



# **Personnel Manual**

**Effective October 1, 2021**

# TABLE OF CONTENTS

**Personnel Policy**

**Revised 09/29/2021**

## ***SECTION I -AUTHORITY AND ADMINISTRATION PAGE***

1.00	Effective Date	1
1.01	Scope	1
1.02	Authority for Creation of Positions	1
1.03	Administration	1
1.04	Department Heads	1
1.05	Non-Discrimination	1

## ***SECTION II -ADMINISTRATIVE POLICY PAGE***

2.00	Applications	2
2.01	Recruitment	2
2.02	Selection	2
2.03	Nepotism	2
2.04	Political Restrictions	2
2.05	Employee Orientation	2
2.05	Employee Work Hours	3
2.06	Job Classification and Compensation	4
2.07	Absences	4
2.08	Holidays	4
2.09	Annual Leave	5
2.10	Sick Leave Personal/Family Illness	5
2.11	Unused Leave	5
2.11a	Maternity	6
2.12	Military Leave of Absence	6
2.13	Emergency Leave with Pay	6
2.14	On Job Injury Leave with Pay	7
2.15	Leave of Absence	7
2.16	Leave Without Pay	7
2.17	Jury Duty	7
2.18	Health insurance	7
2.19	Worker's Compensation Insurance	7
2.20	Retirement	7
2.21	Personnel Records	8
2.22	Health and Safety	8
2.22	Grievances	8
2.23	Demotions	8
2.24	Layoffs	9
2.25	Resignation	9
2.26	Disciplinary Action and Appeal	9
2.27	Conflict of Interest	9
2.28	Use of City Equipment	9
2.29	Dress Code	10
2.30	Education and Training	10
2.31	Severability Clause	10

***SECTION III -DRUG AND ALCOHOL  
ABUSE POLICY***

**PAGE**

3.1	Statement of Policy	11
3.2	Statement of Purpose	11
3.3	Scope of Policy	11
3.4	Definitions	12
3.5	Prohibitions	13-15
3.6	Drug and Alcohol Testing of Employees	15
3.7	Required Testing	16-20
3.8	Discipline and Return to Duty	20
3.9	Supervisory Training	21
3.10	Medical Review Officer	21
3.11	Appeal of a Drug or Alcohol Test Result	22
3.12	Confidentiality and Record Keeping	22
3.13	Contractors	23
3.14	Coordination with Law Enforcement Agencies and Searches	23
3.15	Appendix I	24
3.16	Appendix II	27

***SECTION IV- OFFICE PROCEDURES***

**PAGE**

4.0	Communication Procedures	34
4.1	Ownership & Access of Electronic Mail & ComputerFiles & Phone Recordings	34-38
4.2	Return of City Property Acknowledgement	39
4.3	Code of Business Conduct and Ethics	40-46



## PERSONNEL POLICY

### **SECTION I – AUTHORITY AND ADMINISTRATION**

- 1.00 **Effective Date:** 1st Day of October 2021
- 1.01 **Scope:** These rules apply to all offices and positions in the City of Kempner.
- 1.02 **Authority for Creation of Positions:** All offices or positions in the City of Kempner are created by the City Council and City Manager. Compensation is set by budget created by the City Manager and approved by Council.
- 1.03 **Administration:** The City Manager and City Council are the policy making body for all employees and Department Heads. The City Mayor's powers and duties are defined in Texas Local Government Code Chapter 22.042. The City Manager's powers and duties are defined in Texas Local Government Code Chapter 25.029.
- 1.04 **Department Heads:** Department Heads, which include the City Secretary, Associate Judge and Police Chief, are under the jurisdiction of the City Manager and City Council. These Department Heads are responsible for enforcing the rules and regulations contained herein, as well as assisting and advising employees in order to maintain consistent compliance with these rules and regulations. In such cases where the office of City Manager is vacant, the Mayor will assume the duties of City Manager. Department Heads, will be interviewed and selected for employment by the City Manager with approval of the City Council.
- 1.05 **Non-Discrimination:** The City of Kempner does not and shall not discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations. These activities include, but are not limited to, hiring and firing of staff, selection of volunteers and vendors, and provision of services. We are committed to providing an inclusive and welcoming environment for all members of our staff, clients, volunteers, subcontractors, vendors, and clients.

## SECTION II – ADMINISTRATIVE POLICY (09/29/2021)

- 2.00 **Applications:** All applicants for employment with the City of Kempner are required to complete and submit a job application form. Applicants must be prepared to show proof of all information in the application. Police Officers will be required to submit applicable state required documents in addition to the city application.
- 2.01 **Recruitment:** When a job opening is anticipated in any department, the Department Head notifies the City Manager. The City Manager shall cause the position to be advertised. If no applicants apply, the term of advertising shall continue until an applicant, or applications, are received or until rescinded by the City Manager.
- 2.02 **Selection:** In Administrative Positions, the candidate will be interviewed and selected for employment by the Department Head according to training, experience, education and testing. Any testing required will be job-related, written, oral or both.
- For the Police Department (PD), the candidate will be interviewed and selected for employment by the Chief of Police. At the discretion of the Police Chief, a pre-employment examination for PD employees, hired and/or appointed, will be conducted by an approved medical facility. The cost of the examination will be paid by the City of Kempner. This examination will include screening for chemical substance abuse. (See Sec. III Drug Policy)
- 2.03 **Nepotism:** No person related within the second degree by marriage, or within the third degree by blood-relation to the City Manager or any elected officer of the City, shall be appointed or employed to fill any position with the City. This also applies to any other employee under the supervision of a Department Head.
- 2.04 **Political Restrictions:** Employees of the City of Kempner are not required to render any political aid or service to any person or party. No employee shall be removed, reduced in classification or pay by refusing to do so. Employees will not participate in political activities while on duty.
- 2.05 **Employee Orientation:** All present and future employees, including the Associate Judge and Chief of Police, will have an orientation of the Personnel Policies Manual for the City of Kempner conducted by the City Manager or Heads of Departments. All city employees will receive a manual and sign a document that will be placed in their personnel files to signify that they received adequate information concerning the personnel policies of the City of Kempner. This orientation will be conducted after each revision of the Personnel Manual.

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- 2.05a **Employee Work Hours:** All employees are required to work the hours established by the City Manager and must follow Texas Workforce instructions regarding breaks and lunch hours. The City Manager reserve the authority to alter an employee's work schedule at any time due to business necessity. The City does not allow employees meeting the qualifying tests for non-exemption (hourly) under the Fair Labor Standards Act (FLSA) to work any unauthorized overtime. *Non-exempt employees who violate City of Kempner policies against working unauthorized overtime are subject to disciplinary action including termination.* Exempt salaried employees will work as many hours as it takes to get their job accomplished, however, they may be granted time off for time worked over their agreed work schedule as approved by the City Manager.

All FLSA non-exempt employees (employees who are scheduled to work at least 30 hours per week and who are eligible for fringe benefits) may take a half-hour unpaid lunch each day or take a working lunch to be applied to flex time. Flex time must be used during the same pay period in which it is earned unless the employee opts into the City of Kempner Flex Time Banking Program. The City Manager determines appropriate lunch schedules. Employees will not perform any work during this unpaid lunch hour. Paid break periods (other than mealtimes) are granted as work permits but will be limited to 15 minutes, once in the first half of the work shift and once in the second half.

Within the optional City of Kempner Flex Time Banking Program, flex time is limited to 30 hours banked. Earning flex time must be signed off by the department head or City Manager. It can be earned for any event outside of regularly scheduled City Hall public hours, to include City Council Meetings, Workshops and city events as well as working through lunch. Flex time will be paid at the employees' regular hourly rate to a max of 30 hours in the event the employee leaves employment. Using flex time must be approved by the department head or City Manager. Flex time can be requested to be paid out at any time by the employee. It is the City Manager's responsibility to manage the use and pay out of flex time within the City Budget. The City pays employees only for actual hours worked in ¼ hour increments. Employees who choose to come in early or stay after their scheduled workday without approval will not be allowed to perform work, and therefore, will not be paid for that time.

Overtime pay for administrative personnel will be given to FLSA non-exempt employees at the rate of one and one-half (1 ½) times the hourly rate and shall only be applicable after an employee works more than 40 hours in one week. In determining the number of hours worked by an employee within a given week, time spent on vacation, sick leave, other leave, and holidays will not be counted *as time worked. Such time off must be included in straight-time pay, but is not included in computing hours of work for overtime pay.*

The City expects supervisors to keep overtime costs to a minimum. The City Manager maintains the authority to adjust employee work schedules to minimize overtime and maximize production and service.

Effective 10/01/2021 pay periods will end every other Saturday at end of shift and pay checks will be distributed on the following Friday afternoon, beginning with Saturday, 10/02/2021, as pay period ends and Friday, 10/08/2021, as the pay date. If holidays cause a conflict, adjustments may be made to this schedule. Employees are paid bi-weekly, example employees will be paid on 10/08/2021 and again on 10/22/2021 and so forth.

Work week/hours are set by the City Manager. Salaries or wages are set at an annual or hourly rate based upon your job classification. For full time employees, the regular work week will normally consist of 30-40 hours in a seven-day period commencing at 12:01 AM Sunday morning and ending the following Saturday at midnight. However, the scheduled hours of some jobs may vary according to work requirements.

Time and attendance records are the responsibility of the employee and are to be considered a governmental document. At the end of each pay period, employees must submit a correct and signed payroll document for processing to his/her supervisor certifying the accuracy of all claimed work time and vacation/sick leave, or flex time taken during the pay period. Supervisors are responsible for submitting the time sheets to payroll by noon on Tuesday. Should the Time/Attendance Record contain an error(s), it will be returned for correction prior to affixing the "payroll signature." These documents are subject to review by the City Manager, City Council, and financial auditors.

- 2.06 **Job Classification and Compensation:** A classification and compensation plan has been established and involves the assignment of a job to an appropriate class or position.

In the event of a vacancy, the Department Head may promote or reassign personnel with the City Manager's approval. The salary shall conform to the promotion and reassignment. Also, in the event of a temporary vacancy, the Department Head may upgrade personnel to that position and appropriate salary with approval by the City Manager.

- 2.07 **Absences:** Absent employees, including department heads, are responsible for contacting their supervisor within two (2) hours of any unscheduled absence. Any employee absent from his/her job for three (3) consecutive workdays without an approved leave of absence is considered to have abandoned their employment.

2.08 **Holidays:**

New Year's Day	Emancipation Day
Martin Luther King Day	Veterans' Day (observed)
Thanksgiving & Day After	Labor Day
Good Friday	Christmas Eve – New Years Day
Memorial Day	Independence Day

Any holiday that falls on a weekend, the holidays will be recognized as the closest regularly scheduled work day, Monday or Friday.

An employee may be required to work on a holiday. When this occurs, employees will be compensated at their regular pay rate. Additionally employees working on a holiday will receive 1.5 hours of paid leave for each hour worked. The leave time shall be used prior to the end of the fiscal year unless the City Council specifies otherwise.

- 2.09 **Annual Leave:** All full-time permanent employees hired after the adoption of this manual are entitled to a paid vacation after twelve (12) months of employment. All full time employees on the payroll as of 9/30/2021 will start with 10 days of paid vacation, and then adopt the regular schedule (not move to 15 days until 6 years of employment). Paid vacations are earned according to the following schedule:

<u>Length of Continuous Service</u>	<u>Maximum Vacation Time</u>
after 1 year	5 working days
after 2-5 years	10 working days
after 6-10 years	15 working days
after 10 years	20 working days

Department Heads are responsible for establishing a vacation schedule and submitting it to the City Secretary.

Vacation benefits increase on the day following the employee's 5<sup>th</sup> and 10<sup>th</sup> year anniversary of continuous employment. Vacation time over 20 days must be used within the next 12-month period or it is forfeited. Vacation time accrues on the pay period of the employees anniversary date of hire. If an employee is terminated or resigns, accrued vacation time will be paid to the employee with a cap of 20 working days.

All full time employees, after their 90 probationary period, are given 4 personal days that must be used within that fiscal year of employment. They do not carry over. 2 personal days are awarded on October 1 of the fiscal year and April 1.



- 2.10 **Sick Leave Personal/Family Illness (Parents, spouse and children):** Upon completion of the 90-day probationary period, permanent, full-time employees are eligible for sick leave, which is earned at the rate of one (1) working day for each month of service. The sick leave earned shall not exceed a maximum of sixty (60) days. Immediate notification must be given to the supervisor and/or City Manager; employee may be required to present a doctor's statement before returning to work if absent three (3) days or more. Supervisor and/or City Manager are to report all sick leave to City Secretary for maintaining records. Employees may not receive pay in lieu of leave except for accrued leave upon termination.
- 2.11 **Unused Leave Personal/Family Illness:** If an employee resigns or is terminated, unused sick pay will not be paid.
- 2.11 **Maternity:** Expectant mothers are entitled to maternity leave without pay for a maximum period of three (3) months. Accumulation of benefits, vacation and sick leave, continue while taking maternity leave, and they can all be used, along with flex time until exhausted.
- 2.12 **Military Leave of Absence:** Employees called to active duty for temporary training or otherwise and employees joining the military may be entitled to military leave. Please contact the City Manager or City Secretary as soon as possible to make arrangement for any available military leave and for your return to work. Annual leave may be used to help recover earnings lost during reserve training. However, you are not required to use annual leave for such training.

According to State Law, a regular, full-time employee of the City of Kempner who is a member in a reserve unit of the United States Armed Forces and who is called to active duty shall be granted a maximum of fifteen (15) days per year for military leave without pay. The City Manager and City Secretary should be contacted immediately when called to active duty.

Military leave shall not be used for routine drills or meetings and shall be granted only when the request is accompanied by written orders.

- 2.13 **Emergency Leave with Pay:** Permanent employees are entitled to receive emergency leave with pay when required to be with spouse, mother, father, sister, brother, daughter, son, grandchildren, grandparents, mother or father-in-law, sister or brother-in-law, daughter or son-in-law, or grandparent-in-law, in the event of a death. This leave is limited to three days, if needed, unless otherwise approved by the City Manager.

- 2.14 **On Job Injury Leave:** An employee injured on the job may be eligible for workers compensation benefits, including possible partial salary continuation, pending council approval. When feasible, the City Manager may permit light duty assignments to accommodate the employee. This section shall in no way be construed as to guarantee accommodations not covered under the American's with disabilities act.
- 2.15 **Leave of Absence with Pay:** Administrative leave with pay may be granted to permanent employees on the following basis: a) to donate blood or b) to vote. Extended leave for personal and family illness, with written notice from the doctor will be subject to approval by the City Manager.
- 2.16 **Leave without Pay:** Leave without pay will be granted employees on an unpaid basis for various reasons. A leave without pay must be approved in advance by the City Manager or his/her designee. Supervisors must have approval from the City Manager. A leave of absence will generally be granted for inability to work due to injury or illness.

Employees who are unable to work due to illness or injury must request from the City Manager and City Council an unpaid leave of absence. Such leave of absence shall generally not exceed three (3) months and no benefits of any kind will be paid or accrued during such leave of absence. All sick and vacation time must be used up before a leave of absence will be granted.

- 2.17 **Jury Duty/Court Room Appearances:** Employees will be permitted paid time off to serve on a jury with the exception of if they are summoned due to the employees failure to update their address. Employees who must appear before a court proceeding in relation to their employment with the city will be paid their regular hourly rate.
- 2.18 **Health Insurance:** For full time employees, the City currently provides a monthly stipend which may be used for Health Insurance. If the full time employee does not have their own health insurance they will be required to enroll in the insurance plan provided by the city.
- 2.19 **Workers' Compensation Insurance:** All City employees are covered under Workers' Compensation Insurance, which is applicable to on-the-job injuries and resulting disabilities. Employees are required to notify their immediate supervisor as soon as possible if they are injured on the job.
- 2.20 **Retirement:** The City offers a retirement plan through Texas Municipal Retirement System (TMRS). Full time employees will contribute 5% of their pay, the city matches 1.6%.

- 2.21 **Personnel Records:** The City Secretary is responsible for the proper maintenance and updating of all personnel files and records. Each Department Head shall be responsible to provide necessary information to the City Secretary. Employees or their written designee are entitled to have access and/or a copy of their files during normal working hours of the city.
- 2.22 **Health and Safety:** Each Department Head is responsible for promoting and maintaining adequate safety standards. All employees must use precautions when operating any vehicle, tool or piece of machinery. Safety meetings will be held at the discretion of Department Heads.
- 2.23 **Grievances:** The City Council will act as a grievance committee. The sequence, outlined herewith, is to be adhered to in all cases. Any City employee who has a grievance with the City or another employee should first try to work out the problem with the Department Head. If the problem (or grievance) is not settled, the employee may then appeal to the City Manager and, thereafter, to the City Council for a decision.

The employee's grievance must be written and provided to the appropriate supervisor. The supervisor will thoroughly review and investigate the matter and present the findings in writing to the employee within 10 business days. The employee retains their right to appeal this decision to the City Manager, or City Council as appropriate. If appealed to the City Manager the City Manager must review and investigate the matter and present the findings in writing to the employee within 10 business days.

If the employee is dissatisfied with the resolution from the City Manager, the employee retains the right to file the grievance with City Council. To facilitate this, the employee must notify the City Manager of their desire for the issue to be taken up by the City Council in writing. The City Manager must notify the Mayor. Notwithstanding any other policy this grievance will be placed on the next regularly scheduled City Council Agenda. By default this matter will be heard in Executive session, however it is the employees discretion to have this in open session if they so wish. The employee must notify the Mayor immediately prior to the meeting if they wish the issue to be public.

- 2.24 **Demotions:** A demotion is a transfer from one position to another with a lower pay rate. Some reasons for demotions are reduction of work force and/or failure to meet requirements of a certain position.

2.24 **Layoffs:** In cases when it becomes necessary, because of lack of work or funds, to reduce the number of persons employed by the City, employees will be laid off based on seniority combined with performance rating. Department Heads will make recommendations to the City Manager and employees with the lowest ratings and least seniority will be laid off first. Advance notice of ten (10) working days will be given to employees before being laid off. Employees who have been laid off may re-apply to the City for another position and will be given first consideration in the event of a vacancy.

2.25 **Resignation:** An employee may resign at any time by submitting his/her resignation in writing to the proper Department Head. A Department Head may resign by submitting his/her resignation in writing to the City Manager and City Council.

Upon termination of employment (except during the first 90 days), employees will be paid for unused annual leave up to a maximum of 20 work days. Payment for accrued leave will begin immediately following the last day the employee was actively on the job at his/her work site.

2.26 **Disciplinary Action and Appeal:** An employee of the City may be terminated, demoted, suspended without pay, transferred to another position, reprimanded or put on probation for any of these reasons:

- A. Incompetence or inefficiency.
- B. Conduct unbecoming an employee of the City.
- C. Habitual Tardiness.
- D. Insubordination or violation of any lawful order or regulation.
- E. Accepting bribes in course of work.
- F. Conviction of a felony or misdemeanor.
- G. Negligent or willful damage or waste of public property.
- H. Inexcusable absence without being granted leave.
- I. Engaging in illegal political activity.
- J. Any activity not compatible with good public service.

Appeal of any of the above actions will be conducted as set forth in 2.23 Grievances of this Employee Manual.

2.27 **Conflict of Interest:** City employees are in a position of public trust, and are prohibited from engaging in any activity, privately or officially, where a conflict of interest exist.

2.28 **Use of City Equipment:** No employee is permitted the use of City equipment or facilities for their private use without written approval of the City Manager.

- 2.29 **Dress Code:** All Department Heads are responsible for dress codes of their employees in their department. Employees are required to dress according to their job position.
- 2.30 **Education and Training:** Educational and Training programs may be offered when deemed necessary by a Department Head and approved by the City Manager.
- 2.31 **Severability Clause:** If any of these rules are invalid or unconstitutional, such decisions shall not affect the validity of the remaining rules.

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## **SECTION III - DRUG AND ALCOHOL ABUSE**

**3.1 Statement of Policy.** The City of Kempner, Texas (the "City") maintains a firm commitment and effort to provide reliable service to its citizens, and a safe and healthy working environment for its employees and the community.

- A. The City has a vital interest in maintaining a safe, healthy, and efficient working environment. While the vast majority of employees are not involved with illegal drugs or substance abuse, those who are involved in use, abuse, or trafficking, on or off the job, may have an adverse impact both on the health, safety and welfare of our citizens, the workplace and fellow employees; and may impair the City's ability and efforts to maintain a safe work environment that is free from the effects of drugs. The use, sale, purchase, transfer, or possession of an illegal drug in the workplace, and the use, possession, or being under the influence of alcohol also poses unacceptable risks for safe, healthy, and efficient operations.
- B. The City has the right and obligation to maintain a safe, healthy, and efficient workplace for all of its employees, and to protect the City's property, information, equipment, operations and reputation.
- C. The City recognizes its obligations to its citizens for the provision of services that are free of the influence of illegal drugs and alcohol and will endeavor through this policy to provide drug-free and alcohol-free services.
- D. The City further expresses its intent through this policy to comply with Federal and State rules, regulations or laws that relate to the maintenance of a workplace free from illegal drugs and alcohol.
- E. As a condition of employment, all employees are required to abide by the terms of this policy and to notify the City Manager or City Secretary of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- F. The City reserves the right to test employees for drug use and/or relieve any employee from his/her job duties, when, in the opinion of the City, the use of drugs, legal or illegal, or alcohol, may be affecting the performance of the employee's job duties.

**3.2 Statement of Purpose.** This policy outlines the goals and objectives of the City's drug and alcohol testing program and provides guidance to supervisors and employees concerning their responsibilities for carrying out the program.

**3.3 Scope of Policy.** This policy applies to all departments, all employees and all job applicants. The term employee includes contracted employees.

### 3.4 **Definitions.**

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

**"City premises" 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 -leased property, parking lots, and storage areas. The term also includes the City-owned or -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 drugs and alcoholic beverages, drug paraphernalia, lethal weapons, firearms, explosives, incendiaries, stolen property, counterfeit money, untaxed whiskey, and pornographic materials.

**"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.

**"Illegal drug"** means any drug which is not legally obtainable; 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. Examples of illegal drugs are cannabis substances, such as marijuana and hashish, cocaine, heroin, methamphetamine, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.

**"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.

**"Reasonable belief"** 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.

**"Under the influence"** means a condition in which a person is affected by a drug or by alcohol in any detectable manner. The symptoms of influence are not confined to those consistent with misbehavior, or to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of "being under the influence" can be established by a professional opinion, a scientifically valid test, such as urinalysis or blood analysis, and in some cases by the opinion of a layperson.

**3.5 Prohibitions.** The following conduct by employees of the City is prohibited and will result in appropriate action by the City, up to and including termination of employment.

**A. Illegal Drugs and Alcohol:**

- 1) The use, possession, manufacture, distribution, dispersion or sale of illegal drugs or drug paraphernalia on City premises, in City-supplied vehicles, or during working hours; provided that the prohibition against possession shall not apply to paraphernalia or drugs held as evidence under authority of the Chief of Police;
- 2) Unauthorized use, possession, manufacture, distribution, dispensation or sale of a controlled substance, dangerous drugs or alcohol on City premises or while on City business, in City-supplied vehicles, or during working hours;
- 3) Storing in a locker, desk, automobile or other repository on City premises or property, any illegal drug, drug paraphernalia, controlled substance, or alcohol; provided that such prohibition shall not apply to the storage of any such substance in conjunction with the performance of public duties as authorized by the Chief of Police or the City Manager;
- 4) Having an unauthorized controlled substance, alcohol or illegal drug in one's system while on City premises or City business, in City-supplied vehicles, or during working hours; or
- 5) Having any detectable trace amount of illegal drugs or alcohol in an employee's system while at work.



## **B. Legal Drugs:**

- 1) The undisclosed use of any legal drug by any employee while performing the City business or while on the City premises is prohibited. However, an employee may continue to work even though using a legal drug if the City management has determined, after consulting with the City Manager, that such use does not pose a threat to safety and that the using employee's job performance is not significantly affected. The City may require the employee to obtain a doctor's statement regarding the restrictions and ability of the employee to perform daily duties. Otherwise, the employee may be required to take leave of absence or comply with other appropriate action as determined by the City management.
- 2) An employee whose medical therapy requires the use of a legal drug must report such use to his or her supervisor prior to the performance of the City business. The supervisor who is so informed will contact the City Manager.
- 3) At all times, the City reserves the right to judge the effect that a legal drug may have on job performance and to restrict the using employee's work activity or presence at the workplace accordingly.

## **C. General Prohibited Activity:**

- 1) Switching or adulterating any urine sample submitted for testing;
- 2) Refusing to report for testing immediately upon notification to do so by any supervisor, or refusing to consent to testing or to submit a urine sample when requested by a supervisor or management;
- 3) Refusing to submit to an inspection when requested by any supervisor or management personnel;
- 4) Failure by an employee to notify the City Manager of any arrest or conviction of such employee for, or with respect to, the illegal use, possession, control, sale or manufacture of any controlled substance, drug or alcohol, within five days after the arrest or conviction;
- 5) Failure to report to the supervisor the use of any drug, prescription, non-prescription medication, or alcohol, which may affect the employee's job performance or safety, e.g. alter the employee's behavior or diminish or impair the employee's physical or mental capabilities;

- 6) Refusing to sign a statement agreeing to abide by the City's drug abuse policy;
- 7) Refusal by an employee in a safety sensitive position or any position required to adhere to provisions of this policy, as determined by the City, to sign an acknowledgment that the employee will submit to random, reasonable belief, and post-accident testing for drugs, and so long as the employee remains in the position covered by this policy;
- 8) Refusal to complete a medical questionnaire and consent form prior to testing; or
- 9) Refusal to complete the toxicology chain of custody form after submission of a urine specimen.

### **3.6 Drug and Alcohol Testing of Employees.**

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

The City shall have the right to require the following drug screening tests done for all employees:

- 1) Pre-employment;
- 2) Reasonable belief; and
- 3) Post Accident.

#### **B. The City will notify employees of this policy by:**

- 1) Providing to each employee a copy of this policy and obtaining a written acknowledgement from each employee that the policy has been received and read.
- 2) Announcing the policy in various written communications and making presentations at employee meetings.

#### **C. The City may require drug or alcohol testing:**

- 1) Of any employee who manifests "reasonable belief" behavior.
- 2) Of any employee who is involved in an accident.
- 3) On a random basis of safety sensitive employees as set forth in Appendix I, Schedule 1.
- 4) Of any employee who is subject to drug or alcohol testing pursuant to Federal or State rules, regulations or laws.

- D. An employee's consent to submit to drug or alcohol testing is required as a condition of employment and the employee's refusal to consent may result in disciplinary action, including discharge, for a first refusal or any subsequent refusal.
- E. An employee who is tested in a "reasonable belief" situation may be suspended pending receipt of written tests results and whatever inquiries may be required.

The City Manager shall designate a drug abuse representative who will pre-establish the positions that are subject to random testing procedures. Employees serving in a position that subject employees to random testing will be notified. An example list of those positions is included in Appendix I, Schedule 1.

**3.7 Required Testing.** Prior to the City taking any action based on any test result, all applicants and employees who test positive for drugs will have the opportunity to discuss and explain the test results with the medical review officer. A list of the drugs and the cutoff levels for testing purposes are shown in Appendix I, Schedule 2. All employees will be required to sign a notice and acknowledgment of employer testing requirements (See Appendix II, Form D).

**A. Pre-employment.** The City requires that all newly hired employees be free of drug or alcohol abuse. Each offer of employment may be conditioned upon the passing of a urine test for drugs. The City may not hire any applicant who refuses to submit to, or who fails to pass the pre-employment drug test. (See Appendix II, Form B.)

- 1) All applicants for employment, including applicants for part-time and seasonal positions and applicants who are former employees, are subject to drug and alcohol testing as a condition of employment.
- 2) An applicant for a position mandating drug and alcohol testing must pass the drug test to be considered for employment.
- 3) An applicant subject to drug and alcohol testing as a condition of employment will be notified of the City's drug and alcohol testing policy prior to being tested; will be informed in writing of his or her right to refuse to undergo such testing; and will be informed that the consequence of refusal is termination of the pre-employment process.
- 4) An applicant subject to drug and alcohol testing as a condition of employment will be provided written notice of this policy, and by signature will be required to acknowledge receipt and understanding of the policy.

- 5) If an applicant refuses to take a drug or alcohol test, or if evidence of the use of illegal drugs or alcohol by an applicant is discovered, either through testing or other means, the pre-employment process will be terminated.

**B. Random.** Random testing will be administered at an annual rate equal to the rate of testing established by the Federal Highway Administration for drug testing. An employee will only be tested while the driver is performing a safety-sensitive function, immediately prior to performing, or immediately after performing a safety-sensitive function. (See form Appendix II, Form C.) Safety-sensitive employees are set forth in Appendix I, Schedule 1.

- 1) **Controlled Substance Testing Rate.** Random drug testing will be administered at a minimum annual rate of 50 percent of the average number of safety-sensitive employees. Drug testing will be performed at any time while the employee is at work for the City.
- 2) **Designated Representative.** A firm or consortium under contract with the City for such purpose will act as the drug abuse representative and determine by random generation which employees, among those subject to random testing, will be tested and the date on which each such employee will be tested. The representative will keep this information confidential and in a locked receptacle.
- 3) **Selection Process.** The representative shall ensure that the random selection process provides for the same odds to be tested for every eligible employee. If an employee scheduled to be randomly tested is not available for testing, the employee's name will be returned to the selection pool so that the employee remains subject to random testing according to the same odds as any other employee subject to testing.
- 4) **Selection and Notification.** On the day on which an employee is to be randomly tested, the designated representative will contact the City Manager or City Secretary as to the employee(s) to be tested. The representative shall ensure that notification time is kept to the minimum possible to facilitate the intent of the testing process. The City Manager or City Secretary will ensure the employees report as soon as possible but not later than four (4) hours after the employee is notified to appear. Both drug and alcohol tests will be unannounced and will be spread reasonably throughout the year. Prior to testing, employees will be required to sign Consent Form B as found in 3.16b of this manual. Employees refusing to consent will be subject to disciplinary action up to and including termination.

**C. Reasonable Belief.** Whenever management personnel reasonably suspect that an employee's work performance or on the job behavior is affected any way by drugs or alcohol, the City may require the employee to submit a urine sample for testing. (See Appendix II, Forms A and C)

- 1) **Initiation of Testing.** Supervisors will be trained to recognize the effects of drug or alcohol use. Before a reasonable belief test is administered, two supervisors must substantiate and concur in the decision to test. Normally, the two supervisors are in the employee's chain of command; however, if two supervisors from the same chain of command are not available, another supervisor may be consulted. At least one of the two supervisors must have received training for detecting drug use. Any supervisor of the employee may substantiate and concur in a decision to test, even though that supervisor has not observed behavior of the employee indicating drug or alcohol use. The two supervisors may concur by phone. A supervisor must drive the employee to the testing site. Upon the recommendation of any supervisor or Department Head of the City, the City Manager or City Secretary may authorize and/or direct that a drug and alcohol screening test be administered under this paragraph with respect to any employee.
  - 2) Alcohol testing and Controlled Substance testing is authorized only if the observations are made during, just before or just after the employee performs his or her job functions.
  - 3) All supervisors must report to the City Manager or City Secretary any reasonable belief that an employee is at the work site with a detectable trace amount of drugs or alcohol in his or her system. The City Manager or City Secretary may require that the supervisor complete an affidavit demonstrating the basis for the reasonable belief.
  - 4) The City Manager, City Secretary or a designated person shall escort the employee determined to be subject to a reasonable belief test to the facility for testing.
  - 5) The City Manager shall, in his or her sole discretion, determine whether to suspend an employee pending the results of a drug or alcohol test.
- D. Post Accident.** Any employee whose performance either contributes to an accident or cannot be completely discounted as a contributing factor to an accident may be tested; however, any employee in a safety sensitive position or other position required by federal regulations to be tested will be tested. An employee to be tested will be tested as soon as possible, but no longer than thirty-two hours after the accident. If the employee is unable to reach the approved collection facility within the time required, the employee must take the approved collection kit to the nearest hospital or clinic and request that the hospital or clinic administers the collection. A supervisor must certify that the employee was unable to utilize the approved collection site. A second specimen may be required as soon as the collection site is available for use. (See Appendix II, Form C)

- 1) **Mandatory Testing - Post Accident.** Following an accident or incident falling within any of the following events:
  - a. With respect to employees to which such plan is applicable, an incident or event as provided for in the Pipeline Alcohol Misuse and Controlled Substance Plan (available for review with City Secretary).
  - b. With respect to employees to which such plan is applicable, an incident or event as provided for in the Motor Carrier Alcohol Misuse and Controlled Substance Plan (available for review with City Secretary).
  - c. An event involving property, electricity, a motor vehicle, powered machinery or equipment or hazardous substances which results in the following:
    - (1) A death, or an injury or apparent injury resulting in any person taking time off from work or receiving any medical care or service;
    - (2) Damage to any vehicle or property while on duty or damage to any vehicle or property belonging to the City in the employee's possession after duty hours;
    - (3) Damage to any machinery or equipment;
    - (4) An event that is significant in the judgment of the City Manager, even though it does not meet any of the criteria above.
- 2) **Mandatory Testing for Alcohol:** If a post-accident test is required due to an event occurring which qualifies under subsection (1) above, the test shall be voluntarily submitted to by the employee within two hours of the accident/incident using a federally approved Evidential Breath Testing Device. If the employee has not submitted to a test within eight (8) hours, the City Manager or City Secretary shall cease all attempts to administer the test and prepare and maintain a record stating the reasons why the test was not administered within eight (8) hours. An employee who is subject to post-accident/incident testing must remain available, or the City will consider the employee to have refused to submit to testing and may be subject to disciplinary action up to and including termination.
- 3) **Mandatory Testing for Drugs:** If a post-accident test is required due to an event occurring which qualifies under subsection (1) above, the test shall be voluntarily submitted to by the employee as soon as possible but not later than four (4) hours after the event. If the employee has not submitted to the test within thirty-two (32) hours, the City Manager or City Secretary shall cease all attempts to administer the test and prepare and maintain a record stating the reasons why the test was not administered within thirty-two (32) hours. An employee who is subject to post-accident/incident testing must remain available, or the City will consider the employee to have refused to submit to testing and may be subject to disciplinary action up to and including termination.

- 4) **Exigent Circumstances.** Nothing in this policy should be construed as to require the delay of necessary medical attention for an injured employee following an accident. An employee is not prohibited from leaving the scene of an accident for the period of time necessary to obtain medical assistance or obtain necessary emergency medical care.

### **3.8 Discipline and Return to Duty.**

- A. **Violations** - The City has a zero-tolerance policy. When an employee refuses to submit to a test, has a verified positive drug test result, violates any portion of this policy, and/or is found through alcohol testing to have a detectable trace amount of alcohol in violation of this policy, the City will terminate the employee's employment, and refer the employee to a substance abuse professional for substance abuse counseling and treatment programs at employee's own expense.
- B. **Failure to Test.** The failure to submit to required testing is prohibited and will result in immediate termination, except in the following circumstances:
  - 1) An employee in a position covered by this policy is randomly selected for testing and is on previously approved leave.
  - 2) A supervisor determines that, due to an existing emergency, it is not feasible for an employee to leave the worksite for testing. This determination must be confirmed by the designated drug abuse representative. In such cases, the employee will be required to report for testing as soon as the emergency permits.
  - 3) If the employee is physically unable to provide a urine specimen on demand, the employee will be retained at the collection site while waiting for the specimen to be provided. If an employee, after a reasonable period of time, is still unable to provide the sample, he/she may return to the work location; however, he/she must be under constant supervision until he/she is able to be driven back to the collection site and provide the sample. If he/she continues to be unable to provide the sample, he/she will be required to see a physician, to determine if the inability to provide a sample is caused by a medical reason. If the employee does have a medical reason that would hinder the employee's ability to provide the sample, the employee name will be returned to the random pool, if he/she is in a position covered by this policy. If the employee is not in a position covered by this policy and has been medically certified as unable to provide a specimen on demand, he/she will not be considered to have refused to submit to testing. If no medical reason exists, the employee will be considered to have refused to submit to testing and will be terminated.

**3.9 Supervisory Training.** The City will train its supervisors in:

- A. Performance.** Identifying and documenting job performance and on-the-job behavior that might reflect personal problems.
- B. Behavior.** Identifying specific, contemporaneous physical, behavioral and performance indicators of on-the-job use of drugs or alcohol, or impairment by drugs or alcohol.
- C. Procedures.** Supervisor training shall include training regarding appropriate procedures for:
  - 1) Drug testing and technology;
  - 2) Conducting workplace inspections; and
  - 3) Encouraging voluntary referrals to available resources for counseling and/or treatment.
- D. Forms.** Supervisors shall be trained in the use of the Forms provided in Appendix II for the determination of reasonable belief and releases.

**3.10 Medical Review Officer.** As needed the City will retain the services of a Medical Review Officer who is a licensed physician and knowledgeable in the medical use of prescription drugs and pharmacology and the toxicology of drug abuse. The Medical Review Officer will have knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test results together with such individual's medical history and any other relevant biomedical information.

The appropriately certified testing laboratory will communicate test results only to the Medical Review Officer. The Medical Review Officer shall review and interpret all test results and examine alternate medical explanations for any positive test results. As part of such review, the Medical Review Officer shall notify the employee or applicant receiving positive test results and offer the individual the opportunity for an interview, and the opportunity to submit any medical records, prescription drugs or other information that might explain the positive test results.

The Medical Review Officer shall determine whether the positive test results are scientifically adequate to establish the presence of the prohibited substance, drug or alcohol use. If the Medical Review Officer has reason to question the accuracy or validity of a positive test result, the Medical Review Officer should review the laboratory's quality control data and other pertinent records.



The Medical Review Officer will report all test results to the designated drug abuse representative. The representative will inform the appropriate supervisor of the results, and appropriate action will be taken as outlined in this policy.

The complete names and addresses of the City's Medical Review Officer and testing laboratory will be available for review at City Hall.

### **3.11 Appeal of a Drug or Alcohol Test Result.**

- A. An applicant or employee whose drug or alcohol test reported positive will be offered the opportunity of a meeting to offer an explanation. The purpose of the meeting will be to determine if there is any reason that a positive finding could have resulted from some cause other than drug or alcohol use. The City, through its health and/or Personnel officials, will judge whether an offered explanation merits further inquiry.
- B. An employee whose drug or alcohol test is reported positive will be offered the opportunity to have the original sample retested:
  - 1) Obtain and independently test, at the employee's expense, the remaining portion of the urine specimen that yielded the positive result by an N.I.D.A. certified laboratory.
  - 2) Obtain the written test result and submit it to an independent medical review at the employee's expense.
- C. The decisions and findings of the Medical Review Officer shall be final and determinative.
- D. During the period of an appeal and any resulting inquiries, the pre-employment selection process for an applicant will be placed on hold, and the employment status of an employee may be suspended. An employee who is suspended pending appeal will be permitted to use any available annual leave in order to remain in an active pay status. If the employee has no annual leave or chooses not to use it, the suspension will be without pay.

- 3.12 Confidentiality and Record Keeping.** The results of all drug and/or alcohol tests will be treated as confidential. Each applicant or employee will be required to sign a statement at the time of testing to allow release of the results to the City. This information will only be known to the testing laboratory, the Medical Review Officer, the designated drug abuse representative, and other employees with the "need to know" such as appropriate officers, the City Manager or City Secretary and the employee's immediate supervisor. However, any governmental body may obtain the testing results as a part of an accident investigation, without the express written consent of the tested individual, provided the governmental body has legal authorization to secure such results. No drug test results will be released to a subsequent employer without the written consent of the employee.

All records pertaining to the Drug Testing Program will be maintained in a locked receptacle by the designated drug abuse representative. The list below shows the type of information to be maintained along with the minimum retention times:

- A. Collection Process - Three Years.** Records demonstrating the collection process shall be kept for three (3) years.
- B. Positive Test Results - Five Years.** Records of employee drug test results that show employees failed a drug test, the type of test failed (e.g. post-accident) will be kept for five (5) years. These records include the following information:
  - 1) Functions performed by the employee;
  - 2) Prohibited drugs for which test results were positive;
  - 3) Disposition (e.g. termination, etc.); and
  - 4) Age of employee.
- C. Negative Test Results - One Year.** Records of employees' drug test results that show employees passed a drug test will be kept for one (1) year.
- D. Number Tested - Five Years.** Records of the number of employees tested by type of test shall be kept for five (5) years.
- E. Supervisor Training - Three Years.** Records confirming supervisors have been trained shall be kept for three (3) years.
- F. Employee Training Information - Three Years.** Records confirming drug use/abuse training information given to all employees shall be maintained for three (3) years.

**3.13 Contractors.** Contractors shall abide by the regulations promulgated in the Federal regulations. The City will require such actions to be part of all contracts, and will immediately terminate any contract if the contractor is found to not be in compliance with said federal regulations.

**3.14 Coordination with Law Enforcement Agencies and Searches.** The sale, use, purchase, transfer or possession of an illegal drug or drug paraphernalia is a violation of the law. The City will report information concerning possession, distribution, or use of any illegal drugs to law enforcement officials and will turn over to the custody of law enforcement officials any such substances found during a search of an individual or property. The City will cooperate fully in the prosecution and/or conviction of any violation of the law.

- A. The City may conduct unannounced general inspections and searches for drugs or alcohol on the City premises or in the City vehicles or equipment wherever located. Employees are expected to cooperate in said inspection.
- B. Searches will only be conducted of individuals' vehicles, lockers, desks, and closets when based on reasonable belief that the employee is in violation of this policy.
- C. An employee's consent to a search is required as a condition of employment, and the employee's refusal to consent may result in disciplinary action, including discharge, even for a first refusal.
- D. Illegal drugs, drugs believed to be illegal, and drug paraphernalia found on the City property will be turned over to the appropriate law enforcement agency and the full cooperation given to any subsequent investigation. Substances that cannot be identified as an illegal drug by a layman's examination will be turned over to a forensic laboratory for scientific analysis.
- E. Other forms of contraband, such as firearms, explosives, and lethal weapons, will be subject to seizure during an inspection or search. An employee who is found to possess contraband on the City property or while on the City business will be subject to discipline up to and including discharge.
- F. If an employee is the subject of a drug-related investigation by the City or by a law enforcement agency, the employee may be suspended pending completion of the investigation.

## **APPENDIX I**

### **3.15**

#### **SCHEDULE 1: EXAMPLES OF SAFETY SENSITIVE POSITIONS**

Employees whose duties include:

1. Performing leakage or electrical surveys;
2. Classifying notices of leaks as emergencies;
3. Notifying fire, police and other appropriate public officials of pipeline emergencies, and coordinating actual responses during emergencies;
4. Performing operations, maintenance and emergency-response functions included in operation, maintenance and emergency manuals required federal regulations;
5. And other functions designated by the City to be covered by the drug abuse policy;
6. Responding to emergency situations. This includes police officers, firefighters and E.M.S. personnel;

7. Operate or drive motor vehicles or powered equipment;
8. Work in the proximity of motor vehicle powered equipment, machinery, or with potentially hazardous and dangerous tools or materials or areas (at heights or in confined spaces);
9. Making decisions or judgments in a managerial or code enforcement position which might impact the health, safety and welfare of City employees.

## **SCHEDULE 2:     TESTING PROTOCOL**

All testing shall be conducted according to the rules and procedures established by the Department of Health and Human Services.

An immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution will be used for the initial test with the following cut-off levels:

### **INITIAL TEST - CUT-OFF LEVELS (NG/ML)**

#### **SUBSTANCE**

Marijuana Metabolites	50
Cocaine Metabolites	300
Opiate (Codeine and Morphine)	300*
Phencyclidine (PCP)	25
Amphetamines	1000
Alcohol	0.04

\* 25 NG/ML if immunoassay specific for free morphine.

All initially positive tests will be confirmed by gas chromatography/mass spectrometry (GC/MS).

The following cut-off levels apply for confirmation testing:

### **CONFIRMATION TEST - CUT-OFF LEVELS (NG/ML)**

#### **SUBSTANCE**

Marijuana Metabolites (1)	15
Cocaine Metabolites (2)	150
Opiate (Codeine and/or Morphine)	300
Phencyclidine (PCP)	25
Amphetamines	500
Methamphetamine (3)	500

- (1) Delta-9-Tetrahydrocannabinol-9-Carboxylic Acid
- (2) Benzoylgonine.
- (3) Specimen must also contain amphetamine at a concentration > 200 ng/mL

### **SCHEDULE 3**

#### **MEDICAL REVIEW OFFICERS**

Medical Review Officer Information available at City Hall.

#### **TESTING LABORATORY**

As approved by the City Manager and filed with City Secretary.

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## APPENDIX II

### 3.16 FORMS:

#### 3.16a Form A

##### SUPERVISOR'S CHECKLIST FOR MAKING REASONABLE CAUSE DETERMINATION

Employee's name \_\_\_\_\_

Department \_\_\_\_\_

Date(s) \_\_\_\_\_

#### KNOWING THE SIGNS

The indicators listed below are "warning signs" of drug and/or alcohol abuse and may be observed by supervisors:

##### Moods:

- Depressed
- Anxious
- Irritable
- Suspicious
- Complains about others
- Emotional unsteadiness (e.g., outbursts of crying)
- Mood changes after lunch or break

##### Actions:

- Withdrawn or improperly talkative
- Spends excessive amount of time on the telephone
- Argumentative
- Has exaggerated sense of self-importance
- Displays violent behavior
- Avoids talking with supervisor regarding work issues

##### Absenteeism:

- Acceleration of absenteeism and tardiness, especially Mondays, Friday, before and after holidays
- Frequent unreported absences, later explained as "emergencies"
- Unusually high incidence of colds, flues, upset stomach, headaches

- Frequent use of unscheduled vacation time
- Leaving work area more than necessary (e.g., frequent trips to water fountain and bathroom)
- Unexplained disappearances from the job with difficulty in locating employee
- Requesting to leave work early for various reasons

**Accidents:**

- Taking of needless risks
- Disregard for safety of others
- Higher than average accident rate on and off the job

**Work Patterns:**

- Inconsistency in quality of work
- High and low periods of productivity
- Poor judgment/more mistakes than usual and general carelessness
- Lapses in concentration
- Difficulty in recalling instructions
- Difficulty in remembering own mistakes
- Using more time to complete work/missing deadlines
- Increased difficulty in handling complex situations

**Relationship to Others on the Job:**

- Overreaction to real or imagined criticism (paranoid)
- Avoiding and withdrawing from peers
- Complaints from co-Workers'
- Borrowing money from fellow employees
- Persistent job transfer requests
- Complaints of problems at home such as separation, divorce and child discipline problems

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## OBSERVING AND DOCUMENTING CURRENT INDICATORS

Patterns of any of the above conduct or combinations of conduct may occur but must be accompanied by indicators of impairment in order to establish "reasonable cause." Please check all indicators listed below that are currently present:

- |  |   |
|--|---|
| <input type="checkbox"/> Constricted pupils        | <input type="checkbox"/> Drowsiness               |
| <input type="checkbox"/> Dilated pupils            | <input type="checkbox"/> Odor of alcohol          |
| <input type="checkbox"/> Scratching                | <input type="checkbox"/> Nasal secretion          |
| <input type="checkbox"/> Red or watering eyes      | <input type="checkbox"/> Dizziness                |
| <input type="checkbox"/> Involuntary eye movements | <input type="checkbox"/> Muscular incoordination  |
| <input type="checkbox"/> Sniffles                  | <input type="checkbox"/> Unconsciousness          |
| <input type="checkbox"/> Excessively active        | <input type="checkbox"/> Inability to verbalize   |
| <input type="checkbox"/> Nausea or vomiting        | <input type="checkbox"/> Irritable                |
| <input type="checkbox"/> Flushed skin              | <input type="checkbox"/> Argumentative            |
| <input type="checkbox"/> Sweating                  | <input type="checkbox"/> Difficulty concentrating |
| <input type="checkbox"/> Yawning                   | <input type="checkbox"/> Slurred speech           |
| <input type="checkbox"/> Twitching                 | <input type="checkbox"/> Bizarre behavior         |
| <input type="checkbox"/> Violent behavior          | <input type="checkbox"/> Needle marks             |
- ☐ Possession of paraphernalia (such as syringe, bent spoon, metal bottle cap, medicine dropper, glassine bag, paint can, glue tube, nitrite bulb, or aerosol can)
- ☐ Possession of substance that appears to possibly be a drug or alcohol
- ☐ Other \_\_\_\_\_
- 

## DETERMINING REASONABLE CAUSE

If you are able to document one or more of the indicators above, ask yourself these questions to establish reasonable cause:

**Y N**

[ ] [ ] Has some form of impairment been shown in the employee's appearance, actions or work performance?

[ ] [ ] Does the impairment result from the possible use of drugs or alcohol?

[ ] [ ] Are the facts reliable? Did you witness the situation personally, or are you sure that the witness(es) are reliable and have provided firsthand information?



☐ ☐ ☐ Are the facts capable of explanation?

☐ ☐ ☐ Are the facts capable of documentation?

☐ ☐ ☐ Is the impairment current, today, now?

Do NOT proceed with reasonable cause testing unless all of the above questions are answered with a YES.

**TAKING ACTION**

\_\_\_\_\_ Reasonable cause established

\_\_\_\_\_ Reasonable cause NOT established

Prepared by:

Supervisor's/Manager's Signature: \_\_\_\_\_

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**3.16b. Form B**



**APPLICANT'S CONSENT TO DRUG/ALCOHOL TESTING**

I understand that the City has a drug and alcohol use policy and that initial employment may require satisfactory passing of the City's drug and/or alcohol test.

If I am accepted for employment, I agree to take drug and/or alcohol tests whenever requested by the City, and I understand that the taking of such tests is a condition of my continued employment.

I also give consent to the testing agency to release to the City and other officially interested parties the results of my tests.

At this time, I consent to a drug and/or alcohol test.

Date \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Employee:**

**Witness:**

\_\_\_\_\_

\_\_\_\_\_

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

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

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**3.16c Form C**



**EMPLOYEE'S CONSENT TO DRUG/ALCOHOL TESTING**

I understand it is the policy of the City to conduct drug and/or alcohol tests of employees for the purpose of detecting drug and/or alcohol abuse, and that one of the conditions of employment with the City is the satisfactory passing of the City's drug and/or alcohol test(s) when such is required as part of the City's drug and/or alcohol policy.

Having met one of the conditions of the drug and/or alcohol policy which requires I submit to a test, I hereby agree to submit to a drug and/or alcohol test. I have read and understand the City's drug and/or alcohol testing requirements.

I also give consent to the testing agency to release to the City and other officially interested parties the results of my tests.

At this time, I consent to a drug and/or alcohol test.

Date \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Employee:**

**Witness:**

\_\_\_\_\_

\_\_\_\_\_

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

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

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### 3.16d Form D



## **EMPLOYEE NOTICE AND ACKNOWLEDGEMENT OF EMPLOYER TESTING REQUIREMENTS**

### **PART 1: NOTICE**

This is to inform you that the City may conduct testing to identify job applicants and current employees who may be abusing drugs and/or alcohol.

A copy of the City's policy on this matter is either attached to this notice or will be given to you upon request.

You have the right to refuse to undergo testing. However, the consequences of refusal to undergo testing or a refusal to cooperate in testing by an applicant will result in the termination of the pre-employment selection process, and the consequences of refusal to undergo testing or a refusal to cooperate in the testing by an employee will result in discharge.

An applicant who fails a test will not be hired, and an employee who fails a test will be discharged.

Remaining drug-and/or alcohol-free and participation in the City's drug and/or alcohol testing program is a condition of continued employment.

### **PART II: ACKNOWLEDGEMENT**

I acknowledge receipt and understanding of the above written notice and agree to abide by the terms of the City's policy pertaining to drugs and alcohol.

Date \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Employee:**

**Witness:**

\_\_\_\_\_

\_\_\_\_\_

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

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

## **SECTION IV – OFFICE PROCEDURES**

### **4.0 Communication Procedures**

The use of City of Kempner automation systems, including computers, fax machines, phones and all forms of Internet/Intranet access, is for City business and is to be used for authorized purposes only. The City's automation systems are City resources and are provided as business communication tools. Use of communications and automation systems are a privilege granted by the City Manager and may be revoked at any time for inappropriate conduct including, but not limited to:

- Sending chain letters
- Engaging in private or personal business activities
- Misrepresenting oneself or the City
- Engaging in unlawful or malicious activities
- Using abusive, profane, threatening, racist, sexist, or otherwise objectionable language in either public or private messages
- Sending, receiving, or accessing pornographic materials
- Becoming involved in partisan politics
- Causing congestion, disruption, disablement, alteration, or impairment of company networks or systems
- Infringing in any way on the copyrights or trademark rights of others
- Using recreational games
- Engaging in Facebook accounts, chat rooms, or any other social media resources unrelated to city business.
- Defeating or attempting to defeat security restrictions on company systems and applications
- Soliciting or selling products for personal use

Using City communications and automation systems to create, view, transmit, or receive racist, sexist, threatening, or otherwise objectionable or illegal material is strictly prohibited. Use of City resources for illegal activity can lead to disciplinary action. Violators of this policy may be subject to disciplinary action up to and including dismissal and criminal prosecution.

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#### **4.1 Ownership and Access of Electronic Mail and Computer Files and Phone Recordings**

The City owns the rights to all data on City computers and phones. The City reserves the right to monitor computer activity, phone recordings, e-mail and internet usage, both as it occurs, and in the form of account histories and their content. The City has the right to inspect any and all files stored in any areas of the network or on any type storage media in order to assure compliance with this policy. Employees must be aware that all forms of electronic traffic that using company equipment is not private. Therefore, at all times, it is subject to viewing and archiving by City officials. No employee may access another employee's computer files, or electronic mail messages without prior authorization from either the employee or the City Manager.

It is a violation of City policy for any employee, including system administrators and supervisors, to access electronic mail and computer systems files to gain information about the affairs of others. Under no circumstances may employees access other employee data without the consent of the employee or the City Manager. Employees found to have engaged in such activities may be subject to disciplinary action.

The City has licensed the use of certain commercial software application programs for business purposes. Third parties retain the ownership and distribution rights to such software. No employee shall create, use, or distribute copies of such software that are not in compliance with the license agreements for the software.

##### **4.1a Confidentiality of Electronic Mail**

At all times, electronic mail is subject to monitoring. Employees using City computers and e-mail for personal matters waive any personal right to privacy as to such matters. Employees are strictly prohibited from sending e-mail messages and/or maintaining files on computers of a harassing, intimidating, offensive, pornographic, or discriminatory nature.

##### **4.1b Message Tone for Electronic Mail**

Users are expected to communicate with courtesy and restraint with both internal and external recipients. Electronic mail should reflect the professionalism of the City and should not include language that could be construed as profane, discriminatory, obscene, sexually harassing, threatening, or retaliatory.

##### **4.1c Electronic Mail Tampering**

Electronic mail messages received may not be altered without the sender's permission.

#### **4.1d Policy Statement for Internet/Intranet**

The use of the City automation systems is for business purposes only. Brief and occasional personal use is acceptable providing it is not excessive or inappropriate, and that it occurs during personal time (lunch or other breaks) and does not result in expense to the City.

Use is defined as "excessive" if it interferes with normal job functions, responsiveness, or the ability to perform daily job activities. Supervisors determine the appropriateness of the use and whether such use is excessive.

The Internet is to be used to further the City's mission, to provide effective service of the highest quality to the City's customers, citizens and staff, and to support other direct job-related purposes. Supervisors should work with employees to determine the appropriateness of using the Internet for professional activities and career development. Internet/Intranet accesses are City resources and are provided as business tools to employees who may use them for research, professional development, and work-related communications. Limited personal use of Internet resources is a special exception to the general prohibition against the personal use of computer equipment and software.

Employees are individually liable for any and all damages incurred as a result of violating City security policy, copyright, and licensing agreements.

All City policies and procedures apply to employees' conduct on the Internet, especially, but not exclusively, relating to: intellectual property, confidentiality, City information dissemination, standards of conduct, misuse of City resources, anti-harassment, and information and data security.

#### **4.1e Inappropriate Use of the Internet/Intranet**

Use of City computer, network, or Internet resources to access, view, transmit, archive, or distribute racist, sexist, threatening, or otherwise objectionable or illegal material is strictly prohibited. No employee may use the City's Internet/Intranet facilities to deliberately propagate any virus, worm, Trojan horse, or other file designed to disrupt, disable, impair, or otherwise harm either the City's networks or systems or those of any other individual or entity.

Employees shall not load unauthorized programs on any City computer. This includes internet downloads and any software via any media not provided by the City. All software loaded onto a City system must be approved by the City Manager.

#### **4.1f Internet/Intranet Security**

The City owns the rights to all data in any information system used within the City. Internet use is not confidential and no rights to privacy exist. The City reserves the right to monitor Internet/Intranet usage, both as it occurs, and in the form of account histories and their content. The City has the right to inspect any and all

files stored in private areas of the network or on any types of computer storage media in order to assure compliance with this policy. The City has taken the necessary actions to assure the safety and security of our network. Employees attempting to disable, defeat, or circumvent City security measures are subject to disciplinary action.

#### **4.1g Electronic Information/Password Security**

Electronic information security is of utmost importance to the operation of the City of Kempner. Systems and passwords containing sensitive and financial information must receive a high level of protection. It is prohibited to share or give access to any electronic management systems with any person or entity outside the City.

Do not share passwords with anyone. All passwords are to be treated as sensitive, confidential City information. For emergency purposes, the City Secretary will maintain a list of all passwords. Here is a list of "don'ts":

- Don't reveal a password over the phone to ANYONE
- Don't reveal a password in an email message
- Don't talk about a password in front of others
- Don't hint at the format of a password (e.g., "my family name")
- Don't reveal a password on questionnaires or security forms
- Don't share a password with family members
- Don't reveal a password to co-workers while on vacation
- Don't store passwords in a file on ANY computer system (including Phones, Electronic Tablets, Notebooks or similar devices) without encryption.

If an account or password is suspected to have been compromised, report the incident to the City Manager and change all passwords.

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

***Passed and approved by the City Council in open meeting on this day of***

Reformatted and included in City of Kempner Personnel Manual as revised September 29, 2021





## **Computer, E-Mail, Internet and Phone Use Policy Employee Acknowledgement Form**

This is to acknowledge and certify that I have received a copy of, or a copy has been made available to me of the *Computer, E-Mail, Internet and Phone Use Policy*. I acknowledge my obligation to read and abide by the contents of this policy as a condition of employment.

\_\_\_\_\_  
Employee Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
City Manager Signature

\_\_\_\_\_  
Date

#### **4.2 Return of City Property Acknowledgement**

Upon termination of employment, employees will turn-in all assigned City property to their supervisor. This includes but is not limited to ID badge, uniforms, communication equipment (phones/radios, etc.) and keys. If City property is not turned in upon termination of employment, the cost of the property will be deducted from your last paycheck. If the property value exceeds the amount of wages owed, legal action may be taken to insure payment of property. Value will be determined by replacement cost except for uniform items which will be appraised at one-half purchase price.

#### **4.3 Code of Business Conduct and Ethics**

This Code of Business Conduct and Ethics “Code” has been adopted by our City Council to summarize the standards of business conduct that must guide our actions. This Code applies to all elected officials, supervisors, and employees of the City of Kempner (City). The City has issued this Code to deter wrongdoing and to promote:

- Honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- Avoidance of conflicts of interest, including disclosure to an appropriate person of any material transaction or relationship that reasonably could be expected to give rise to such a conflict;
- Accurate and timely disclosure in reports and documents that the City files with, or submits to other reporting agencies;
- Compliance with applicable governmental laws, rules and regulations;
- The prompt internal reporting of any violations of this Code to an appropriate person or person identified in the Code; and
- Accountability for adherence to the Code.

This Code of Business Conduct and Ethics provides guidance to you on your ethical and legal responsibilities. We expect all elected officials, supervisors, and employees city-wide to comply with the Code, and the City is committed to taking prompt and consistent action against violations of the Code. Violation of the standards outlined in the Code may be grounds for disciplinary action up to and including termination of employment or removal from office as allowed by law. Employees, supervisors, and elected officials who are aware of suspected

misconduct, illegal activities, fraud, abuse of the City's assets or violations of the standards outlined in the Code are responsible for reporting such matters.

Because rapid changes in our government and regulatory environment constantly pose new ethical and legal considerations, no set of guidelines should be considered to be the absolute last word under all circumstances.

### **Basic Obligations**

Under the City's ethical standards, elected officials, supervisors, and employees share certain responsibilities. It is your responsibility to (i) become familiar with, and conduct City business in compliance with, applicable laws, rules and regulations and this Code; (ii) treat all City employees and citizens in an honest and fair manner; (iii) avoid situations where your personal interests are, or appear to be, in conflict with City interests.

The City expects that all staff, to include managers and supervisors, give a full day's work for a full day's pay. All staff must learn their duties and perform them in a responsible manner. It is required that all staff conducts themselves at all times in a manner that promotes public confidence in their integrity and impartiality. Each and every staff and elected officials must not only follow the law and ethical standards but also avoid actions that create the appearance of violating the law or ethical standards. Fraudulent activities to include: fraudulent financial reporting, misuse or misappropriation of City assets, personal use or inappropriate use of City vehicles, theft, unauthorized or improper receipts and expenditures, and improper use of paid vacation/sick leave benefits, will not be tolerated.

### **Raising Concerns**

If you should learn of a potential or suspected violation of the Code, you have an obligation to promptly report the violation. You may do so orally or in writing and, if preferred, anonymously. You have several options for raising concerns.

- Raise your concerns with your supervisor;
- Raise your concerns with the City Manager;

If the issue or concern is related to the internal accounting controls of the City or any accounting or auditing matter, you may report it directly to the City Manager.

### **Policy Against Retaliation**

The City prohibits any elected official, supervisor, or employee from retaliating or taking adverse action against anyone for raising suspected conduct violations or helping to resolve a conduct concern. Any individual who has been found to have engaged in retaliation against an employee for raising, in good faith, a conduct concern or for participating in the investigation of such a concern may be subject

to discipline, up to and including termination of employment or removal from office as provided by law. If any individual believes that he or she has been subjected to such retaliation, that person is encouraged to report the situation as soon as possible to one of the people detailed in the "Raising Concerns" section above.

### **Conflicts of Interest**

City staff should not engage in any activity, practice or act which conflicts with the best interests of the City or its citizens. A conflict of interest occurs when an employee or elected official places or finds himself/herself in a position where his private interests conflict with the best interests of the City or have an adverse affect on the employee's motivation or the proper performance of their job. Examples of such conflicts could include, but are not limited to:

- Accepting outside employment with, or accepting personal payments from, any organization which does business with the City;
- Accepting or giving gifts of more than modest value to or from vendors of the City;
- Competing with the City for the purchase or sale of property, services or other interests or taking personal advantage of an opportunity in which the City has an interest;
- Elected officials/employees or immediate family members who have a financial interest in a firm which does business with the City; and
- Having an interest in a transaction involving the City or a customer or supplier.

Employees must not place themselves or remain in a position in which the employee's private interests conflict with the interests of the City.

If the City determines that an employee's outside work interferes with performance or the ability to meet the requirements of the City, as they are modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain employed by the City. To protect the interests of both the employees and the City, any activity that involves potential or apparent conflict of interest may be undertaken only after disclosure to the City by the employee and review and approval by the City Manager.

### **Confidentiality Concerning City Affairs**

It is the City's policy that business affairs of the City are confidential and should not be discussed with anyone outside the organization except for information that has already been made available to the public through open meetings.

*(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.)*

### **Telecommunications**

Telecommunications facilities such as telephone, cellular phones, facsimile, internet and e-mail are the City's property. Use of these facilities imposes certain responsibilities and obligations on all employees. Usage must be ethical and honest with a view to preservation of and due respect for the City's property, security systems, personal privacy, and freedom of others from intimidation, harassment, or unwanted annoyance.

### **Accuracy of City Records**

As a public funded government entity, we are required to record and report all internal and external financial records in compliance with U.S. Generally Accepted Accounting Principles (GAAP). Therefore, you are responsible for ensuring the accuracy of all books and records within your control and complying with all City policies and internal controls. All City information must be reported accurately, whether in internal personnel, safety, or other records or in information we release to the public or file with government agencies.

### **Compliance with All Laws, Rules and Regulations**

The City is committed to compliance with all laws, rules, and regulations.

### **Health and Safety**

The City is committed to making the work environment safe, secure and healthy for its employees and others. The City complies with all applicable laws and regulations relating to safety and health in the workplace. We expect each of you to promote a positive working environment for all. You are expected to consult and comply with all City rules regarding workplace conduct and safety. You should immediately report any unsafe or hazardous conditions or materials, injuries, and accidents connected with the City and any activity that compromises the City's security to your supervisor. You must not work under the influence of any substances that would impair the safety of others. All threats or acts of physical violence or intimidation are prohibited.

### **Respect for Our Employees**

The City's employment decisions will be based on reasons related to our business, such as job performance, individual skills and talents, and other business/related factors. City policy requires adherence to all national, state or other local employment laws. In addition to any other requirements of applicable laws in a particular jurisdiction, City policy prohibits discrimination in any aspect of employment based on race, color, religion, sex, national origin, disability or age, within the meaning of applicable laws.

### **Abusive or Harassing Conduct Prohibited**

City policy prohibits abusive or harassing conduct by our employees toward others, such as unwelcome sexual advances, comments based on ethnicity, religion or race, or other non-business personal comments or conduct that make others uncomfortable in their employment with us. We encourage and expect you to report harassment or other inappropriate conduct as soon as it occurs.

### **Privacy**

The City collects and maintains personal information that relates to your employment, including compensation, medical and benefits information. The City follows procedures to protect information wherever it is stored or processed, and access to your personal information is restricted. Your personal information will only be released to outside parties in accordance with City policies and applicable legal requirements. Employees who have access to personal information must ensure that personal information is not disclosed in violation of City policies or practices.

### **Waivers and Amendments**

Only the City Council may waive application of or amend any provision of this Code. A request for such a waiver should be submitted in writing to the City Council, Attention: City Manager, for its consideration.

### **No Rights Created**

This Code is a statement of the fundamental principles and key policies and procedures that govern the conduct of our business. It is not intended to and does not, in any way, constitute an employment contract or an assurance of continued employment or create any rights to any employee, client, vendor or any other person or entity.

*(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.)*



## CONFIDENTIALITY AGREEMENT

As an employee for the City of Kempner, I acknowledge that I may be exposed to confidential information. This includes, but is not limited to, employee background information, personnel records; insurance coverage, promotions, performance evaluations, drivers license numbers, social security numbers, phone numbers, addresses, driving records/criminal records etc.

I understand that information processed is confidential, should not be discussed outside of the City Hall, and should only be discussed within the department on a “need to know” basis. I will not reproduce the confidential information nor use this information for any purpose other than the performance of my duties. I agree that I will not make any changes to my own personnel records or other records to which I may be granted access on any of the department owned systems.

The City of Kempner reserves the right to not continue to use your services if you in violation of this agreement.

This agreement will not prohibit any employee from sharing information with the Mayor, City Council or public as required by the **Open Records/Public Information Act Texas** Government Code Chapter 552.

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City Manager’s Signature

Date:

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Employee’s Signature

Date:

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## City of Kempner Flex Time Banking Program

By signing this form, the employee is indicating whether they would like to opt into our opt out of the City of Kempner Flex Time Banking Program. Within the optional City of Kempner Flex Time Banking Program, flex time is limited to 30 hours banked. Earning flex time must be signed off by the department head or City Manager. It can be earned for any event outside of regularly scheduled City Hall public hours, to include City Council Meetings, Workshops and city events as well as working through lunch. Flex time will be paid at the employees' regular hourly rate to a max of 30 hours in the event the employee leaves employment. Using flex time must be approved by the department head or City Manager. Flex time can be requested to be paid out at any time by the employee. It is the City Manager's responsibility to manage the use and pay out of flex time within the City Budget. The city pays employees only for actual hours worked in ¼ hour increments. Employees who choose to come in early or stay after their scheduled workday without approval will not be allowed to perform work, and therefore, will not be paid for that time or credited Flex time.

If an employee opts out of this program, all Flex time must either be used within the pay period it was earned, or the city will pay the employee for the time worked at the appropriate hourly rate and include overtime if required by law.

\_\_\_\_\_  
Opt In  
(Initial)

\_\_\_\_\_  
Opt Out  
(Initial)

\_\_\_\_\_  
Employee's Printed Name

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date





## **Code of Business Conduct and Ethics Acknowledgement Form**

This is to acknowledge and certify that I have read and understood the contents of the City of Kempner's Code of Business Conduct and Ethics and agree, as a condition of employment or retention of office, to abide by the conduct as described within.

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Employee's Printed Name

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Employee's Signature

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Date