee may take leave intermittently or on a reduced schedule only if the City Manager or their designee agrees to such condition. Such approval is not required when the mother or newborn child has a serious health condition.
- 2. Medical Treatment/Recovery** - Leave may be taken intermittently or on a reduced work schedule when medically necessary for treatment of a serious health condition, recovery from a serious health condition or recovery from treatment. Additionally, this type of leave

may be taken to provide physical or psychological care for an immediate family member with a serious health condition.

When an employee is placed on a reduced work schedule or intermittent leave, the employee may be temporarily assigned to another position of equal pay and benefits; however, it may not include duties restricted by a physician. When the need for intermittent leave or reduced work schedule no longer exists, the employee will be placed in the same or equivalent job as when the leave commenced.

### **Return to Work**

Employees taking leave under FMLA will be allowed to return to the same position or a position equivalent in pay, benefits, and working conditions. Returning employees have no greater right than if they had been continuously employed during the FMLA period.

Any employee taking FMLA due to their own serious health condition may be required to provide a fitness-for-duty certification before returning to work. Failure to submit such certification may result in disciplinary action up to and including termination.

Employees returning to full duty from intermittent leave will not be required to submit fitness-for-duty certification, except for cases where reasonable job safety concerns exist.

Employees considered to be “key employees” or those amongst the highest paid ten (10) percent in the City will not be denied the right to take FMLA but may not be restored if restoration would cause substantial and grievous economic injury to the City.

### **Extended Medical Leave**

Nothing in this policy prevents the City from granting extended medical leave for employees beyond the initial twelve (12) weeks of FMLA; however, the same protections and benefits granted under FMLA will not be continued during this extended leave. In addition, employees on unpaid extended medical leave will not accrue vacation or sick leave.

Requests for extended medical leave should be submitted in writing to the City Manager through the Human Resources Department. Extended medical leave may be granted or denied in accordance with the impact the request will have on the organization.

### **Fraud**

Any employee fraudulently obtaining or continuing FMLA may be subject to disciplinary action, up to and including termination.

## **SECTION 5: BENEFITS**

All employee benefits are provided at the discretion of City Council and in accordance with the approved annual budget. Benefits are not a right, but a privilege and may be changed or suspended at any time.

### **501 HEALTH INSURANCE**

Each regular, full-time employee of the City shall be eligible to enroll in the City's group health plan. Reference the current City of Fulshear Benefits Guide for a complete listing of benefits offered. Coverage begins on the date of employment. Employees will be allowed to make changes to the group health plan only during the annual open enrollment period or if a qualifying event allows such change outside of the annual open enrollment period.

The City may evaluate the group health plan from time to time and may require an employee to pay all or part of the group health plan premium rate if the employee chooses to enroll in the group health plan. The City reserves the right to change or cease the group health plan in subsequent plan years.

### **502 LIFE INSURANCE**

The City provides group term life, accidental death and dismemberment, and long-term disability insurance coverage for all regular full-time employees. Optional supplemental coverage for employees and their dependents is available by payroll deductions at reduced group rates. Detailed information concerning these benefits is contained in the City of Fulshear Benefits Guide.

### **503 CAFETERIA PLAN (IRS SECTION 125)**

Each employee of the City can design an additional benefit program, meaning they can choose optional benefits that best accommodate their personal situation. Included in the cafeteria plan are major medical insurance plans and supplemental insurance policies, including accident, cancer, and life insurance and flexible spending account benefits. Such programs are available through payroll deductions with pre-tax dollars.

### **504 EMPLOYEE ASSISTANCE PROGRAM**

The City provides an Employee Assistance Program (EAP) at no charge to all employees, regardless of status. The program offers aid to employees in resolving problems that may affect job performance, attendance, and employee morale. Some of the broad categories covered by the program are related to personal, family, marriage, legal, financial, and drug/alcohol related problems. Employees needing more information on the EAP should contact the Human Resources Department.

### **505 RETIREMENT**

The City is a member of the Texas Municipal Retirement System. The purpose of this system is to provide a plan for the retirement and disability of employees of Texas municipalities. Participation in this system is compulsory for all full-time employees in accordance with the retirement system's policies. Participation in the system begins upon employment with the City. The employee will contribute seven percent (7%) of his or her salary through payroll deductions into the retirement plan, with the City matching this amount on a two (2) to one (1) basis. To learn



more about TMRS employees should visit [www.tMrs.org](http://www.tMrs.org) or contact the Human Resources Department.

Employees may elect to enroll in a voluntary 457(b) deferred compensation plan. This election is funded by the employee, via payroll deduction, under limits prescribed by the IRS.

## **506 WORKERS' COMPENSATION**

All City employees are covered by the City's Workers' Compensation Insurance Plan for injuries sustained while on duty for the City. The cost of this insurance is paid by the City. Under this plan, an employee who suffers a job-related injury or job-related illness may be eligible for medical and compensation benefits in accordance with the applicable determinations and regulations as set out in the City's insurance policy and state law. See the terms of the current policy for details.

An employee injured in the line of duty will be eligible for workers' compensation according to established State law. Employees who sustain work-related injuries or illnesses shall immediately inform their supervisor and the Human Resources Department. A First Report of Injury form must be completed as soon as practicable by the injured employee and/or supervisor (no later than 8 days). This includes injuries that may be considered minor at the time of incident.

After a formal diagnosis of an injury or illness has been completed by a licensed physician the employee shall provide all appropriate documentation to the Human Resources Department. If an employee is determined to be eligible for Workers' Compensation, the employee becomes eligible for temporary income benefits on the eighth day of disability. By law, workers' compensation benefits must be paid directly to the employee. These income benefits are calculated at a rate of at least 70% of the employee's weekly income prior to the injury. The worker must be disabled by the injury for at least seven (7) days to be eligible for income benefits.

### **Notification**

If an employee is injured on the job or feels that they have an illness caused by work, they should STOP WORKING and report the condition to their supervisor immediately. ALL EMPLOYEE CONTACT WITH COMMUNICABLE DISEASES AND INJURIES OR ILLNESSES TO EMPLOYEES, REGARDLESS OF HOW MINOR, ARE TO BE REPORTED IMMEDIATELY TO THE EMPLOYEE'S SUPERVISOR. Failure to do so promptly may delay receipt of Workers' Compensation benefits. The Supervisor or Department Head will, after sending the employee for medical attention, if such is required, immediately report the accident or injury to the Workers' Compensation Representative. The Workers' Compensation Representative for all City offices is Human Resources. The injury must be reported to the representative immediately, even if no doctor visit is necessary and/or no work time was lost. The applicable office or department must gather all facts necessary to complete the First Report of Injury form provided by the City and provide the forms to the Workers' Compensation Representative no later than the eighth day of the incident, with exception for extreme circumstances such as a death or extreme destruction where additional time in reporting may be justifiable. These forms will assist the Workers' Compensation Representative in completing the forms required by the Texas Workers' Compensation Commission and the City's carrier/administrator for Workers' Compensation.

### **Salary Continuation Payments**

Salary continuation payments are made to eligible employees authorized to be off duty as the result of an on-the-job injury. Salary continuation payments are meant to make up the difference between what an injured employee receives from Workers' Compensation and their regular rate

of pay. Under no circumstances will an injured employee receive more pay during an absence than if they had worked their regular hours at their current rate of pay. Workers' Compensation leave, to the extent that it qualifies, will automatically be treated, and designated as FMLA and will run concurrently with FMLA.

### **Eligibility**

Only regular full time, part time, temporary, and/or seasonal employees who have worked for the City for a period one year or more are eligible for salary continuation. Employees are ineligible to receive salary continuation pay beyond the date of retirement, resignation, death, lay-off, or termination.

### **Duration**

Employees may receive a 100% salary continuation for a maximum of ninety (90) days from the first day the employee was unable to work.

### **Start of Payment**

Salary continuation payments will begin only after the City has received proper documentation from a licensed physician that an employee is unable to return to work because of an on-the-job-injury. Under no circumstances will any continuation be made prior to receiving proper documentation.

### **Procedure for Receiving Salary Continuation**

1. The injury, accident, or incident must be reported to the employee's supervisor immediately.
2. Employees involved in an on-the-job-injury that results in an absence from work for one or more days will be placed on Workers' Compensation leave.
3. When an employee misses less than eight (8) days of work as the result of a compensable injury, they will receive their regular pay from the City.
4. When an employee misses eight (8) days or more from work as the result of a compensable injury the employee will receive temporary income benefits (TIB) from Workers' Compensation.
5. On the 15th day of absence as a result of a compensable injury Workers' Compensation will pay the injured employee for the first seven (7) days of absence.
6. If an employee is receiving salary continuation from the City, they must turn over the TIB check from Worker's Compensation to the City.

### **Procedure for Retaining Salary Continuation**

Injured employees must notify the Human Resources Department and their supervisor of all treatment rendered and requirements imposed by the employee's attending physician. Employees must submit medical statements, signed by their physician that account for and justify all missed work to the Human Resources Department. Injured employees must contact the Human Resources Department and their supervisor on a weekly basis.

### **Suspension of Payments**

Salary continuation payments may be suspended or initially denied if an employee fails to comply with City policy and directions. Specific grounds for suspension or denial are:

- If the employee is awaiting a final chargeability decision.
- If the employee fails to report an injury in compliance with City policy.

- If the employee suffers an injury as a result of their own gross negligence. This may include but is not limited to an injury suffered while engaging in horseplay, while intoxicated, while participating in sports or physical activities not related to job activities, while attending to personal matters, or while violating any law, general order, rule, or regulation of the City, State, or Federal Government.
- If the employee submits a claim that is denied by the City's Workers' Compensation carrier.
- If the employee engages in any full time, part time or volunteer work while receiving salary continuation.
- If the employee fails to act in a manner consistent with being off work recuperating.
- If the employee fails to comply with the directions of their treating physician.
- If the employee refuses to submit to an independent medical examination in accordance with the Texas Workers' Compensation Statutes.
- If the employee refuses to accept any modified duty assignment that is deemed within the employee's capability in the opinion of the employee's treating physician, and that is consistent with the employee's training and/or abilities.
- If the employee refuses to return to work after being released by their treating physician.
- If the employee refuses to cooperate with the City in ascertaining facts and information surrounding the cause, nature, and day-to-day status of the employee's injury.
- If the employee refuses to keep the Human Resources Department informed each week as to the status of the injury while receiving salary continuation.
- If the employee refuses a post-accident drug or alcohol test (refusal may result in disciplinary action up to and including termination).
- If the Workers' Compensation TIBs are stopped.

Any time lost from work will be charged against the employee's sick leave, vacation leave, compensatory time or leave without pay under the following circumstances:

- If the injury is deemed not compensable by workers' compensation.
- If the City determines an employee does not qualify for salary continuation benefits.
- The employee is unable to work in a modified duty capacity.
- Expiration of the ninety (90) day salary continuation benefit and the employee is unable to work.

### **Payment Suspension Appeal**

Denial or suspension of payments as a result of employee violation of City policy or direction is not appealable or subject to formal complaint.

## **507 TUITION AND FEES REIMBURSEMENT**

All regular full-time employees have the opportunity for furthering their education beyond certification and/or licensing courses. Regular full-time employees who have completed a minimum of six (6) months employment are eligible for tuition and mandatory fees reimbursement subject to budgetary constraints. Due to the benefits derived to the citizens and employees, the City shall participate in the costs of a degree program (through master level), if such degree is related to the employee's City job duties, based on the grade obtained by the employee in the degree program, in accordance with the following schedule:

GRADE OBTAINED	PERCENT OF CITY COST
A	100%
B	90%
C	50% (0% FOR MASTER LEVEL)
D/F	0%

Pass/fail courses will be reimbursed at 50%. Reimbursement is limited to \$1,500 per fiscal year and \$12,000 maximum during the employee's career at the City.

The degree plan undertaken by the employee must receive prior written approval by the employee's Department or Division Head to ensure that the course of study shall benefit the City. Written approval must then be submitted to the Human Resources Department. Tuition and fees reimbursement excludes the cost of books and is only applicable to state supported and state accredited institutions. Employees attending private, accredited institutions shall be reimbursed up to the average cost of a state supported and accredited institution in the Houston area, as determined annually by the Human Resources Department.

Participants must fulfill a two (2) year service obligation from the date of the most recent reimbursement. An employee is required to reimburse the City in a lump sum if they leave employment within two (2) years of the date of any reimbursements. The City may deduct these expenses from an employee's final paycheck. Acceptance of reimbursement from the City constitutes an agreement to such a deduction.

The City will not reimburse tuition paid from other sources such as veteran's benefits, public safety programs/discounts, social security benefits, or any other type of grant or scholarship. The time expended by the employee involved in a course approved under this plan shall not be considered as "on-duty" time. Expenses related to travel, meals or lodging are the cost of the employee and are not considered for reimbursement under this plan.

Upon completion of the approved course, the employee shall submit a request for reimbursement, payment receipts, and a copy of official grade(s) within 30 calendar days of the last session dates. Requests submitted more than 30 calendar days of the last session will not be eligible to receive tuition reimbursement.

## 508 UNIFORMS

1. **Peace Officers-** Uniforms and equipment for all uniformed peace officers shall be prescribed by the City Manager and Police Chief. The City shall purchase and furnish the original issue of uniforms and certain equipment for each law enforcement officer upon employment and shall provide replacements as deemed necessary.
2. **Other City Employees-** If the Department Director or City Manager requires an employee to wear a uniform, the City shall provide a reasonable number of uniforms to the employee.

Employees are responsible for taking care of the uniforms. Employees shall report damaged uniforms to their Department Director for replacement. Excessive replacement costs may be borne by the employee at the Department Director or City Manager's discretion.

## **509 CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA)**

On April 7, 1985 the COBRA law was enacted requiring the City to offer employees and their families the opportunity for temporary extension of medical benefits coverage (called "continuation coverage") at group rates in certain instances where coverage under the plan would otherwise end; i.e. employee's resignation, termination, or reduction in hours of employment; death of a spouse, termination of spouse's employment, or reduction in spouse's hours of employment; divorce or legal separation; spouse becomes eligible for Medicare; or any other qualifying reason as defined by COBRA.

## **510 BREASTFEEDING SUPPORT**

The City shall support the practice of expressing breast milk and shall make reasonable accommodations for the needs of employees who express breast milk by providing reasonable break times and shall provide a private place, other than a bathroom, that is shielded from view and free from intrusion from other employees and the public, to express breast milk. An employee who needs to express breast milk during working hours should inform their Department Director and Human Resources to determine a reasonable accommodation. Breaks of more than fifteen (15) minutes in length shall be unpaid, however, the employee may use paid leave time for extended breaks. Under Texas Law a public employer may not suspend or terminate employment of, or otherwise discriminate against, an employee because she has asserted her right to express breast milk in the workplace.

## **511 TELECOMMUTING**

Subject to operational requirements and individual department director approval, regular full-time employees may be permitted to telework when it is a viable work arrangement. Part time employees are not eligible to telework. Telecommuting is intended to create flexible conditions that will help employees accomplish their work effectively without disruption to City services. Department Directors will have discretion, with approval of the City Manager to allow or prohibit teleworking in their departments or for individuals in their departments. All departments must remain open during regular City operating hours (including lunch). Telecommuting may be appropriate for some positions but not for others.

A telecommuting arrangement is not an entitlement and in no way changes the terms and conditions of employment with the City of Fulshear. Telecommuting is not a formal, universal employee benefit or a condition of employment, but rather an alternate method of meeting the needs of both the City and the employee. The City of Fulshear considers telecommuting to be a viable work arrangement in certain cases where job characteristics are best suited to such an arrangement.

The duties, responsibilities, and conditions of employment remain the same as if the employee were working at the normal work site. The employee will continue to comply with City of Fulshear policies and procedures while working at the alternate work site.

The Employee understands that telecommuting is a mutually agreed upon work alternative between the City and the Employee and the Employee will be required to obtain a Telecommuting Work Arrangement Authorization. The City, with or without cause, can revoke or modify the Employee's participation as a telecommuter at any time.

Telecommuting by one employee should not negatively affect the workload or productivity of others either by shifting burdens or creating delays and additional steps in the workflow. Telecommuting will not affect an employee's compensation, benefits, work status or work responsibilities. A telecommuting arrangement shall not result in any additional cost to the City of Fulshear.

## **SECTION 6: STANDARDS OF CONDUCT & EMPLOYEE DISCIPLINE**

### **601 ETHICAL STANDARDS**

All employees are expected to maintain a high level of personal and professional conduct. As a public service organization, City employees are held to a high standard of ethical conduct. Employees should conduct themselves in a manner that ensures those high standards are met, avoiding even the appearance of impropriety.

Actions in violation of conduct standards are subject to progressive disciplinary action up to and including termination. Any act deemed egregious by the City may be cause for immediate termination. Consistent with public trust, City of Fulshear employees shall not:

- Use their official position to secure special privileges or exemptions, whether direct or indirect, for themselves or others.
- Disclose any confidential information gained by reason of the position of the employee concerning the property, operations, policies, or affairs of the City, or use such confidential information to advance any personal interest, financial or otherwise, of such employee or others.
- Misappropriate City funds, property or assets; including theft and unauthorized use.
- Falsify documents, City records, or be untruthful in any official City matters.
- Provide false information and/or make false accusations. Employees who intentionally or knowingly make false accusations and/or provide false information concerning other individuals will be subject to disciplinary action up to and including termination.
- Participate in any improper secret agreement between two or more entities, to defraud or deprive others of their property or rightful share, or to otherwise indulge in a forbidden, illegal, or illegitimate activity, or engage in any other form of "Collusion".
- Behave in a manner which causes discredit to the employee and/or places the City in disrepute. Commission and/or convictions, including deferred adjudication or deferred prosecution, of any crime other than minor traffic violations will be reviewed as a possible violation of this policy based on the nature of the offense and the relativity to the employee's job responsibilities.

If an employee is involved in any of the acts listed above, on or off the job, they must report it to their supervisor and/or the Human Resources department immediately. In addition, employees required to operate a City vehicle as part of their job should report all moving violations. See Vehicle Use Policy.

By no means is this list all-inclusive. Any conduct of an employee that disrupts the work environment or places personal interest of the employee above those of City or of the public may be treated as a violation of the public trust and is subject to corrective action.

### **602 FRAUD**

The City is committed to protecting its financial assets, property, and information from unauthorized access, alteration, destruction, misuse, or theft.

If an employee suspects fraudulent activity, the employee shall report the activity to their Department Director or the City Manager immediately but no later than twenty-four hours after

becoming aware of such activity. The Department Director or City Manager shall investigate the activity and take any disciplinary measures, if any, as deemed appropriate including reporting such finding to the appropriate law enforcement agency.

### **603 WORK STANDARDS**

It is the duty of each employee to maintain high standards of productivity, cooperation, efficiency, and economy in their work for the City. Supervisors shall organize and direct the work of their departments to achieve these objectives. Employees are obligated to follow directions, that are in line with these personnel policies, given by their supervisors to achieve departmental goals and objectives.

If work habits, behavior, production or personal conduct of an employee falls below appropriate standards, supervisors should point out the deficiencies at the time they are observed. Counseling and warning the employee in sufficient time for improvement shall ordinarily precede formal action as provided elsewhere in these policies.

### **604 POLITICAL ACTIVITY**

An employee may not endorse or support a political candidate for public office or measure to be voted while on-duty, in City uniform, in a City vehicle, or on any City property (except at a City polling place, off-duty and not in City uniform).

No employee may use any City equipment, facilities, or property to endorse or support a political candidate for public office or a measure to be voted on.

An employee may not wear City council campaign literature while on-duty, in City uniform, in a City vehicle, or on any City property (except at a City polling place, off-duty and not in City uniform).

An employee may not circulate petitions for City council candidates, while on-duty, in City Uniform in a City vehicle, or on any City property, although the employee may sign such petitions.

An employee shall further comply with all Charter provisions regarding political activity. In the event of a conflict between this Handbook and the City's Charter, the City's Charter controls.

### **605 PROFESSIONAL CONDUCT**

The City strives to maintain and reinforce a professional and productive work environment free from discriminatory insult, intimidation, sexism, and other forms of harassment based on religion, color, national origin, age, sex, disability, or sexual orientation.

Harassment, including sexual harassment, constitutes a hostile work environment which is contrary to basic standards of conduct between individuals and is prohibited by Equal Employment Opportunity Commission and state regulations.

#### **Sexual Harassment and Discrimination**

It is the right of all employees to perform their jobs in an environment free from harassment, including innuendo, physical contact, verbal suggestiveness, or derogatory ethnic/racial/sexual



remarks. The City will not tolerate conduct or material that is considered offensive to a reasonable person.

- Sexual Harassment means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:
- Submission to the advance, request, or conduct is a made a term or condition of an individual's employment, either explicitly or implicitly, or
- Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's employment, or
- The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or
- The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

It is the City's policy to prohibit sexual harassment and discrimination in the workplace and this policy covers vendors, customers, others who enter our workplace as well as all employees.

### **Harassment and Anti-Violence Workplace**

The City prohibits employees' conduct that is harassing, intimidating, humiliating, obscene, threatening, or violent. An employee who suspects he or she has been subjected to such conduct or reasonably believes such conduct will occur should use the City's complaint process, unless such conduct requires immediate attention, in which case the employee should immediately consult with the Department Director, Human Resources, or City Manager. The employee should immediately contact the appropriate law enforcement agency if a suspected criminal offense is involved.

### **Online Harassment**

The City prohibits employees' sending harassing, intimidating, humiliating, obscene, threatening, or violent messages, regardless of the medium used whether such occurs at work or outside of work via any electronic communication such as over the internet, intranet, web, app, text, email, or any platform or system. An employee who suspects he or she has been subjected to such harassment should save a copy of the material, if possible, and use the City's complaint process, unless such conduct requires immediate attention, in which case the employee should immediately consult with the Department Director, Human Resources, or City Manager. The employee should immediately contact the appropriate law enforcement agency if a suspected criminal offense is involved.

### **Complaint Procedures**

The City is committed to a workplace free of discrimination and harassment. Any employee that is subject to, is a witness to, or becomes aware of any conduct that might be considered discrimination or harassment of any employee must immediately report the incident to their immediate supervisor and/or Human Resources. If a supervisor is notified of a complaint, he or she should immediately notify Human Resources. If the supervisor is the person engaging in the alleged conduct that is subject to complaint, the employee should report the conduct to any other supervisor and/or Human Resources. The following steps should be followed to complain:

1. Human Resources and/or the supervisor will investigate when appropriate. When appropriate, local law enforcement officials will be involved to ensure the safety of employees.

2. If it is determined that discrimination or harassment did occur, the City will take prompt corrective action to end the harassment or discrimination, return any lost benefits or opportunities to the employee, restore a proper workplace environment, and discipline the harasser. The discipline or corrective action taken, which may include discipline up to and including termination, will reflect the seriousness of the incident.
3. Complaints made in good faith will in no way be held against an employee. However, the misuse of the complaint process may result in the appropriate disciplinary action, up to and including termination.
4. The City will not tolerate retaliation of any kind and in any manner. This protection extends not only to individuals who complain about unlawful harassment and/or activities, but also to those who serve as witnesses or participates in investigations under this policy.
5. Confidentiality will be maintained as much as possible regarding complaints of unlawful harassment. However, absolute confidentiality cannot be promised as complaints may be disclosed during the investigation, but only to those who need information to investigate and/or take corrective action.

## **606 ATTENDANCE/TARDINESS**

Employees are required to be at their places of work, and performing their job functions, in accordance with work schedules established by their department, unless officially excused by the supervisors. An employee, who fails to report, is habitually tardy, leaves the workplace without proper authorization, abuses sick leave, or misuses leave may be subject to disciplinary action, up to and including termination.

### **Failure to Report**

An employee who does not come to work and fails to notify the City of the reasons for the absence for three (3) consecutive scheduled working days or more may be presumed to have voluntarily resigned employment.

## **607 SOLICITATION**

Solicitations, including personal e-mail addresses, are not permitted by employees for personal profit during working time or at any time in working areas. An employee may not engage in solicitation of other employees while they are on duty.

- Solicitation of funds of any kind or for any purpose is prohibited of City employees on the job without the express approval of the City Manager.
- Solicitation and distribution of literature will be limited to City endorsed functions or activities. Literature for City sponsored activities should be posted in designated areas.
- Distribution of literature is not permitted for personal profit during working time or at any time in working areas. Benefits for registered non-profits may be given limited opportunities for solicitation by the City Manager.

## **608 GIFTS**

City employees may accept gifts in compliance with Federal and State laws and this Handbook. The purpose of laws and policies governing gifts to public employees is to regulate attempts to influence the employees to use their authority or discretion to the advantage of the person making the gift.

It is a crime for a public employee to agree to decide in return for a payment or receipt of some other benefit. Employees may not accept gifts, favors, services, or promises of future employment that could relate to, or influence the performance of the employee's official duties. Employees may not use their position to gain special privileges or benefits and are to avoid participating financially in any business enterprise, which might influence their official decision or judgements. Employees may not hold any position with any business enterprise or governmental unit, which would conflict with the proper performance of the employee's duties or responsibilities. Benefit means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest, but is not applicable to items described under Section 36.10 of the Texas Penal Code.

The City Manager may accept gifts to the City, on behalf of the City, for general employee consumption, or donate the gifts to appropriate organizations, and issue acknowledgements on behalf of the City.

### **609 PERSONNEL APPEARANCE & DRESS**

The appearance and dress of employees impacts the perception that the public and residents have of the City. Employees are expected to maintain minimum standards of a business casual dress, grooming, and hygiene appropriate for their positions and job duties and as necessary to protect the safety of the public, themselves, and other employees. The City may make exceptions under this section to reasonably accommodate the religious practices of an employee or under the ADA.

### **610 PURCHASING CARDS**

The City's Purchasing Card Program is designed to help City staff make small-dollar retail and online purchases efficiently. The success of the program and its continuing use depends on each cardholder's cooperation. Employees' use of purchasing cards shall comply with this handbook and standard operating procedures.

### **611 DISCIPLINARY ACTION**

The City may take disciplinary action against employees who violate this Handbook, City rules, City Ordinances, or federal, state, or local laws. The City may use progressive discipline, at its discretion, or may decide not to use progressive discipline. Progressive discipline may resolve employee problems at an early stage, which benefits the employee and the City. Use of progressive discipline, however, does not alter the At-Will nature of employment with the City.

Disciplinary action may call for the City to use all or some of the four (4) following actions depending on the severity of the problem and the number of occurrences:

Verbal Reprimand: The employee's supervisor may provide a verbal reprimand to an employee. The Supervisor should inform the employee of the problem and provide improvement standards.

Written Reprimand: The employee's supervisor may provide a written reprimand to an employee. The employee shall sign a receipt of the written reprimand and a copy of the written reprimand shall be provided to the employee and placed in the employee's personnel file. If the employee refuses to sign the reprimand, then notation shall be placed next to the employee's signature

line of such refusal. The supervisor should inform the employee of the problem and provide improvement standards.

Suspension From Work: The Department Director, with the approval of the City Manager, or the City Manager may suspend an employee for a period of not more than three (3) days if the employee has received three Written Reprimands within a twelve-month period. Suspensions shall be without pay unless otherwise directed by the City Manager.

A Department Director, with approval of the City Manager, or the City Manager may immediately suspend an employee if the Department Director or City Manager believes that a suspension is in the best interest of the City regardless of whether a verbal or written reprimand has been previously provided to the employee.

If an employee is under criminal investigation or has been arrested, indicted, charged, or cited with a criminal offense or official misconduct, the Department Director, with the approval of the City Manager, or City Manager may suspend the employee with or without pay for the duration of the criminal investigation or proceedings when such suspension would be in the best interest of the City. If the criminal investigation or proceedings result in a dismissal of criminal charges or a verdict of not guilty, the employee will be eligible for reinstatement under such terms and conditions as specified by the City Manager.

Termination: The Department Director, with the approval of the City Manager, or the City Manager may terminate an employee for performance issues, or any disciplinary example listed below or if such termination is necessary to protect citizens, employees, officials, or City property.

If the City Manager is not available and the Department Director believes an employee should be suspended or terminated, the Department Director shall contact the Assistant City Manager for approval before suspending or terminating an employee. If neither the City Manager or Assistant City Manager are available, the Department Director may suspend an employee if such action is necessary to protect citizens, employees, officials, or City property.

Disciplinary Action Examples: The examples below are the type of conduct that may result in disciplinary action by the City. This list is not an all-inclusive list.

#### Unsatisfactory Attendance

- Unauthorized absences or leave.
- Unapproved absences or leave.
- Abuse of leave.
- Tardiness.
- Leaving work without permission.
- Abuse of lunch breaks or rest breaks.
- Being absent for three (3) or more days without notification or permission (also referred to as a voluntary resignation or job abandonment).

#### Unsatisfactory Performance

- Inability or unwillingness to satisfactorily perform assigned work.
- Failure to perform duties at an acceptable level.

### Indifference Toward Work and Damage to Property

- Inefficiency, negligence, loafing, carelessness, use of City time for performing personal business, sleeping or otherwise being inattentive during work hours, interfering with the work of others, mistreatment of the public or other employees.
- Damaging City equipment, facilities, buildings, vehicles, land, or property.
- Failure to report damage to City equipment, facilities, buildings, vehicles, land, or property, whether minor or visible. For example, if a vehicle strikes or is struck by a person, object, or roadway infrastructure, but no visible damage is observed, the employee shall report such incident(s) to the City immediately or as soon as practicable.
- Failure to meet or maintain specified conditions of employment, such as failure to obtain or maintain a license or certificate.
- Misuse or failure to follow delegated authority in performance of duties.

### Dereliction of Duty

- Failure to comply with a City policy, rule, regulation, or ordinance.
- Failure to report a violation of a City policy, rule, regulation, or ordinance.
- Failure to report property found by, confiscated by, or relinquished to an employee immediately or as soon as practicable.

### Insubordination

- Failure or refusal to perform assigned work or to comply with instructions or orders from a supervisor, Department Director, or City Manager.
- Use of abusive or profane language or displaying hostility in response to supervision.
- Failure to correct actions as set forth by a Department Director or City Manager.

If the employee has a good-faith, reasonable belief that an instruction or order violates City policies, rules, regulations, or ordinances and would cause imminent harm to the health, safety, or welfare of the City, another employee, or the public, the employee may refuse to follow such instruction or order but must report the instruction or order to the City Manager immediately or, if the City Manager is unavailable, to the Assistant City Manager. The City Manager or Assistant City Manager, as applicable, shall decide to either uphold the instruction or order or rescind it.

### Violation of Safety Rules

- Removal, dismantling, or damaging safety equipment or facilities; failure to use safety equipment.
- Failure to follow safety practices and procedures.
- Failure to participate in post-accident procedures.
- Failure to report an on-the-job injury, an unsafe, or hazardous condition immediately or as soon as practicable.
- Smoking in prohibited areas.
- Use of alcohol, drugs, or controlled substances.

## Dishonesty/Fraud

- Misuse, misappropriation, theft, removal, destruction, or damage of City records, systems, equipment, buildings, facilities, land property, funds, securities, or any other City assets.
- Unauthorized charges against the City's accounts including credit card accounts.
- Forging, falsifying, or altering City documents.
- Authorizing or receiving payments for goods not received or services not performed.
- Improprieties in handling or reporting of financial transactions.
- Authorizing, receiving, or attempting to receive payments for hours not worked or allowed.
- Embezzlement.
- Seeking or accepting anything of value from vendors, consultants, or contractors doing business with the City in violation of this Handbook or law.
- Misrepresentation or lying to another employee, or an official, contractor, or member of the public which may have any detrimental effect on the City.
- Misrepresentation or lying about an illness, injury, or health status, or medical condition. Falsifying origin of personal injury to collect workers' compensation. Misuse of paid leave of absence.
- Use of confidential information for personal gain or sharing of confidential information with other employees not authorized to receive such information, family, friends, member of the public, or contractors.
- Any violation of federal, state, or local laws related to dishonest activities or fraud.

## Disturbance

- Participation by an employee in a disturbance occurring on City property or while on duty; fighting on City property; possession of dangerous weapons, firearms, explosives on City property without permission.
- Entering City facilities, land, or property for unauthorized reasons.
- Use of abusive, profane, threatening language, or language or gestures likely to incite an immediate breach of the peace; horseplay; causing illness or injury to another employee, official, member of the public or contractor.

## **612 GRIEVANCES**

A grievance related to working conditions, disciplinary action, the interpretation or application of this Handbook, or interpretation or application of departmental rules shall be handled via the following procedures:

Step 1: An employee should first discuss the matter verbally with their supervisor no later than five (5) business days after the time the employee first learned or should have learned of the matter complained about to resolve the grievance. If the matter is not resolved, the employee may initiate step 2.

Step 2: An employee may present the grievance to their Department Director, in writing, no later than five (5) business days after Step 1 is complete.

- The Department Director will attempt to resolve the grievance by meeting with the employee and any other pertinent employees. At this meeting, the employee may bring another employee to participate in meeting.

- The Department Director shall respond, in writing, to the employee no later than fifteen (15) business days after the meeting providing a solution to the grievance or stating that the grievance is not substantiated.

**Step 3:** If the employee disagrees with the Department Director’s response, the employee may file a written appeal to the City Manager no later than five (5) business days after the date the employee receives the Department Director’s response.

- The City Manager shall review the appeal and take any action as necessary to investigate the grievance. The City Manager shall respond to the employee, in writing, no later than fifteen (15) business days after receiving the employee’s appeal. The City Manager shall provide a solution to the grievance or state that the grievance is not substantiated. The decision of the City Manager is final and not subject to further appeals. Employees do not have the right to appeal reclassifications, transfers, or terminations.

Failure by the employee to timely appeal shall cause the grievance to be settled based on the last decision rendered.

If the Department Director is the subject of the grievance, the employee shall follow the above-referenced procedures but direct all action to the Assistant City Manager. The Assistant City Manager shall follow the same procedures as the Department Director. If the City Manager is the subject of the grievance, the employee shall follow the above-referenced procedures and the Department Director shall contact the Mayor and Human Resources to participate in the grievance process.

A grievance against a peace officer shall be directed to the Police Chief, be in writing, and signed by the complainant per Tex. Gov’t Code, Chapter 614, as amended.

### **613 WHISTLEBLOWER ACT**

It is the policy of the City to comply with the Texas Whistleblower Act. The Act states that “a state or local government entity may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.” (Texas Government Code Ann. 554.002, Vernon 1995).

#### **Appeal and Complaint Procedure**

Section 554.006 of the Texas Government Code states “A public employee must initiate action under the grievance or appeal procedures of the employing state or local government entity relating to suspension or termination of employment or adverse personnel action before suing under this chapter.”

## **SECTION 7: EMPLOYEE COMMUNICATIONS**

### **701 MEDIA CONTACTS**

The Public Information Officer is the primary media contact. The Police Chief may communicate with the media in the event of an emergency, disaster, or other circumstances requiring immediate information to citizens. Employees shall not make statements on behalf of the City to the media, unless directed to do so by the City Manager. If an employee receives a media inquiry, the employee shall respond that he or she must relay the request to the Public Information Officer and that he or she does not have the authority to respond on behalf of the City. An employee shall report any media inquiry received and response provided to the Public Information Officer immediately but not later than twenty-four (24) hours after the contact.

### **702 PUBLIC COMMUNICATION**

It is the policy of the City of Fulshear to encourage positive communication and to ensure the exchange of accurate, timely information among City officials, City employees, citizens, media representatives and others interested in City issues, policies, operations, and services.

Any communication and/or content relating to the City shall be managed, stored, and retrieved to comply with the Public Information Act. City employees should be aware that if they use their personal cell phones for City business, the text messages and other communications on those devices is also subject to the Texas Public Information Act. Accordingly, the City discourages the use of personal cellphones for communication about City issues. Instead, City equipment should be used, where possible, to communicate about issues that affect the City.

A news release or social media communication by a City employee and on behalf of the City must be authorized or approved prior to release by the City Manager or delegated authority.

### **703 TECHNOLOGY USE ON CITY EQUIPMENT**

The purpose of this policy is to set forth standards for the acceptable use of the technical systems for the City of Fulshear. The intent is to clarify the acceptable use of these systems and provide examples of uses which are acceptable or unacceptable. This policy does not contain all the possible acceptable and unacceptable uses.

The guidelines specified in this policy apply to all employees, contract personnel, and volunteers whose access to or use of the technology systems is funded by the City or is available through equipment owned by the City.

Employees are representatives of the City in all their communications. Responsible use of the City's technology systems requires discretion, professionalism, and awareness of potential liability. Employees should be aware that when they are utilizing certain technology systems, they are creating City documents. Employees must always understand that communication and use of any of the City's technology systems are matters of public record under the Public Information Act and may be subject to discovery requests.

Employees shall not abuse their access to technology. Abuse may consist of unacceptable or excessive use. Personal use shall be considered excessive, if, in the opinion of the employee's supervisor, the use detracts from the individual employee's or department's productivity.



Generally, a use is unacceptable if it conflicts with the City's vision, mission or values, the department's purpose, goal, or mission, or an employee's job duties or responsibilities.

The following guidelines have been established for using the Internet, City provided cell phones, tablets, laptops, e-mail, and other technology in an appropriate, ethical, and professional manner:

1. Devices listed above shall not be used for transmitting, retrieving, or storing any communications of a defamatory, discriminatory, harassing, or pornographic nature.
2. Employees shall not use technology to play or download any games, communicate disparaging, abusive, profane or offensive language; create, view or display materials that might adversely or negatively reflect upon the City or be contrary to the City's best interests; and engage in any gambling or illegal activities, including piracy, cracking, extortion, blackmail, copyright infringement, and unauthorized access of any computers and City-provided equipment such as cell phones, tablets and laptops.
3. Employees obtaining information may not copy, retrieve, modify or forward copyrighted materials, except with permission or as a single copy to reference only.
4. Employees shall not use the system in a way that disrupts its use by others such as streaming video, music or other media that is not work related.
5. Employees shall not interfere with or disrupt network users, services or equipment including but not limited to damaging equipment, spreading viruses, impersonating another user, or destroying communications or electronic files.
6. Employees shall not use technology systems for personal gain, outside employment, personal business operations, other financial profit or to advertise or solicit funds for political, religious, or other personal causes.
7. Employees should not open suspicious e-mails, pop-ups, or downloads.
8. Employees shall ensure that all technology related purchases are coordinated with Information Technology prior to the actual purchase.
9. Internal and external e-mails are considered business records and are subject to the Public Information Act and may be released upon request.
10. City network user login and password information shall not be shared with or used by other employees or stored in an unsecured/visible location.

## **704 PRIVACY EXPECTATIONS**

All City-supplied technology and City-related work records belong to the City and not to the employee. The City reserves the right to monitor the use of City supplied technology. E-mails are to be retained in accordance with the City's document retention policy. The employee retains no right to privacy in these matters. Inappropriate or illegal use or communications may be subject to corrective action up to and including termination of employment.

## **IMPORTANT NOTICE APPLICABLE TO ALL OFFICIALS AND EMPLOYEES**

In accordance with Senate Bill 944 of the Texas Public Information Act:

- All texts, emails, messaging, or other forms of electronic communication which are created or received by an employee on their personal devices (cell phone, tablet, computer, etc.) are public information if they are made or received in an official capacity or relate to City business.
- Public information on personal devices is owned by the City, and City employees are only a temporary custodian of that information with no ownership thereof.

- City employees must protect and maintain such information in its original form by backing it up or archiving it on their own private devices, and they must make it available to the City within 10 days after requested by the City to respond to a public information request; failure to do so, or intentional tampering with the information, may give rise to criminal penalties and will give rise to disciplinary action.

This is a serious matter. Persons found attempting to avoid the legal requirements or who simply do not follow them violate the law and may face disciplinary actions up to and including termination.

## **705 RECORDING**

The City shall comply with all laws and regulations regarding monitoring and recording of employees. Employees do not have a reasonable expectation of privacy regarding their use of any City-issued equipment or property. The City may monitor and record employee use of any City equipment or property.

## **706 USE OF SOCIAL MEDIA**

An employee's use of social media, both on and off duty, must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City or violate any City policy.

The intent of these standards is to regulate the creation and distribution of information concerning the City, its employees, and citizens through electronic media, including, but not limited to websites and applications that enable users to create and share content such as video, photographs, written content or to participate in social networking. This policy is designed to protect the City's reputation and ensure that an employee's communications reflect positively on the City.

### **A. CITY'S SPONSORED SOCIAL MEDIA SITES**

This policy serves to facilitate social media communications between the City of Fulshear and members of the public. The City encourages the use of social media to further the goals of the City and the mission of its departments, where appropriate. **ONLY CITY-SPONSORED SOCIAL MEDIA SITES APPROVED BY THE CITY MANAGER ARE ALLOWED.** The City Manager will appoint an employee to serve as the administrator for a City-sponsored social media site. The creation of a site purporting to be City-sponsored or intimating such sponsorship will give rise to disciplinary action up to and including termination for any employees involved.

Employees creating, maintaining, or posting on the City Sponsored Social Media Site, must always conduct themselves as representatives of the City of Fulshear and in accord with all the City of Fulshear Employee Policies and Procedures and other departmental or management rules or directives.

This policy establishes guidelines for the use of City Sponsored Social Media Sites

1. Unless the employee is posting or responding as the City Sponsored Social Media Site Administrator, the employee should maintain transparency by using their given name and job title and clearly stating the employee's role regarding the subject.
2. Use correct grammar and spelling, plain language, and avoid jargon.

3. Write and post only about the employee's area of expertise. Keep postings factual and accurate.
4. Employees must reply to comments in a timely manner, when a response is appropriate.
5. Understand that postings are widely accessible, not retractable, and retained or referenced for a long period of time; all content should be carefully considered.
6. Never comment on anything related to legal matters, litigation, or any parties with whom the City may be in litigation without the approval of the City Attorney or the City Manager. Never disclose any confidential information concerning another employee of the City in a blog or other posting to the Internet. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.
7. Employees must refrain from the expression of personal opinions or positions regarding programs or practices of other public agencies, political organizations, private companies, or non-profit groups; political campaigns; or religion.
8. Blogging or posting information of a personal nature on the Internet or other City Sponsored Social Media Sites is prohibited during work hours. No use of social media on work time and on City equipment on City operated networks is considered private or confidential, even if password protected or otherwise restricted. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed, or received through its communications systems or equipment at any time.
9. Employees should never delete comments or block users for being critical or for supporting/opposing a matter discussed on City Sponsored Social Media Sites, or for any other reason. City Sponsored Social Media Sites that permit interactivity with the public, comments, or postings should post clear statements of the following:
  - a. All content and postings are subject to public disclosure.
  - b. Disclaimer that postings do not necessarily reflect the views or position of the City.
  - c. The site is not monitored 24 hours a day and that in case of an emergency the public should call 911.
  - d. The City reserves the right to terminate any City Sponsored Social Media Sites at any time without notice.
10. Non-exempt employees who serve as City Sponsored Social Media Site Administrators shall work on the City Sponsored Social Media Sites (monitoring, creating, maintaining, or posting) only during normal office hours unless specifically pre-approved in writing by the employee's supervisor. Any time spent more than a 40-hour work week by a City Sponsored Social Media Site Administrator monitoring, creating, maintaining, or posting on a City Sponsored Social Media Site will be paid overtime in compliance with federal law and City policy. However, overtime will be monitored and if excessive, the administrator will be replaced.

Failure to comply with any aspect of this policy may result in disciplinary action up to and including termination.

## B. PERSONAL SOCIAL MEDIA USAGE

The City understands that social media is widely used. However, use of social media also presents certain risks and carries with it certain responsibilities. As such, we have established the following guidelines for appropriate employee use of social media.

In the rapidly expanding world of electronic communication, social media can mean many things. Social media includes all means of communicating or posting information or content of any sort on the Internet, including to a personal or someone else's web blog, journal or diary, personal website, social networking or affinity website, web bulletin board or a chat room, whether associated or affiliated with the City, as well as any other form of electronic communication.

When considering partaking in activities on social media outlets, keep in mind that any conduct that adversely affects job performance or the performance of fellow employees, or that adversely affects customers or suppliers of the City may result in disciplinary action up to and including termination of employment.

Carefully read these guidelines to ensure any social media postings are consistent:

1. Inappropriate postings that may include discriminatory remarks, slander, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject employees to disciplinary action up to and including termination of employment.
2. Always be fair and courteous to fellow employees, customers, members, suppliers, or people who work on behalf of the City.
3. When posting, avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, dishonest, obscene, threatening or intimidating, that disparage customers, members, employees, or suppliers, or that might constitute harassment or bullying of anyone. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion, or any other status protected by law or City policy.
4. Do make sure to always be honest and accurate when posting information or news, and if a mistake is made, correct it quickly. Remember that the internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that are known to be false about the City, fellow employees, members, customers, suppliers, or people working on behalf of the City.
5. Do not use social media while on work time or on City-provided equipment unless it is work-related as authorized by a supervisor or consistent with the City email and internet Usage Policy. Do not use City email addresses to register on social networks, blogs, or other online tools utilized for personal use.

An employee must not publish anything that creates a harassing, demeaning, or hostile working environment for any official or employee of the City; disrupts the smooth and orderly flow of work within the City, or the delivery of services to the City's citizens; creates dissension or gossip within

the City; harms the goodwill and reputation of the City in the community; attacks the trustworthiness, character, or reputation of another employee or official of the City; or reveals private information about another employee or official of the City.

Work Problems Should be Handled Through Work Channels: If there is a problem with a supervisor, a fellow employee, a work assignment, etc., there are avenues to address the concerns within the City government. Attacking supervisors or co-workers on social media is not appropriate. Degrading the City on social media is not appropriate. Work issues should be handled at work, not on social media.

Violation of this policy may subject the employee to discipline up to termination of employment. Furthermore, the City prohibits taking negative action against any employee for reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to disciplinary action, up to and including termination of employment.

Nothing herein is intended to prevent fair comment on matters of public concern. However, care should be used in assuming that a matter is a matter of public concern, as not every accusation against or opinion of an official or a fellow employee or gripe about the employee's job, is a matter of public concern; and employees should consider the possible disruption that a post could have in the operations of the office or department for which they work before posting it.

Pursuant to Senate Bill 944, City employees must protect and maintain any posts or other information pertaining to the City business in its original form by backing it up or archiving it on their own private devices. Failure to do so, or intentional tampering with the information, may give rise to criminal penalties and will give rise to disciplinary action.

## **707 TEXAS PUBLIC INFORMATION ACT**

While the Texas Public Information Act requires that many of the documents and much of the information collected by the City is subject to public disclosure upon written request, a City employee has the right to choose whether or not to allow public access to portions of his or her personnel file that relates to a home address, home telephone number, emergency contact information, social security number, and information that reveals whether or not he or she has family members. A peace officer may further restrict public access to their date of birth. A new employee must state, in writing, no later than the 14<sup>th</sup> day after the date of employment, if this information is to be available upon public request or to remain confidential. This is completed during new hire orientation with Human Resources.

Employees are required to comply with the Texas Public Information Act and the Texas State Records Retention Schedule regarding release and retention of all records, regardless of format.

## **SECTION 8: SAFETY & HEALTH**

### **801 FIREARMS**

Employees may not possess, transport, or store a firearm on the premises of the City, as that term is defined by Section 46.03 of the Texas Penal Code, or in a vehicle owned or leased by the City, unless the employee is required to possess, transport, or store a firearm in the official discharge of the employee's duties.

### **802 DRUG AND ALCOHOL-FREE WORKPLACE**

In complying with the Drug Free Workplace Act of 1988, as amended, the City is committed to providing a safe and productive work environment for its employees, ensuring the well-being and safety of its citizens, and protecting the integrity of the City through the actions of its employees. The presence or use of illegal drugs or alcohol on the job is prohibited. Further, employees are prohibited from working under the influence of illegal drugs, alcohol, or any other substance which could impair an employee's ability to perform the function of their job safely and effectively. The City prohibits the manufacture, distribution, dispensation, possession, sale or use of illegal drugs, or, intoxicants by employees at any time on or off duty. Ensuring that while on duty for or acting on behalf of the City, while wearing a City uniform and/or in a City vehicle, while on City premises, that employees will not be impaired by alcohol, intoxicants or have illegal substances present in their systems. Employees will be subject to drug and alcohol testing when a supervisor has reasonable suspicion of drug or alcohol use; after accidents which cause damage to a City vehicle or another vehicle, or property regardless of how minor; when returning to duty as a result of self-referral; during follow-up after a determination that the employee was in need of assistance in resolving drug or alcohol problems; when an employee is promoted to a safety-sensitive position; or when chosen for random testing if an employee works in a safety-sensitive position.

Employees are not permitted, under any circumstances, to operate a City vehicle, or a personal vehicle for City business when the employee cannot drive safely. This prohibition includes circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication.

### **803 SMOKE AND TOBACCO FREE WORKPLACE**

The use of tobacco and smoking products (including, but not limited to e-cigarettes, vapes, cigarettes, pipes, cigars, snuff, and chewing tobacco,) is prohibited on City property; this includes buildings, parks, vehicles, and equipment. Employees wishing to engage in these activities may do so during their designated break times, off property and in accordance with local ordinances. No additional breaks beyond those allowed under the break policy may be taken for the purpose of using tobacco or similar products. Dispose of any litter properly in receptacles for such purpose.

### **804 MODIFIED DUTY**

When a work related or non-work-related injury prohibits an employee from performing the essential functions of their job with or without reasonable accommodation, the employee may be granted a modified duty assignment. No modified duty assignment will consist of activities restricted by the employee's physician. Modified duty accommodations are not permanent. When needed, accommodations will be made in compliance with federal and state law.

## **Qualifications**

The following qualifications have been established for eligible employees who request a modified duty assignment. In no way is this section meant to infer that as the result of being qualified, that any employee has a right to a modified duty assignment.

1. There must be a need within the City that the recovering employee could possibly fill. Employees may be temporarily reassigned to other Departments.
2. Employees must be qualified for and able to perform the essential functions of the modified duty assignment. No assignment may be made to modified duty without approval of applicable Department Director(s), the Human Resources Department, and the City Manager.
3. Prior to starting a modified duty assignment, the employee must provide applicable Department Director(s) and the Human Resources Department with a written statement of work restrictions and how long such restrictions are in effect, when the employee may begin modified duty and when the employee may return to full duty; all of which must be signed by the employee's treating physician. At this time, the employee will receive a formal modified duty assignment from Human Resources, if applicable.
4. Employees assigned to modified duty may not engage in any outside employment, including self-employment. Failure to adhere to this policy may result in disciplinary action up to and including termination.

## **Procedure**

An employee may be involuntarily assigned to modified duty or request such an assignment. Refusal to return to work for the modified duty assignment may be considered insubordination and may result in termination of modified duty offer and/or disciplinary action up to and including termination.

Workers' Compensation claimants will provide the Human Resources Department with copies of all medical restrictions/releases concerning their injuries within 24 hours of each doctor visit.

Employees assigned to modified duty will be paid at the same rate of pay prior to the modified duty.

Employee work schedules will be determined by the employee's assigned supervisor in accordance with need for service.

Employees assigned to modified duty are expected to keep their temporary supervisor and regular supervisor aware of scheduled medical appointments. Failure to do so may result in disciplinary action up to and including termination.

No modified duty assignment will last longer than 90 days without authorization from the employee's original Department Director and the Human Resources Department. Under no circumstances will a modified assignment last more than one year from the original date the employee is unable to work in their full capacity.

While an employee is on modified duty, they will have their work status reviewed by the Department Director and Human Resources Department every 30 days.

In the event a temporary disability is determined by a medical authority to be a permanent disability, the modified duty assignment will be reevaluated.

### **Return to Full Duty**

An employee released to return to work by their physician must provide their Department Director or the Human Resources Department a copy of the written release.

When an employee returns to work and finds they have not fully recovered to the extent necessary to perform their essential functions of the job, the employee should notify their supervisor as soon as possible. Additionally, the employee should set an appointment with their treating physician. If it is determined the employee is unable to perform essential functions of the job, the employee may take any available paid leave or may request another modified duty assignment.

When a treating physician decides an employee will never be capable of returning to work in their full duty capacity, the City will accommodate such disability to the extent required under the Americans with Disabilities Act, or the employee may apply for available positions within the City that the employee is qualified for; or may be discharged if there are no positions the employee can perform or is qualified to perform (assuming the employee's 12 weeks of FMLA leave have been exhausted).

### **Termination**

The City reserves the right to fill any position vacated by an employee who is unable to perform the essential functions of their job, with or without reasonable accommodation, to the extent permitted by law.

## **805 DRIVING POLICY**

All employees who operate City vehicles and their private vehicles on City business (being reimbursed for mileage) and employees who are subject to perform any driving duties must adhere to this policy.

In addition to having a valid driver's license, employees must comply with the City's Drug and Alcohol-Free Workplace policy and maintain a safe driving record according to these requirements:

- No more than two moving violations in a twelve (12) month period, or
- No more than three moving violations in a twenty-four (24) month period, or
- No DWI/DUI (Driving While Intoxicated/Driving Under the Influence) within the past thirty-six (36) months.

Not meeting these requirements and/or failing to demonstrate the ability to drive safely will constitute an unsafe driving record. A driver's license record check will be done at time of employment and may be done annually thereafter.

### **Responsibilities**

At the time of employment, the Human Resources department will conduct a driver's license record check and notify the supervisor if the results of an employee's annual driving record check show an invalid license or that the employee has an unsafe driving record.

Supervisors will not allow an employee to operate City vehicles (including off road motorized equipment) if the supervisor has knowledge that an employee does not have a valid driver's license or has an unsafe driving record, nor will the supervisor approve the use of that employee's private vehicle on City business.



Employees who are required to have a Texas driver's license will be responsible for keeping the appropriate license current and valid and must provide proof of insurance.

If an employee receives a moving violation or traffic citation, on or off the job, they must report it to their supervisor and/or Human Resources department immediately.

If an initial driving record check on a new employee reveals that the employee's driving record is in violation of this policy, the employee may be subject to corrective action.

An employee found to be operating a motor vehicle on City business with an invalid license or an unsafe driving record in accordance with this policy will immediately cease operating City vehicles and is subject to the City's Modified Duty policy and/or corrective action.

Only licensed drivers, 18 years of age or older, will operate City vehicles and will obey all traffic laws. Only authorized City employees can drive City vehicles. Riders will not be carried except in conjunction with the jobs to which the vehicles are assigned.

Accidents will be reported immediately to Human Resources.

Fines resulting from violations of motor vehicle regulations will be paid by the employee.

## **806 EMPLOYEE ACCESS AND IDENTIFICATION BADGE POLICY**

As a vital part of our safety and security system, the City of Fulshear provides identification badges and access badges (if in controlled access building) to our employees.

If an access and/or identification badge is lost or stolen, you must obtain a replacement. Lost or stolen cards should be reported to Human Resources as soon as possible. Employees should never loan their badge or borrow another employee's badge.

Upon termination, employees will be required to return Access and ID badges to Human Resources.

## **807 EMERGENCY EVENTS & HAZARDOUS WEATHER**

Regardless of weather or other conditions, the City never closes. Because of essential and direct impact on public safety and health, essential City services must continue regardless of the weather, man-made or technological emergencies or disasters. Emergency Essential Personnel are required to report to work as scheduled or as needed, regardless of official delayed opening, early closing, or closure of the City of Fulshear normal business operations.

### **Employee Status**

In the event of a wide scale emergency or significant weather event that could impact the community, all employees must be ready to assist in managing the crisis. Some employees are designated as essential for the continuity of governmental operations.

Department Directors shall designate each position as "Emergency Essential Personnel" or "Emergency Non-Essential Personnel". This designation shall be documented by Human Resources in the official job description. All personnel shall be advised of their status by May 1st of each year and/or at the time of hire. Individual employees' status may change as the needs of the City change during an emergency event.

Essential: Will be required to be available immediately before, during and after the emergency event. Essential Personnel shall remain within the Emergency Operations Center or a location

designated by the City, to perform duties directly related to the emergency conditions, as determined by the City. Mandatory residency in a City Emergency Operation Center or a location designated by the City may vary by department as determined by the Department Director and approved by the City Manager or their designee.

Non-Essential: After a needs assessment is made, some employees may be temporarily dismissed from work, concurrently or successively, as determined by the type of emergency event, those will be designated as “Non-Essential”.

Essential Recovery: Some employees may be further identified as “Recovery”. The City Manager or their designee and each Department Director are responsible for identifying those employees who are essential to the quick restoration of critical services to the community.

Emergency Duty Assignment: The City Manager or their designee may assign employees to any duty to the extent that the City is not in violation of any State or Federal Laws. This includes employees of one department serving in an emergency capacity for any other department or function as assigned.

### **Emergency Periods**

Pre-Impact Period: This is the period prior to the impending disaster and includes emergency response activities and preventive measures by the City of Fulshear’s departments in preparing for the impending emergency. This period begins when the City Emergency Operations Center is activated, or the City Manager or their designee declares an emergency is imminent.

Emergency Period: This is the period during which emergency response activities and critical services are conducted to protect life and property, and most other regular City services are suspended. During this period City management may designate “Essential” personnel to take mandatory shelter in the City Emergency Operations Center or a location designated by the City. The Emergency Period begins when the City is closed for normal business and ends when the City Manager or their designee declares it safe for all employees to return to work.

Post Impact Period: This is the period immediately following the emergency or disaster, during which activities are conducted to restore the City’s infrastructure and services to pre-disaster conditions. During this period, “Recovery” personnel will be required to return to work to assist with the restoration of critical services, conduct emergency clearance of roadways, provide damage assessments, etc. This period begins immediately following the emergency or disaster, during which activities are conducted to restore the City’s infrastructure and services and ends when the City Manager or their designee declares it safe for all employees to return to work.

Recovery Period: This period begins when the City Manager or their designee, in consultation with Department Directors or EOC staff, declares it safe for all employees to return to work and ends when the City Manager or their designee declares the period is over. During this phase employees will work in helping restore the community to normal service levels.

## **Responsibilities**

Employee: Employees are expected to report for duty at the hour regularly assigned for their workday. No one is excused from work until the City Manager or their designee, through the Department Directors, authorizes employees to leave, even if a public announcement of office closures or suspension of services is issued. Additionally, employees must return work as soon as an emergency is over to participate in the Recovery Period. Employees must:

- Contact Supervisor when emergency events, disasters, or inclement weather exists or is anticipated to receive any specific instructions.
- Discuss with supervisor in advance any circumstances anticipated that may prevent the employee from arriving to work during emergencies (such as road closures, childcare arrangements) and any pertinent leave requests.
- Stay informed about emergencies and City operations through the communication methods designated by the City Manager or their designee and their Department Director. (TV/Radio media, City's Web Page, emails, text messaging and phones)
- Ensure that emergency contact information supplied to supervisor/Human Resources Department is current so employees can be contacted when away from work.
- If an employee has personal circumstances that would affect their ability to work during any phase of emergency periods, they must file a "Waiver Request" form with their Department Director on May 1<sup>st</sup> of each year or within thirty (30) days of the onset of the extenuating circumstances. Waiver requests will be reviewed and approved/disapproved by the Department Director and forwarded to Human Resources of qualifying circumstances shall be attached to the waiver request.

The City of Fulshear recognizes that employees have personal and family responsibilities that may conflict with the obligation to fulfill their job requirements during hazardous weather or state of local emergency. When evacuation of personal residences is required, "Essential" personnel will be permitted and expected to plan for their families including the use of authorized shelters. Essential employees may be granted up to four (4) hours of administrative leave for this purpose.

Employees who are not able to return to work due to emergency conditions (for instance, they have evacuated the area and unable to return, or they are unable to leave their residence to return to work due to impassable roadways, etc.) must contact their Department Director or designated supervisor as soon as possible and utilize appropriate leave time.

During a state of emergency, any unauthorized absence from work or assignment will be considered abandonment of job and is sufficient cause for termination.

Department Directors: Department Directors must keep an updated list of the staff that is designated as "Essential" personnel along with defined expectations of duties and reporting during state of emergencies or hazardous weather delayed openings and closings. The list must be disseminated to the requisite people. Duties of the Department Directors include the following:

- Coordinate with the City Manager or their designee on any anticipated delays or closings and any alternate procedures that may affect the City's normal business operations.
- Ensure a clear communication mechanism with all their employees.
- Conduct training with employees regarding emergency operations procedures prior to May 31<sup>st</sup> of each year that outlines expectations, possible work schedules, leave etc..

- Provide a list of “Essential” personnel to Human Resources and Emergency Management by May 1st of each year.

City Manager: If the City’s normal business operations are suspended due to an emergency and/or hazardous weather conditions the decision about which departments or divisions will be closed and compensation adjustment, if any, will be made, is the responsibility of the City Manager or their designee. The City Manager or their designee is also responsible for:

- Coordinating with Department Directors on any City-delayed openings or closings.
- Designating employee(s) to contact/post delayed openings or closings with the media.

**Compensation for Hours Worked During a Declared State of Emergency**

During a declared Emergency Period, exempt employees shall receive their regular salary except during the Emergency Period when essential exempt employees are required to reside in the City Emergency Operations Center, or a location designated by the City. The exempt status employee(s) base salary will be computed to arrive at an hourly rate; then the City shall pay the exempt status employee(s) one (1x) times their hourly rate for each authorized hour of mandatory residency in the City Emergency Operations Center or a location designated by the City. Nothing herein shall be construed to affect the exempt status of such employees.

During the declared Emergency Period, when “Essential” non-exempt personnel are required to reside in the City’s Emergency Operations Center or a location designated by the City, they shall be paid one- and one-half times (1.5x) their normal rate of pay for all authorized hours worked and one times (1x) their normal rate of pay for all authorized non-work hours. This period shall remain in effect until the City Manager, or their designee declares that it is safe for all employees to return to work or determines that designated non-exempt personnel are not required. After such time, the employee will be paid according to the normal pay policy.

During the declared Emergency Period, employees (exempt and non-exempt) released from work or who are not required to report to work due to the emergency event shall receive pay for their normally scheduled workday. These hours shall not count as “time worked” for the purposes of computing overtime for non-exempt employees and shall be clearly noted on the time sheet with the appropriate emergency coding as designated by the Finance Department/Human Resources.

Employees who are out on prior-approved leave or who call in sick or took unscheduled leave during any of these three referenced periods will continue to be charged for such leave and if they do not have sufficient accruals will be placed on Leave without Pay.

All other policies concerning remuneration shall comply with the City of Fulshear’s Personnel Rules and the Fair Labor Standard Act.

At the Director’s discretion, previously approved leave, vacation, etc., for “Essential” personnel may be canceled when a state of emergency is imminent or declared. Unexcused failure to return to work upon notice, either written or verbal, that leave has been canceled will be deemed as an unauthorized absence from work or assignment which may be sufficient cause for termination.

**Compensation for Hours Worked During a Hazardous Weather Event**

In the event the City Manager or their designee determines that the weather conditions are such that the City’s normal business operations must close early or delay opening, the following shall apply:

- Employees authorized to leave work due to City normal business operations closing will be on emergency paid administrative leave.
- Emergency paid administrative leave will begin when the employee is dismissed by the City Manager or their designee through their Department Director and will continue until the City Manager declares it safe for all employees to return to work.
- Hours earned during emergency paid administrative leave shall not count as “hours worked” for the purposes of calculating overtime that may be earned elsewhere in the week.
- Employees arriving to work at the designated delayed opening time will be paid for their regular full workday.
- Employees arriving to work after the designated delayed opening time will be paid for the time actually worked, plus the delay in opening (*EX: Delayed opening is 10:00 a.m. employee arrives at 12:00 p.m. Assuming employee does not take a meal break, the employee is paid from 12:00 p.m. to 5:00 p.m., 5 hours, plus the 2 hours comp for the delay, giving them a total of 7 hours regular pay*). Employees may choose to supplement any additional lost time with previously accrued time.
- Employees that *do not report for duty, and not otherwise in violation of this policy*, may use their accrued compensatory time or vacation time to account for their missed time. They are not eligible for the City-paid delay. If an employee fails to show for work or cannot show up for other reasons, the time lost will be Leave Without Pay, unless other paid leave is approved by the Department Director.
- Sick Leave cannot be used to make up any lost time caused by delayed opening or early closing of the City.

During the Emergency Period, Exempt “Non-Essential” Personnel who are released from their normal workday by the City Manager/Department Director and are not required to report back to work due to the emergency event shall receive regular pay for their normal scheduled workday.

### **Exemptions**

Seasonal Employees as covered by Job Description are not covered by this policy.

## **SECTION 9: TRAINING & DEVELOPMENT**

### **901 EMPLOYEE DEVELOPMENT**

To execute the mission of the City, employees must provide exceptional customer service. This occurs by maintaining high standards of professionalism through competent, well-trained employees. City employees and their supervisors are responsible for the employee's professional development.

Employees and Supervisors have a shared responsibility in the development of a training work plan for successful performance of responsibilities.

- Individual Employee: Each employee is accountable for their job performance. Employees should request training from their supervisor in the areas that need improvement. At a minimum, employees should be able to perform their essential job duties and consistently exhibit behavior which is aligned with the City's Vision and Mission.
- Immediate Supervisor: The immediate supervisor is responsible for the development of their employees. Supervisors shall identify areas for development. Supervisors should ensure their employees are well trained to perform their job duties and deliver exceptional service delivery and customer service. Supervisors shall ensure that employees are given opportunity to train.

### **902 TRAINING**

The City will provide appropriate training for City employees subject to available funding. All training must be aligned with Citywide training strategies or certification requirements for a specific job.

Human Resources will sponsor City-wide training for areas of development deemed necessary for all or a large portion of City employees. Each division can establish training for their specific needs.

#### **Procedure**

- All training must be pre-approved by supervisors.
- All out-of-state training must be pre-approved by the City Manager.
- Training shall be determined as required, professional development, or optional.
- Questions regarding whether a training is aligned with City-wide training strategies should be routed to Human Resources.
- If training is determined to be of significant cost, employees may have to sign a reimbursement agreement prior to attending training to ensure City's return on investment.

### **903 EMPLOYEE PERFORMANCE APPRAISAL**

The performance appraisal system is designed to provide information and feedback about employee performance to the employee, supervisor, and management.

Performance evaluations should be completed on all newly hired and promoted employees after six months in their classification. This marks the end of the provisional period for newly hired employees and the promotional in-training period for employees who are promoted within the organization.

The second performance evaluation should be completed at 12 months. This marks one year of employment with the City for newly hired employees and one year for promoted employees in that classification.

The evaluation period for regular employees is October 1 - September 30 each year. The evaluation process will begin October 1 with a due date of December 18, by which all evaluations must be completed and turned in to Human Resources. If the second performance evaluation, noted above, was completed between July 1 and November 30, it will satisfy the first regular annual evaluation cycle. Thereafter, the evaluation must be completed by December 18<sup>th</sup> of each year.

Employees will not be eligible for performance increases unless at least six months have passed since the last performance evaluation increase. Employees hired in at a rate greater than the entry rate will be eligible for a performance increase during the regular evaluation cycle provided at least six months have passed since the employee's hire date.

If an employee changes positions during the year, the employee will be evaluated on the old position at the time of the change. The new supervisor will evaluate the employee from the date of the change to the end of the evaluation period. On the annual review date, the two ratings will be combined to determine eligibility for a performance increase.

A supervisor may conduct an employee performance evaluation at any time; however, performance pay increase, when budgeted, will typically follow the time frames outlined above.

## **904 PROMOTIONS**

When a position vacancy occurs, opportunities to promote from within may be explored consistent with the goal of filling positions with the most capable individual available.

Receipt of a promotion does not guarantee that an employee will be able to return to his or her former position if he or she is unsuccessful in the new job.

### **Procedure**

- All position vacancies will be posted to ensure a competitive process.
- Job postings and employee performance appraisals will provide the primary input to the internal selection process.
- External recruiting sources will be used simultaneously with the internal search.
- Non-exempt employees who are promoted to an exempt level position will be paid-out all compensatory time accrued at the rate of pay prior to promotion.

## **905 ADMINISTRATIVE TRANSFERS**

A transfer is the reassignment of an employee from one position to another. Transfers typically occur between positions with the same pay grade, similar responsibilities, and/or functions. A transfer not involving promotion or demotion may be affected at any time for administrative convenience. Transfers may be made administratively or in conjunction with a job posting. Transfers between job levels or between departments shall become effective following approval of the Department Director, Human Resources Department, and the City Manager.

## SECTION 10: SEPARATION OF EMPLOYMENT

### 1001 EMPLOYEE SEPARATIONS

It is the policy of the City to terminate employment because of an employee's resignation, release, death, incapacity, discharge, or retirement; or the expiration of an employment contract or a permanent reduction in or restructuring of the City's workforce. Discharge can be for any reason not prohibited by law. In the absence of a specific written agreement, an employee is free to resign at any time and for any reason, and the City reserves the right to terminate employment at any time and for any reason.

- A. Resignation: A voluntary separation, including:
  - To be separated in good standing, employees must give two weeks written notice including the reason for leaving. The two-week notice shall be a working two weeks to provide good transition for coverage.
  - An absence of three consecutive working days without authorization from supervisor. See Attendance/Tardiness policy.
  - Failure to return from leave of absence as arranged with the City.
  
- B. Release: A separation in which the employee is not qualified or for which an accommodation cannot be made for the type of work assigned and no other assignment is available. Release usually results from no fault of the employee. Employees who are unable to perform satisfactorily during the new employment provisional period will be considered as released.
  
- C. Reduction in Force: A separation which results because of organizational restructuring, work redesign, or reduced staffing requirements.
  
- D. Death: The death of an employee in employment.
  
- E. Retirement: A voluntary separation which usually includes qualification for benefits under the Texas Municipal Retirement System.
  
- F. Incapacity:
  - An employee may be separated for incapacity due to medical reasons when the employee no longer meets the standards of fitness required for the position.
  - A finding of incapacity shall be made by the Director based on the employee being medically unable to work as determined by medical certification, the exhaustion of the employee's benefit time and time on Leave without Pay, and under circumstances where the employee's continued absence creates a hardship to the effective operation of the City.
  
- G. Discharge: The Department Director, with the approval of the City Manager, or the City Manager may discharge an employee for violation of employee standards of conduct or safety regulations, unsatisfactory job performance, or any other reason deemed by the City to warrant termination.



- No supervisor is authorized to cause the discharge of any employee without prior review and approval by the City Manager.

### **Procedure**

Resignation: An employee who resigns with or without notice, will be asked by the supervisor to complete a resignation letter as soon as possible. The completed notice will be forwarded to the Human Resources Department for filing in the employee's permanent record.

Accrued Leave: The use of accrued paid leave may not be used during the last two weeks of employment.

Pay in Lieu of Notice: The City reserves the right to provide an employee with two weeks' pay in lieu of notice in situations where job or business needs warrant. Such a decision should not be perceived as reflecting negatively on the employee, given that it may be due to a variety of reasons. The Director of Human Resources shall be consulted prior to providing pay in lieu of notice.

Personnel Action Forms: The immediate supervisor of the separated employee is responsible for initiating the Personnel Action Form (PAF) and designating the appropriate separation code. PAF's should be provided to Human Resources as soon as practicable, and one week before separation date, if possible.

Return of Equipment and Keys: The supervisor shall complete an Exit Checklist which includes obtaining all equipment and keys from the separated employee and shall do so prior to the last day of work, if possible. Applicable equipment will be designated by department (e.g. computer, cell phone, uniforms, etc.).

Exit Interview: Separated employees, whether voluntary or involuntary, will be referred to the Human Resources Department for an exit interview, before their last day of work, if possible.

Employment References for Separated Employees: See Personnel Records.

Final Paycheck: Employees who voluntarily separate from the City (in good standing or otherwise) will be issued their paycheck with the next regular payroll after the effective date of separation.

### **Benefit Eligibility at Separation**

Upon separation of employment, employees may be entitled to or eligible for certain benefits.

- Vested Rights under the Texas Municipal Retirement System. General provisions of benefit credit are specified in the summary plan description available from the Human Resources Department.
- Health Insurance Benefits. Extended coverage and conversion privileges of the health insurance benefit plan is provided in accordance with conditions outlined through COBRA.
- Compensatory Time. An employee will be paid for all unused accrued compensatory time upon separation of employment.

### **Employees Separating in Good Standing**

An employee will be considered to have separated in good standing if he or she provides a minimum of two weeks' notice of resignation and has no non-approved leave during the notice period. Personal Leave is not allowed in the last two weeks.

Employees who separate in good standing shall receive:

- Vacation Leave. Payment shall be made at the employee's current rate of pay at the time of separation.
- Sick Leave. Upon retirement. Refer to section 404 - SICK LEAVE for additional information.

Employees who do not separate in good standing or who are terminated for any reason are not eligible for payment of vacation leave benefits unless otherwise directed by the City Manager.

### **1002 EXIT INTERVIEWS**

Exit interviews are completed to determine and document the reasons employees leave the City, to provide an opportunity for the airing of unresolved grievances, and to solicit constructive feedback to improve effectiveness and/or efficiency of City operations and/or employees' quality of life.

Prior to leaving the City upon separation, employees will have an exit interview with a Human Resources representative.



## Personnel Policies & Employee Handbook Acknowledgement

By signing below, I acknowledge that I have received a copy of the Personnel Policies & Employee Handbook (“Handbook”) and understand that it is my responsibility to read the Handbook in its entirety. I agree to comply with the rules, policies, and procedures set forth herein, as well as any revisions made in the future. I also understand that if I violate the rules, policies, and procedures set forth herein that I may be subject to discipline, up to and including termination of my employment.

I fully understand that the Personnel Policies & Employee Handbook is not a contract of employment. I understand that the City retains the right to make decisions involving employment as needed in order to conduct its work in a manner that is beneficial to the employees and the City. I understand that I am an at-will employee and that my employment may be terminated by either myself or the City, at any time, with or without cause, and with or without notice.

The City reserves the right to revise, delete, and add to the provisions of the Handbook at any time without further notice. I understand that no oral statements or representations can change the provisions of this Handbook. I understand that this Handbook is not intended to create contractual obligations with respect to any matters it covers, and that the Handbook does not create a contract guaranteeing that I will be employed for any specific time. I understand nothing in this Handbook is created to infringe on any available legal rights.

I further understand that as a City of Fulshear employee, I am expected to provide quality service to the public; to work towards the highest degree of safety possible for my fellow workers, to continually make suggestions for improvements, and to display a spirit of teamwork and cooperation.

I understand that I may be subject to reasonable suspicion or post-accident drug and alcohol testing.

I understand that I am responsible for City equipment and property issued to me, and that I must return all such equipment/property to the City upon separation in good condition, normal wear and tear excepted. I agree and understand that failure to return City equipment and property or return of equipment or property in a damaged condition not associated with normal use for City business will give rise to a debt owed to the City by me for the prorated value of the equipment or property, or the cost of repair. I agree to the City deducting this debt from my final paycheck.

I have read these policies and understand these policies and I agree to abide by and adhere to these policies. If I have questions about the content or interpretation of the Personnel Policies & Employee Handbook, I will ask my supervisor or Human Resources.

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Signature of Employee

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Date

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Printed Name of Employee