



CITY OF BURNET, TEXAS

Personnel Policy Manual

THE CITY OF BURNET, TEXAS

Personnel Policy

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Effective August 31, 2004
Revised December 2004
Revised May 4, 2005
Revised September 27, 2005
Revised December 8, 2009

This manual is designed as a guide to employees of the City of Burnet. Policies and procedures are subject to change without prior notice. Employees are responsible for the contents of all updates and additions. Updates and revisions will be made available to employees as they occur.

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Part 1.00

GENERAL POLICIES

These policies set forth the primary rules governing employment with the City of Burnet.

1.01 GENERAL

These policies are established by the City Council of the City of Burnet. Amended, revised, or new policies must be approved by the City Council in accordance with the Home Rule Charter.

In addition to these personnel policies, Department Directors may establish departmental rules and regulations that relate specifically to their department. Departmental rules and regulations shall not conflict with the City Policies and Procedures and must be approved by the City Manager.

1.02 PURPOSE

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

1.03 STATEMENT OF POLICY

These personnel policies are designed to bring the City service to a high degree of understanding, cooperation, efficiency, and unity through the systematic and uniform administration of personnel policies and practices. The following are specific objectives:

- Promoting and increasing efficiency, responsiveness to the public, and economy in City services.
- Providing fair and equal opportunity for qualified persons to enter and progress in the City service based on merit and fitness determined through fair and practical personnel management methods.
- Maintain recruiting, advancement and tenure practices to enhance the attractiveness of City employment and to encourage each employee to give their best effort to the City and the public.
- Promoting high morale among the City employees by fostering good working relationships and by providing uniform policies, opportunities for advancement, and consideration of employees needs and desires.

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All employees are hired for an indefinite period of time and may terminate employment at any time. The City of Burnet is an at-will employer and all employees are subject to termination without cause. However, employees shall have the right to administratively appeal and file grievances with respect to disciplinary decisions and actions affecting their employment pursuant to the policies set forth in this Manual. See Section 15 for the Grievance Policy.

1.04 RESPONSIBILITY FOR IMPLEMENTATION

The City Manager is responsible for the administration of the personnel policies and procedures. The City Manager may delegate authority to appropriate staff members to act in his/her behalf in the administration of these procedures. With the exception of matters of appointments and other personnel actions reserved to the City Council by statute or Charter, final authority on personnel decisions is reserved to the City Manager.

1.05 CHANGES TO THESE POLICIES

These personnel policies may be amended or revised, or new policies may be added at any time without notice, upon the approval of the City Manager and the City Council. In addition, the City Manager, or his/her designee, shall conduct a periodic review of the policies contained in this manual.

Employees are encouraged to make constructive suggestions for improvements in these policies or in work procedures or conditions. Any employee who wishes to make a personnel policy change recommendation should submit his/her suggestions in writing along with the rationale for making the change to the City Manager by using the proper chain of command.

All suggestions will be considered as they occur.

1.06 APPLICABILITY

The personnel policies apply to all employees of the City of Burnet unless a class of employees is specifically exempted. In cases where federal or state law or regulations supersede local policy for specific groups of employees, such laws or regulations will substitute for these policies only insofar as necessary to comply.

1.07 DISSEMINATION OF PERSONNEL POLICIES

The Personnel Department shall maintain complete sets of the personnel policies with all revisions for reference by employees and shall distribute copies or summaries of revisions to employees. Employees may contact the Personnel Department for copies of policies.

PART 2.00

EMPLOYEE RESPONSIBILITIES

City of Burnet employees must adhere to a high standard of public service.

2.01 GENERAL

The City of Burnet is a public tax-supported and service based organization. Its employees must adhere to high standards of public service that emphasize courtesy, professionalism, and avoidance of even the appearance of illegal or unethical conduct. Employees are expected to carry out efficiently the work items assigned as their responsibility, to maintain good moral conduct, and to do their part in maintaining good relationships with the public, other government employees, officials, their supervisors, and fellow employees.

In an effort to maintain a good public image, employees are expected to present a neat, clean personal appearance and be courteous to the public.

It is the responsibility of each employee to maintain a current knowledge of the personnel policies of the City. Current copies of the Personnel Policy Manual are available in each department. Each Department Director is responsible for maintaining a current copy and making a copy of the manual available to his/her employees.

Employees are required to sign an acknowledgement of receipt of the personnel policies for inclusion in each individual employee personnel file.

2.02 TIMELINESS

Punctuality and attendance according to the work schedule as well as keeping appointments and meeting schedules is essential and mandatory for the completion of required work. All absences from work must be approved.

An employee who expects to be absent from work must report the expected absence to his/her supervisor at least fifteen (15) minutes prior to their regularly scheduled reporting time, unless emergency conditions exist, in which case the supervisor shall be notified as soon as reasonably practical. Sufficient documentation may be required to verify an emergency condition. The employee must report directly to their supervisor, or his/her designee, as to the reason for their absence. Failure to timely report or failure to provide sufficient evidence of an emergency condition causing a failure to report shall be considered a tardy even if the leave is later approved.

In some departments, more advanced notice may be required. Department Directors will notify employees of their department if more than fifteen (15) minutes is required to provide

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adequate staffing. Repeated tardiness and excessive absenteeism will be subject to disciplinary action.

Simply because an employee timely provides notice of an expected or unexpected absence, does not mean the absence is automatically approved. In order to provide adequate staffing and citizen support, the City Manager or his designee may require the employee to come to work even if the employee provided timely notice of the absence. Upon a demand to return to work, the City Manager or his designee should take into consideration the employee's reason for the absence, whether the employee is capable of returning to work and the City's need for the employee to return to work on the specific day/time. If the City Manager determines it is in the City's best interest that the employee comes to work, the employee shall return to work as directed. Failure of the employee to return to work within a reasonable time upon demand may be grounds for disciplinary action.

2.03 OUTSIDE EMPLOYMENT, VOLUNTEER ACTIVITY OR ENTERPRISE

Employees may not engage in any outside employment activity, volunteer activity or enterprise determined by the City Manager to be inconsistent or incompatible with employment with the City of Burnet or that could adversely affect the employee's job performance.

All employees must have the advance approval of his/her Department Director to engage in any outside employment, including self-employment. A request for outside employment form must be filed with the Personnel Department prior to beginning outside activities.

Wearing of city uniforms during outside employment is strictly prohibited. Wearing of city uniforms for public relations purposes must be approved by the Department Director and/or City Manager.

All Police Officers must provide the Chief of Police with a complete job description for any outside employment. Outside employment forms can be obtained from the Personnel Department or Department Supervisor.

All employees are prohibited by federal law from volunteering for another department within the City. Any employee desiring to work additional hours for another department must receive prior authorization from their supervisor(s) and the City Manager. The total hours worked must be recorded on the timesheet for each pay period and are subject to FLSA overtime regulations. Employees failing to record additional hours worked in another department may be subject to disciplinary action.

2.04 GIFTS

Employees shall not accept gifts from contractors, vendors, or other persons who have business dealings with the City as prescribed by state law (Penal Code §36.07). Gifts of nominal value (\$25 or less) may be accepted if such items are unsolicited and not offered or accepted in exchange for any action or inaction on the part of the employee. Violation of this law is a Class A Misdemeanor. If it is determined that the employee has violated this section he/she will be subject to disciplinary action.

2.05 CONFLICT

An officer of the City shall comply with Local Government Code 171. If it is determined that the employee has violated this section he/she will be subject to disciplinary action.

An officer or employee may not:

- Solicit, accept, or agree to accept a financial benefit, other than from the City, that might reasonably tend to influence his or her performance of duties for the City, or, that he/she knows or should know is offered with intent to influence the employee's performance.
- Accept outside employment or compensation that might reasonably induce him/her to disclose confidential information acquired in the performance of official duties.
- Accept outside employment or compensation that might reasonably tend to impair independence of judgment in performance of duties for the City.
- Make any personal investment that might reasonably be expected to create a substantial conflict between the employees' private interest and duties for the City.
- Solicit, accept, or agree to accept a financial or personal benefit from another person in exchange for having performed duties as a City employee in favor for that person.
- Purchasing products or services for the City in exchange for personal gifts or other gain regardless of value.

2.06 POLITICAL ACTIVITIES

Employees of the City of Burnet are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies.

An employee may not:

- A. Use his/her official authority or influence to interfere with or affect the result of the election or nomination for office directly or indirectly coerce, attempt to coerce, command, or advise a local or state officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political purpose.
- B. Be a candidate for elective office in a partisan election if prohibited by the Federal Hatch Act. A partisan election is an election in which candidates are to be nominated or elected to represent a party whose candidates for presidential electors received votes in the last preceding election at which presidential electors were selected.
- C. Remain an employee after announcing for council position or Mayor. Announcing or filing for a City of Burnet office shall constitute an immediate resignation of employment.

An employee's political activity, not in violation of this section, shall not be considered in determination of his/her compensation, eligibility for promotion or demotion, work assignment, leave or travel request, or in applying any other employment practices to the employee.

2.07 CHAIN OF COMMAND

In order for the City to function properly as an organization, it is necessary that employees adhere to the City's chain of command. Employees are to follow the chain of command in seeking administrative or operational decisions. Employees may directly contact the Personnel Director on routine personnel matters.

The City Manager has established a staff organizational structure to assist employees in utilizing the Chain of Command. The staff is composed of Department Directors, special staff members, City Secretary, administrative assistants and clerks.

This system of administrative control provides the City Manager and staff an opportunity to stay current on laws or ordinances of the City about which they may not otherwise know, and anticipate action necessary to preclude future problems. Internal staffing permits the City Manager to maximize the effectiveness of his resources in terms of manpower, time, money, and productivity. The intent of this procedure is to protect the staff from being diverted from their primary job unnecessarily and to build confidence in the quality and accuracy of information received by the citizenry from the City staff representing their elected officials.

2.08 COMMUNICATIONS

Matters that involve City policy, operations, and organization are brought before the City Council by the City Manager or by a person designated to do so by the City Manager. See the Grievance procedure set out in Section 15.00.

Communication with the public about City of Burnet matters is the responsibility of the City Council and the City Manager or his/her designee. Employees are to refer the public to their Department Director or to the City Manager if a question is non-routine, controversial, or outside the scope of the employee's normal duties.

Employees may, from time to time, be given directions from persons outside the normal chain of command. In such cases, the employee must notify his/her immediate supervisor about the direction, its purpose, and the relevant facts of the situation. Failure to do so in a timely manner may result in disciplinary action.

2.09 UNIFORMS

The City may provide uniforms to employees. Only employees may wear City of Burnet uniforms and only while working for the City, or in accordance with departmental instructions.

If an individual leaves employment within six (6) months of the date clothing or a clothing allowance was given to the employee, regardless of the reason for separation, one half the cost of clothing allowance must be reimbursed to the City and may be deducted from his/her final check unless, upon request by the City, clothing or uniforms are turned in as part of the Exit process. Forms are available from the Personnel Department or from the Department Superintendent.

The cost of any item lost by the employee will be withheld from the employee's final paycheck. If additional uniforms must be purchased during the course of the year due to weight gain or loss, the employee will be charged for replacement of the garment.

2.10 TELEPHONE USAGE

Telephones, including cellular phones, are to be used for City business. Under no circumstances shall the use of said devices interfere with the employee's duties. It is understood that occasionally personal calls are necessary; however, the use of telephones for personal calls is permitted only if the number and length of calls are kept to a minimum. Use of phones shall be subject to departmental policies; however, any personal calls causing the monthly fee for any service to be increased will be subject to reimbursement. Excessive use or abuse of telephone privileges will be subject to disciplinary action.

2.11 NETWORK AND INTERNET USAGE POLICY

The City of Burnet provides Network and Internet Usage for City business when necessary in the performance of the employee's duties. The City is responsible for securing its own network and computing systems in a reasonable and economically feasible degree against unauthorized access and/or abuse, while making them accessible for authorized and legitimate users.

Employees should be aware the City of Burnet's voice-mail, e-mail and computer systems are the City of Burnet's property, for the use and benefit of the City of Burnet and that all information stored in these systems is subject to review by management without prior notice to employee and are subject to public inspection under the Texas Public Information Act.

CITY OF BURNET PERSONNEL POLICY

The City Manager will designate a Systems Administrator for all facilities that have access to network or internet usage. To that end, the City has developed the following policy for Network and Internet usage:

- 1) Access – Employee Internet access must be authorized by the System Administrator. A condition of authorization is that all Internet users must agree to this policy as signified by their signature on the acceptance page of this Personnel Policy.
- 2) User password and ID's – Authorized users are assigned a user ID and password upon being given access to the system. User ID's and passwords shall not be changed or altered in any way without express consent of the System Administrator. Protection of the ID and password are the responsibility of the User therefore sharing them with any other person is strictly prohibited. The User can be held responsible for the actions of persons using their ID or password.
- 3) Deletion, examination, copying or modification of files and/or data belonging to other users without their prior consent is prohibited unless specifically authorized by the System Administrator.
- 4) Distribution of information gathered from the system to unauthorized persons is prohibited and the employee is subject to disciplinary action.
- 5) Installation or downloading of hardware or software without the approval of the System Administrator is prohibited and is subject to immediate disciplinary action.
- 6) Employees shall report all computer virus outbreaks to the System Administrator. The System Administrator shall take action reasonably necessary to prevent the spread of a computer virus to other computers.
- 7) Use of facilities for commercial gain is strictly prohibited.
- 8) Use of facilities and/or services for viewing, obtaining, or distributing pornographic materials or other materials not specific to City business is prohibited and will be subject to immediate disciplinary action.
- 9) Any unauthorized, deliberate action, which damages or disrupts any devices on the system including but not limited to viruses or other disruptive/destructive programs, is prohibited and may result in disciplinary action.
- 10) Allowing unauthorized individuals to access system files is prohibited and is subject to disciplinary action.
- 11) Unauthorized use of Electronic Mail is prohibited. This may include sending junk, harassing, obscene or threatening mail; sending solicitations for the purpose of personal financial gain; forgery of electronic signatures; prolonged or excessive use of electronic mail for personal use and/or attempting to read, delete, copy or modify the electronic mail of other users. Any emails of a personal nature should include the following disclaimer "This e-mail contains the thoughts and opinions of the (employee's name) and does not represent official City policy". Personal e-mails are to be kept at a minimum and should not be disruptive to daily activities and responsibilities.
- 12) Violation of copyright laws is prohibited.

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- 13) Accessing web sites that charge fees for access, software, services or literature is prohibited unless specifically authorized by the System Administrator, Department Director or Finance Officer.
- 14) Online chat is prohibited.
- 15) Installing and/or playing games is prohibited. Playing online games is prohibited.
- 16) Representing yourself as another person is prohibited.
- 17) Some guidelines to avoid unintentional violations are:
 - Only access sites on the Internet that are related to your job classification.
 - Do not download any files without permission from the System Administrator.
 - If by mistake you find yourself in an inappropriate or questionable site, close the browser immediately either by clicking on the small X in the upper right corner or by clicking on File and then close. Notify the System Administrator immediately.
 - Never open an attachment that you do not expressly know the contents of. Do not open "junk" email or forward chain letters.
 - Make sure your virus protector is enabled at all times. Contact your System Administrator if you are not sure.
 - Report any questionable activity or responses to the System Administrator immediately.

2.12 PURCHASING PROCEDURES

In accordance with the City's charter, all purchases made and contracts executed by the City shall be pursuant to requisitions from the heads of the offices, departments or agencies whose appropriations will be charged. No contract or order shall be binding upon the City unless the Finance Officer, or his/her designee, certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation to pay for the supplies, materials, equipment, or contractual services for which the contract or order is to be issued. All contracts or purchases of property shall be made in accordance with State law or ordinance provided that the City Council or the City Manager, in such cases as he/she is authorized to contract for the City, shall have the right to reject any and all bids. Contracts for personal or professional services are not required to be let on competitive bids but are subject to the proper hiring procedures for retention of such services. Personal and professional services shall not be payable without the proper authority to retain such services.

2.13 PETTY CASH

For the departments handling petty cash, the correct balance in cash and paid receipts must be maintained at all times. Petty cash may only be utilized for authorized expenditures approved for the department. Petty cash shall not be utilized for personal expenditures and petty cash shall absolutely not be utilized as a loan to any employee for any period of time. Unannounced audits of petty cash will be made periodically.

2.14 SUBSTANCE ABUSE

1. DEFINITIONS:

Alcohol means any beverage that contains ethyl alcohol (ethanol), including but not limited to beer, wine and distilled spirits.

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City Owned Vehicle (COV) is any vehicle or equipment owned or leased by the City of Burnet.

City property or city facilities means all property of the City including, but not limited to , the offices, facilities and surrounding areas on the City-owned or City-leased property, parking lots, and storage areas. The term also includes the City-owned or City-leased vehicles and equipment wherever located.

Contraband means any article, the possession of which on the City premises or while on the City business, causes an employee to be in violation of the City work rule or law. Contraband includes illegal controlled substances and alcoholic beverages, drug paraphernalia, lethal weapons, firearms, explosives, incendiaries, stolen property, counterfeit money, and pornographic materials.

Controlled substance (illegal drug, or drug abuse) means a drug or substance which the use, possession, sale, transfer, attempted sale or transfer, manufacture or storage if it is illegal under any federal, state, or local law or regulation without permit or prescription and includes, but is not limited to inhalants, marijuana, cocaine, narcotics, opiates, opium derivatives, hallucinogens and any other substance having either a stimulant, depressant or hallucinogenic effect on the central nervous system such as amphetamines, barbiturates, lysergic acid or diethylamide.

Drug testing means the scientific analysis of urine, blood, breath, saliva, hair, tissue, and other specimens of the human body for the purpose of detecting a drug or alcohol.

Impairment is defined as being unable to perform their duties safely and competently due to the use or presence of alcohol or other substances.

Legal drug means any prescribed drug or over-the-counter drug that has been legally obtained and is being used for the purpose for which prescribed or manufactured.

Illegal use of a legal drug shall mean any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level other than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy (herein "illegal drug").

Reasonable belief (reasonable suspicion) means a belief based on objective facts sufficient to lead a prudent person to conclude that a particular employee is unable to satisfactorily perform his or her job duties due to drug or alcohol impairment. Such inability to perform may include, but not be limited to, decreases in the quality or quantity of the employee's productivity, judgment, reasoning, concentration and psychomotor control, and marked changes in behavior. Accidents, deviations from safe working practices, and erratic conduct indicative of impairment are examples of "reasonable belief" situations.

Regulated drivers (or herein "drivers") means those drivers who are subject to the U.S. Department of Transportation regulations as defined by the DOT. Applicable regulations include but are not limited to DOT, Federal Highway Administration and Federal Motor Carrier Safety Administration regulations.

Safety sensitive function means a full-time, part-time, or temporary position with the City requiring any activity that presents a threat to the health or safety of the employee, other city employees, or the public. An employee is considered to be performing a safety-sensitive

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function during any period in which (s)he is actually performing, is ready to perform, has just completed performing, or is immediately available to perform any safety-sensitive function. These may include but are not limited to:

- All time waiting to be dispatched to drive a COV or equipment.
- All time inspecting or servicing a COV or equipment.
- All time spent driving a COV or equipment.
- All time, other than driving time, spent on or in a COV or equipment.
- All time loading or unloading a COV or equipment.
- All time repairing or remaining in attendance upon a disabled COV or equipment.
- Any activity that places the employee or others in jeopardy.

Substance Abuse Professional (SAP) means a licensed physician (MD or DO), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (NAACACCC certified) with knowledge of an clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Under the influence means a condition in which a person is affected by the voluntary introduction of any amount of a controlled substance or alcohol at/or above the limit as set by the U.S. Department of Transportation in the Omnibus Transportation Employee Testing Act of 1991.

B. GENERAL

I. Purpose: It is the policy of the City of Burnet to maintain a work environment free from the use, possession, and effect of the illegal use of controlled substances. The City of Burnet recognizes that drugs and alcohol may impair employee judgment, which may result in increased safety risks, hazards to the public, employee injuries, faulty decision-making, and reduced productivity. Therefore, the City of Burnet expects all employees to be in a state of mind and physical condition fit to complete their assigned duties safely and competently during working hours.

II. Pre-Placement: In order to maintain a safe and drug free environment for its employees, the City of Burnet will not knowingly hire applicants who engage in substance abuse. Please refer to Chapter 11, Subsection 11.02 for information regarding this policy.

III. Current Employees: The following conduct by employees of the City is prohibited and will result in appropriate action by the City.

(a) Controlled Substances and Alcohol. Committing any of the prohibited acts listed below constitutes serious misconduct not requiring any previous disciplinary actions and will result in immediate removal from the work place where applicable, and termination from employment when such activities occur while on City property, in City supplied vehicles, during working hours or at any time while the employee is on a City work site or while representing the City on official City business.

- (1) The sale, manufacture, dispensation, possession, distribution, or being under the influence of an illegal controlled substances or drug paraphernalia by an employee;
- (2) The sale, manufacture, dispensation, unlawful possession, distribution or abuse of legal drugs;
- (3) Being under the influence of alcohol not in a social setting;
- (4) The prohibition against possession shall not apply to paraphernalia or drugs held as evidence under authority of the Chief of Police.

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Any employee who is arrested for a drug related crime under a criminal drug statute for violations occurring on or off City property must immediately report the arrest to their supervisor. Failure to report the arrest will result in disciplinary action.

All employees who are using a legal drug which may in any way impact or impair their job performance must notify their supervisor in writing as to the possible effects of such medication on the performance of their assigned duties and related physical capability. The Department Director may require a doctor's statement if the employee indicates that there is a need to use the prescription for an extended period or if the employee's performance is or can be impaired. (See medical exception below).

IV. Medical Exception: Exceptions to this chapter may be made for employees who are reasonably suspected of being under the influence and impaired by medication taken according to a prescription in the employee's name obtained from a licensed physician for medical purposes. Such individuals may be placed in an assignment consistent with their ability to perform the assigned task, or will be removed from the work place and be allowed to use their accumulated sick or vacation leave until they are able to return to work.

V. Reasonable Suspicion Tests: The City may conduct unannounced searches or inspections where there is reasonable suspicion of being under the influence of alcohol or controlled substances. These may include, but are not limited to, employee personal effects including requiring the employee to empty the contents of pockets, lunchboxes, purses, briefcases, containers, and desks located on City property, in work sites, and in City owned vehicles. A supervisor who has reasonable suspicion of possession of a controlled substance or illegal contraband in an employee's private vehicle on City property should first obtain a written consent to search. Should the individual in control of the vehicle refuse to give his consent to search, the Burnet Police Department may be contacted to obtain a search warrant.

When a department supervisor has reason to believe that an employee at work, or when reporting to work, appears to be impaired from alcohol or drugs, the supervisor shall notify his/her department head, the Director of Personnel, or the City Manager or his/her designee for confirmation of testing. The employee will be required to take a drug/alcohol test. Observations which constitute a factual basis for determining reasonable suspicion may include, but are not limited to:

- Odor of alcoholic beverages
- Erratic behavior
- Violent mood swings
- A medical emergency that can be attributed to drug use
- Physical on-the-job evidence of drug use
- Documented deterioration in the employees job performance, or an accident which is caused by the apparent action or interaction of the employee
- Other reasonable indication of alcohol use.

The department supervisor will describe the incident in writing, documenting the circumstances leading to the conclusion that a drug or alcohol test is necessary. Such documentation will include the date, time, place, description of incident, and statement of witnesses. Any other evidence such as drugs, drug paraphernalia, containers, etc., will be collected. After documenting the incident, the department supervisor will contact the City Manager, or his designee, to determine if drug testing is appropriate and to arrange for testing. If drug testing is appropriate, the designated City personnel will transport the employee to the drug specimen collection facility. The type of drug/alcohol test may be based on urine, blood, or other type of sample as appropriate. After testing, the employee will be transported home by the supervisor or by a relative. The employee shall not return to work until the results of the test are known. If the employee is incapacitated, in need of

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immediate medical attention, or if, in the opinion of the supervisor, poses a threat to himself or others, the police department and/or the Fire/EMS will be summoned.

VI. Random Test - Safety sensitive personnel are subject to random drug/alcohol testing in order to prevent drug and alcohol abuse while on duty. Names will be drawn in accordance with state, local and federal law. Employees on previously approved leave are not required to return to work for testing. Employees will be taken to the drug testing sample collection facility to give urine, blood, or other appropriate sample. Employees are required to sign a consent form (aka Chain of Custody Form). Refusal to sign the consent form will be considered insubordination subject to immediate termination.

VII. Post Accident Test – After any on-the-job accident where more than minor first aid is required, employees involved shall be tested for controlled substances. In accidents involving City Owned Vehicle(s), the employee(s) involved shall be tested for controlled substances. Employee(s) must submit a sample within two (2) hours of the accident or incident.

VIII. Refusal to Submit - If an employee refuses to submit to the testing that is outlined in this policy statement or engages in conduct that clearly obstructs the testing process, such refusal or obstruction, shall be considered as a insubordination subject to immediate termination. If an employee fails to provide an adequate breath or urine sample when required to do so and a physician cannot determine a valid medical reason why such samples cannot be provided, the employee will have refused to submit to required testing.

IX. Withholding Information – Employees who knowingly withhold personal knowledge that another employee is impaired on the job is subject to disciplinary action.

X. Switching or Altering Samples – Switching or altering samples is strictly prohibited and the employee shall be considered as insubordination subject to immediate termination. Any employee facilitating, directing, or aiding in this behavior is also subject to disciplinary action.

XI. Consequences of testing positive –If an employee fails a controlled substance or alcohol test, the employee shall be immediately terminated. Disciplinary action based on a violation of this drug and alcohol policy is not suspended by an employee’s participation in an abuse program after a confirmation the employee has been under the influence of drugs or alcohol while on duty.

An employee who is terminated for failing a substance or alcohol test is not eligible for rehire until one year has passed and they can demonstrate that they have completed an Employee Assistance Program (EAP) equal in scope and gravity to the SAP Return to Duty Program noted in *Section C.III.(f)* below. The city is not responsible for any costs associated with the EAP process. The City is under no obligation to rehire any employee after termination for violation of this policy. Rehires under this section will be subject to regular and periodic testing in accordance with this policy, and federal and state law.

C. COMPLIANCE WITH DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL REQUIREMENTS:

I. Policy: The City of Burnet will comply with the Federal Highway Administration and Department of Transportation rules requiring drivers who drive COVs to submit to drug and alcohol testing where applicable. In compliance with these rules, Regulated Drivers must also submit to the Federal Highway Administration’s drug and alcohol testing guidelines. Regulated Drivers are those who fall within the following criteria:

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- ALL DRIVERS OF VEHICLES WITH GROSS COMBINED WEIGHT RATING OVER 26,000 POUNDS.
- ALL DRIVERS OF VEHICLES DESIGNED TO CARRY OVER 15 PASSENGERS.
- ALL DRIVERS TRANSPORTING HAZARDOUS MATERIALS.
- SAFETY SENSITIVE PERSONNEL
- FIRE/EMS AND POLICE PERSONNEL

The City expects drivers that drive COV's to report to work ready to drive motor vehicles at any point during their workday. This includes drivers that are expected to backup or substitute for a driver in his/her absence. Therefore, the City expects all drivers to be capable of performing the safety-sensitive function of driving a motor vehicle when they report to work. Such drivers will continue to be expected to drive vehicles until their workday is over.

Because drivers can be expected to drive at anytime during their workday, they are also subject to testing at any time during the shift as prescribed by this policy statement.

II. Controlled Substances:

a) Prohibited conduct:

Drivers may not report for duty or remain on duty when they are under the influence, use, or possess any controlled substance, except when a physician has prescribed a substance and has advised the driver, in writing, that it will not affect his/her ability to operate a commercial motor vehicle safely. Also, drivers are prohibited from using or being under the influence of any other substance that renders the driver incapable of safely operating a motor vehicle.

b) Circumstances for testing:

Pre-Employment

Prior to the first time that a driver operates a COV, that driver must be tested for alcohol and controlled substances. Other employees that transfer into a position that requires a commercial driver's license, must also be tested as well.

Post Accident

After any on-the-job accident where more than minor first aid is required, or any accident involving the use of City owned equipment or vehicle(s), the employee(s) involved shall be tested for controlled substances. Employee(s) must submit a sample within two (2) hours of the accident or incident. After a vehicle accident, all injured parties, including the driver, should receive the appropriate medical treatment as soon as possible. If a driver is physically capable of reporting an accident, (s)he should do so as soon as possible.

Random

The City of Burnet will comply with the Federal Highway Administration's random testing requirements for Regulated Drivers which dictates that random drug tests will take place at least quarterly at the rate of at least fifty percent (50%) of the average number of Commercial Driver positions annually. For instance, if there are six (6) regulated drivers, three (3) or more drivers will be selected for random drug testing each year.

Drivers should understand that if (s)he were selected for a random test during one test period, (s)he is just as likely to be tested during the next test period. It is conceivable that out of eight (8) drivers, one driver, the same driver, would be selected four (4) times in a year to be tested, and the other drivers would not be selected at all.

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Drivers as a condition of the position required to drive COV's and do actually drive COV's are subject to random testing in order to prevent drug and alcohol abuse while on duty. Employees will be asked to sign consent forms and will be taken to the drug testing sample collection facility to give urine, blood, or other appropriate sample. Refusal to sign the substance abuse consent form will be considered as insubordination subject to immediate termination.

Reasonable Suspicion

If there is reasonable suspicion that a driver has violated the alcohol or controlled substance rules, the driver must be tested. A supervisor charged with making a "reasonable suspicion" must base the determination on specific observations concerning the appearance, behavior, speech, or body odors of the driver. *Such suspicion should be based only on what is observed during, just preceding, or just after the period of the workday that a commercial driver is performing driving functions.*

The Federal Highway Administration rules require that supervisors make a written and signed record of their observations on which they based their reasonable suspicion for controlled substances. This written record must be made within twenty-four (24) hours of the observations and before the release of the controlled substance results.

If the employer does not perform testing for controlled substances within thirty-two (32) hours of determining that a reasonable suspicion exists, the employer shall prepare and maintain a file on why such testing was not properly administered.

c) Testing procedures:

When the driver is told that (s)he has been selected for testing as required by the DOT and the Federal Highway Administration and described in the policy statement, the driver will be driven to the collection site. The driver shall carry an identification card with his/her photograph so (s)he can be positively identified.

The collection site personnel will initiate the chain of custody form, which is required by the Federal Highway Administration. The driver will be required to urinate the required amount called for under the Federal Highway Administration rules. The collection site personnel will receive the urine sample from the driver, and, in the presence of the driver, place the required amount of the sample in two (2) containers, again in the presence of the driver with a copy of the chain of custody form that will be sent along with the sample to the designated lab.

In the event the driver cannot produce a sample within two (2) hours, (s)he will be examined by a physician to determine if there is a medical reason why a sample cannot be obtained. If no medical reason exists, the failure to produce a specimen will be considered a refusal to submit to testing.

The driver's sample will be sent in its sealed container to a testing laboratory that has been approved by the Department of Health and Human Services.

If a sample initially tests positive, the lab must verify this positive test by using a testing procedure of greater accuracy or reliability where available. If the initial test is the most accurate available that test shall be repeated.

In the event that a sample tests positive, a medical review officer will interview and/or examine the driver to determine if there is a reason for a positive test. If there is a valid medical reason for the positive result, the City will not be informed of the positive test result. However, if there is not a valid medical reason, the positive result will be reported.

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Consequences of testing positive:

If a driver fails a controlled substance or alcohol test, or the driver violates the Federal Highway Administration alcohol or controlled substance rules and regulations as outlined in this policy statement, the driver will be immediately terminated.

A regulated driver who is terminated for failing a substance or alcohol test is not eligible for rehire until they can demonstrate that they have received an evaluation by a Substance Abuse Professional (SAP) and have completed the return to duty process recommended by the SAP. The city is not responsible for any costs associated with the SAP process. The City is under no obligation to rehire any employee after termination for violation of this policy. Rehires under this section will be subject to regular and periodic testing in accordance with federal and state law.

Refusal to test shall be considered as insubordination and subject to immediate termination.

III. Alcohol:

a) Prohibited Conduct:

The following are prohibited uses of alcohol;

- Use of alcohol on the job or while on-call
- Use during the four (4) hours before the performance of a safety-sensitive functions.
- Being under the influence of alcohol while performing safety-sensitive functions.
- Use of alcohol within eight (8) hours following an accident involving a covered employee or until the covered employee undergoes a post-accident test (whichever comes first).
- Refusal to submit to a required test.

b) Circumstances for testing:

Post-Accident

After a vehicle accident, all injured parties, including the COV driver, should receive the appropriate medical treatment as soon as possible. If a driver is physically capable of reporting an accident, (s)he should do so as soon as possible. *If the driver was driving a COV* at the time of an accident, there were injuries or a fatality as a result of the accident, regardless if any citations were issued, the driver will be tested for the presence of alcohol. Accidents involving the use of City owned equipment shall also require the employee(s) involved be tested for alcohol.

Random

The City of Burnet will comply with Federal Highway Administration's random testing requirements for regulated drivers which dictate that random tests will take place at least quarterly at a rate of at least twenty-five percent (25%) of the average number of driver positions annually. Regulated drivers should understand that if (s)he were selected for a random test during one test period, (s)he is just as likely to be tested during the next test period. It is conceivable that out of eight (8) drivers, one driver, the same driver, would be selected four (4) times in a year to be tested, and the other drivers would not be selected at all.

Drivers of all non-regulated COV's are subject to random testing in order to prevent drug and alcohol abuse while on duty. Employees will be asked to sign consent forms and will either be taken to the drug testing sample collection facility to give urine, blood, or other appropriate sample or asked to report to the location. Refusal to sign the substance abuse consent form

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may result in termination. If in the event a second test is required and the second test is also positive, the employee will be terminated immediately.

Reasonable Suspicion

If there is a reasonable suspicion that a COV driver has violated alcohol rules, the driver must be tested. A supervisor charged with making a "reasonable suspicion" must base his determination on specific observations concerning the appearance, behavior, speech, or body odors of the driver. Such suspicion should be based only on what is observed during, just preceding, or just after the period of the workday that a COV driver is performing safety-sensitive functions.

The Federal Highway Administration rules require that supervisors make a written and signed record of their observations on which they based their reasonable suspicion for alcohol. This written record must be made within twenty-four (24) hours of the observations and before the release of the alcohol test results.

If the employer does not request the testing within two (2) hours of determining a reasonable suspicion exists, the employer shall prepare and maintain a file on why such testing was not promptly administered. If the test is not administered within eight (8) hours, the supervisor shall cease attempts to administer the test, and prepare and maintain a written record described above.

c) Testing procedures:

For alcohol testing, the current testing rate is twenty-five percent (25%). The City of Burnet may test at a higher percentage in order to protect the safety of employees and the community.

Federal Highway Administration rules dictate that a driver may only be randomly tested for alcohol while performing, just before or just after performing safety-sensitive functions, or just before or after performing these functions. The City of Burnet will randomly test for alcohol in compliance with these rules.

Similar to the testing procedure for controlled substances, when a driver has been told (s)he has been selected for random alcohol test, as required by Federal Highway Administration rules described in the policy statement, the driver will be taken to the testing site. The driver shall carry an identification card with him/her so that (s)he can be positively identified.

When a driver is to be tested for the presence of alcohol in the system, (s)he will be required to be tested by a method approved by the Federal Highway Administration. Only those persons who have received training as a Breath Alcohol Technician will administer and monitor such breath alcohol tests.

In the event a Breath Analyzer Test is used, the Breath Analyzer Technician will review the procedure to be used for administering the breath tests. The driver will be allowed, and is encouraged, to watch as the Evidential Breath Analyzer is prepared for the test. The machine will perform a self-diagnosis. The Breath Analyzer Technician will provide a new mouthpiece for the test, which will be enclosed in a plastic wrapper and be unwrapped in the driver's presence. The driver will then be expected to blow forcefully into the mouthpiece attached to the tube leading to the Evidential Breath Analyzer. Within a few minutes, the Evidential Breath Analyzer will produce the results of the alcohol analysis of the driver's breath. These results will be presented to the driver. If the driver is unable to provide an adequate amount of breath, (s)he will be examined by a physician to determine if there is a medical reason why a sample cannot be obtained.

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In the event that the driver's breath tests greater than .02 alcohol level, a second confirming test will be conducted. While waiting for the confirming test, which will take place no sooner than fifteen (15) minutes and no later than twenty (20) minutes after the initial test, the driver should follow the instructions of the Breath Analyzer Technician and should refrain from putting anything in his/her mouth. At the completion of the confirming test, if the driver registers below .02 alcohol level, the driver's results will be reported as negative. If the confirming test shows an alcohol level greater than .02, the driver will not be permitted to drive. The driver should not drive away from the testing site, his/her supervisor will arrange for transportation back from the testing site and the driver will be placed on leave without pay before disciplinary action is administered.

d) Refusal to submit:

If a driver refuses to submit to the Federal Highway Administration alcohol and controlled substance testing that are outlined in this policy statement or engages in conduct that clearly obstructs the testing process, the driver will have refused to submit to Federal Highway Administration required testing.

If a driver fails to provide an adequate breath or urine sample when required to do so under the Federal Highway Administration rules outlined in this policy statement and a physician cannot determine a valid medical reason why such samples cannot be provided, the driver will have refused to submit to required testing.

When a driver refuses to submit to Federal Highway Administration alcohol or drug testing, (s)he will be immediately terminated.

NOTE: A driver that refuses to submit to a post-accident test following a fatal accident is subject to Federal Highway Administration disqualification to drive commercial motor vehicles for one (1) year.

e) Withholding Information – Employees who knowingly withhold personal knowledge that another employee is impaired on the job is subject to disciplinary action.

f) Consequences of testing positive:

If a driver fails a controlled substance or alcohol test, the driver violates the Federal Highway Administration alcohol or controlled substance rules, as outlined in this policy statement, and the driver will be immediately terminated.

A regulated driver who is terminated for failing a substance or alcohol test is not eligible for rehire for one year and must be able to demonstrate that they have received an evaluation by a Substance Abuse Professional (SAP) and have completed the Return to Duty Process recommended by the SAP. The city is not responsible for any costs associated with the SAP process. The City is under no obligation to rehire any employee after termination for violation of this policy. Rehires under this section will be subject to regular and periodic testing in accordance with this policy, and federal and state law.

Refusal to test shall be considered as insubordination subject to immediate termination.

IV. Medical Exception: Exceptions to this chapter will be made for employees who are reasonably suspected of being under the influence and impaired by medication taken according to a prescription in the employee's name obtained from a licensed physician for medical purposes. Such individuals may be placed in an assignment consistent with their ability to perform the assigned task, or will be removed from the work place and be allowed to use their accumulated sick or vacation leave until they are able to return to work.

PART 3.00

HIRING PRACTICES

The City of Burnet promotes value for the customer, professionalism, teamwork and quality of service by seeking applicants who demonstrate a similar commitment to providing the best customer service available to our citizens.

3.01 EQUAL OPPORTUNITY POLICY

Affirmative action shall be taken to promote equal employment opportunity in the City service. Discrimination against any person in recruitment, examination, appointment, training, promotion, discipline, pay, or any other aspect of personal administration because of political or religious opinions or affiliations, membership or non-membership in employee organizations, or, because of race, color, natural origin, marital status, or other non-merit factors, is prohibited. Discrimination on the basis of age, sex, or physical disability is prohibited except where specific age, sex, or physical requirements constitute an occupational qualification necessary to perform the essential functions of the position.

It is the policy of the City to maintain a work environment free of harassment. Employees will demonstrate concern for the well-being of their coworkers. Harassment of an individual by fellow employees is not permitted, regardless of their working relationship.

3.02 AGE REQUIREMENTS

Persons under eighteen (18) years of age will not be employed in any regular position. Other age limitations will be only as required by state or federal law applicable to the City.

3.03 VACANCIES

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

3.04 QUALIFICATIONS

The City of Burnet maintains a class (job) description that establishes the required knowledge, skills, and abilities for each staff position and the acceptable levels of experience and training for each position. The job description sets forth the minimum acceptable qualifications to fill the position. The City reserves the right to amend or modify job descriptions and qualifications.

The City will also require all prospective employees provide proof of citizenship or legal work status in the United States prior to employment.

3.05 METHODS OF RECRUITMENT

The City of Burnet has four methods of recruitment and selecting persons to fill vacancies. They are as follows:

- promotion from within
- lateral transfer within
- public announcement and competitive consideration of applicants for employment
- selection from a valid current eligibility list
- any other method as prescribed by state or federal law

Internal postings will be posted at City Hall for a minimum period of three (3) working days.

The City Manager or his/her designee determines the method of selection to be used in filling each vacancy and may make adjustments as deemed necessary from time to time, when in the best interest of the City. The City Manager may waive any requirements for posting and advertising before filling a specific position.

3.06 PUBLIC ANNOUNCEMENTS

The City Manager, or his/her designee, in the manner most appropriate for the particular position being filled, may disseminate public announcements of position openings at the City. The City Manager, or his/her designee, determines the method of selection to be used in filling each vacancy.

3.07 APPLICATION FOR EMPLOYMENT

Each applicant for employment is required to submit a City of Burnet Application Form and other pertinent information regarding training and experience. The Personnel Director, or his or her designee, shall, as deemed appropriate, make appropriate inquiries to verify experience, character, and suitability of any applicant. The City reserves the right to perform background checks in the depth determined appropriate by the City Manager prior to any offer of employment.

A City of Burnet Application Form can be obtained from the Personnel Director at the City of Burnet Municipal Offices or from the City of Burnet web site at www.cityofburnet.com.

3.08 CONSIDERATION OF CURRENT EMPLOYEES

Employees of the City of Burnet are not prohibited from applying for available positions. Employees who are interested in an available position are required to meet the same requirements as non-employees. For good cause, this requirement may be waived. Employees should check job postings for available positions.

3.09 DISQUALIFICATION

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

- cannot perform the essential functions of the position involved
- knowingly has made a false statement on the application form
- has committed fraud during the selection process
- is not legally permitted to hold the position

- has offered, attempted to offer, or made promise of inducement in an attempt to secure favorable consideration
- by the results of their background check and/or driving record

3.10 SELECTION

Except for appointments reserved to the City Council by Charter, statute or ordinance, the City Manager has the exclusive authority to select and employ all Department Directors, and the Department Directors have the authority to employ department personnel, subject to approval by the City Manager, clearance from the Personnel Department, and within the limits of the policies and the overall comprehensive budget. Department Directors and other supervisors may be asked for recommendations as appropriate. The City Manager shall have the right to set policies for Department Directors regarding hiring and prior hiring approvals required. All prospective employees must receive clearance from the Personnel Department prior to being hired.

3.11 PRIOR SERVICE WITH CITY

Employees entering service with the City who have had prior service with the City may be considered for employment only with the specific approval of the City Manager and Department Director. Former employees who are rehired will be hired at the prevailing rate for new hires and will be subject to all restrictions of newly hired employees, unless specifically waived by the City Manager and the Department Director.

3.12 TESTING

Positions with the City may have an essential functions test that shows the applicant can perform the essential functions of the job for which they have applied. The essential function test will be designed so as not to discriminate against any person, whether by race, sex, age, or persons with reasonably accommodated disabilities. These reasonable accommodations fall under the guidance of the Americans with Disabilities Act, as amended, and should be requested not less than seventy-two (72) hours prior to testing.

Certain City positions will require that employees obtain and maintain certifications or licenses. Each position's job description will outline these requirements where applicable. Employees who fail to obtain or maintain required certifications or licenses may be dismissed or demoted as necessary to comply with applicable laws.

3.13 EMPLOYMENT OF RELATIVES

Nepotism is the showing of favoritism toward a relative. The practice of nepotism in hiring personnel or awarding contracts is forbidden by the City. No person may be hired who is related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) to any member of the City Council, to the City Manager, or to any employee who would supervise his/her performance.

Prohibited degrees of relationship are defined in the following:

Degree by Affinity to Employee or Official:

- First Degree - Spouse
- Second Degree – Father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandmother-in-law, grandfather-in-law, granddaughter-in-law, grandson-in-law.

Degree by Consanguinity to Employee or Official:

- First Degree - Father, mother, son, daughter
- Second Degree - Sister, brother, grandmother, grandfather, grandson, granddaughter
- Third Degree - Niece, nephew, uncle, aunt, great grandfather, great grandmother, great grandson, great granddaughter

3.14 SEXUAL HARASSMENT POLICY

It is the policy of the City of Burnet to prohibit harassment of its employees by any person. The City of Burnet does not tolerate the harassment of any employee or non-employee by any other employee or non-employee for any reason. Harassment of a sexual nature is a violation of various state and federal laws which may subject the individual harasser to liability for any such unlawful conduct. Violators of this policy are subject to immediate disciplinary action.

Specifically forbidden is harassment of a sexual, racial, ethnic, or religious nature. Harassment may include unsolicited remarks, gestures, or physical contact, display, or circulation of written materials or pictures derogatory to either gender or racial, ethnic, or religious groups; or basing personnel decisions on an employee's response to sexually-oriented requests.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature when

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

Non-employee violators of this policy are subject to expulsion from a City facility when harassment occurs on City premises. The City may report violators to the appropriate authority for civil or criminal action. The City prohibits any retaliation of any kind against employees, who in good faith, bring sexual harassment complaints or assist in investigating complaints.

Any employee who experiences conduct of this nature shall bring it to the attention of the employee's supervisor or the Department of Human Resources. Employees having knowledge of impermissible harassment among employees must report such harassment to the appropriate supervisor not involved in the harassment and to the Personnel Director. The Personnel Director shall be the employee charged with handling complaints, unless another person is duly designated. If the employee accused of harassment is the City Manager, the report shall be made to the City Attorney. Any employee violating the City's rule against harassment of employees may be subject to discipline, up to and including termination.

It is the responsibility of each employee to be aware of the details of the foregoing policy.

Exercising rights under this policy does not in any way affect an employee's right to seek relief through the Texas Commission on Human Rights, the Equal Employment Opportunity Commission, or in a court of proper jurisdiction for any complaint for which a remedy is provided under state or federal law.

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Sexual harassment complaints or grievances shall be made in writing to the appropriate supervisor and/or Personnel Director. The City takes all reports seriously and handles them as confidentially as possible.

Procedure outline for investigating sexual harassment:

1. The Personnel Director, referred to hereinafter as the City representative, handles the complaint, unless such individual cannot be objective or the complaint involves the City Manager or the Personnel Director. In these cases, the City Attorney shall handle the complaint. The City representative conducts interviews with the complainant and the alleged harasser and may request written statements.
2. The City representative forwards the findings to the City Manager with a recommendation regarding actions to be taken. After reviewing the report, the City Manager determines if further investigation is needed. If the allegations involve the City Manager, the report shall be forwarded to the City Attorney. The City Attorney shall perform the duties of the City Manager in investigating the complaint.
3. If the City Manager determines further investigation is not necessary, (s)he forwards the report, all documentation, and recommendation to the Personnel Director to be kept in separate files.
4. If the City Manager determines further investigation is necessary, (s)he assigns an Investigator to conduct a thorough investigation of all the allegations. This investigator will either be the City attorney or his/her representative.
5. After the investigator completes his/her investigation, (s)he will consult with the City Manager to determine what disciplinary action, if any, is warranted by the results of the investigation.
6. Interviews, allegations, statements, and the identities remain confidential to the extent possible and allowed by the law. No information related to the complaint or any investigation is filed in the personnel files of the employees.
7. Disciplinary action shall be taken as the City Manager deems appropriate.
8. If the City Manager is accused of harassment, the City Attorney shall report findings to the City Council for consideration and action on the complaint.

It will be the responsibility of the Personnel Director to inform department heads and supervisors of the policy concerning non-discrimination, equal employment opportunities and sexual harassment, the gravity of such behavior and the procedure to be employed in the event an allegation develops. The Personnel Director shall provide or cause the department heads and supervisors to receive training, with respect to recognizing and dealing with sexual harassment.

Each supervisor has a responsibility to communicate to employees that sexual harassment will not be tolerated and to make certain that employees are aware of this policy. This duty includes discussing this policy with all employees and assuring employees that employees are not to endure insulting, degrading or exploitative sexual treatment.

Any employee who complains of sexual harassment in good faith will be protected against retaliation or reprisal for making the complaint to the fullest extent permitted under the law. However, the City recognizes that false accusations of sexual harassment can have serious effects on innocent men and women, their reputation, and their families. False accusations of sexual harassment will result in severe disciplinary action.

PART 4.00

TYPES OF EMPLOYMENT

A “regular” employee is an employee who has completed his/her training and evaluation period of three to six months.

4.01 CATEGORIES

Regular: A regular employee is one that has completed his/her training and evaluation period of 90 to 180 days and who works, on average, at least forty (40) hours per week. Only regular employees accrue benefits as described in these policies. A regular employee is employed in an authorized position that involves, on the average, at least forty (40) hours per week.

Part-time: A part-time employee is employed in an authorized position that involves, on the average, fewer than forty (40) work hours per week. All part-time employees will be covered by workman’s compensation insurance, but accrue no other benefits.

Temporary: A temporary employee is an employee hired specifically to work on

- (1) specific project, at the end of which his/her employment will cease.
- (2) work for only parts of the year when extra help is needed, or to provide services available at limited times of the year.
- (3) temporary workers will be covered by workman’s compensation insurance but shall not be due nor shall accrue benefits.

Contract: A Contract worker is a persons or company retained to provide services to the City under an hourly contract or flat fee shall not receive additional compensation above and beyond the compensation negotiated in the agreement for services. A contract worker shall not be considered an “employee” of the City.

4.02 TRAINING AND EVALUATION PERIOD

New employees are required to complete a ninety (90) to one hundred eighty (180) day training and evaluation period, depending upon the position. The training and evaluation period shall be utilized for closely observing employees work, for securing the most effective adjustment of a new employee to the position.

During the training and evaluation period, the Department Director shall report to the City Manager on observations of the employee’s work and on judgments as to the employee’s willingness and ability to perform the duties and as to his/her work habits and dependability. The Department Director may in writing extend the evaluation and training period for an employee requiring additional time to demonstrate competence in the duties assigned.

The use of a training and evaluation period does not constitute a contract with an employee. The City of Burnet is an at-will employer.

4.03 ASSIGNED STAFF

Staff who are assigned to the City but directly paid by another government or private organization are not employees. Benefits are as specified in the individual's contract for services. As a condition of their assignment, they are governed by all terms of these policies not in conflict with their contract for services.

PART 5.00

EMPLOYEE COMPENSATION AND ADVANCEMENT

Merit increases may be granted for superior and consistent performance in the same position and may also be used to recognize a higher certification achieved.

5.01 PAYDAY

For employees of all departments pay periods begin at 12:01 a.m. on Saturday and end at midnight the second Friday. Any employee absent on payday may request another party be allowed to obtain his/her check. The request must be in writing (forms are available), make reference to a specific pay period, and be presented to the Department Director. The Department Director or Personnel Director must request a valid ID and obtain the signature from the third party.

Employees who have been voluntarily or involuntarily terminated will receive their final paycheck on the next regularly scheduled bi-weekly payday for the pay period including their date of termination. Employees must complete the exit form and any issued equipment, credit cards, keys and applicable clothing must be returned to the Department Director. The exit form provides information regarding employee decisions including insurance and retirement options.

5.02 CHECK DELIVERY

Paychecks for all employees are issued every other Friday. No pay advances or loans will be made to any employee for any reason. The Department Directors will distribute checks on Friday. Direct deposit is available to all employees. To sign up, see the Payroll Clerk.

5.03 PAYROLL DEDUCTIONS

Deductions may be made for regular, part-time and temporary employees:

- Federal Income Tax
- Social Security Tax
- Texas Municipal Retirement System
- Other Deductions as required by law

In accordance with policies and general procedures approved by the City of Burnet, deductions from an employee's pay may also include:

- Group Health/Medical Insurance for dependents

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- Credit Union
- Uniforms
- Schools
- Damaged or lost equipment
- Galloway-Hammond membership(s)
- Delinquent amounts owed the City of Burnet
- ICMA or other deferred compensation plans
- Such other deductions as may be authorized by the City Manager

Additional payroll deduction requests can be submitted to the City Manager for approval. All payroll deduction other than those required by law can only be deducted with the written permission of the employee.

5.04 TRAVEL EXPENSES

Approved training, seminars, and other meetings related to the employee's job and approved by the Department Director may be compensated for properly documented travel expenses as follows:

1. An employee using a private motor vehicle for transportation incurred on official City business will be reimbursed at a mileage rate as recommended by the Internal Revenue Service. Mileage will be allowed for the most direct route on major highways. Where COVs are provided or required to be taken, mileage will not be reimbursed. Employees may not elect to take a private motor vehicle if a City owned motor vehicle is provided to the employee, unless otherwise approved by the City Manager.
2. When using air travel or other forms of public transportation, receipts must accompany the expense report. Parking, tolls, and other incidental costs incurred must be supported by receipts. If travel involves the use of a rental car, the cost of the rental car plus any fuel charges that are supported by receipts are eligible for reimbursement.
3. When two or more employees on City business travel together, only one may claim the mileage reimbursement. This provision does not preclude any passenger from receiving reimbursement for other eligible expenses.
4. Lodging.
 - a. Reimbursement for lodging will be actual single rates. Lodging receipts must accompany the expense report.
 - b. If two or more employees share a room, reimbursement may be claimed by only one employee or employees may claim half the cost of the room.
 - c. The costs of the lodging must be approved in advance by the Department Director. The Department Director may require the employee stay at reasonably priced lodging.
5. Meals.
 - a. Employees traveling outside the City on official City business shall be compensated for the actual cost of meals, plus gratuity up to 20%, at a rate not to exceed an amount as established by the City Manager from time to time.
 - b. Employees will not be allowed reimbursement for a meal if the meal is furnished as part of the hotel charge or seminar registration.

5.05 MERIT INCREASES

Merit increases may be granted for superior and consistent performance in the same position and may also be used to recognize a higher certification achieved. They are not used to

recognize increased duties and responsibilities (a promotion) and are granted without regard to cost-of-living factors or longevity once the employee has completed the initial probation period. Merit increases recognize outstanding performance and may be granted in conjunction with a performance evaluation of the employee or his receipt of higher certification than he was hired with. Any merit increases shall be approved by the City Manager within authorized budget limits before becoming effective and must be in compliance with the adopted pay scale.

5.06 PROMOTIONS

Promotions are changes in the duty assignment of an employee from a position in one classification to a position in another classification in a higher pay group. A promotion recognizes advancement to a higher position requiring higher qualifications and involving greater responsibility. A promoted employee may receive a pay increase. Promotions must be approved by the City Manager to be effective. Upon promotion, the employee begins a new training and evaluation period of three (3) to six (6) months, depending upon the position, and may be returned to a lower job classification at any time during the training and evaluation period if performance is inadequate, with appropriate adjustment to pay.

5.07 LATERAL TRANSFERS

Lateral transfers are movements of an employee between positions in the same department or among departments in the City, where both supervisors involved are in agreement and the City Manager approves the transfer as being in the best interest of the City. Lateral transfers do not warrant an adjustment in pay rate.

5.08 DEMOTIONS

A demotion is a change in duty assignment of an employee from a position in one classification to a position in another classification in a lower pay group. An employee who is demoted will have his/her pay reduced. Reasons for demotion may include, but not be limited to, voluntary assumption of a less responsible position (employee choice), as a disciplinary measure, because of unsatisfactory performance in a higher position, for failure to maintain a required certification or license, as a result of a reclassification or restructuring of the employee's position, for a necessary restructuring of the department where the employee works, or other reasons as determined by the City Manager.

5.09 PROFESSIONAL DEVELOPMENT

The City of Burnet encourages membership and active participation by employees in appropriate professional organizations when they are judged by the City Manager to offer special training or information of value to the employee in the performance of City duties. Memberships and attendance at meeting and conferences of professional organizations paid for by the City are subject to specific approval by the City Manager or Department Director. In certain situations (ex. Fire, Paramedic, or Police Academy, etc.), the City may determine that the nature and expense associated with a particular school or certification is of significant magnitude whereby it is necessary for the employee to sign a reimbursement agreement specifying the exact expenses to be reimbursed and terms of reimbursement. The reimbursement agreement must be executed prior to registration or enrollment. Expenses shall be defined as any expense incurred and paid for by the City associated with attendance at schools and seminars including, but not limited to, meals, mileage, accommodations, tuition, and materials; and salaries paid while attending schools and seminars in excess of five working days. This section shall not apply to employees terminated due to Reduction of Force, death of the employee or terminal illness of the employee. The balance owed will be

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deducted from the employee's final payroll check. The City Manager, for good cause shown, may waive this requirement.

All requests for leave to attend schools, seminars, or meetings must be approved by the Department Director prior to the time leave is to start.

Emergency personnel in the Police and Fire/EMS Departments are often required to attend training at times outside their normal work schedule. Those hours will not be compensated, as allowed by FLSA, without approval from the City Manager prior to employees being registered for the training.

5.10 APPROVING AUTHORITY

The City Manager is the approving authority for all payrolls and for pay increases, decreases, or payroll transfers granted under the terms of:

- these policies
- the classification and pay plans, or
- the annual budget

PART 6.00

WORK SCHEDULES AND TIME REPORTING

Excluding emergency personnel, normal working hours are Monday through Friday, 8:00a.m. until 5:00p.m., with one hour for lunch, for a total of forty hours per workweek.

6.01 WORK WEEK FOR ADMINISTRATION AND MOST DEPARTMENTS

The official work period for all employees of the City, except emergency personnel, is a seven-day period beginning at 12:01 a.m. on Saturday and ending at Midnight the following Friday. Adjustments to the normal hours of operation for various City facilities or departments may be made by the City Manager to better serve the public. In addition, the City Manager may direct Department Directors to set other hours of work for individuals or groups of employees, if necessary or desirable. Employees are expected to report punctually for duty at the beginning of their assigned workday and to work the full day established by the schedule. Offices will remain open during the noon hour, and staggered lunch periods for some City employees will be scheduled according to the requirements of the City.

6.02 EMERGENCY PERSONNEL - POLICE AND FIRE/EMS

The respective department directors, in consultation with the Personnel Director, will establish the work schedule for the police and Fire/EMS. Refer to specific department guidelines for approved work schedules. Non-emergency personnel and exempt personnel within the police and Fire/EMS Department shall not be subject to this section.

The official work period for emergency personnel will begin at the next scheduled shift change after 12:01am on the same Saturday used for non-emergency personnel.

The official work period for the police department peace officers shall consist of 14 days. All hours worked over 86 hours in a work period will either be compensated at the applicable overtime rate or offered time off at one and one-half times the number of hours worked.

The official work period for the Fire/EMS department shall consist of 14 days of 24 hours on and 48 hours off. All hours worked over 40 hours in either the first 7 days of the work period or the last 7 days in the same work period will either be compensated at the applicable overtime rate or offered time off at one and one-half times the number of hours worked.

FLSA rules will be followed regarding overtime worked.

6.03 SCHEDULE ADJUSTMENTS

Adjustments to the normal hours of operation of various City facilities or departments may be made by the City Manager to better serve the public.

Depending upon personnel available, the Department Director, with approval from the City Manager, may establish different work schedules for their personnel for temporary periods of time until the personnel shortage has been eliminated.

Other hours of work and official work periods for individuals or groups of employees may be set by the Department Director with the approval of the City Manager.

6.04 TIME SHEETS

Employees are responsible for keeping and reporting accurate records of all hours worked and leave time taken and, where appropriate, hours credited to particular projects. Forms for this purpose are provided by the Personnel Department. Time sheets must be signed by the department supervisor and should include completed overtime sheets where applicable. Time sheets shall be turned in to the Personnel Department bi-weekly by 9:00 a.m. on Monday to receive paychecks on the following Friday. On rare occasions due to a holiday or other circumstance the supervisor will be notified of any deviation from this schedule. Submitting incomplete time sheets could result in a delay of regularly scheduled paychecks.

Time sheets must be recorded accurately with use of designated symbols and signatures.

6.05 OVERTIME

This section applies only to non-exempt employees. Any employee may be required to work more than the normal number of working hours per week or work cycle. All overtime services by employees covered under Fair Labor Standards Act (FLSA) must be authorized by the Department Director and approved by the City Manager or his/her designee. Attendance at training or schools may count toward accumulated hours for overtime provided the training is approved by the City Manager.

For all employees who are covered by the overtime provisions of the FLSA, the policy of the City is to grant equal time off during the same official work period for authorized overtime hours. At the discretion of the Department Director, if it is not possible to grant equivalent time off during the same work period in which the overtime was created, the department will make every effort to give the employee time and one-half (1.5) off within the same pay period. If neither of these methods of compensation is possible the City will pay the employee at the rate of one and one-half (1.5) times the employee's regular hourly rate. Police may accrue up to 86 hours (57.33 hours of actual overtime worked). Firefighters, emergency response personnel and certain employees engaged in seasonal activities may accrue up to 103 hours (68.67 hours of actual overtime worked) of comp time. All other hourly employees may accrue up to 80 hours (54 hours of actual overtime worked).

All hourly employees are required to record hours worked outside their normal work schedule. If an employee volunteers for another department or within the department they work for, the hours must be recorded on the appropriate timesheet as either comp time or overtime and have the approval of the department supervisor. Failure to record volunteer hours is subject to disciplinary action.

6.06 FLEXTIME

Exempt (See Section 8.02) employees are expected to commit the time necessary to accomplish their assignments. For work weeks where over forty (40) hours are actually worked by the

employee, that exempt employee will be eligible for Flextime time at a rate of one hour for each hour worked over 40 hours. Employees may accrue no more than 80 hours. Flextime hours include any hours employee is required to work that are outside the employee's standard schedule. Flextime does not include attendance at schools, seminars, conferences, volunteer hours or any hours where the employee is otherwise compensated. Flextime accruals will not be compensated in the event the employee is terminated for any reason. Flextime is not subject to monetary compensation.

6.07 EXEMPTIONS FROM FLSA (OVERTIME COMPENSATION)

Executive, administrative, and professional employees are exempt from the overtime provisions of FLSA and are expected to render necessary and reasonable overtime services with no additional compensation. The salaries of these positions are established with this assumption in mind.

6.08 HOLIDAYS WORKED

For additional information on the holidays worked as well as the list of observed holidays for the City of Burnet, see Section 9, Holidays, specifically Subsection 9.02 "Holidays Falling on Sat/Sun" and 9.03 "Work During Holidays".

6.09 LEAVE OR HOLIDAYS TAKEN AND OVERTIME

If a regular employee is required to work extra hours during a work period (or work week) in which (s)he has used sick leave, vacation leave, emergency leave, or any other leave (including Holidays) the employee will be paid for the extra hours at the regular, straight time of pay. However, if the extra hours worked are more than the number of leave hours taken, the employee will be paid at one and one-half times the regular rate of pay for the number of extra hours worked which were not offset by the leave time hours taken. Employees must actually work the required hours to qualify for overtime status before qualifying as being on overtime status during a work week or work cycle.

6.10 "ON CALL" TIME

Utility services require that some employees be available in an "on call" status in the evenings, and over holidays and weekends to ensure the continuity of those vital services. Employees who are scheduled for on-call duty must be available and able to respond to calls throughout their on-call shift. On-call employees who are unavailable for calls will not be paid for the on-call status fee and may be subject to disciplinary action.

Employees in "on call" status will be paid:

- a fee for "on-call" status as set by the City Manager
- an hourly rate for number of hours worked

PART 7.00

BENEFITS

Insurance premiums for employees are paid by the City.

7.01 MEDICAL AND LIFE INSURANCE

The City of Burnet provides group hospitalization, dental insurance coverage, and life insurance for the regular employees. Premiums for such employees are paid by the City. An eligible employee may add dependent coverage for family members to any such plan at his/her expense.

7.02 SOCIAL SECURITY AND MEDICARE

All employees of the City of Burnet are covered by Social Security and Medicare. The City is required by federal law to match each month's contribution to Social Security and Medicare.

7.03 RETIREMENT

The City of Burnet is a member of the Texas Municipal Retirement System (TMRS). Membership in the retirement system is mandatory for all regular employees. Both the employee and the City contribute to the employee's retirement account. Employees must be vested under TMRS to be eligible to receive the City's matching portion. Employees who leave City employment prior to retirement will, upon request to the TMRS, be refunded their portion of the retirement account plus interest earned on their portion in accordance with TMRS policies.

Retirement benefits are determined by a formula that involves age at the time of retirement and the amount deposited in the employee's account. An employee may retire if he/she has ten (10) years of service and has reached the age of sixty (60). Or, an employee may retire if (he)she has twenty (20) years or more of service regardless of age.

The City offers continuation of health and dental insurance to those employees who were employed prior to January 1, 2010. City employees employed on or after January 1, 2010 are not eligible for continued health insurance after retirement under this policy. For Eligible Retirees, such continued health and dental insurance is comparable to that which is provided for regular employees, for those employees that retire from the City of Burnet under TMRS with at least twenty (20) years of service, the last ten (10) of which are with the City of Burnet. For retired employees eligible for Medicare, the City will substitute coverage with a Medicare supplemental insurance policy. Eligible Retirees may have the option of declining City provided health or dental insurance and being reimbursed for health coverage other than what the City provides up to the amount of premium paid for an active employee. It is strictly the Eligible Retirees responsibility to contact the City with any changes in coverage. If an Eligible Retiree chooses reimbursement, proof of coverage must be certified annually.

The City of Burnet participates in a death benefit plan administered by the TMRS providing the beneficiary of a regular employee that dies while in the employ of the City with a one-time, lump-sum yearly wage as a non-taxable benefit.

This section is subject to change in accordance with TMRS requirements. Continuation of health and dental insurance to Eligible Retirees is not a guaranteed benefit and is subject to change by the City Council.

7.04 WORKMAN'S COMPENSATION PROGRAM

The City of Burnet provides worker's compensation benefits to all employees who are injured on the job while in the course and scope of employment. Worker's compensation benefits include payment for medical expenses related to the injury, as well as partial salary continuation benefits in accordance with state law. If you are injured on the job, you must report the incident immediately to your supervisor. A First Report of Injury Form will be completed by your supervisor and will be forwarded to the Personnel Director immediately. Failure to report your injury may affect your eligibility to receive worker's compensation benefits and may delay your benefit payments. It is the policy of the City of Burnet to investigate those claims that may be deemed as frivolous and/or unwarranted. An on-the-job-injury (OJI) commences on the date the employee begins missing work due to the OJI. Each employee has a responsibility for knowing and following all policies and procedures pertaining to an on-the-job-injury. Employees injured as the result of negligent behavior may be terminated in accordance with the City's safety policies regardless of worker's compensation benefits being awarded.

If the employee is approved for worker's compensation benefits or short-term or long-term disability, the employee's absence from work is automatically approved for FMLA, provided he/she has met the FMLA's eligibility requirements. This means that worker's compensation and short-term or long-term disability absences will run concurrently with FMLA leave. Employees being paid either worker's compensation salary benefits or short-term or long-term disability benefits while on leave are not required to use accrued sick, personal, holiday, comp time or vacation leave while collecting worker's compensation or disability benefits.

Worker's compensation benefits do not begin until the employee is off work because of an injury in accordance with state law. The employee may elect to be paid any sick or vacation hours that are available for these days.

An employee must:

- As soon as possible, report all on-the-job-injuries to his or her supervisor.
- Comply with the instructions of the treating physician.
- Comply with requests from Administration and/or the workman's compensation insurance carrier offices pertaining to the administration of the claim.
- Report to his or her supervisor either in person or by telephone each week while absent from work to report on his or her condition.
- Not perform any work for pay while absent from work due to an OJI.
- Prior to returning to work, provide a written statement from an appropriate physician certifying the employee has been released to return to work, and specifying the type(s) of work (s)he is capable of performing as well as any limitation(s).

Failure to comply with the provisions of this policy will result in disciplinary action . An employee who sustains a job-related injury, which includes medical attention, may use a Texas Workman's Compensation Commission approved physician of his or her own choice. However, the employee may also be required to see a doctor required by the City Manager and/or our worker's compensation carrier.

When an employee is off for a period of six (6) months, their City sponsored group benefits will continue through the end of that month. During any period that the employee is not receiving a paycheck from the City, (s)he will be responsible for remitting the amount of the dependent benefit premium, if any, to the Personnel Department. At the end of the six months, the employee will be responsible for remitting the full amount of the employee and dependent benefit premium to the Personnel Department. An OJI may not be used in conjunction or relation with the Family and Medical Leave policy.

7.05 UNEMPLOYMENT INSURANCE

The City of Burnet contributes to unemployment coverage as required by the Texas Unemployment Compensation Insurance Act. This program provides payments for unemployed workers in certain circumstances. The City may contest any request for unemployment insurance for employees the Personnel Director believes do not qualify to receive such pay.

7.06 LONGEVITY PAY

Longevity pay is compensation based on the number of years of unbroken service to the City. The amount of longevity pay is determined by the City Council through the budget process and is paid one time per year. Employees must have been in the employment of the City for three months prior to the date longevity pay is calculated to be eligible for longevity pay. Employees must be active (not on leave of absence) to receive longevity pay. Part-time employees must be actively working in the three month period prior to the date longevity pay is calculated to be eligible.

7.07 EDUCATION AND TRAINING

Only regular employees, and certain temporary or part-time employees where training is integral to the position are eligible for education and training. Detailed information on education and training is found in Section 5, Subsection 5.09.

7.08 VACATION LEAVE

Only regular employees of the City are eligible for vacation leave. Detailed information on vacation leave is found in Section 8, Subsection 8.07.

7.09 SICK LEAVE

Only regular employees of the City are entitled to sick leave. Detailed information on sick leave is found in Section 8, Subsection 8.08.

7.10 RECREATION FACILITY USAGE

The City provides employees the opportunity to utilize the Galloway Hammond Recreation Center and Delaware Springs Golf Course in the following manner:

- Usage of GHRC and Delaware Spring Golf Course shall be as provided for by the City Council from time to time.
- Employee benefits to GHRC and/or Delaware Springs Golf Course do not extend to family members of part-time employees.

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The City recognizes outstanding service by awarding memberships to employees who retire from the City of Burnet under TMRS and a minimum of the last ten (10) years of service prior to retirement with the City of Burnet. Memberships are provided for Galloway-Hammond Recreation Center (GHRC) and Delaware Springs Golf Course in the same manner as a regular employee.

This benefit may be altered or rescinded by the City Council.

7.11 COBRA

Terminated employees, or those who lose health care coverage because of reduced work hours, may be able to buy group health care coverage for themselves and their families for limited periods of time. If an employee is entitled to COBRA (Consolidated Omnibus Budget Reconciliation Act) benefits, the COBRA provider must give the employee a notice stating his/her right to choose to continue benefits provided by the plan. Employees have 60 days to accept coverage or lose all rights to benefits. Once COBRA coverage is chosen, the employee is required to pay for the coverage. The employee will be billed directly from the insurance carrier.

PART 8.00

ABSENCES AND LEAVE TIME

All leave taken by City employees must be submitted and approved in advance by a Department Director.

8.01 DEFINITIONS

Leave Time - Leave time is time during working hours of a regular business day when an employee does not engage in the performance of job duties by virtue of an authorized absence. Leave time may be paid or unpaid.

Unauthorized Leave - Unauthorized leave is time an employee is absent from regular duty without permission. Employees are not paid for unauthorized absences and such absences constitute abandonment of duties and may be cause for disciplinary action.

8.02 EXEMPT EMPLOYEES

The Fair Labor Standards Act (FLSA) defines Exempt Employees, as they relate to City of Burnet, as:

- Executive Employees - Those who have management as their primary duty; who direct the work of two or more full-time employees; who have the authority to hire and fire or make recommendations regarding decisions affecting the employment status of others; who regularly exercise a high degree of independent judgment in their work, who receive a salary which meets the requirements of the exemption; and who do not devote more than 20% of their time to non-management functions; and
- Administrative Employees - Those who perform office or non-manual work which is directly related to the management policies or general business operations of their employers or their employer's customers; who regularly exercise discretion and judgment in their work; who either assist a proprietor or executive, perform specialized or technical work, or execute special assignments; who receive a salary which meets the requirements of the exemption; and who do not devote more than 20% of their time to work other than that described above.

The City job descriptions shall indicate the positions designated as exempt.

8.03 APPROVAL OF LEAVE

All leave taken by City employees must be submitted and approved in advance by the supervising Department Director. Department Directors requesting leave must receive approval from the City Manager. The Personnel Director shall monitor all requests for leave. The Personnel Director is responsible for determining that leave time is accrued and available in the amounts requested by an employee. Supervisors are responsible for determining that the granting of leave time does not interfere with the efficient operation of his/her department, as well as accurately reporting the use of

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leave on weekly time sheets for their department. Forms are available from the Department Supervisor or the Personnel Director. The Personnel Director shall maintain records on all employees time accrued and utilized.

8.04 ABANDONMENT OF POSITION

Unauthorized, unexcused absence from work for a period of two consecutive working days will be considered by the City Manager as a resignation. The employee is not eligible for re-employment. The employee has the right to appeal the decision. See Section 15.00 for appeal procedures.

8.05 INJURY LEAVE

For information on occupational disability or injury leave for on-the-job, work related injuries, please see Section 10.00 in these policies on Health and Safety.

8.06 ADMINISTRATIVE AND EMERGENCY LEAVE

The City Manager is authorized to grant administrative or emergency leave, with or without pay, to an employee when warranted by other circumstances not otherwise provided in these policies.

Emergency leave with pay may be granted by the City Manager for a death in an employee's family. For purposes of emergency leave, family includes spouse, child, parent, brother, sister, uncle, aunt, and grandparents of an employee or an employee's spouse. An emergency leave is limited to no more than three (3) calendar days per occurrence. Employees must provide proof of the name of the deceased and the date and place of the funeral or memorial service.

8.07 VACATION LEAVE

No vacation leave benefits vest with a new City employee during the first year of employment. Upon completion of the initial one-year employment period, vacation leave benefits, figured from date of employment, are credited to the employee, and are available for use. Thereafter, earned vacation leave is earned and credited to the employee at the beginning of each pay period.

Regular employees normally scheduled to work five eight hour days per week, Monday through Friday, earn vacation leave as follows:

| At the completion of Years of Service | Days per Year |
|------------------------------------------------------|----------------------------------------------------|
| 1 year | 5 days* |
| 2 through 5 | 10 days |
| 6 through 15 | 15 days |
| 16 and over | 1 additional day per year for a maximum of 20 days |
| For the purposes of this table, 1 day equals 8 hours | |

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Regular employees normally scheduled to work four ten hour days (4/10's) per week earn vacation leave as follows:

| At the completion of Years of Service | Days per Year |
|-------------------------------------------------------|------------------------------------------------------|
| 1 year | 4 days* |
| 2 through 5 | 8 days |
| 6 through 15 | 12 days |
| 16 and over | .8 additional days per year for a maximum of 16 days |
| For the purposes of this table, 1 day equals 10 hours | |

Police Department shift-employees working 12 hour shifts earn vacation leave as follows:

| Years of Service | Days per Year |
|------------------------------------------------------|--------------------------------------------------------|
| 1 year | 3.5 days* |
| 2 through 5 | 7 days |
| 6 through 15 | 10.5 days |
| 16 and over | .7 additional days per year for a maximum of 13.5 days |
| For the purposes of this table, 1 day equal 12 hours | |

Fire/EMS shift-employees working 24 hour shifts shall earn vacation leave as follows:

| Years of Service | Days per Year |
|-------------------------------------------------------|-----------------------------------------------------|
| 1 year | 2.5 days* |
| 2 through 5 | 5 days |
| 6 through 15 | 7.5 days |
| 16 and over | .5 additional day per year for a maximum of 10 days |
| For the purposes of this table, 1 day equals 24 hours | |

**Accrual is posted as a lump sum at the end of the first year of service.*

Shift employees are employees subject to shift-work, i.e.: Police Officers, Fire/EMS employees, etc. Part-time and temporary employees do not earn vacation leave.

Earned but unused vacation leave accrues from year to year up to a maximum of 240 hours. Each fiscal year end, any leave balance in excess of 240 hours, is dropped from the records without compensation to the employee. Police Department personnel working a 12 hour shift would be allowed to accrue a maximum of 258 hours and Fire/EMS Department personnel working 24 hour shifts would be allowed to accrue up to 336 hours before losing any unused vacation.

After one year's service leave credits are posted to the employee's account at the rate prescribed above. No advance of unearned vacation leave benefits will be made.

No more than two (2) weeks vacation can be taken at any given time, unless special provision is made with the Department Director, or in the case of a request by the Department Director, the City Manager.

All requests for vacation leave must be approved by the Department Director prior to time leave is to start. Department Directors must have approval from the City Manager prior to the time the leave is to start. Request forms are available from the Department Supervisor or the Personnel Director's office.

Active employees are not eligible to receive payment for unused vacation. Upon the termination from City employment, regular employees will be paid for accrued and unused vacation leave.

8.08 SICK LEAVE

Sick leave is earned at the rate of nine (9) days per year for Police Department personnel, six (6) days per year for Fire/EMS personnel, 10 days per year for regular employee's working four ten-hour days per week (4/10's), and twelve (12) days per year for all other regular employees. For the purposes of this section, a day shall be equal to the number of hours as indicated in the various tables in Section 8.07 above. All regular employees may not accrue more than 1,040 hours of sick leave. Police Department personnel may not accrue more than 1,118 hours and Fire/EMS personnel may accrue up to 1,378 hours. At the end of each fiscal year, sick leave shall be reduced to these hour limits for any employee having accumulated more than the number of hours permitted.

Earned sick leave may be utilized by regular employees who are absent from work due to:

- Personal illness or physical or mental incapacity;
- Mental, dental, or optical exams or treatments;
- Medical quarantine resulting from exposure to a contagious disease; *or*
- Illness of a member of the employee's immediate household who requires the employee's personal care and attention.

Temporary and part-time employees do not earn sick leave.

In the event of an extended absence beyond one month for any reason other than on-the-job injury, a regular employee's accrual ceases until the employee returns to work. The policy is a benefit to help sick employees and cannot be paid for or used for non-sick purposes. The City of Burnet requires a doctor's confirmation if sick time is used for three (3) or more consecutive days or if frequent use is made of sick leave such as repeated usage two to three (2-3) times in a month, or in any manner that suggests a pattern of abuse. Additionally, the City requires a doctor's statement of fitness for duty to allow an employee to return to work after any surgical procedure, regardless of whether or not leave was utilized.

On the third month from the employee's hire date, non-emergency employees will be credited with three (3) days of sick leave; a new Police Department employee is credited with three (3) days and a new Fire/EMS employee is credited with 1.5 days. After the initial credit, sick leave will accrue bi-weekly at the regular rate.

Sick leave can be used after three (3) months of employment for the authorized purposes. Sick leave not used during the year in which it accrues, accumulates and is available for use in succeeding years up to the maximum allowable.

Approval of sick leave for non-emergency medical, dental, or optical appointments must be secured in advance. In all other instances for use of sick leave, the employee must notify his/her supervisor as early as practical on the first day of absence and request that approval of sick leave be granted. Failure to insure proper notification without a valid reason shall constitute absence without leave.

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and is subject to disciplinary action. Sick leave request forms are available from Department Supervisors and the Personnel Office.

An employee who has exhausted earned leave benefits may request leave of absence without pay. No advance of unearned sick leave benefits will be made.

When an illness or physical incapacity occurs during the time an employee is on vacation leave, sick leave may be granted to cover the period of illness or incapacity and the charge against vacation leave reduced accordingly. Application for substitutions must be supported by a medical certificate or other acceptable evidence of illness.

Department Directors shall be responsible for notifying the Human Resource Department when an employee is absent due to illness for five (5) consecutive working days, so the time may be evaluated for FMLA leave status.

The supervisor may require verification of the circumstances surrounding ANY use of sick leave; or require periodic medical reports concerning the employee's status and availability to return to work. The supervisor and/or Human Resources Department may contact the physician at any time regarding any clarification he/she may have regarding medical reports. Department Directors are responsible for maintaining and enforcing sick leave control within their department.

The misuse of the sick leave benefit is grounds for disciplinary action. The misuse or abuse of sick leave is characterized by the examples below;

- Misrepresenting the need to use sick leave.
- Falsifying healthcare provider notices or reports
- Frequently using sick leave before or after holidays, following payday, and/or weekends.
- Using sick leave as soon as it has accrued.
- Any patterns in absenteeism. The City defines a pattern as frequent, predictable and observable employee actions that repeat itself over time.
- The number of incidents an employee has incurred has disrupted the workflow in the department and/or caused the department to incur unscheduled overtime/comp time because other employees have to carry extra workloads. (This example excludes leave taken per the FMLA)

Active employees are not eligible to receive payment for unused sick leave.

Upon termination for cause, unused sick leave is cancelled and shall not be paid to the employee. At the time of termination, if the employee leaves the City voluntarily with over thirty (30) days unused sick leave, (s)he will be compensated for unused accrued hours in excess hours, up to the stated maximum number of hours for that employee class. Regular employees will be compensated for unused accrued hours in excess of two hundred forty (240) hours up to a maximum of two hundred forty (240) hours. Police personnel will be compensated for unused accrued hours in excess of two hundred fifty-six (258) hours up to a maximum of two hundred fifty-six (258) hours. Fire/EMS personnel will be compensated for unused accrued hours in excess of three hundred seventeen (317) hours up to a maximum of three hundred seventeen (317) hours.

8.09 LEAVE IN COMBINATION

Unless an employee who is absent on sick leave requests "leave without pay" upon exhaustion of sick leave, (s)he will automatically be placed on vacation leave until accrued leave is exhausted.

Sick leave cannot be used for vacation purposes.

With the approval of the employee's Department Director and the City Manager, other types of leave and holidays can be used in any combination if it is determined to be in the best interest of the City and the employee.

8.10 LEAVE OF ABSENCE

Granting a leave of absence is at the discretion of the City Manager, but such leave is not authorized unless there is a reasonable expectation that the employee will return to employment with the City at the end of the approved period.

Employees on unpaid leave of absence receive no compensation and accrue no benefits. Previously accrued benefits are retained during leave of absence unless otherwise prohibited by the terms or provisions of the benefit programs. Employee and dependent insurance benefits can be continued if paid for in advance by the employee.

A leave of absence is appropriate for reasons including but not limited to:

- Educational purposes when successful completion will contribute to the value of the service of the City,
- Public service assignments, or
- Personnel exchange programs that emphasize intergovernmental relations.

Upon written approval of the City Manager and Department Director, an employee may be granted up to fifteen (15) days of unpaid leave of absence. After fifteen (15) days, an employee may apply for an additional thirty days of unpaid leave time resulting in a maximum of forty-five (45) days off. During this time, an employee accrues no additional vacation, sick leave, or longevity benefits, but retains those already accrued. Insurance benefits are retained during unpaid leave of absence unless otherwise prohibited by the terms or provisions of the benefit program.

Upon the expiration of the approved leave, the City Manager will attempt to place the employee in the same or equivalent position, at the salary of the position offered. Refusal to accept the new position shall be considered a voluntary termination. Should the employee fail to return to work on the first day after the expiration of their leave, they will be considered voluntarily separated.

A leave of absence may be revoked upon receipt of evidence that the cause for granting such leave was misrepresented, or has ceased to exist.

8.11 FAMILY AND MEDICAL LEAVE ACT

All employees who have worked for the City for at least 12 months and for at least 1,250 hours during the year preceding the start of the FMLA leave are eligible for up to 12 weeks (26 weeks for the care for a covered service member) of FMLA leave during a 12-month period as defined by this policy.

Reasons for Leave

Eligible employees may request and/or be placed on FMLA leave for any of the following reasons:

- Birth of a son or daughter of the employee, and in order to care for the newborn child;
- or placement with the employee of a son or daughter for adoption or foster care;
- To care for the employee's spouse, son, daughter, or parent with a serious health condition;

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- For the employee's own serious health condition which renders the employee unable to perform the essential functions of his job.
- To address certain qualifying exigencies arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty¹ (or has been notified of an impending call or order to active duty) in the National Guard or Reserves in support of a contingency operation; or,
- To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

FMLA Leave Runs Concurrently With Other Types of Leave. FMLA leave is typically unpaid unless the absence also qualifies for paid leave under another City policy.

- Sick Leave. If an employee has any available accrued sick leave, it must be used concurrently with any available FMLA leave, provided the employee's absence is covered by the City's sick leave policy and the employee satisfies that policy's procedural requirements.
- Vacation, Comp Time, Personal Leave & Holiday. If an FMLA-qualifying absence is not covered by the City's sick leave policy, the following leave time will be applied and will run concurrently with any remaining FMLA leave: accrued vacation, comp time, personal leave and then holiday leave.
- Disability & Workers' Comp Leave. If the employee is approved for workers' comp or short-term or long-term disability, the employee's absence from work is automatically approved for FMLA, provided he/she has met the FMLA's eligibility requirements. This means that workers' comp and short- and long-term disability absences will run concurrently with FMLA leave. Employees being paid either workers' comp salary benefits or short- or long-term disability benefits while on leave are not required to use accrued sick, personal, holiday, comp time or vacation leave while collecting workers' comp or disability benefits.

Employee Eligibility. To be eligible for FMLA leave, an employee must meet the following criteria: Have worked for the City for at least 12 months (although not necessarily for 12 consecutive months); Have worked for the City at least 1,250 hours during the 12 months before the start of the leave (this includes only those hours actually worked, and does not include paid or unpaid leave); and Have worked at a City worksite where fifty (50) or more employees are employed by the City within seventy five (75) miles of that worksite.

The City has posted a summary of the Family and Medical Leave Act (FMLA), on its central bulletin board for employees' information.

All documentation regarding family leave will be filed in the employee's confidential medical file, which is maintained separate from the personnel files and is accessible to a limited number of persons only on a "need-to-know" basis.

Intermittent Leave & Reduced Schedule Leave

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

¹ "Active duty" means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code. §825.126(b)(2).

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Notice. The employee must inform the City 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 him/herself or for his/her spouse, child or parent, the employee is ordinarily expected to consult with his/her 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 in order to work out a treatment schedule which best suits the needs of both the employee and the City.

Temporary Transfer. The City may temporarily transfer the employee to an alternative position (with equivalent pay and benefits, but not necessarily equivalent duties) in order to better accommodate an employee's intermittent or reduced leave schedule.

Minimum Increments. Intermittent leave will be counted in increments no greater than the shortest period of time used by the City to account for use of other types of leave, up to a maximum increment of one hour.

Exempt Employees. Exempt employees using unpaid intermittent or reduced schedule FMLA leave may be docked for absences of less than a day without jeopardizing their exempt status under the Fair Labor Standards Act (FLSA). This special exception to the "salary basis" requirement for the FLSA's exemptions extends only to an eligible employee's use of leave required by the FMLA.

Miscellaneous

Other Employment During FMLA Prohibited. Under no circumstances may an employee on FMLA leave, sick leave, disability leave, or workers' compensation leave engage in outside employment unless expressly authorized in writing in advance by the Department Director and City Manager.

Fraud. An employee who fraudulently obtains FMLA leave is not protected by the FMLA's job restoration or maintenance of health benefits provisions. Further, an employee who commits fraud will likely be terminated from City employment.

FMLA Statute and DOL Regulations. More detailed provisions and definitions of some of the terms used in this policy are set out in the Act and in the DOL's regulations. This policy is intended to explain benefits available to eligible employees under the FMLA. It is not intended to create any rights to leave beyond those created by the FMLA. If additional information is needed on the FMLA, please contact the Human Resources Department. The City will refer to the Act and the applicable DOL regulations in carrying out this policy, as well as any relevant court interpretations and decisions. This policy does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement, which provides greater family or medical leave rights. When an employee gives notice of the need for FMLA leave, the employee will be given additional information as to his or her rights and responsibilities under the FMLA. In addition, employees may contact the nearest office of the U.S. Department of Labor's Wage & Hour Division or the Department of Labor's website for more information.

Mandatory Reporting of Improper Handling of FMLA. Employees must immediately report, in writing, to their Department Director or the Director of Human Resources, the following so that the City can investigate and respond appropriately:

- Any interference with, restraint or denial of the employee's right to take FMLA or any rights protected by the FMLA or this policy.
- Any discrimination or perceived acts of discrimination against the employee for any right protected by the FMLA or this policy.
- Any refusal by a supervisor to authorize FMLA leave or attempt to discourage an employee from taking FMLA leave.
- Any attempt to avoid the City's FMLA responsibilities.
- Discrimination or retaliation against an employee for exercising or attempting to exercise FMLA rights.
- Discrimination or retaliation against an employee for opposing or complaining about any unlawful practice under the Act or this policy

Maximum Duration

Twelve Weeks of Leave. Eligible employees may take up to 12 weeks of FMLA leave in a single 12-month period (the City uses a rolling 12-month period measured backward) for one or more of the following reasons:

- When the employee is unable to perform the functions of his/her job because of his/her own serious health condition;
- For the birth or placement of a child for adoption or foster care. FMLA leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement. In addition, if an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child for adoption or foster care, or to care for a parent (but not a parent-in-law) who has a serious health condition;
- To care for a spouse, child, or parent with a serious health condition; or
- A qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

Twenty-Six Weeks of Leave. Eligible employees may take up to 26 weeks of FMLA leave in a single 12-month period to care for a **covered service member** (*i.e.*, the employee's spouse, child, parent, or next of kin) with a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces. If an employee and the employee's spouse are both employed by the City, both are jointly entitled to a combined total of 26 work weeks of leave during a single 12-month period.

Maximum Amount of Leave. The maximum amount of FMLA leave available is 12 weeks during a 12-month period or 26 weeks in a single 12-month period to care for an injured or ill service member even if there are multiple FMLA qualifying events.

Part-time/Variable Hour Employees

Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis. Part-time employees must still meet all eligibility requirements prior to receipt of FMLA.

Notice

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Employee's Notification Responsibilities. Employees must give the City sufficient information so that it can make a determination as to whether the employee's absence is FMLA-qualifying. 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 FMLA. Any absence or illness that results in more than three days' absence must be reported to the FMLA Coordinator in the City's Human Resources Department.

At Least 30 Days Notice Required for Forseeable Leave. Employees must provide their Department Director or the Human Resources Department with at least 30 days' advance notice when the need for FMLA leave is foreseeable.

Notice as Soon as Practicable for Unforseeable or Emergency Leave. If the need for FMLA leave is not foreseeable, employees must provide their Department Director or the Human Resources Department 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 he/she was 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 and explain the reasons for the needed leave sufficient to allow the City to determine if the absence is FMLA-qualifying, and the anticipated timing and duration of the leave, if known. If the employee has previously taken FMLA leave for the same reason, he/she must specifically reference the qualifying reason for leave or the need for FMLA leave. The City may seek additional information from the employee, and the employee is obligated to respond to the City's questions so the City can determine if an absence is potentially FMLA-qualifying. The employee must notify the City as soon as practicable if the dates of his/her scheduled leave change or are extended, or where initially unknown.

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. Where 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, FMLA-protected leave may be delayed or denied.

Consequences for Failing to Provide Required Notice. If the employee fails to timely explain the reasons for his/her need for leave, FMLA leave 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 FMLA leave protection.

Scheduling Planned Medical Treatment. When an employee intends to take leave for planned medical treatment for him/herself or for his/her spouse, child or parent, the employee is ordinarily expected to consult with his/her 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 in order to work out a treatment schedule which best suits the needs of both the employee and the City.

Periodic Check-In While on FMLA. Employees must check in periodically with their supervisor and with the Human Resources Department regarding their status and intent to return to work. 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.

City's Responsibilities.

Human Resources Department. The Human Resources Department is responsible for the verification, approval and notification of FMLA leave. The Human Resources Department may place an employee on FMLA leave if it determines that a qualifying event has occurred.

Eligibility Notice. The Human Resources Department will notify an employee of his/her eligibility to take FMLA within five business days (absent extenuating circumstances) of its receipt of the employee's request for FMLA leave (or from when the City otherwise determines that an employee's absence may be FMLA-qualifying). Employee eligibility is determined (and notice will be provided) at the commencement of the first instance of leave for each FMLA-qualifying reason in the applicable 12-month period. Notification may be oral or in writing, but the City will normally use FMLA Form #1 to provide the employee with Eligibility Notice. If an employee's eligibility status changes, the Human Resources Department will so notify the employee within five business days, absent extenuating circumstances.

Rights & Responsibilities Notice. The Human Resources Department will provide employees with a notice (FMLA Form #1) detailing the City's specific expectations, the employee's obligations, and consequences to the employee of not meeting his/her obligations. The Human Resources Department will provide this notice each time it provides the Eligibility Notice described above. The required certification form will accompany this notice. If any of the specific information in the Rights & Responsibilities Notice changes, the Human Resources Department will notify the employee within five business days of its receipt of the employee's first notice of need for leave subsequent to any change.

Designation Notice. When the Human Resources Department has enough information to determine if an absence is FMLA-qualifying (e.g., after receiving the employee's fully completed Certification), the Human Resources Department will notify the employee in writing (FMLA Form #2) as to whether the leave will or will not be designated as FMLA. This Designation Notice will be given to the employee within five business days, absent extenuating circumstances. If the information in the Designation Notice changes, the Human Resources Department will notify the employee within five business days of the City's receipt of the employee's first notice of need for leave subsequent to any change.

Certification Forms & Other Required Documentation. The Human Resources Department 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 FMLA documentation required by this policy.

Supervisors & Department Directors. So that the Human Resources Department can meet the notice deadlines required by the FMLA, supervisors must immediately notify both their Department Director and the Human Resources Department if they have reason to believe an employee's absence is due to an FMLA-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' comp, short- or long-term disability, or a trade with another employee. Supervisors and Department Directors must report to Human Resources any time an employee misses work for more than three days because of his/her own illness or injury or that of a spouse, child or parent. Supervisors, it is important to remember that under the FMLA, an employee requesting paid or unpaid leave for an absence covered by the FMLA is not required to expressly mention FMLA. If the employee states a reason that qualifies for FMLA leave, the employee will likely have met the FMLA's notice requirements. When an employee submits a leave/absence form indicating an FMLA absence, the form must be sent to the Human Resources Department immediately.

Certification of Condition

Medical Certifications and Other Required Documentation. In all instances in which the City requests a certification from an employee, it is the employee's responsibility to provide the Human Resources Department with a complete and sufficient certification; failure to do so may result in the denial or delay of FMLA leave.

Certification. An employee must provide the Human Resources Department with a complete and sufficient medical certification supporting the need for FMLA leave due to a serious health condition affecting the employee (FMLA Form #3), his/her spouse, child or parent (FMLA Form #4), or due to the serious injury or illness of a covered service member (FMLA Form #5). The required medical certification forms are available from the Human Resources Department. 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 with a required certification. The employee must turn in the required certification to the Human Resources Department within 15 days after it is requested, unless not practicable under the circumstances.

Second & Third Opinions. In some cases, the City may require a second or third medical opinion (at the City's expense). The City will not require second or third opinions in the case of leave to care for a covered service member.

Recertifications. Employees may be asked to periodically recertify the need for FMLA. The City will not, however, require second or third opinions in the case of leave to care for a covered service member. 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 with any required recertifications.

- 30-day rule. The City will 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.
- More than 30 days. If the certification indicates that the minimum duration of the condition is more than 30 days, the City will wait until that minimum duration expires before requiring a recertification, unless paragraph (c) below applies. If the minimum duration of a serious health condition extends beyond six months, the City may nevertheless request a recertification every six months in connection with an employee's absence.
- Less than 30 days. The City 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 receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.
- Annual Medical Certifications. If a serious health condition lasts beyond a single leave year, the City may require the employee to provide a new medical certification in each subsequent leave year.

Fitness-for-Duty/Return to Work Certification. Employees must submit a "fitness-for-duty" certification before they can return to work if FMLA leave is a result of the employee's own serious health condition. (The City may provide an FMLA form for this purpose.) The fitness for duty/return to work certification must specifically address the employee's ability to perform his/her essential job functions set out in the City's Designation Notice, but is limited to the particular health condition that caused the employee's need for FMLA leave. The employee is responsible for any expenses associated with providing the City with a required fitness for duty/return to work certification and is not entitled to be paid for the time or travel costs spent in acquiring the certification. The Human Resources Department (or other DOL authorized person) may contact the employee's health care provider for purposes of clarifying and authenticating the fitness-for-duty/return to work certification;

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the City will not delay the employee's return to work while such contact with the health care provider is being made. The City will not require second or third opinions of FMLA fitness-for-duty certifications. An employee who fails to timely provide the City with this certification will not be allowed to return to work; an employee who does not provide the required fitness-for-duty certification or request additional FMLA leave is no longer entitled to reinstatement and may be terminated.

While the City will not require a fitness-for-duty certification to return to duty for each absence taken on intermittent or reduced leave schedule, it will require such a 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 his/her 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 City requests it, the City may deny leave until the certification is provided. If the employee never produces the certification or recertification, the employee is not eligible for FMLA protections. If the certification is incomplete or insufficient, the Human Resources Department will notify the employee, in writing, and advise the employee what additional information is required. The City will provide the employee with seven additional days to cure any deficiency. If the deficiencies are not cured with the seven-day deadline, the City may deny the taking of FMLA leave. The Human Resources Department (or other DOL authorized person) may contact the health care provider for purposes of clarification and authentication after giving the employee the opportunity to cure any deficiencies.

Documenting Family Relationships. If an employee elects to take FMLA leave in order to care for a qualifying family member or to care for a covered service member, the employee may be required to provide reasonable documentation confirming the family relationship.

Certifications for Qualified Exigency Leave.

Active Duty Orders. The first time an employee requests leave because of a qualifying exigency arising out of the **active duty**² or call to active duty status of a covered military member, the employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the active duty service.

Certification Form. The employee must complete and submit to the Human Resources Department the appropriate certification form (FMLA Form #6) in support of his/her need for leave. This form must usually be turned in within 15 days after the City requests it.

Verification. If the qualifying exigency involves meeting with a third party, the Human Resources Department (or other DOL authorized person) may contact the individual or entity with whom the employee is meeting for purposes of verifying a meeting or appointment, and the nature of the meeting. The City may also contact an appropriate unit of the Department of Defense to request verification of active duty or call to active duty status.

Denial or Delay of Leave. Exigency leave may be delayed or denied if the employee fails to turn in the required certification within 15 days. If the certification is incomplete or insufficient, the Human Resources Department will notify the employee, in writing, and advise the employee what additional

² "Active duty" means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code. §825.126(b)(2).

information is required. The City will provide the employee with seven additional days to cure any deficiency. If deficiencies are not cured with the seven-day deadline, the City may deny the taking of FMLA leave.

Job Restoration After FMLA Leave.

Upon return from FMLA leave, an employee will normally be restored to his/her 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 he/she had been continuously employed during the period of FMLA leave. Further, the City may delay restoration to employees who fail to timely provide a fitness-for-duty certification to return to work.

Key Employees. Under certain circumstances the City is not required to reinstate "key" employees. Certain highly compensated key employees may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to the City's operations. A "key" employee is a salaried eligible employee who is among the highest paid 10 percent of employees within 75 miles of the worksite. An employee will be notified of his/her status as a key employee, when applicable, after requesting FMLA leave.

Benefits During FMLA Leave.

Group Health Insurance. During any period of FMLA leave, the City will continue to pay its portion, if any, of any group health 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 health insurance premiums while on FMLA leave. The City will advise the employee of the terms and conditions for making such payments. Failure to pay premiums in a timely manner will result in cancellation of group health coverage. The City may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave, unless the employee is unable to return due to a serious health condition, the serious injury or illness of a covered service member, or another reason beyond the employee's control. Medical certification is required under such circumstances.

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

Holidays. When an employee takes a full work week of FMLA leave and a holiday occurs within the week, the week is counted as a full week of FMLA leave. If, however, an employee uses FMLA in increments of less than a week, the intervening holiday does not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work on the holiday. Employees on FMLA leave are not normally paid for holidays.

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

An employee on family leave does not lose any previously accrued seniority or employment benefits, but does not earn any leave credits or other benefits during the unpaid portion of the leave.

Request for Extension of Family and Medical Leave

If an employee requests additional unpaid leave beyond the 12-week maximum allowable under the family and medical leave provisions of these policies, any extension granted will be under the terms set out in the section of these policies headed "Other Leaves of Absence Without Pay." Employees should read the referenced section carefully and understand the differences between these two types of leaves before requesting an extension.

Definitions.

More detailed definitions of some of the terms used in this policy are set out in the Act and in the DOL's regulations.

12-Month Period for Covered Service Members - The 12-month leave period for calculating leave to care for a covered service member with a serious injury or illness is the 12-month period measured forward from the date an employee's first FMLA leave to care for the covered service member begins. During this 12-month period, the maximum FMLA leave an employee may take – for any qualifying reason – is limited to a combined total of 26 weeks.

12-Month Period for All Other FMLA Leave - To determine eligibility for all other leave, the City uses a rolling 12-month period measured backward from the date of any FMLA leave.

Health Care Provider (HCP) – Means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services.

Next of Kin of a Covered Service Member – Means the nearest blood relative other than the covered service member's spouse, parent, or child in the priority established by the DOL.

Incapacity – Means the inability to work, attend school or perform other regular daily activities.

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

Inpatient care – an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

Continuing treatment by a health care provider (HCP) - includes one or more of the following:

- Incapacity & Treatment - a period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves treatment: (i) two or more times (within 30 days of the first day of incapacity, unless extenuating circumstances exist), by a HCP or under direct supervision of, under orders of, or on referral by, a HCP, or (ii) by a HCP on at least one occasion which results in a regimen of continuing treatment under supervision of the HCP. The first (or only) in-person treatment visit must take place within 7 days of the first day of incapacity.
- Pregnancy & Prenatal care - any period of incapacity due to pregnancy, or for prenatal care;
- Chronic Conditions - any period of incapacity or treatment for such incapacity due to a chronic serious health condition which (i) requires periodic visits (at least twice a year) for treatment by, or under the direct supervision of a HCP, or (ii) continues over an extended period of time (including recurring episodes of a single underlying condition); and (iii) may

cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);

- Permanent or Long-Term Conditions - a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, or the terminal stages of a disease);
- Conditions Requiring Multiple Treatments - any period of absence to receive multiple treatments (including any period of recovery therefrom) by, or under the supervision of, under orders of, or on referral by, a HCP either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment (e.g., chemo or radiation for cancer, physical therapy for severe arthritis, or dialysis for kidney disease).

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

Qualifying Exigency – this term includes issues arising from short-term deployments of seven or less calendar days prior to the date of the deployment; military events and related activities such as official ceremonies and programs sponsored by the military and to attend family support or assistance programs and informational briefings; childcare and school activities; financial and legal arrangements; counseling; rest and recuperations; post-deployment activities; and additional activities arising out of the covered military member's active duty or call to active duty status if the employee and the City agree that such leave qualifies as an exigency, and agree to both the timing and duration of the leave.

8.12 MILITARY LEAVE

Regular employees of the City who are members of the State Military Forces or members of any of the Reserve Components of the Armed Forces of the United States are entitled to leave of absence in accordance with state and federal regulations.

Military leave will be granted to regular full-time employees of the City who attend regular annual military training duty, and meet the requirements listed below. This leave must be scheduled with the department head and City Manager, and shall be granted without loss of time or efficiency rating. Supporting documents and leave orders should be furnished to the department supervisor prior to taking leave. Such documents shall be placed with the timesheets. During the period of standard military duty, employees shall continue to accrue sick leave and vacation as well as be compensated for any holiday the same as a regular employee on vacation at the time of the holiday.

Requests for approval of military leave must have copies of the relevant military orders attached. Regular employees of the City who enter active duty with the State Military Forces or with the Armed Forces of the United States for more than fifteen (15) consecutive calendar days in any year are entitled to be restored to employment subject to the provisions of the law upon release from active duty and shall be treated as an employee on extended leave of absence.

8.13 CIVIL LEAVE

Employees will be granted civil leave with pay for jury duty, for the purpose of voting, or for serving as a subpoenaed witness in an official proceeding where the employee is neither the defendant nor the plaintiff. When an employee has completed service, (s)he must report for City duty for the remainder of the day. Employees shall retain any fees paid by the courts.

8.14 TRANSFER OF SICK LEAVE

In order to assist employees in times of dire need, the City of Burnet has implemented a Sick Leave Transfer Policy. Participation in the Sick Leave Transfer policy shall, at all times, be voluntary on the part of any employee. Employees must show proof of need. Sick leave can be transferred for catastrophic illness of the employee, only as defined below.

- Catastrophic shall be defined as:
 - A medical diagnosis or surgery that is debilitating, a severely complicated disability and/or is a severe accident, any of which requires a period of recuperation longer than thirty (30) consecutive days.
 - Treatment of a catastrophic illness or injury must be under the supervision of a licensed physician of record. A licensed physician of record must certify the level of disability and must submit a recommended period of convalescence and/or rehabilitation.
 - Examples of catastrophic illness are; Heart Disease, Cancer, Complications of Diabetes, AIDS, Stroke, other medical conditions which may reduce normal life expectancy.
- An employee shall not be eligible for transferred sick leave until all of his or her own accrued vacation time, personal days, Flex or Comp time, sick leave or other forms of available leave, have been exhausted.
- Injuries and illnesses that are compensable under the Workers' Compensation Act or Workers' Occupational Diseases Act shall not be eligible for sick leave transfer.
- Any abuse of the use of the sick leave transfer shall be investigated by the City and upon a finding of wrongdoing on the part of a participating employee, that employee shall repay all sick leave days transferred and may be subject to other disciplinary action. An employee required to repay the sick leave will have all accruing vacation and sick leave transferred to the donor until the donor has been repaid for the amount owed.
- Provisions for appeal of adverse decisions affecting a participating employee's abuse of the sick leave transfer shall be made in the normal appeal process.
- Upon termination, retirement, or death, neither the recipient of the transferred leave nor the recipient's estate shall be entitled to payment for unused sick leave acquired from a sick leave transfer.
- Sick leave hours must be transferred bi-weekly and may not exceed the number of hours necessary to fulfill the employees standard work period.
- An employee may receive no more than a total of three months of transferred leave from all combined sources at the receiving employee's regular accrual rate.
- Unused sick leave transfers cannot be returned to the donor except as provided for in this section.

8.15 FILLING VACANCIES DURING LEAVE

Extended leaves of absence create an undue hardship on a small city. During extended leaves of absences, the City may temporarily fill the position held by the employee. Employees entitled to return to work under a federal or state regulation shall be offered a position as provided by law. Employees not entitled to return to work under a federal or state regulation may be terminated for cause.

PART 9.00

HOLIDAYS

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

9.01 GENERAL

The following are official holidays for regular full-time employees:

| | |
|---------------------------|------------------------------------------------------|
| New Year's Day* | January 1st |
| Martin Luther King Day* | Third Monday in January |
| President's Day* | Third Monday in February |
| Good Friday | Friday before Easter |
| Memorial Day* | Last Monday in May |
| Independence Day* | July 4th |
| Labor Day* | 1st Monday in September |
| 9/11 | September 11th (emergency personnel only) |
| Columbus Day* | 2nd Monday in October (non-emergency personnel only) |
| Veterans Day* | November 11th |
| Thanksgiving Day* | 4th Thurs in November |
| Friday after Thanksgiving | 4th Friday in November |
| Christmas Eve | December 24th |
| Christmas* | December 25th |

*Denotes federal holiday

The City Manager may designate other holidays he or she deems appropriate. All regular full-time employees will receive holiday benefits in accordance with this policy unless the holiday falls on their first day of employment with the City of Burnet. Part-time employees are not entitled to holiday leave or pay.

If an employee's regular work schedule falls on a holiday, that employee may, with the approval of his/her supervisor, trade working schedules with a co-worker providing the trade does not result in additional overtime for either employee.

All regular full-time employees shall be entitled to receive holiday leave equal to the number of hours regularly scheduled to work, per shift, except as provided for herein. Holiday leave shall be taken on official paid holidays except as provided for herein. For continuity in operations, the department head and/or City Manager may require the holiday be observed for certain employees on a day other than the normal paid holiday for non-emergency shift employees.

Regular non-emergency employees that are exempt under FLSA and who are required to work on a holiday may utilize their holiday leave on an alternate day, as approved by the department head and/or their supervisor.

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Regular non-emergency employees that are non-exempt under FLSA and who are required to work on a holiday may utilize their holiday leave on an alternate day, as approved by the department head. If an alternate day off is not possible or practical as determined by the department head, then the employee may be paid holiday pay in accordance with this policy, at the sole discretion of the department head and the City Manager. If the employee is on overtime status at the time of the holiday, and is required to work the holiday, the employee shall receive their holiday pay at straight time plus the overtime rate of 1.5 for a total of 2.5 times their regular hourly rate of pay. Holiday pay will not be included in the employee's overtime calculation.

Emergency personnel who are regular full-time employees and work shifts (such as a twelve or twenty-four hour shift) will be granted twelve hours of holiday leave for each holiday. However, an emergency employee may elect to receive twelve hours of pay at straight time in lieu of holiday leave.

Emergency personnel, and emergency support personnel, who are regular full-time employees and do not work shifts but have a regular work schedule during normal business hours of the City will be required to take leave on the official paid holiday for their respective department, unless otherwise directed by the department head or City Manager.

All employees scheduled to work on a holiday must report to duty as scheduled unless specifically authorized by the department head in accordance with this policy. An employee scheduled to work on a holiday "calling in sick" may be required to provide a doctor's note immediately upon returning to work at the sole discretion of the department head. If the employee is unable to provide a doctor's note upon request, the employee shall be subject to disciplinary action.

Holiday leave is not compensatory. Each fiscal year end, any holiday leave balance in excess of 48 hours, is dropped from the records without compensation to the employee.

9.02 HOLIDAYS FALLING ON SAT/SUN

For employees, other than emergency personnel, the observed holiday will be the paid holiday. If a legal holiday listed above falls on a Saturday, the Friday before will be the paid holiday. If the Holiday falls on a Sunday, the following Monday will be the holiday. For emergency personnel, the actual holiday will be the paid holiday. If Christmas Eve falls on a Sunday, then Monday will be the paid holiday for Christmas Eve and Tuesday will be the paid holiday for Christmas day.

9.03 HOLIDAY DURING VACATION

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

PART 10.00

HEALTH & SAFETY

Safety is every employee's responsibility.

10.01 GENERAL

It is the policy of the City to make every effort to provide healthful and safe working conditions for all its employees. To this end, the City of Burnet has developed a Safety Handbook that is available from supervisors and City Hall. All employees are responsible for the familiarity of and adherence to the City of Burnet Safety Handbook.

10.02 EMPLOYEE SUGGESTIONS

Employees shall immediately report to their supervisors any condition(s) that, in their judgment, threaten the health and safety of employees or visitors. Employees are encouraged to make suggestions to their supervisors of improvements that would make the City work place safer or more healthful.

10.03 SAFETY RESPONSIBILITIES

Safety is every employee's responsibility, however, defined below are general guidelines for employees. Refer to the Safety Handbook for detailed information.

The City Manager has the overall responsibility for the City Safety Program. Supervisors are responsible for making sure all employees who are required to do so, wear protective equipment provided to them by the City. Employees are responsible for conducting their work activities in a manner that is protective of their own health and safety as well as that of other employees.

The City Risk Management Coordinator is responsible for coordinating safety activities throughout the City. Other duties may include:

- Initiation and evaluation of the department's safety program
- Reviewing all City motor vehicle accidents and City accidents that require medical treatment.
- Providing safety training for all departments and pre-employment and pre-placement safety training.
- Providing updated information on safety for all departments.
- Conducting a safety survey for all departments and providing input on problem areas.
- Appointing an interim Risk Management Coordinator anytime he/she is unable to fulfill his/her assigned duties.
- Promulgation, where appropriate, and enforcement of safety rules.
- Periodic inspections.

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- Provide prompt preventive and corrective action when unsafe actions/conditions are observed.
- Follow-up on all accidents ensuring that all are investigated and reported in accordance with City policy.
- Review reports of accidents and recommend corrective action.

Department Director's Responsibilities include:

- Providing a place of employment that minimizes exposure to recognized hazards that could result in injury or accidents.
- Assuming responsibility for an effective employee safety program for his/her department.

Supervisors Responsibilities include:

- Promote safety and awareness and encourage a proper safety attitude by example;
- Train all employees in the safe way to do their jobs and point out where the hazards exist;
- Make sure all the necessary safety equipment and productive devices for each job are provided and properly used;
- Conduct frequent safety inspections of all work areas and operations in order to improve housekeeping, eliminate unsafe conditions, and encourage safe work methods;
- Take prompt corrective action whenever unsafe conditions and unsafe actions are observed;
- Investigate and report all accidents as required by the appropriate City and departmental directives;
- Check work change practices and newly purchased equipment for safety purposes;
- Instruct employees regarding disciplinary policy for violation of safety rules;
- Giving an accident report to the Risk Management Coordinator within one (1) working day of the accident;

Employee's Responsibilities include:

- Familiarity with and adherence to the City of Burnet Safety Handbook
- Being familiar with and observing safe methods of doing assigned jobs;
- Following instructions of supervisors;
- Keeping work areas clean and orderly at all times;
- Always using safety equipment for his/her job;
- When in doubt or unsure about the safety of a situation, stopping and discussing the matter with a supervisor;
- Operation of equipment only for which proper authorization and safety training have been obtained;
- Learning to lift and handle properly;
- Asking for help when lifting large items;
- Knowing fire-fighting equipment locations and how to use the equipment;
- Never participating in "horseplay";
- Never allowing children or other persons to play or stand around where the employee is working;
- Reporting of all accidents and unsafe actions or conditions immediately to the employee's supervisor;
- Providing prompt medical attention for injured employees when trained and certified to do so and the summoning of qualified medical help immediately;
- Where injury has occurred due to fall, cave in, asphyxiation, etc., the summoning of emergency personnel. Employees should never attempt a rescue unless trained and certified to do so.

- The immediate notification to proper authorities and supervisors of an accident, incident, or unsafe condition.
- The obtaining of all necessary information and facts about the accident, including names of witnesses, if any;
- Giving information concerning the accident to the employee's supervisor and file or assist in the filing of a First Report of Accident.
- Attendance and participation in safety meetings.

10.04 ON THE JOB INJURIES

The City provides Worker's Compensation Insurance for all of its employees in accordance with state and federal law. This insurance provides medical expenses and a weekly payment if an employee is absent from work because of an on-the-job injury. All employees who incur an on-the-job injury must immediately notify their supervisor and must complete a First Report of Injury as soon as reasonably possible after an accident but in all cases within 48 hours.

After six (6) months off, accrual of sick leave, vacation leave, and City provided medical, dental, & life insurance ceases until the employee returns to work.

If the employee is approved for worker's compensation benefits or short-term or long-term disability, the employee's absence from work is automatically approved for FMLA, provided he/she has met the FMLA's eligibility requirements. This means that worker's compensation and short-term or long-term disability absences will run concurrently with FMLA leave. Employees being paid either worker's compensation salary benefits or short-term or long-term disability benefits while on leave are not required to use accrued sick, personal, holiday, comp time or vacation leave while collecting worker's compensation or disability benefits.

During the time off due to on-the-job injuries, employee is still responsible for paying dependent health and dental insurance premiums. If no provision is made, coverage will be dropped. It is the employee's responsibility to make sure all payments typically paid through payroll deductions are being paid.

An employee who sustains an on-the-job injury will seek medical attention from the medical facility or professional of the employee's initial choice providing that the physician is a Texas Workman's Compensation Commission approved physician. Employees on leave for an on-the-job injury must provide a medical doctor's statement as to the date upon which the employee is no longer able to perform his/her duties and the expected length of the recuperation period. Employees must also provide periodic statements from a medical doctor as to whether or not the employee is able to return to work. The employee shall periodically contact a City supervisor weekly to report on his/her condition. Failure to provide required medical status reports or to contact the office on a regular schedule as set by the City Manager and Department Director is grounds for revoking the leave and for taking disciplinary action.

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

Light Duty During the course of an occupational disability leave of absence, if an employee is released by his/her doctor for light duty and upon written notification of such to the

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Personnel Director, the employee’s job or alternative job assignment(s) will be evaluated for a determination of whether a position is available in which the City can use the employee’s limited services for an interim period of time. If no appropriate light duty assignment can be found that is approved by the employee’s doctor, the employee will be placed on inactive status until released by the doctor and worker’s compensation to return to his/her previous job. An employee who is able to return to work in light duty status and perform the tasks of the position may be required to work in a different department and perform duties not contained within his/her current classification without loss of pay. Light duty status is provided to allow employees to return from a job related injury to minimize absence when light duty work is available that is determined to be appropriate by the employee’s doctor. Refusal to perform light duty tasks deemed appropriate by the employee’s doctor will be considered a resignation by the employee.

Final Release Statement At the time of final release or settlement of a worker’s compensation claim, the employee must furnish the Personnel Director with a certificate from the employee’s physician stating that the employee is able to return to work. The certificate must also specify any time limitation on the employee’s physical condition and the estimated duration of those conditions. The City may require additional information or documentation to evaluate the employee’s fitness for duty and to ensure to position the employee is returned to will accommodate the physical limitations, if any, of the employee. The position the employee is returned to may not be the position previously held. The accommodations required or the amount of time elapsing between the injury and return to work may impact the position offered upon return. The City shall ensure reinstatement of seniority, pay and benefits at the same level as prior to the injury.

Employees released to return to work but refusing to return to work or refusing to accept a reasonable accommodation may be terminated for cause. The employee’s doctor or a physician selected by the City shall provide the City with a detailed explanation of the duties the employee can perform and the accommodations required to return to work. The City may require the employee to have an approved physician review the light duty accommodations to approve or disapprove any accommodations.

10.05 BLOODBORNE PATHOGENS CONTROL PROGRAM

Employees who are at risk of contamination of blood borne pathogens are subject to the Texas Department of Health Subchapter H. Blood-borne Pathogen Exposure Control Plan. The City of Burnet has developed an Exposure Control Plan which is available to all employees. Employees are rated as to the type of risk and likelihood of contamination through the normal course of their job assignment or position. All employees with a moderate or maximum level of exposure should obtain a copy of and become familiar with the Exposure Control Plan. Employees with a maximum level of exposure are subject to the testing criteria in the TDH Blood-borne Pathogens Exposure Control Plan. Employees should ask their supervisor, the City Health Officer, or the Personnel Director for a copy of the COB Exposure Control Plan and to determine the level of exposure risk in their specific position. Listed below is a general list of exposure risk levels by department. See chart below.

| <i>Min - Minimum Risk</i> | <i>Mod – Moderate Risk</i> | <i>Max – Maximum Risk</i> |
|---------------------------|--------------------------------------------|---------------------------|
| Position | Examples of Risk | Status |
| Government | | Min |
| Administration | | Min |
| Police | Direct or in-direct contact | Max |
| Court | | Min |
| Fire/EMS | Direct or in-direct contact, needle sticks | Max |
| Sanitation | Needle sticks, in-direct contact | Mod |
| Streets | | Min |

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| | | |
|------------------|----------------------------------|-----|
| Parks | Needle sticks, in-direct contact | Mod |
| Animal Control | | Min |
| Shop | | Min |
| Golf Course | | Min |
| Electric | | Min |
| Water/Sewer | In-direct contact | Mod |
| Galloway Hammond | Direct Contact | Mod |
| Code Enforcement | Needle sticks, in-direct contact | Mod |

PART 11.00

MEDICAL EXAMS AND EMPLOYMENT SUBSTANCE SCREENING

The City may require prospective employees to be tested by a licensed physician and declared by the physician, in writing, to show no trace of substance dependency or illegal drug usage.

11.01 PHYSICAL STANDARDS

Knowledge of physical conditions and existing health problems of employees is necessary to avoid occupational injuries and to ensure that it will be possible to differentiate any future job-related injuries from existing medical problems. For these reasons, the City may require prospective employees to have a physical examination prior to employment as a condition of their employment at the City's expense.

11.02 PRE-EMPLOYMENT SUBSTANCE SCREENING

In order to maintain a safe and substance abuse-free work environment for its employees, the City of Burnet will not knowingly hire applicants for employment who are engaged in substance abuse. All applicants for any City positions are required to submit to a substance screening test prior to becoming an active employee. Such pre-employment alcohol and controlled substance testing may involve the applicant providing a urine specimen, blood sample, or participating in other medical tests. A licensed toxicology laboratory will perform the testing under controlled conditions with trained personnel. At the time of the screening, the applicant will be informed of the testing procedure and consequences of positive results. The applicant will be requested to sign a consent release form acknowledging his/her understanding of the test, authorizing the diagnostic procedure, and releasing the results to the City. Any applicant who refuses to sign the consent release form or refuses to undergo the screening process will not be considered for employment since screening is an integral part of the procedures used to determine suitability for employment.

11.03 POLICE EXAMS

New employees of the Police Department must meet all TECLOSE examination requirements.

PART 12.00

USE OF CITY PROPERTY

Employees who are assigned tools, equipment, or vehicles by their departments are responsible for them and their proper and safe use and maintenance.

12.01 GENERAL

The City attempts to provide each employee with adequate tools, equipment, and vehicles for the City job being performed, and expects each employee to observe safe work practices and safe and courteous operation of vehicles in compliance with municipal, county, state and federal regulations.

12.02 USE OF TOOLS, EQUIPMENT AND PROPERTY

Employees who are assigned tools or equipment by their departments are responsible for them and their proper and safe use and maintenance.

No personal use of any City property, materials, supplies, tools, equipment, pagers, telephones or vehicles is permitted, unless authorized by the Department Director in accordance with the employee's duties. Violations may result in discharge and possible prosecution.

Personal cellular phones or other communication devices should be turned off or put away. In the event a personal cellular phone or communication device is necessary for the employee's work, the employee must have permission from the department supervisor for said device to remain on during working hours. Under no circumstances shall the use of said devices interfere with the employee's duties cause disruption in the workplace.

12.03 USE OF CITY VEHICLES AND MOTORIZED EQUIPMENT

Employees who are assigned use of a City Owned Vehicle including motorized equipment (COV) are responsible for them and their proper and safe use. No personal use of any COV is permitted unless authorized by the City Manager. No COV's may be used to transport private citizens unless specifically done so in the course of the employee's job and with permission of the City Manager.

Employees who drive COVs must maintain an acceptable driving record during the term of employment. A review of the employee's Motor Vehicle Record and or background check may be done on an random or annual basis. COV drivers must report any DWI or DUI convictions whether or not they occurred in a COV. Employees who are convicted of a DWI or DUI in a COV are subject to immediate dismissal. Repeated or frequent traffic violations or accidents are grounds for disciplinary action. Accidents in COVs are recorded in the employee's permanent file.

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All accidents in COVs must be reported to the supervisor immediately.

City employees who drive their own vehicles on City business are required to have current liability insurance in accordance with State law.

PART 13.00

DISCIPLINE

Written notice of disciplinary action is included in the employee's personnel file.

13.01 DISCIPLINARY ACTION

Any employee who violates any provision of the personnel policy of the City may be subject to disciplinary measures up to and including termination. No employee shall have an innate right to disciplinary actions that are progressive. Consideration may be given to the individual circumstances when determining the disciplinary actions to be taken. Depending on the circumstances disciplinary action may be taken against an employee for actions including, but not limited to, the following:

- Insubordination defined as:
 - **Refusal to Carry Out a Lawful Order** - a refusal to follow a direct, valid work order for which he has received a clear prior warning of the consequences for not doing so. Employees who are confronted with a directive they believe is objectionable, unfair, improper, shall complete the directive and proceed to the grievance process unless the employee believes that the directive will endanger the health or safety of him/herself or others.
 - **Abusive Language** - Employees may be subject to discipline for using profane or abusive language with his/her supervisor or other in a manner that undermines the supervisor's authority, or attempts to embarrass, ridicule or degrade a supervisor.
 - **Disrespectful Attitude** – Derogatory comments about a supervisor, threatening or disrespectful gestures or facial expressions.
- Absence without leave including failure to notify a supervisor of sick leave and repeated tardiness or early departure;
- Endangering the safety of other persons through negligent or willful acts;
- Intoxication or drug abuse on duty, while in a city owned vehicle or while representing the City in an official capacity, including traceable amounts in the employee's system while on duty.
- Unauthorized use of public funds or property;
- Violation of the requirements of these personnel policies;
- Conviction of a Class A or B Misdemeanor or a felony;
- Conviction of official misconduct or oppression;
- Conviction of a DWI or DUI in a City owned vehicle or motorized equipment.
- Falsification of documents or records
- Unauthorized or abusive use of official authority
- Sexual harassment
- Incompetence or neglect of duty
- Disruptive behavior which impairs the performance of him/herself or others
- Abusive language or disrespectful attitude toward other employees.

13.02 PROGRESSIVE DISCIPLINE

The City of Burnet intends to have a progressive discipline system, but reserves the right to skip any level of discipline depending on the severity of the employee's actions. The Department Directors and Personnel Director may follow the following system when utilizing progressive discipline:

- **Level I** - Verbal reminders, informal conference - The first step in the disciplinary procedure is for the immediate supervisor or Department Director to attempt to resolve problems by verbal reminders or an informal conference with the employee. The supervisor will make a written notation of reminders and informal conferences;
- **Level II** - Written reprimands – In the event verbal reminders and the informal conference does not resolve issues, the supervisor shall issue a written reprimand. A copy of the written reprimand will be provided to the employee, the Department Director and the Personnel Director for inclusion in the employee's personnel file;
- **Level III** - Probation – The Department Director, with the approval of the City Manager, shall place the employee on probation for a period of time applicable to type of infraction incurred. During that time, the employee may be subject to a reduction in pay or position.
- **Level IV** - Suspension from duty without pay – The Department Director with the approval of the City Manager may relieve the employee from active duty without pay until such time as the employee is deemed able to perform the duties of the position without the previous difficulties, but in no case longer than thirty (30) days.
- **Level V** – Demotion – An employee can be demoted because of unsatisfactory performance in a higher position, for failure to maintain a required certification or license, as a result of a reclassification or restructuring of the employee's position, for a necessary restructuring of the department where the employee works, or other reasons as determined by the City Manager. A demotion includes an adjustment in pay to the pay scale of the lesser position.
- **Level VI** - Separation by involuntary dismissal. In the case where an employee is unwilling or unable to correct the undesirable action that caused the problem or where the action is of a serious nature or where the employee's actions could result in injury or death to the employee or as further directed in this Employee Manual, the employee may be terminated.

Actions other than verbal reminders or written reprimands require the approval of the City Manager except in the case of Fire/EMS personnel where the Medical Officer also has the authority to restrict the employee from operating under the licensure of the Medical Officer.

Where disciplinary action is accomplished by written notice to the employee involved, notice shall include a description of the reason for the action and, except in the case of dismissal, state the likely consequences of further unsatisfactory performance or conduct. Written notice of disciplinary action is recorded in the employee's personnel file.

The City may use the progressive discipline system cited. However, the severity of the discipline depends upon the nature of the infraction and one or more steps may be skipped if warranted. Employees whose actions pose an immediate threat or endangerment to himself/herself or others are subject to immediate suspension or dismissal.

Disciplinary action does not automatically or permanently disqualify an employee from consideration for future promotion, pay increases, commendations, or other beneficial personnel action.

Employees may use the Grievance Process to request relief from disciplinary actions. (See Section 15.00 of this manual)

13.03 SUSPENSION FOLLOWING INDICTMENT

If the City Manager determines that suspension is in the best interests of the City and the public, the City Manager may suspend with or without pay, an employee indicted for a Class-A or B Misdemeanor or a felony, or an employee accused of official misconduct or oppression, until the indictment or information is dismissed or tried and, if tried, until the trial and appeal (if any) are completed. In the case of dismissal, acquittal, reversal on appeal or governor pardon, the City Council may exercise its power of investigative body (Home Rule Charter Section 3.16) to determine the suitability of the employee's reinstatement.

A suspended employee is entitled to reinstatement to the position held before suspension, without loss of benefits, if the indictment or information is dismissed, the employee acquitted, or the conviction reversed on appeal and, the City Manager and City Council decline an investigation. The suspension of an employee reinstated under this subsection is not a disciplinary action. An employee found unsuitable for reinstatement, regardless of the outcome of the indictment, shall be terminated.

PART 14.00

SEPARATIONS

An employee who intends to resign must notify his/her Department Director in writing at least fourteen (14) calendar days prior to the last day of work.

14.01 TYPES OF SEPARATION

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

- Dismissal
- Resignation
- Retirement
- Reduction in Force
- Disability
- Death

14.02 RESIGNATION

An employee who intends to resign must notify his/her Department Director in writing at least fourteen (14) calendar days prior to the last day of work. The supervisor is responsible for immediately notifying the City Manager and Personnel Director.

An employee who resigns without sufficient notice is subject to having a written reprimand placed in his/her file documenting this violation. The Department Director or City Manager may waive this requirement if a valid reason for lack of compliance can be demonstrated. Additionally, employees resigning without providing fourteen (14) days notice shall not be paid accrued sick leave.

Receipt of a resignation providing notice may be accepted immediately. The employee may provide notice of greater than fourteen (14) days. The City Manager may relieve an employee from duty prior to the expiration of the notice period without cause; however, the employee shall be compensated for accrued vacation and sick leave unless terminated for cause.

14.03 RETIREMENT

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

14.04 REDUCTION IN FORCE

An employee may be separated when his/her position is abolished, or when there is either a lack of funds or a lack of work. When reductions in force are necessary, decisions on individual separations will be made considering:

- the relative necessity of each position to the organization
- the performance record of each employee, and
- qualifications of the employee for remaining positions

14.05 DISMISSAL

An employee may be dismissed at any time when, in the judgment of the Department Director and the City Manager, the quality and performance of his/her work does not merit continuation on the City staff or the employee is unable to perform the essential functions of the position. Employees requiring accommodations due to medical necessity are required to request such accommodations and provide the Personnel Director with adequate documentation to determine the needed accommodations. Employees shall have an affirmative duty to report to the Personnel Director or Supervisor physical limitations impacting the ability to perform essential functions. An employee's supervisor may immediately suspend an employee pending dismissal actions by the Department Director or City Manager.

The Department Director is responsible for implementation of dismissals. To appeal a dismissal, an employee must follow the steps of the grievance policy.

14.06 DEATH

If a City employee dies, his/her estate or beneficiary, as applicable, receives all earned pay and any earned and payable benefits less any amounts owed to the City by the employee.

14.07 DISABILITY

An employee will be separated when, for physical or mental reasons, (s)he cannot perform the essential functions of the position or any of the essential functions of a position after an accommodation has been offered, if applicable. Voluntary separations based on reasons of disability must be substantiated by medical evidence if the disability may be a factor or condition of a retirement plan covering the employee.

14.08 EXIT INTERVIEWS & RECORDS

The Department Director, or his/her designee, of an employee who is separated shall discuss with the employee the reason(s) for separation in an exit interview whenever possible. Reason(s) for the separation shall be stated in writing and must be signed by the Department Director and signed or initialed by the employee except in unusual circumstances considered confidential due to the sensitive nature or emergency circumstances.

Upon separation from employment, an employee will complete an Exit Form. The portion of the form that relates to the return of all City property that was issued to the employee is completed with his/her Department Director, or the director's designee. The Department Director will make a notation of the reason for the separation. The rest of the form is then completed in the presence of the Personnel Director. The form is kept in the employee's personnel file.

14.09 AT-WILL

The City of Burnet is an at-will employer. At-will employment means the employee can quit at any time for any reason or for no reason. Similarly, the employer can terminate employment at any time for no reason or for any reason not forbidden by law. Neither municipal policy, or this personnel manual, in any way constitute a contract, a guarantee of employment, or a property interest in employment. No municipal employee or official has the authority to change this policy or to offer permanent employment.

PART 15.00

GRIEVANCES

No adverse action will be taken against an employee for reason of his/her exercise of the grievance right.

15.01 POLICY

It is the policy of the City of Burnet insofar as possible to prevent the occurrence of grievances and to deal promptly with those that occur. No adverse action will be taken against an employee for reason of his/her exercise of the grievance right. Only those disciplinary actions that result in termination are eligible for appeal to the City Council. In all other instances, the City Manager shall be the final authority.

15.02 FINAL AUTHORITY

Grievances can be appealed through the immediate supervisor, the Department Director, the City Manager, then the City Council where applicable.

Grievances against the City Manager regarding discrimination, sexual harassment, or violations of civil rights, may be made to the City Attorney as qualifying grievances subject to the grievance policy. All other grievances will be first submitted to the City Manager and where applicable, shall be forwarded to the City Council.

15.03 PROCEDURE

The first step in the grievance procedure is for the employee to attempt to resolve the grievance by informal conference with his/her immediate supervisor. If the informal conference with supervisor does not result in a resolution of the problem(s), that is satisfactory to the employee, (s)he may file a formal grievance. Qualifying grievances against the City Manager shall go directly to the Mayor or City Attorney and where applicable, forwarded to the City Council.

Formal grievances must be in writing, signed by the employee, and presented to the employee's immediate supervisor. A statement of the specific remedial action requested by the employee must be included in the written grievance.

After being presented with a written, signed grievance, the immediate supervisor shall consult with the Department Director. They will then attempt to resolve the grievance within five (5) working days after receipt of the grievance *and* communicate the decision to the employee in writing.

An employee who receives no written resolution by the close of the fifth working day following the day the written grievance was presented, or, is not satisfied with the proposed resolution,

CITY OF BURNET PERSONNEL POLICY

may within the next three (3) working days appeal in writing to the City Manager. The City Manager shall respond in writing within seven (7) working days after the day the written appeal was received.

The City Manager's response may include a denial, or grant the appeal, a modification of the discipline, or schedule further review or action with respect to appeal.

In the event of disciplinary action which results in termination or is a qualifying grievance against the City Manager, the employee can appeal to the City Council. In all other instances, the City Manager shall be the final authority. The employee must submit his/her request to appear before the City Council no more than ten(10) business days following receipt of written notification of the City Manager's determination upholding termination. The City Manager shall place the item on the agenda within thirty days following the request to appeal, unless otherwise agreed upon by the parties. The decision of the City Council is final. An employee's appeal will be held in Executive (closed) Session unless specifically requested by the employee to be held in open session.

PART 16.00

PERSONNEL FILES

The personnel action form is the official document for recording and transmitting to the personnel file each personnel action.

16.01 GENERAL

Personnel files are maintained by the Personnel Director or other staff as directed by the City Manager. The record copy of all personnel information related to an employee shall be filed in the employee's personnel file.

Information in an employee's personnel file must be disclosed upon request unless specific items are excepted from disclosure by law. No information from any record placed in an employee's file, other than those affected by the Open Records Act, will be communicated to any person or organization except by the City Manager or by an employee authorized to do so by the City Manager.

An employee or his or her representative, designated in writing, may examine the employee's personnel file upon request during normal working hours at the City offices.

When a Department Director requires access to the personnel file of an employee under his/her supervision for the handling of personnel matters, the Department Director must obtain authorization from the Personnel Director.

Employees are expected to inform their supervisors of any changes in or corrections to information recorded in their individual personnel file such as home address, telephone number, person to notify in case of emergency, or other pertinent information.

16.02 PERSONNEL ACTION FORM

The personnel action form is the official document for recording and transmitting to the personnel file each personnel action. This form is used to promote uniformity in matters affecting:

- Position, title, and classification
- Group and pay rate
- Annual salary, and
- Other actions affecting the employee's status

Each personnel action form shall be submitted to the Personnel Director and becomes a part of the employee's record. A copy can be given to the employee upon written request.

16.03 CONTENTS OF PERSONNEL FILES

An employee's file may contain:

- Employee application
- Personnel Policy acceptance form
- Job description of the position the employee was hired to perform and the essential functions of that position
- Personnel action forms
- Performance evaluation records
- Records of any disciplinary action taken
- Records of leave accrued and taken
- Insurance documents, not of a confidential nature
- Retirement documents
- Motor Vehicle Records if applicable
- Accident reports involving the employee
- Commendations
- Safety Manual acceptance form
- Any other pertinent information having a bearing on employee status

16.04 LEAVE RECORDS

Official records of annual leave and sick leave accrual and leave usage will be kept for each employee by an employee designated by the Personnel Director. Leave records are updated at the end of each pay period. Leave balances are shown on each employee's payroll check stub to reflect any remaining leave to which an employee is entitled.

It is the responsibility of the Department Director to provide information about their employee's usage of leave time to the Personnel Director. The Personnel Leave Form is used to show the Department Director's approval of the leave. In all cases, leave recorded on the timesheet will be used to update the employee's leave balance. Any employee questions on accrued leave shall be directed to the supervisor or Personnel Director.

16.05 RELEASE OF PERSONNEL RECORDS

The Texas State Government Code, Section 552.102 provides that information in the personnel file of an employee is not exempted from disclosure under the Open Records Act except when disclosure would constitute a clearly unwarranted invasion of personal privacy. An employee may, within 14 days of being hired, or ending service with the City, request confidentiality of their home address, home phone number, social security number, or information about family members. An employee's file can be made available to the employee him/herself or his/her designated representative except that under some circumstances, the city may be able to refuse to release information to an employee from his personnel file if the information relates to issues that are currently under civil or criminal litigation or otherwise prohibited.

Unless required otherwise by law, all documents submitted to the Personnel Department will be filed in the appropriate employee file and cannot be removed.

PART 17.00

RESERVATION OF MANAGEMENT DISCRETION

The City reserves the right to amend, modify, and delete provisions of this and all other policies of the City.

17.01 NO IMPLIED LIMITATIONS

Nothing in this personnel policy shall limit the City in exercising the functions and discretion of management under which the City hires new employees, directs the work force, schedules hours of work, disciplines, suspends, discharges, or requires employees to observe city rules and regulations. The City reserves the right to amend, modify, and delete provisions of this and all other policies of the City. This policy is intended to set forth general guidelines that will be applied in most circumstances, however nothing in this policy: (a) prevents the City Manager from waiving any provision in a specific instance, case or matter; or (b) alters an employee's at-will employment status.

17.02 RESERVATION OF RIGHTS

The City Council reserves the right to interpret, change, suspend, cancel or dispute, all or any part of this Policy, procedures or benefits discussed herein consistent with applicable state and federal law. Employees will be notified of any change. Although adherence to this Policy is considered a condition of continued employment, nothing in this Policy alters an employee's status and shall not constitute nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time for any or no reason, without notice, and the City retains the right to terminate any employee at any time, for any or no reason, with or without notice.

17.03 OTHER LAWS AND REGULATIONS

The provisions of this Policy shall apply in addition to, and shall be subordinated to any requirements imposed by applicable federal, state or local laws, regulations or judicial decisions. Should any section or part of this manual be held unconstitutional, illegal, or invalid, or the application thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate

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the remaining portion or portions thereof, but as to such remaining portion or portions, the same shall be and remain in full force and effect.

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