



**PERSONNEL RULES  
AND  
REGULATIONS**

**-Revised 10/01/2024-**

# PERSONNEL RULES AND REGULATIONS

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# CITY OF BROWNWOOD

## PERSONNEL RULES AND REGULATIONS

### SECTION 1. AUTHORITY AND PURPOSE

Under the authority granted to the City by State law and City Charter, the following personnel policies are established to bring into the service of the City the high degree of understanding, cooperation, efficiency and unity that comes through systematic application of good procedures in personnel administration, and to provide a uniform policy for all employees, with all the benefits such a program ensures. The fundamental objectives of good personnel administration sought to be achieved by these policies are declared to be:

- A. To promote and increase efficiency and economy in the service of the City.
- B. To provide fair and equal opportunity to all qualified persons to enter City employment on the basis of demonstrated merit and ability as ascertained through fair and practical methods of selection, free of personal and political considerations.
- C. To develop a program of recruitment, advancement, and tenure, this will make employment with the City attractive as a career and encourage each employee to render their best in service to the City.
- D. To establish and maintain a uniform plan of evaluation and compensation based upon the relative duties and responsibilities of positions in the service of the City.
- E. To establish and promote high morale among City employees by providing good working relationships, Core Values, a uniform personnel policy, opportunity for advancement, and consideration of employee needs and desires.

## I. POLICIES / REGULATIONS

### SECTION 2. ADMINISTRATION: CITY MANAGER

The City Manager is the chief administrative officer of the City. With the exception of matters and appointments reserved to the City Council by statutory provisions, the authority and responsibility for the conduct and administration of all functions of the City and of its departments, offices and agencies is vested in the City Manager. Final authority, in the form of review and approval, is reserved to the City Manager with regard to all personnel matters and subjects covered by these regulations. The person designated by the City Manager shall assume the duties of the City Manager upon the absence of the City Manager.

- A. Director of Human Resources. The Director of Human Resources and the Human Resources Department, acting under his supervision, will represent the City Manager with regard to routing administration and interpretation of these rules.
- B. Department Heads. Department Heads will be responsible for the proper and effective administration of these rules within their respective departments.

### **SECTION 3. EMPLOYMENT AT WILL AND APPLICABILITY OF POLICES**

Employment with the City of Brownwood is for no fixed or definite term. All employment by the City of Brownwood has been and continues to be at-will, except for those positions that may have a written contract approved by the City Council. Both the employee and/or the City have the right to terminate employment at any time, with or without notice, and with or without cause. These Personnel Rules and Regulations do not constitute a contract of employment with the City.

Although adherence to these policies is considered a condition of continued employment, nothing in these policies alters an employee's status and shall not constitute nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time for any or no reason, without notice, and the City retains the right to terminate any employee at any time for any or no reason. (See section on "Separation from Employment".)

(If an employee wishes to resign and leave the City in good standing, refer to Section 63-A)

The policies contained in this manual apply to all City of Brownwood employees. Firefighters and police officers are also governed by State of Texas Fire and Police Civil Service provisions as contained in Chapter 143 Texas Local Government Code, the City of Brownwood Civil Service Rules and the provisions of the Civil Service Meet and Confer Agreements. Policies contained in this manual, which are not in conflict with the State Civil Service provisions, the Fire and Police Civil Service rules or "Meet and Confer Agreements" with the Fire or Police associations, shall be controlling and applicable to all firefighters and police officers.

### **SECTION 4. CITY'S GOALS AND EMPLOYEES' OBLIGATIONS**

Every employee of the City must realize their obligations to the citizens of Brownwood. To assist you with that obligation, it is the policy of the City to implement fair and effective personnel policies and to require all employees to support the City's best interest.

- A. The City's goals for employees include the following:
  - 1. To provide equal employment opportunity and treatment regardless of race, religion, color, sex, age, national origin, disability, or military status;
  - 2. To provide compensation and benefits equal to the work performed;
  - 3. To establish reasonable hours of work based on the City's production and service needs;
  - 4. To monitor and comply with applicable federal, state and local laws and regulations concerning employee safety;
  - 5. To offer training opportunities for those whose needs and capabilities warrant such training;
  - 6. To be receptive to constructive suggestions which relate to the job, working conditions, or personnel policies; and
  - 7. To establish appropriate means for employees to discuss matters of interest or concern with their immediate supervisor or department head.
  
- B. The City expects all employees:
  - 1. To deal with citizens in a professional manner;
  - 2. To perform assigned tasks in an efficient manner;
  - 3. To be punctual;
  - 4. To demonstrate a considerate, friendly and constructive attitude toward fellow employees and all citizens;
  - 5. To adhere to the policies adopted by the City Council; and
  - 6. To practice the Core Values of integrity, service, excellence, respect, vision, and empathy.

- C. The City retains sole discretion to exercise all managerial functions, including the rights:
  - 1. To dismiss, assign, supervise, and discipline employees;
  - 2. To determine and change starting times, quitting times and shifts;
  - 3. To transfer employees within departments or into other departments and other classifications;
  - 4. To determine and change the size and qualifications of the workforce;
  - 5. To determine and change methods by which its operations are to be carried out;
  - 6. To assign duties to employees in accordance with the City's needs and requirements and to carry out all administrative and management functions.
  
- D. Nothing in this manual should be considered as altering the employment-at-will relationship or as creating an expressed or implied contract or promise concerning the policies or practices that the City has implemented or will implement in the future. Accordingly, the City retains the right to establish, change and abolish its policies, practices, rules and regulations as it sees fit.
  
- E. Personal Continuing Education (Amended 01-13-00)  
An employee may apply for leave time, excluding sick leave, for the purposes of continuing higher education. All requests will be considered on a case-by-case basis.

## **SECTION 5. EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the City to provide equal employment opportunity to all employees and applicants. The City follows all state and federal laws regarding equal employment opportunities. No person is to be discriminated against in employment because of race, religion, color, sex, age, national origin, disability, military status, or on the basis of genetic information of the individual or family member of the individual. Family member is defined as spouse, dependent child, including a child who is born to or placed for adoption with the individual, or parent, grandparent or great-grandparent.

This policy applies to all terms, conditions and privileges of employment opportunity including hiring, introductory period, training, orientation, placement and employee development, promotion, transfer, compensation, benefits, layoff and recall, employee facilities, termination and retirement.

Any communication from an applicant for employment, an employee, a government agency, or an attorney concerning any equal employment opportunity matter should be referred to the Director of Human Resources.

While overall authority for implementing this policy is assigned to the Director of Human Resources, an effective equal employment opportunity program cannot be achieved without the support of supervisory personnel and employees at all levels. Any employees who feel they are the victim of discrimination have a responsibility to report this fact to their supervisor and/or the Human Resources Department.

## **SECTION 6. AMERICANS WITH DISABILITIES ACT POLICY STATEMENT**

It shall be the policy of the City of Brownwood that qualified individuals with disabilities shall be given the same consideration for employment given those without disabilities. An individual who is qualified for an employment opportunity shall not be denied that opportunity due to the disability unless providing a reasonable accommodation would impose an undue hardship on the City or the person with a disability would be a danger to self or others in the job position under consideration.

The following definitions shall apply to this policy:

- a. There are three categories of reasonable accommodation. These are:
  1. accommodations which ensure equal opportunity in the application process;
  2. accommodations which enable a qualified individual with disabilities to perform the essential functions of the position held or desired; and
  3. accommodations which enable a qualified individual with disabilities to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities.
- b. “Undue hardship” means significant difficulty or expense in, or resulting from, providing reasonable accommodations to an otherwise qualified individual with a disability.
- c. A “qualified” individual with a disability is an individual who can perform the essential functions of the position held or desired with or without reasonable accommodation.

A reasonable accommodation may include making existing facilities used by employees readily accessible to and usable by individuals with disabilities, job restructuring, modified work schedules, reassignment to vacant positions, acquisition or modification of equipment or devices, adjustment or modification of examinations or training materials to enable the individual with a disability to compete for or perform the essential functions of the position.

The Director of Human Resources shall meet with any qualified applicant or employee who requests an accommodation. The following steps shall be taken to determine, on a case-by-case basis, if a reasonable accommodation is possible:

- a. determine whether the person is a qualified individual;
- b. the particular job will be analyzed to determine its purpose and essential function;
- c. the disabled individual will be consulted to ascertain the precise job-related limitations imposed by the disability and how those limitations might be accommodated;
- d. with the disabled individual’s assistance, potential accommodations will be identified and assessed as to the effectiveness of each in enabling the individual to perform the essential functions of the job;
- e. the disabled individual’s accommodation preferences shall be considered in order to select and implement the accommodation most appropriate for both the employee and the City of Brownwood, but an applicant or employee cannot dictate that a particular reasonable accommodation be used if several are available; and
- f. the safety of the individual and others.

The result of the above process shall be used to document if a particular accommodation would create an undue hardship. The following factors will be considered in determining an undue hardship or any actions requiring significant difficulty or expense, considering:

- a. the nature and cost of the accommodation required;
- b. the financial resources of the City of Brownwood;
- c. the effect of the reasonable accommodation on expenses and resources;
- d. the impact of the accommodation on the operation of the City; and
- e. the existing spatial and operating parameters and/or constraints of the affected work site.

**SECTION 7. CORE VALUES** (Added 09/22/2020)

Job descriptions define skills and abilities needed for each position. The Personnel Policy describes unacceptable behaviors and consequences. The Core Values articulate the type of character expected of City employees. As public servants, we hold ourselves to a high standard of character.

The City Council adopted the Core Values on December 12, 2017. The Core Values were chosen based on a survey of all employees, department head input, and a focus group. The City of Brownwood Core Values is the acronym, "I SERVE." The letters stand for: Integrity, Service, Excellence, Respect, Vision, and Empathy. Each trait can be embodied by every person, regardless of their position. The Core Values are to be included in hiring decisions, new employee orientation, performance evaluations, and awards and recognition.

**Integrity** – If there were only one value of a public servant, it would be enveloped in the idea of integrity. Within integrity is honesty, trustworthiness, accuracy and consistency. Simply stated, we tell the truth, we are transparent with information, we do what we say we will, and we do what's right regardless of who is watching.

**Service** – Defined as the occupation or function of serving; contribution to the welfare of others; a helpful act. Simply stated, we put others above ourselves. Service means that we make intentional decisions and actions to benefit others. Service is being friendly and providing answers. Service is sacrifice.

**Excellence** – Excellence is doing the best job every time. The key to excellence is asking, "Is this the best we can do?" Excellence is dependent on resources, ability, and attitude. The City strives to provide staff the tools (resources) and training (ability) to do their jobs with excellence. Attitude is the responsibility of each individual to bring to work each day.

**Respect** – Defined as to hold in high regard. Respect oneself, one's co-workers, the City Council, citizens, property, and equipment. To respect does not mean agreeance at all times. There can be differences of opinion without belittling or bullying. We must enforce the laws and codes of the City without allowing bias or prejudice to cloud our actions. We work with and for people of all races, gender, religious affiliation, economic status, and education level. We honor people as human beings first, regardless of what makes us different.

**Vision** – Defined as working today with tomorrow in mind. Vision is proper planning and preparation for daily tasks and large projects. Vision is thinking about how today's decisions will impact the city and citizens in the future. Vision is cross training, preventative maintenance, capital improvement plans, fiscal responsibility, efficiency, time management, and creativity.

**Empathy** – Empathy is defined as understanding another person's condition or feelings. Empathy takes respect to the next level. Empathy is attempting to see another person's perspective or to "walk in another person's shoes." Empathy requires listening, patience, and willingness to see another viewpoint. When we better understand the perspective of another, then we can better understand how to work together for mutual benefit.

## **SECTION 8. CODE OF ETHICS** (Added 4/01/2014)

### **DECLARATION OF POLICY**

This Code is adopted to establish guidelines for ethical standards of conduct for use by city employees in the conduct of their work and to prevent potential conflicts of interest.

### **PERSONAL STANDARDS**

City employees shall demonstrate and be dedicated to the highest ideals of honor and integrity to merit the respect, trust and confidence of governing officials, other public officials, employees and the public. They shall be sensitive and responsive to the rights and needs of the public and shall strive to provide the highest quality of service in their work. They shall uphold both the letter and the spirit of the constitution, legislation and regulations governing their actions and report violations of the law to the appropriate authorities.

### **USE OF PUBLIC PROPERTY**

No city employee shall request or permit the use of city owned vehicles, equipment, materials or property for personal convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business, and for such purposes and under such conditions as are directed by the City Manager. Refer to the sections titled: "Use of City Properties" and "Use of City Vehicles".

## **PROHIBITED ACTS**

No city employee may use their position to secure special privileges or exemptions for themselves or others; no city employee may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the City of Brownwood for a matter connected with or related to the employee's services to the City unless otherwise provided for by law. Refer to the section titled: "Conflict of Interest, Solicitation & Acceptance of Gifts".

## **CONFLICT OF INTEREST**

No city employee shall engage in any act which is in conflict with, or creates an appearance of conflict with, the performance of official duties. Refer to the section titled: "Conflict of Interest, Solicitation & Acceptance of Gifts" and related sections of the City Charter.

## **POLITICAL ACTIVITIES**

No city employee shall use his official authority or influence for the purpose of interfering with or affecting the result of an election for a position on the Brownwood City Council or Mayor. Refer to the section titled: "Grounds for Discipline and/or Termination, Subsection on Political Activity".

## **REPORTING**

City employees may report incidents of unethical behavior anonymously by sending a letter to City of Brownwood, PO Box 1135, Brownwood, TX 76804. Mail received in this post office box is taken directly to an independent citizen member of the City's audit committee and is not opened by anyone on city staff.

## **SECTION 9. CONFLICT OF INTEREST, SOLICITATION & ACCEPTANCE OF GIFTS**

(Revised 4/01/2014)

No solicitations of funds of any character or for any purpose whatsoever shall be permitted among City employees on the job without the express approval of the City Manager. This restriction applies to all solicitations, selling, or peddling of every nature, whether by City employees or others not in the employment of the City. The one exception to this rule will be the annual United Way campaign. All City employees are earnestly encouraged to give full cooperation and support to this one large community assistance drive.

### **A. Conflict of Interests:**

No employee of the City may:

1. Have any financial or other interest, directly or indirectly, in any proposed or existing contract, purchase, work, sale or service to, for, with or by the City;
2. Use City employment, authority, or influence in any manner for personal betterment, financial or otherwise;
3. Have any financial interest, directly or indirectly, in the sale to the City of any land, materials, supplies or services;
4. Have discussions or participate in decisions of any City agency, board, commission or instrumentality if the employee has any personal economic interest or is employed, directly or indirectly, by the person or entity that is the subject of the discussion or decision;
5. Accept other employment or engage in outside activities incompatible with the performance of duties and responsibilities as a City employee or that might impair independent judgment in the performance of duties to the City, or

6. Accept remuneration or provide services for compensation, directly or indirectly, to a person or organization requesting an approval, investigation, or determination from the City.

**B. Solicitation and Acceptance of Gift:**

1. Solicitation of funds or anything of value for any purpose whatsoever shall be permitted of or by City employees on the job only with the express approval of the City Manager. No employee may be required to make any contribution, nor may an employee be penalized in any way concerning employment according to the employee's response to a solicitation.
2. No employee shall accept or solicit any money property, service, or other thing of value in excess of \$50.00 from a person, business entity or other organization regulated by, contracting with, or having any other business relationship with the City department of which the employee is a member.
3. If a person presents a gift to a City employee as a reward for service or as an act of expressing appreciation, then the employee shall report the gift in writing to the supervisor and the City Manager.
4. No employee shall accept or solicit any money, property, service or other thing of value in excess of \$50.00 for the benefit of the City, or any employee, or department of the City, unless approved in advance by the City Manager.

**Violations of this policy may result in disciplinary action. Employees should direct questions regarding the prohibitions imposed by this policy to your Department Director, the Director of Human Resources, or the City Manager's office.**

**SECTION 10. DRUG AND ALCOHOL-FREE WORKPLACE** (Revised 4/01/2014)

The City of Brownwood is committed to providing a drug-free and alcohol-free working environment for its employees. Those who have passed probation and feel they have a drug or alcohol problem should refer to the section on the Employee Assistance Program (EAP). Other sections addressing drug and alcohol use/abuse are "Alcohol/Drug Use and Testing Policy for All Employees" and "Alcohol/Drug Use and Testing Policy for DOT Employees". The Director of Human Resources shall be responsible for the management and administration of the City's Alcohol and Substance Abuse Programs.

The City's drug testing program covers all employees and all applicants being considered for initial appointment and provides for testing under the following conditions:

1. Pre-employment.
2. Post-accident.
3. Post injury.
4. Reasonable suspicion
5. Random (for certain positions)
6. Return-to-duty
7. Post-rehabilitation or Follow-up testing.

All alcohol and drug test results will be maintained in a confidential file in the Human Resources Department. Disclosure of test results by an informed individual to anyone outside the "need to know" shall be subject to disciplinary action up to and including possible termination.

## **SECTION 11. SMOKING & USE OF TOBACCO PRODUCTS PROHIBITED**

(Revised 10/01/2024)

The City of Brownwood deems that in order to protect and promote the public health, safety and welfare of their employees, it is necessary to regulate smoking and the use of smokeless tobacco products in City facilities and City vehicles. Therefore, no person or employee shall smoke in City vehicles, City facilities or within 25 feet of the entrances to City facilities. This also includes the prohibition of the use of electronic cigarettes (E-cigarettes), vapes, or any other similar device or item that produces vapor, steam or smoke in City facilities or within 25 feet of the entrances to City facilities. If there is a designated smoking area near the City buildings, the employees are required to use this area during approved smoke breaks. Smokeless tobacco products may be used in areas not normally accessible to the public in City facilities at the discretion of their Department Head as long as the facility is kept clean, and the use of smokeless tobacco products is not intrusive to others.

Employees who violate this policy will be subject to disciplinary action, up to and including possible termination.

## **II. EMPLOYMENT**

### **SECTION 12. RECRUITMENT AND APPOINTMENT PROCEDURES**

Section 1 of these personnel policies states that one of the objectives of good personnel administration is “to provide fair and equal opportunity to all qualified citizens to enter City employment on the basis of demonstrated merit and ability as ascertained through fair and practical methods of selection, free of personal and political considerations.” The procedures and selection techniques which the Director of Human Resources shall use to achieve this objective and establish an applicant’s eligibility ranking for employment are as follows:

- A. The Director of Human Resources shall advertise in a positive manner the employment needs of the City with a view toward obtaining qualified candidates for each vacancy to be filled by recruitment from within or outside the City service:
- B. The Director of Human Resources shall require each applicant for a position to:
  - 1. Complete an application form prescribed by him and approved by the City Manager and requires the applicant to submit additional information regarding education, experience and training, if requested.
  - 2. Furnish a copy of the applicant’s birth certificate, if required.
  - 3. Furnish a copy of his military service record (DD Form 214) if a veteran.
  - 4. Before the applicant is hired, complete an oral interview with the appropriate departmental staff, which shall appraise the candidate’s qualifications for the position, ability to express his/herself and other job-related qualifications. (Revised 05/01/07)
- C. The Human Resources Department or the Police Department shall conduct background checks on applicants being considered for hire to verify statements on the written application and/or in the oral interview and any other such verification of facts or character of the applicant as deemed necessary. (Revised 05/01/07)
- D. The Department with the vacancy shall administer job-related tests when applicable.

- E. The “Personnel Requisition” form (see appendixes) shall be utilized by all departments to fill new positions or personnel vacancies. This enables the City to:
  - 1. Have a standard procedure for initiating requests to fill positions.
  - 2. Permit administrative review of such requests before appointment is made.
  - 3. Provide the means by which departments in conjunction with the Human Resources Department may fill vacancies with qualified personnel.
- F. Department Heads and their supervisory personnel shall examine carefully the personnel needs of each activity for which they are responsible, in terms of the most economical use of work force to achieve their work programs, while maintaining a high level of service to the public. Whenever a vacancy occurs or establishment of a new position is contemplated, the Department Head shall thoroughly investigate the need for the service to be rendered and possible alternate ways of performing the required tasks. If the Department Head determines that a vacant position should be filled, and before a commitment of any kind has been made in regard to filling the position, a personnel requisition for shall be submitted to the Human Resources Department.
- G. The Director of Human Resources shall work with Department Heads in finding qualified applicants for all positions. Such assistance shall include regular notification of present City employees of possible promotional opportunities, as well as recruitment of qualified applicants not now employed by the City.
- H. The Director of Human Resources shall make available to Department Heads as many qualified applicants as necessary or available to interview for each vacancy. The time and place of the interview shall be coordinated between the Director of Human Resources and the Department Head.
- I. Department Heads or their designee shall interview and select for appointment, candidates referred by the Director of Human Resources. Departments shall be required to have more than one City representative conduct interviews. Department Heads may reject any or all applicants if, after interviews, none of the job applicants are deemed suitable for the vacant position. Department Heads shall document reason for rejection of applicants to the Director of Human Resources and request additional applicants for consideration.
- J. Requests for re-employment by former employees will be screened by the Human Resources Department and handled in the same manner as new applicants. The Department Head considering the ex-employee for rehire shall review the ex-employee’s personnel file prior to making a recommendation to hire. If an applicant has two periods of prior employment with the City, the approval of the City Manager is required before proceeding with the hiring process.
- K. Persons who have been dismissed from the City will not be considered for re-employment except under extenuating circumstances when vouched for to the Director of Human Resources by the Head of the Department from which the person was dismissed.
- L. The Human Resources Department shall be notified of anticipated vacancies as far in advance as is reasonably possible to permit sufficient time for recruitment and selection of qualified candidates.

### **SECTION 13. CAUSE FOR DISQUALIFICATION OF APPLICANT**

Although rejection may be based upon cause other than those specified, the following are declared to be special cause for rejection or disqualification of an applicant:

- A. Lack of any qualification requirements specified in the job description.
- B. Inability of the applicant to perform the essential duties of the job due to medical, psychological or physical impairments even with reasonable accommodations.
- C. Conviction, deferred adjudication, or placement on probation for a felony or crime other than traffic violations where such history represents a risk to the City of Brownwood or where such history is in conflict with the responsibilities and duties of the job.
- D. Falsification of any statement of material fact or any deception or fact in application, interview or examination.
- E. Dismissal from any military or public service for inefficiency, delinquency or misconduct.
- F. Unsatisfactory character.
- G. Unsatisfactory employment record with previous employers.
- H. Addiction to the use of narcotics or intoxicants.
- I. Antisocial behavior.
- J. Failure to meet the City's driving requirement for the positions which require the operation of equipment in the performance of their duties.

#### **SECTION 14. AGE REQUIREMENTS**

Age limits are indicated in some specifications for various classes or positions upon the basis of a bona fide occupational qualification or statutory requirement. Where no age limit is specified, the minimum and maximum age for initial employment will vary in accordance with the duties and responsibilities of the positions, the conditions under which they are to be performed, and also according to the best interests of the department as interpreted by the Department Head.

- A. No person under 18 years of age will be employed in any full-time position or any temporary or part-time position requiring the operation of motorized equipment owned by the City.
- B. No person under 15 years of age will be employed in any temporary or part-time position.

#### **SECTION 15. NEPOTISM** (Revised 4/01/2014)

No person related within the second degree by marriage or third degree by blood, to the Mayor, the City Manager or any Council Member, shall be appointed to any official position or service of the City (Section 26, Brownwood Charter). With regard to all other City employees, there is no prohibition against the employment of persons related to other City employees, provided that no employee may be directly or indirectly supervised by a relative and provided that no one is hired within the same department as his or her relative. "Relative" is defined as a person related within the second degree by marriage or third degree by blood to another person (See Nepotism Chart in the appendixes). The phrase "directly supervised" shall be limited to those situations which there are no supervisory level employee with direct supervisory responsibility between two positions on the organizational chart filled by relatives. For example, a relative of the Division Director could not be employed as a Department Head in his or her relative's division because there is no supervisory level employee with direct supervisory responsibility between these two positions. The phrase "indirectly supervised" refers to a situation such as a Department Head indirectly supervising an employee within one of his or her departments where there is a

supervisory level employee between these two positions. If a relative relationship is established after employment and the related employees are in a direct or indirect supervisory relationship or they are related as shown on the Nepotism Chart, it is the responsibility and obligation of the employees involved to immediately disclose the relationship to the City Manager and the Director of Human Resources. Failure to notify the City Manager and the Director of Human Resources of the relative relationship is cause for disciplinary action. Following the establishment of the prohibited relative relationship described above, one of the employees must leave the employment of the City or be transferred to another position so that no direct or indirect supervisory relationship exists within 90 days after the establishment of the prohibited relative relationship. The City of Brownwood is under no obligation to allow the transfer of the employee to another position or to create a position for the employee. The City Manager may provide written approval in some instances at the recommendation of the Department Head and Director of Human Resources.

## **SECTION 16. RESIDENCE REQUIREMENTS** (Revised 9/22/2020)

The City Manager is required to reside within the city limits of Brownwood during his/her tenure of office (per City of Brownwood Charter). The Police and Fire Chief must live within the City Limits of Brownwood. They may not live outside the City Limits unless expressed written consent is given by the City Manager and upon vote by majority of City Council. The Department Heads and Division Directors are required to reside within Brown County, unless expressed written consent is given by the City Manager and upon vote by majority of City Council. Emergency response personnel (ex: Police and Fire), and all employees in positions requiring them to be available and “on-call” as a part of their job description are permitted to live in areas in / around the City of Brownwood as long as the distance is within 30 miles of the Brownwood city limits. New employees with residence requirements and who reside outside the above guidelines must comply as quickly as possible but in no case to exceed six months from date of employment. There are no residence requirements for all other City employees.

Employees shall report any change of residence or telephone number to their Department Heads within 48 hours of such change. Employees are responsible for reporting this information to the Human Resources Department within 3 workdays of the address change.

## **SECTION 17. HARASSMENT** (Revised 4/01/2014)

It is the policy of the City to promote a productive work environment and not to tolerate verbal or physical conduct from any employee that harasses, disrupts, or interferes with another’s work performance or which creates an intimidating, offensive, or hostile environment. The City will follow any and all State and Federal laws regarding harassment in the workplace.

- A. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. No form of harassment will be tolerated, and special attention is called to the prohibition of sexual harassment.
- B. Each supervisor has a responsibility to maintain the workplace free of any form of sexual harassment. No supervisor is to threaten or insinuate, either explicitly or implicitly, that an employee’s refusal or willingness to submit to sexual advances will affect the employee’s terms or conditions of employment.
- C. Other sexually harassing or offensive conduct in the workplace, whether committed by supervisors, non-supervisory employees, or non-employees, is also prohibited. Such conduct includes:
  - 1. Sexual flirtations, touching, advances, or propositions,
  - 2. Verbal abuse of a sexual nature,
  - 3. Graphic or suggestive comments about an individual’s dress or body,
  - 4. Sexually degrading words to describe an individual; and

5. The display in the workplace of sexually suggestive objects or pictures, including nude photographs.
- D. Any employee who believes that a supervisor's, another employee's or a non-employee's actions or words constitute unwelcome harassment has a responsibility to report or complain about the situation as soon as possible. Such report or complaint should be made promptly, in writing, and to the employee's supervisor or Department Head in accordance with the City's grievance policy set out in Section 50. In the event that the employee's supervisor or Department Head is the employee whose actions or words constitute the unwelcome harassment, the employee may make the report or complaint to the next higher-level supervisor or to the City Manager. If the City Manager or another Council appointed position is the harasser, the employee shall file a complaint with the Mayor and the City Manager (if he/she is not the harasser). The supervisor, Department Head or City Manager shall notify the Director of Human Resources of all grievances that are filed.
- E. Complaints of harassment are to be handled, investigated and resolved pursuant to the City's grievance policy set out in Section 50, unless special procedures are deemed appropriate. Employees are required to cooperate in any investigation. Retaliation against any employee for filing a complaint or participating in an investigation is strictly prohibited.
- F. Any employee, supervisor, or manager who is found to have engaged in harassment of another employee will be subject to appropriate disciplinary action, depending on the circumstances, up to and including possible termination.

## **SECTION 18. WEAPONS CONTROL AND VIOLENCE PREVENTION POLICY**

(Revised 9/22/2020)

The City strives to provide a safe and secure working environment for its employees. This policy is designed to help prevent incidents of violence from occurring in the workplace and to provide for the appropriate response when and if such incidents do occur.

**Zero Tolerance.** This policy prohibits harassment, intimidation, threats, and violent behavior by or towards anyone in the workplace, that is in any way job- or City-related, that is or might be carried out on City-property, or that is in any way connected to the employee's employment with the City, whether the conduct occurs on-duty or off-duty. The City has a zero-tolerance policy for this type of misconduct.

**Weapons Banned.** Employees, other than a licensed peace officer and those designated by the City Manager and Chief of Police, are prohibited from possessing or carrying a weapon while on duty or at any time while engaging in City-related business or while on City property. Those employees designated to carry a concealed handgun must first have their concealed handgun license or license to carry a handgun as described by Chapter 411, Subchapter H of the Texas Gov't Code, as may be amended from time to time, apply with their Department Head and the City Manager to conceal carry while on the job, and must complete special training initially and annually, coordinated by the Brownwood Police Department. They must also agree to and adhere to the most current policy and directive issued by the Chief of Police and City Manager. Prohibited weapons (for those that are not licensed peace officers or designated as being able to conceal handgun carry) include firearms, clubs, explosive devices, knives with blades exceeding 5 ½ inches, etc. Employees do not have an expectation of privacy, and the City retains the right to search for firearms or other weapons on City property. The City Manager may revoke an employee's designation to carry a concealed handgun for any or no reason, in the Manager's sole and absolute discretion.

All other employees not designated to conceal carry a handgun while at work may have weapons stored in their personal vehicles while parked in City parking lots, if possession of the weapon is legally allowed by law and provided that the weapon is concealed, and the personal vehicle is securely locked.

**Mandatory Reporting.** Each City employee must immediately notify his/her supervisor, Department Director, the Director of Human Resources and /or the Police Department of any act of violence or of any threat involving a City employee that the employee has witnessed, received, or has been told that another person has witnessed or received. Even without an actual threat, each City employee must also report any behavior that the employee regards as threatening or violent when that behavior is job-related or might be carried out on City property, a City-controlled site or City job site, or when that behavior is in any manner connected to City employment or activity. Each employee is responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior, and the person or persons threatened or the target of the threatening behavior. A supervisor who is made aware of such a threat or other conduct must immediately notify his/her Department Director and the Director of Human Resources.

**Protective Orders.** Employees who apply for or obtain a protective or restraining order which lists City locations as being protected areas must immediately provide to their supervisor, their Department Head, the Director of Human Resources and the City's Police Department a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent. City employees must immediately advise their supervisor, their Department Head and the Director of Human Resources of any protective or restraining order issued against them.

**Confidentiality.** To the extent possible, while accomplishing the purposes of this policy, the City will respect the privacy of reporting employees and will treat information and reports confidentially. Such information will be released or distributed only to appropriate law enforcement personnel, City management, and others on a need-to-know basis and as may otherwise be required by law.

**City Property.** For purposes of this policy, City property includes but is not limited to owned or leased vehicles, buildings and facilities, entrances, exits, break areas, parking lots and surrounding areas, recreation centers, swimming pools, and parks.

**Documentation.** When appropriate, threats and incidents of violence will be documented. Documentation will be maintained by the Director of Human Resources and/or the Police Department.

**Policy Violations.** Violations of this policy may lead to disciplinary action, up to and including termination of employment. Policy violations may also result in arrest and prosecution.

## **SECTION 19. RECORDINGS** (Added 4/01/2014)

While on the job, employees shall not audio or video record conversations or activities of themselves, other employees, visitors or customers without their Department Head's permission.

## **SECTION 20. CONFIDENTIALITY OF INFORMATION AND WORKPLACE PRIVACY**

(Revised 09/22/2020)

As an employee of the City of Brownwood you may from time to time receive confidential or proprietary information. Although the City is governed by the Texas Open Records Act, such information if shared directly or indirectly with third parties could be detrimental to persons or businesses who have entrusted the City with information. Use extreme discretion with information that has not been finalized for release to the public. If in doubt as to what you may discuss, check with your supervisor.

An employee should have “no expectations of privacy” in relation to the use of City computers, phones, electronic systems, workspace, lockers, City vehicles, equipment, or other items in work areas or on City Property. There can be no expectation of privacy in the content of individual electronic mail and text messages sent by an employee on a City device.

1. The workplace belongs to the employer. Any form of “facilities, fixtures and devices” **that is owned, leased, rented, or provided by the City of Brownwood may be inspected, searched, or reviewed at any time by the City Manager or his designee. This may be done with or without your presence, knowledge, or consent.** If you bring your own personal facility, fixture, device, or other item into a workplace, then it too becomes subject to this policy. **A lock, password, or similar security measure (whether provided by you or the City) does not create any expectation of privacy from inspection if that item is in a workplace. Locks, passwords, and the like are intended to afford a degree of privacy only as to your co-workers and visitors, not the employer.**
2. An employee’s personal belongings and effects (such as purse, briefcase, vehicle, etc.) are subject to search only by the City Manager or his designee only when all three of the following conditions exist: (1) in your presence; and, (2) while you and the item to be searched are at the workplace; and (3) there is a reasonable suspicion that the thing to be searched may contain either City property without proper authority or contraband (per law or other city policies, for example: weapons, drugs, alcohol, etc.). Your refusal to cooperate with a search under these limited circumstances will be considered insubordination and is grounds for discipline.
3. Non-work-related communications made to, from, or within a City facility are **not** assured privacy. Some City facilities are recorded, and any area may be subject to camera surveillance. The only privacy assured in the workplace is that which is required either by law or by business necessity to accomplish the City’s mission within the normal course and scope of your City employment. (Examples: law enforcement investigations, EMS records, attorney-client communications, personnel files, etc.)
4. The City of Brownwood cooperates with law enforcement. Upon request, the City Manager or his designee may consent to a law enforcement search of any City workplace, facility, fixture, or device and/or any other place or thing over which the City has control or access by law or contract. The City cannot give consent for the police, or other law enforcement agency, to search your personal vehicle, purse, briefcase, etc. discussed in section B (2) above.

5. The City acknowledges that nursing mothers need their privacy to express milk for their nursing child and will follow all posted State and Federal guidelines in this regard.

## **SECTION 21. CONFIDENTIALITY OF MEDICAL INFORMATION** (Added 4/01/2014)

Federal law requires that the City maintain all employee medical information in separate, confidential files. Therefore, in addition to personnel files, the City maintains a separate medical file for each employee. The Human Resources Department maintains these confidential medical files.

Examples of information that may be provided to the City by an employee or the employee’s health care provider, and maintained in a confidential medical file, include:

- a note to justify an absence;
- a note to request a leave;
- a note to verify the employee’s ability to return to work;
- medical records to support a claim for sick pay or disability benefits;
- personal insurance records; and
- workers’ compensation records.

It is important that employees understand that the records are confidential but that the confidentiality may be waived when the employee provides medical information to the supervisor or the Director of Human Resources. When an employee provides information to the supervisor, the supervisor shall share the information only on an “as needed” basis with other members of management.

In addition to protecting their own confidential medical information, employees must also respect the privacy and confidentiality of their coworkers’ medical information. Employees shall use discretion and judgment when dealing with such information and are to refrain from passing along information, gossip, rumors or anything else that may constitute an invasion of a coworker’s privacy or breach of confidence.

Employees shall not send the health information of others via email, text, or other electronic transmissions unless they have acquired permission from the individual with the health issues or unless the transmission is properly secured and/or encrypted in a manner that makes the information unreadable or indecipherable. In the event written permission is not possible, expressed verbal permission is required.

**SECTION 22. DIRECT DEPOSIT** (Revised 9/22/2020)

All City employees shall participate in direct deposit of their paycheck. The financial institution is your choice. For information, the employee should contact the Human Resources Department and their financial institution. It is the employee’s responsibility to assure that the correct direct deposit information has been provided to the Human Resources Department. A Direct Deposit form must be filled out and turned in to the Human Resources Department along with documentation from your financial institution. This documentation can be in the form of a voided check or a card directly from the financial institution and must include your name and name on the account, account number and routing number.

If any uniforms or City equipment has not been turned in, or any agreed upon unpaid expenses have not been paid, the cost of these items may be deducted from the final check.

**SECTION 23. CLASSIFICATION AND SALARY PLANS**

- A. The position classification plan shall group all positions in the service of the City into classes based on duties, authority and responsibilities, and shall set forth for each position written specifications showing job title, statement of duties, authority and responsibilities thereof and qualifications necessary or desirable for satisfactory performance of duties of the position.
- B. **Entry Pay & Qualified Pay** - The salary plan shall list all job titles covered in the classification plan by grade with “entry pay” and “qualified pay” for each position. “Entry pay” is the pay level established for a position and to be paid the employee upon starting employment in that position. “Qualified pay” is the pay level established for a position after the employee has satisfactorily completed 6 months’ probation in that position. The passing of 6 months’ probation shall be supported by an employee performance evaluation form as explained in Section 15. These salaries shall be based on requisite qualifications, general rates of pay for comparable work in other public and private employment in the area and at large, cost of living data, maintenance of other benefits received by employees, financial policy of the City and other economic considerations.
- C. The City Manager shall be responsible for continuous maintenance and administration of the classification and salary plans.
- D. Department Heads shall make requests to the City Manager to establish new positions or modify existing ones.

- E. The Director of Human Resources shall make periodic reviews of City positions. As a result of these studies, a recommendation to re-evaluate individual positions may be submitted to the City Manager.
- F. All positions shall be designated by official classification titles, as established by the City Manager, on all official records, payrolls and communications.
- G. **Pay Rates & Salary Plan** - The Director of Human Resources shall periodically prepare an analysis of prevailing rates of pay for similar public and private employment in the area and at large, cost of living factors, and such other factors as may be assistance to the City of Brownwood in recommending changes in the plan. Based on this information, the Director of Human Resources shall recommend to the City Manager changes in the salary plan or salary ranges for individual positions as necessary to keep the salary plan current, uniform, equitable and competitive with other employees of the same class of personnel. Recommended changes in the salary plan shall become effective upon the City Manager's approval, and the City Council's appropriation of funds.
- H. **Transfers** - Any new full-time employee's compensation will begin at the established entry rate of pay for the assigned grade for that position. In cases of transfers of current employees from one position or department to another, see the section on "Probation Period", the section on "Transfers".

Employees starting at the established entry rate of pay for their position will be given consideration for an increase to the qualified rate of pay for that position at the end of six (6) months if performance, ability, attitude, attendance and productivity record have been satisfactory. If an employee's 6-month anniversary falls within a pay period on any date other than the first day of the pay period, the pay increase will begin with the start of the next pay period. An employee, who receives an unsatisfactory evaluation at any time during such probationary period, may be subject to extension of probation or possible termination.

- I. When an employee is transferred or promoted to another position and their current rate of pay is less than the entry level pay for the new position, the employee's pay shall be increased to the entry level pay for the new position.

In case of transfer or promotion, when the employee's current rate of pay is at the same level as the entry level pay for the new position, the employee's pay shall remain the same.

When an employee is demoted to another position and the employee's current rate of pay is more than the entry level pay for the new position, the employee's pay shall be reduced to the entry level of pay for that position.

When an employee is transferred to another position because of better utilization of skills or where it will result in improvement of morale, and this employee's pay is more than the entry level of pay for the new position, the employee may transfer at the qualified level of pay if approved by the Department Head, Division Director (if applicable), Director of Human Resources and City Manager. In this case, there will be no pay increase after 6 months' probation is completed.

- J. **Salary Increases / Merit Increases** - will be granted only upon the recommendation of the Department Head, who shall consider the ability, attitude, attendance and production record of employees before making pay increase recommendations. Length of service alone is not considered a valid reason for requesting salary increases.

- K. **Pay Changes** - All changes in compensation, with the exception of longevity increases, shall be submitted on a “Personnel Action” form accompanied by an “Employee Performance Evaluation” form to the Human Resources Department.
- L. **Longevity Pay** - In addition to the base pay for each position, full-time employees receive longevity pay as listed below, for each year of continuous service rendered to the City up to and including 30 years. No longevity is transferable from another City. Re-hired persons are not eligible for previous longevity pay. **(Revised 10/01/24)**

In addition to a full-time employee’s regular salary, he/she shall be paid an additional sum per month as follows based upon continuous years of service with the City. The monthly amount is calculated by the applicable rate listed below multiplied by the number of years of service as of September 30<sup>th</sup> of the prior year (ex: for an employee with 5 years of service, \$4.00 X 5 = \$20 /month). The years of service will include prior years of service in a part-time position, if there was no break in service between the part-time employment and full-time employment. Longevity Pay shall be based on the following:

- \$4.00 per month for years 1-9;
  - \$5.00 per month for years 10-19;
  - \$6.00 per month for years 20-29;
  - \$7.00 per month for years 30 or more.
- (Revised 10/01/24 effective 10/1/25)**

The Longevity Pay will begin with the first full payroll of the new fiscal year after the full-time employee’s one-year anniversary of hire and will be increased in the appropriate increments each October thereafter. Civil Service employees begin receiving their Longevity Pay on the first payroll following their one-year anniversary of hire. Longevity Pay for Civil Service employees is based on the most recent City ordinance addressing Civil Service pay.

- M. **Biweekly Payroll** - The City of Brownwood is on a bi-weekly payroll period for all employees. Pay periods end on Wednesday of every other week. Payroll checks will be prepared and issued to employees on Friday of the same week. Should Friday be a City holiday, all employees will be paid on the last working day preceding such City holiday. Salary advances shall not be made. If an employee discovers an error on his / her paycheck, it is their responsibility to contact the Human Resources Department immediately. For Direct Deposit information, see Section 22. **(Revised 05/01/07)**
- N. **Part-time and Temporary Employees** - are paid on a bi-weekly basis at a rate determined in the budget appropriation, and shall not be entitled to benefits other than Holiday pay as specified in Section 36-E, and workers compensation for job injuries as specified in Section 52 and 52-A.
- O. With prior approval of the City Manager and the Department Head, an employee temporarily working in a position with a higher pay grade for more than two continuous weeks, may be paid the entry pay rate of the higher-level position, plus their own longevity and certification pay. Pay will not start until after two weeks of working in the temporary position.
- P. **Classifications** **(Revised 4/01/2014)**  
 Employees will be classified as one of the following:
  1. Full-time hourly employment: Employed “at will” with a scheduled work week of 30 hours or more;
  2. Full-time salaried / overtime exempt employment: Employed “at will” with a set salary for any week in which the employee performs work, unless one of the criteria is met in Section 16 – R listed below;

3. Part-time employment: Employed “at will” on a regular schedule and scheduled to work less than 30 hours per week and not to exceed 999 hours in a fiscal year;
4. Temporary or seasonal employment: Employed “at will” for either a specified or unspecified period of time and scheduled to work less than 30 hours per week, not to exceed 119 days per year and 999 hours in a fiscal year.

Part-time employees or temporary or seasonal employees may not work in any other position within the same fiscal year, unless the combined hours and days worked in both positions are less than 30 hours per week, not to exceed 119 days per year and 999 hours in a fiscal year.

Q. **Overtime Pay** - All employees except those in an exempt status, shall be paid for overtime work as described below:

1. All employees who are not police officers or fire fighters shall be paid for overtime work at time and one-half (1 ½) for hours worked over forty (40) hours in a work week. Any leave time such as holidays, sick leave, vacations, etc., will not be considered as working hours for purposes of calculating overtime pay.
2. Overtime for police officers will be paid per the “Meet and Confer Agreement” between the Brownwood Municipal Police Association and the City of Brownwood.
3. Overtime for firefighters will be paid per the “Meet and Confer Agreement” between the Brownwood Firefighters Association and the City of Brownwood.
4. No overtime shall be authorized unless the work has been certified by the Department Head as necessary and prior approval has been received from the Department Head or City Manager. In any arrangement for rotating shifts or overtime, the Department Head shall make the final decision concerning the employee’s work schedule.

R. **Salaried / Overtime Exempt Employees:**

It is the decision of the City Manager if a salaried / overtime exempt employee will or will not be paid their full salary for any week in which:

1. the employee is absent from work for one or more full days for personal reasons, other than sickness or disability, and the employee has no qualifying paid leave available;
2. the employee is absent for one or more full days because of sickness or disability (including work-related accidents), and the employee does not have paid leave available in his / her leave balance;
3. the employer imposes a penalty in good faith for infractions of safety rules of major significance;
4. the employer imposes, in good faith, an unpaid disciplinary suspension of one or more full days for infractions of certain workplace conduct rules of general applicability;
5. the employee takes leave under the Family and Medical Leave Act, and has exhausted all available paid vacation leave, sick leave, holiday leave and/or catastrophic leave;
6. the employer makes a deduction to offset jury fees, witness fees or military pay received by the exempt employee.

Note that for any workweek in which an employee performs no work, there is no compensation required. This is not considered a qualification for removal of an exempt employee’s salary or overtime exempt status.

S. **On-Call Pay** (Added 4/01/2014) - The City provides for after-hour service needs by allowing some departments to designate certain non-exempt employees to be on-call. Employees designated to be on-call are expected to respond to departmental after-hour service needs as required by procedures established by their department. The pay for on-call time is established by recommendations from the Department Head and Director of Human Resources and must have

the approval of the City Manager. Only employees in positions designated by the Department Head and approved by the City Manager will be assigned on-call duties.

During the period an employee is on-call, the employee must be able to respond to emergencies. If the employee is under the influence of drugs or alcohol or otherwise incapacitated when he/she responds to a call, the employee will be sent home and will be subject to disciplinary action.

## **SECTION 24. PROBATION PERIOD**

Every person appointed to a position in the service of the City shall be required to successfully complete a probation period of six months on the job. Approved leave without pay beyond 5 workdays during the probation period may be reason to extend the probation period. (Revised 4/01/2014)

- A. The Department Head shall use the probation period to closely observe and evaluate the work of all newly appointed employees and to encourage their effective adjustment to the job and service of the City. Department Heads shall retain only those employees who meet an acceptable standard of work, attitude and character during the probation period.
- B. A new employee may be dismissed at any time during the probation period when, in the judgment of the Department Head or supervisor, the quality of his work, attendance, or attitude is not such as to merit continuance in the service.
- C. When a probationary employee is found to be addicted to the use of narcotics or to the habitual use of intoxicating beverages, has unsatisfactory character, unsatisfactory previous employment records, has failed to submit pertinent information requested by the Director of Human Resources, has practiced fraud or deception or made false statements in his application, or shows the inability or unwillingness to work the required work schedule, the Department Head may terminate employment, unless such conditions or irregularities are waived by both the Department Head and the City Manager.
- D. All City employees receiving transfers, promotions or demotions shall serve a six-month probationary period in any new position. Sub-sections A, B, C, D and E shall apply. Retreat rights to a vacant or previously held position are not provided.
- E. Employees shall not be deemed to have completed the probationary period until so certified by the department on an "Employee Performance Evaluation" submitted to the Human Resources Department. Probationary employees shall be appraised on the Employee Performance Evaluation form after approximately three-months of employment, at the conclusion of the probationary period, and when a recommendation to terminate is made.
- F. The employee's probation period may be extended at the discretion of the Department Head and approval of the City Manager.

## **SECTION 25. EMPLOYEE PERFORMANCE EVALUATIONS** (Revised 7/01/2009)

The purpose of evaluating an employee's performance is to identify whether the employee is meeting supervisory expectations and to provide a time for structured feedback to the employee. Performance evaluations are a continuous communication process between the employee and supervisor. Formal periods involving written performance evaluation forms allow the employee and supervisor to fully review all aspects of the employee's performance and establish expectations for future review periods.

The Director of Human Resources shall be responsible for development of forms and procedures and the administration of the City's employee evaluation program. Original copies of all "Employee Performance Evaluation forms shall be sent to the Director of Human Resources for inclusion in employee's personnel file.

The following outlines the routine frequency of occurrence for employee evaluations. Nothing in this section shall prohibit the City from taking disciplinary action, including possible termination, against an unsatisfactorily performing employee at any time.

- A. Probationary Period- Rating Frequency:
  - A. Mid-Probationary Evaluation: Probationary employees shall be evaluated at approximately three calendar months of performance. The intent of the mid-probationary evaluation is to furnish the probationary employee at least one formal assessment of performance prior to the final evaluation which normally occurs immediately prior to completion of the six calendar months of performance.
  - 2. Prior to Completion of Probation (6 months): Probationary employees shall be evaluated at approximately five and one half (5 ½) months. The results of this evaluation will contribute to the department's decision to retain or release the probationary employee.
  - 3. Promotional Probation: Promotional probationary employees will be evaluated in the same manner as regular probationary employees.
- B. Annual Performance Evaluations: All full-time employees shall have their performance appraised not less than annually by their immediate supervisor.
- C. Discretionary Merit Increases: All merit increases, if approved, require a completed Employee Evaluation form be submitted to the Human Resources Department with the Personnel Action Form prior to the effective date of increase. Merit increases received without the required employee evaluation form and City Manager's approval will not be processed.
- D. The required list of evaluations above does not limit the Department Head from conducting additional evaluations. An employee may be evaluated at any time the Department Head feels it is necessary.
- E. Department Heads will furnish the employee a copy of their performance evaluation form.

**SECTION 26. OUTSIDE EMPLOYMENT** (Revised 7/01/2009)

An employee of the City of Brownwood may be permitted to engage in outside employment provided:

- 1. Such employment does not conflict or interfere with the performance of duties with the City; and
- 2. Employee receives prior written approval from their Department Head before any outside employment or other work activity is undertaken.

Failure to meet these requirements may be cause for disciplinary action. Written approval may be revoked by the Department Head at any time. The written approval or disapproval shall be filed in the employee's personnel file in the Human Resources Department.

**SECTION 27. PROMOTIONS** (Revised 09/22/2020)

- A. It is the policy of the City of Brownwood to provide promotional opportunities whenever possible to qualified employees. Employees are encouraged to take advantage of these opportunities by qualifying themselves for advancement and by maintaining a high level of job performance, service, interest, and loyalty and exhibiting the ISERVE Core Values. Employees

interested in promotional job openings must make applications through the Human Resources Department on a “Job Application for Transfer or Promotion” form (see Appendixes).

- B. When a department budgets for a higher-level position, for example an Operator II, and must hire an employee in a lower position, such as an Operator I due to no qualified applicants with required certifications, CDL, etc., that Department Head in coordination with the Director of Human Resources may promote that lower position employee to the higher position without going through the job posting process after they have met all qualifications for that higher level position.

## **SECTION 28. TRANSFERS** (Revised 09/22/2020)

Employees may be transferred between Departments provided the following conditions are met:

- A. The transfer of employees between Departments shall be coordinated by the Human Resources Department.
- B. Transfers resulting in promotion are conducive to good employee morale and are in keeping with the objectives of the City.
- C. Transfers not resulting in promotion are generally discouraged and considered only in instances where better utilization of skills may be accomplished or where improved morale might result.
- D. The employee must be qualified to fill the job that is open, and the transfer must not create undue hardship in the department being vacated. The department receiving the transferred employee must work closely with the department being vacated for replacement training, if necessary.
- E. Transfer between departments shall be affected without loss of vacation, sick leave or other benefits to the employee. Scheduled vacations must be re-authorized by the Department Head of the employee’s new department.
- F. Employees receiving transfers shall serve a six-month probationary period in the new position. Retreat rights to a vacant or previously held position are not provided.
- G. Probationary employees are not eligible to request a transfer to another department without the authorization of the City Manager. If a Department Head decides an employee is not going to pass probation but believes the employee would be a good fit for another department with a vacancy, the City will allow the employee the opportunity to transfer. A transfer request must be filled out and all other transfer policies in this section shall be followed. This does not guarantee an employee a transfer, only the opportunity to retain employment rather than be terminated for not passing probation.

## **SECTION 29. PERSONAL APPEARANCE/CITY UNIFORMS** (Revised 4/01/2014)

It is the policy of the City that each employee’s dress, grooming and personal hygiene should be appropriate to the workstation. Favorable personal appearance is an ongoing requirement. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted.

The personal appearance of office workers is governed by the following standards:

- A. Employees are expected to dress in a manner that is normally acceptable in similar business establishments.

- B. Hair should be clean, combed and neatly trimmed or arranged. Unkempt hair is not permissible regardless of length. If the length of the hair is a safety issue, the Department Head has the right to restrict the length of hair.
- C. Sideburns, mustaches and beards should be neatly trimmed.
- D. Tattoos must be appropriate in content and in keeping with a professional image. Any tattoos of inappropriate content must be covered while at work.
- E. Headwear: The City of Brownwood has issued to all uniformed personnel an official uniform baseball styled cap. The use of other caps or headwear is not allowed except when using personal protective equipment for the head.

The City of Brownwood will reasonably accommodate religious-based requests if the safety of the employee and co-workers is not at risk. However, Fire and Police uniform requirements shall be enforced and consistently applied.

The personal appearance of employees who do not work inside is governed by the requirements of safety and comfort but should still be as neat and business-like as working conditions permit. City uniforms, where appropriate, should be utilized.

At his / her discretion, on certain occasions, the Department Head or City Manager may allow employees to dress in a more casual fashion than is normally required. On such occasions, employees are still expected to present a neat appearance and are not permitted to wear ripped or disheveled clothing, athletic wear, or other similarly inappropriate clothing.

Any employee who does not meet the standards of this policy will be required to take corrective action, which may include leave without pay. Violations of this policy will result in disciplinary action. If uniforms are provided for an employee, he/she is required to wear the uniforms, unless given an exemption by their Department Head. The wearing and use of City issued uniforms should be for City related purposes only.

When an employee terminates employment, the Supervisor is responsible for notifying the Purchasing Department to stop the uniform service. The final payroll check will be held in the Human Resources Department until all uniforms have been turned in to the Purchasing Department.

### **SECTION 30. PUBLIC RELATIONS**

It is the policy of the City of Brownwood that the relationship existing between City government and the general public it serves should be improved at every opportunity. Municipal public relations involve the performance of duties by every City employee with ISERVE Core Values and Employee Code of Ethics. Pursuant to this policy, every City employee is hereby urged to exhibit at all times a willingness to listen and a desire to understand completely the viewpoint of any citizen addressing him; to display at all times an attitude of helpfulness; and to make every possible effort consistent with good taste and good judgment to channel matters of citizen interest to the proper department within whose jurisdiction such matters fall. In case of the slightest doubt in the mind of any employee as to which department a citizen should be referred, they are requested to refer such matters to the City Manager's office.

### **SECTION 31. FINANCIAL OBLIGATIONS**

All City employees are expected to do everything possible to maintain good credit rating, pay City taxes promptly and satisfy all just debts. Failure to do so not only jeopardize the credit standing of fellow employees, but also reflects against the City government.

**SECTION 32. HOURS OF WORK / NATURAL DISASTERS AND PANDEMICS** (Revised 10/01/24)

A. Hours of Work

The hours during which City offices and departments shall be open for business shall be determined by the City Manager.

B. Natural Disasters and Pandemics

Because of the essential and direct impact on public safety and health, City services must continue regardless of natural disasters or pandemics. Given this obligation to the citizens of Brownwood, the following policy will apply during these extraordinary events.

1. If City Hall is open for business, all employees are expected to be at work.
2. If an employee does not come to work or misses any portion of a workday due to road conditions, day care center closings or other extenuating circumstances, when City Hall is open, the employee must notify their supervisor according to various departmental notification rules (i.e., by a certain time, calling the appropriate person, etc.). The employee may use vacation time, holiday time accrued or leave without pay.
3. If City Hall is closed, the City Manager will make the decision as to whether employees will receive pay for the hours lost. Each event will be looked at individually based on severity and length of time.
  - a. Non-Exempt employees that respond during one of these events (not declared a disaster), will receive 1.5 times their regular rate of pay for their actual time worked during that event. This is only for non-civil service employees.
  - b. In the event of a disaster declared locally or by the State or Federal Government, subject to written authorization of the City Manager, all employees, including those who are FLSA Exempt, will be paid overtime at the rate of one- and one-half times the normal hourly rate when the hours they actually work exceeds their normal hours as defined in a work cycle or workweek.
  - c. Any employee, including those who are FLSA Exempt, will be paid overtime in accordance with the compensation standards for a local disaster and the resource orders and systems for all deployments, including but not limited to TIFMAS, IMT, Swift Water, DSHS, EMAC and IMAC. Deployment overtime will be paid in accordance with the memorandum of understanding or other documents for the type of deployment activation and will be established prior to the employee responding to the disaster. If the resource orders and systems for deployments provide that overtime will not be paid for an employee, then the employee will not be paid overtime for the deployment.
4. The City Manager and Department Heads will make the decision as to whether an employee's required time to report to work will be delayed if dangerous conditions exist. Both the needs of the City and the safety of the employee will be taken into consideration.

**SECTION 33. TIME CLOCK RULES** (Revised 4/01/2014)

The time clock punch is an employee's official record of time worked and is primarily the responsibility of the employee. The time clock punches for the beginning and ending punches of a shift use the "7/8 minute – quarter hour" rule. For example: a punch that is 7 minutes or less is rounded down to the quarter hour, and punch that is 8 minutes or more is rounded up to the quarter hour. Lunches and other unpaid leaves during the shift are measured by the interval. The time keeping software measures the amount of time the employee takes off rounded to the nearest quarter hour (52 minutes rounds to ¾ of an hour, 53

minutes rounds to a full hour) and deducts that from the total hours in the shift. The Kronos entries generate the hours for the paychecks; therefore, the time clock punches must be accurate.

This section is intended to provide information on the 7/8-minute rounding rule for purposes of calculating pay. It is not intended to replace on-time and shift policies for when employees are supposed to punch in and out. An employee should work his or her entire shift. If the shift is 7:00 am to 3:00 pm, the employee should report to work and punch as close to 7:00 am as practicable. At the end of the shift, the employee should work up to and punch as close to 3:00 pm as practicable. The rounding rule should not be used to justify coming in late or leaving early by seven minutes on a regular basis simply to get paid for the quarter hour.

1. Any falsification of a time record is reason for discipline and/or possible termination.
2. All employees must clock-in for themselves. Anyone found clocking in for another employee is subject to disciplinary action, up to and including discharge. The employee, receiving credit for the clock-in by another employee, may be subject to disciplinary actions. If an employee finds his/her time already punched, it should be brought to the immediate attention of their supervisor or be subject to disciplinary action, up to and including discharge.
3. There will be no "Compensation Time" (Comp Time) granted.
4. All overtime must be approved by your supervisor prior to working the time.
5. Any punches before or after the employee's regular work schedule will be reviewed by his/her supervisor.
6. Off-the-clock work is prohibited and failure to accurately record working time is grounds for discipline and/or possible termination of employment.
7. To prevent overtime, the Department Head, may authorize alternative work schedules during that 40-hour work week. This does not apply to Civil Service employees.

#### **SECTION 34. REST PERIODS**

If authorized by their immediate supervisor, employees may take two, 15-minute rest periods each workday. Such rest periods shall be considered a privilege and not a right and shall never interfere with proper performance of the work responsibilities and work schedules of each department.

#### **SECTION 35. EMPLOYEE SUGGESTIONS**

The City Manager, Department Heads and supervisors encourage employees to make suggestions which might improve municipal service, safety, maintenance costs, communication, methods, public relations or anything that will enable the City of Brownwood to do a better job and display the ISERVE Core Values.

### **III. TYPES OF LEAVE**

#### **SECTION 36. HOLIDAYS** (Revised 09/28/2021)

Official holidays with pay for all full-time City employees are:

- New Year's Day
- Martin Luther King, Jr. Day
- Good Friday
- Memorial Day
- Juneteenth (Revised 09/28/2021)
- Independence Day
- Labor Day
- Veteran's Day (Revised 09/28/2021)
- Thanksgiving Day and the day after, and
- Christmas Day and either the day before or after as designated by the City Manager.

Full-time employees regularly scheduled to work 40 hours per work week (2080 hours per year) will be paid 8 hours of holiday leave on each of the approved holidays. Full-time employees whose regular schedule is less than 40 hours per work week will be paid the amount proportionate to their regular work schedule (ex: 32 hours per week or 64 hours biweekly = 6.4 hours holiday leave with pay). Police and Fire Civil Service employees are governed by their local agreements and local Civil Service Rules.

Observance of the designated holidays shall be subject to the following conditions:

- A. Department Heads may revoke or restrict observance of any holiday in order to provide necessary functions and services by their departments. No City departments or offices shall be closed on days not designated as an official City holiday unless they have received permission of the City Manager.
- B. If one of the above-designated holidays occurs on a weekend, it shall be observed on the preceding Friday, or the following Monday, depending on City Manager's designation.
- C. Any employee who is required by his/her supervisor to work on an official City holiday shall receive a subsequent day off within the current pay period or the employee may bank the holidays without limit or receive payment for the holiday hours at their current rate of pay on the next regular paycheck. However, the employee may not take more than 18 holidays within a rolling 12-month period.

Additional pay for a holiday worked, in lieu of time off, shall be granted with the approval of the Department Head. If a non-exempt, non-Civil Service employee works outside of normally scheduled hours for a call-out during the pay period of a holiday, then the call-out work time will be paid at one and a half times their regular rate of pay.

- D. Employees wishing to observe religious or ethnic holidays not listed herein shall, at their option, be given time off without pay or have the time off charged to their vacation.
- E. Seasonal and temporary employees shall be paid their regular rates on a holiday only if required to work. Part-time employees who are employed in a position that is not temporary or seasonal shall be paid regular rates for the usual hours they would normally work on a holiday if it were one of the City's official holidays. (Revised 9/12/00)

- F. Employees absent without leave on the day immediately preceding or following a holiday, unless mutually agreed upon with their supervisor, shall lose pay for the holiday as well as pay for the workdays absent. Employees requesting sick leave after a holiday may be required to furnish a doctor's statement.
- G. Employees absent from regular duty on vacation, sick or funeral leave when a holiday occurs shall be given the holiday on the appropriate day, except in case of extensive sick leave or leave without pay taken in excess of 30 consecutive calendar days, in which case no holidays shall accrue.
- H. Employees absent from regular duty on authorized leave with or without pay, other than vacation, funeral leave and sick leave, shall forfeit all rights to holidays, or benefits accrued which occur during such absences.
- I. An employee whose services are terminating shall not be paid holiday pay if the holiday follows the last day of actual work.
- J. Special holidays declared by the City Council, or the City Manager shall be observed in accordance with the provisions of this section.
- K. Upon termination of employment, employees who are allowed to bank holiday leave shall be paid for holiday leave in their bank at their current rate of pay provided the payment is not for more than 10 holidays. An employee who resigns, retires or is terminated shall not take more than 2 days of holiday leave within the 2 weeks prior to their last day of employment unless directed by their Department Head.

**SECTION 37. VACATION LEAVE** (Revised 10/01/24)

Employees in full-time positions will be eligible for vacation leave with full pay. **An eligible employee earns vacation leave from the date of full-time employment** and shall accumulate vacation leave accruals in accordance with the following schedule:

Schedule for non-exempt (hourly) employees:

<u>Years of Service</u>	<u>Accrual Rate</u> <u>Per Hour Hourly*</u>	<u>Accrual Rate</u> <u>Per Workday *</u>	<u>Vacation Days -</u> <u>Based on 8 Hour Day</u>
6 months	0.0385 hours	.308 hours	5
1 – 4 years	0.0385 hours	.308 hours	10
5 – 9 years	0.0423 hours	.338 hours	11
10 – 14 years	0.0462 hours	.369 hours	12
15 – 19 years	0.0500 hours	.400 hours	13
20 – 24 years	0.0538 hours	.431 hours	14
25+ years	0.0577 hours	.462 hours	15

Schedule for exempt (salaried) employees:

<u>Accrual Rate</u> <u>Employee Years of Service</u>	<u>Accrual Rate</u> <u>Per Hour Hourly*</u>	<u>Vacation Days-</u> <u>Per Workday *</u>	<u>Based on 8 Hour Day</u>
6 months	0.0577 hours	.462 hours	7.5
1 – 4 years	0.0577 hours	.462 hours	15
5 – 9 years	0.0615 hours	.492 hours	16

10 – 14 years	0.0654 hours	.523 hours	17
15 – 19 years	0.0692 hours	.554 hours	18
20 – 24 years	0.0731 hours	.585 hours	19
25+ years	0.0769 hours	.615 hours	20

\*The “accrual rate per work hour” in the chart above is based on 2080 hours per year. For example: an employee will have 5 days of vacation leave available after 6 months of full-time employment and will have an additional 5 days accrued for the second 6 months of full-time employment for a total of 10 days’ vacation leave accrued after 1 year for hourly employees and 15 days for salaried employees. If a full-time employee is normally scheduled to work less than 2080 hours per year, the employee’s leave accruals will be adjusted proportionately.

\*Overtime hours shall not be included as pay status hours when computing the amount of vacation earned.

\*Vacation earned shall be credited to the employee, if eligible, on the last day of the bi-weekly payroll period, except an employee who is separating from the City shall earn proportionate vacation through the last day of employment.

Vacation leave accrual rates are different for fire fighters and police officers who are governed by State and Local Civil Service rules regarding the accrual of vacation leave. (Revised 9/23/08)

Vacation leave with pay is subject to the following conditions:

- A. Vacation leave shall be allowed to accumulate without limit. However, the employee may not take more than 25 days (200 hours) of vacation within a rolling 12-month period. (Revised 9/23/08) Police and Fire Civil Service employees are governed by Civil Service laws and their local agreements which may amend Civil Service laws.
- B. Vacation leave is not to be taken, nor will it be paid until six months of continuous service has been completed. Employees terminated for any reason prior to completing six months of continuous service shall not receive vacation pay.
- C. In the event that an employee leaves employment with the City after completing six months of continuous service, except for police officers and fire fighters who must have 12 months of continuous service, they shall receive payment for the vacation leave accrued, provided that such payment shall not be based upon more than 23 working days at the employee’s rate of pay at termination. Payment will be made on a regular payroll period. (Revised 9/23/08)
  - 1. If any Non-Civil Service employee is terminated for misconduct or resigns without the required 14 days’ prior notice, they shall forfeit any right to a vacation payout. The Department Head and Director of Human Resources will together determine whether or not the employee is allowed their vacation payout based on the reason for their termination. (Revised 10/1/24)
- D. Employees who retire under provisions of a City of Brownwood sponsored retirement program, or the estate of an employee who dies while employed by the City, shall receive a lump sum payment for their accumulated vacation leave at their current regular hourly rate of pay, provided that the payment does not exceed the following limitations:
  - 1. One year – 9 years of continuous service with the City of Brownwood shall be paid not more than 23 working days of accumulated vacation leave;
  - 2. Ten years – 19 years of continuous service with the City of Brownwood shall be paid not more than 25 working days of accumulated vacation leave;

- 3. Twenty and more years of continuous service with the City of Brownwood shall be paid not more than 27 working days of accumulated vacation leave.

Payment will be made on a regular payroll period.

- E. Official holidays occurring during a vacation period shall be given to the employee, thus replacing the charge of vacation leave.
- F. An employee shall not receive vacation leave accruals during periods of unpaid leave or Catastrophic Leave. This includes leave due to injuries that occurred while on the job as an employee of the City (workers compensation injuries). Fire and Police Civil Service employees shall accrue leave in accordance with Civil Service laws and their local agreements which have amended Civil Service laws.
- G. Department Heads shall schedule and approve all vacation leave within their departments, considering the needs of the City and due regard for the wishes of the employees.
- H. Employees transferring between departments shall carry with them their accrued vacation leave credits.
- I. Employees changing from full-time to part-time or temporary status shall be required to take or be paid out their eligible accumulated vacation leave prior to part-time or temporary status.
- J. Employees under suspension forfeit all claims to vacation leave for the duration of such suspension.
- K. Employees who become ill during their vacation leave may request their vacation to be temporarily terminated and their time off during the illness charged to sick leave. Sick leave during such time must be substantiated by furnishing a statement from their physician. Unused vacation time may then be taken at a time designated by the Department Head.
- L. Official records of vacation leave shall be maintained by the Human Resources Department.

**SECTION 38. SICK LEAVE** (Revised 09/28/2021)

Employees in full-time positions will accrue 15 working days of sick leave per year starting with their first day of full-time employment. New Hire employees will receive 3 days of sick leave on their first day of full-time employment. Full-Time employees shall accumulate sick leave accruals in accordance with the following schedule:

<u>Employee Years of Service</u>	<u>Accrual Rate</u> <u>Per Work Hour*</u>	<u>Accrual Rate</u> <u>Per Workday *</u>	<u>Sick Days</u> <u>Based on 8 Hour Day</u>
Hire Date			3
6 months	0.0577 hours	.462 hours	4.5
1+ years	0.0577 hours	.462 hours	15

\*The “accrual rate per work hour” is based on 2080 hours per year. If a full-time employee is normally scheduled to work less than 2080 hours per year, the employee’s leave accruals will be adjusted proportionately.

\*Overtime hours shall not be included as pay status hours when computing the amount of sick leave earned.

\*Sick leave earned shall be credited to the employee on the last working day of the bi-weekly payroll period, except that an employee who is separating from the City due to a qualified retirement (see Section 49. B.) shall earn proportionate sick leave through the last day of employment.

\*This policy does not apply to full-time employees who are employed as fire fighters and/or police officers. Fire fighters and police officers are governed by State and Local Civil Service Rules and sick leave is accumulated and paid as prescribed therein.

- A. Sick leave shall be granted for the following reasons only:
  - 1. When an employee is incapacitated for performance of productive City work due to illness or an off-job injury, (provided off-job injury is not covered by Workers' Compensation or employer's liability).
  - 2. Sick leave may also be granted for illness in the employee's immediate family. "Immediate family member" shall be defined as an employee's relatives, plus the employee's stepchild, stepparent, stepbrother, stepsister and any member of the employee's household. "Relative" is defined as a person related within the second degree by marriage or third degree by blood as shown on Nepotism Chart located in the appendixes. The employee may be required to provide proof of relationship to Department Head.
  - 3. When an employee has been exposed to a contagious disease and his/her presence on the job would jeopardize the health of others. (Contagious disease in this instance would imply one that would warrant quarantine by the Health Department).
  - 4. When medical, dental, mental health, or eye examination or treatment is necessary (prior approval from the Department Head may be required).
- B. Sick leave may be accumulated without limit. It is the intention of the City to provide a "bank" in which employees may deposit unused sick leave to assist them during an illness or off-job injury until they can return to work. Sick leave may serve only for this purpose and has no cash surrender value upon termination of service, whether by discharge, layoff or resignation. Employees shall not be paid for sick leave during the last two weeks of employment unless documented by a physician's statement indicating employee is "ill and unable to work".

Employees who retire under provisions of a City of Brownwood sponsored retirement program, or the estate of a current employee who dies while employed by the City, shall receive, in a lump sum payment, for the period of their accumulated sick leave at their regular hourly rate of pay, provided the employee has at least five continuous years of service with the City of Brownwood.

Such payment shall not be based on a total of more than 45 working days of such accumulated sick leave under present and/or previous sick leave policies; and provided further that in no case shall payment be made for death which is caused, directly or indirectly, by injuries received while in the commission of a crime. *(Revised 1/01/05)*

- C. When an employee's accumulated sick leave has been exhausted, unused vacation leave of the employee shall be used as sick leave. When absence due to illness exceeds the amount of paid leave, including Catastrophic Leave, earned and authorized, the pay of an employee shall be discontinued and the employee may either be categorized as "Leave Without Pay", or "FMLA Leave" if qualified or "Personal Leave" or terminated, as determined by the Department Head and the City Manager. (See appropriate leave sections.)
- D. In the interest of efficient operation, it is the responsibility of the Department Head to control the use of sick leave within their department. Frequent claims of sick leave benefits may constitute just grounds for the assumption by the Department Head that the physical condition of the employee is below the standard necessary for proper performance of duties, and the Department Head may dismiss, demote, suspend or deny promotion or salary increases to any employee whose attendance is unsatisfactory, with approval of Director of Human Resources.

- E. Employees who are absent from work due to illness or injury may be required by the Department Head or supervisor to submit a physician's statement documenting the illness or injury.

The City Manager or Director of Human Resources may require an employee to submit to a full and complete examination by a physician of the City's choice. In case of conflicting medical opinions between the employee's physician and the physician selected by the City concerning the physical fitness and recommended duty status of the employee, a third medical opinion from a physician selected by the City may be obtained, which will be binding on both the City and the employee. Any required second or third opinions will be paid for by the City.

- F. Notice of absence due to illness or off-job injury must be conveyed to the employee's Department Head or supervisor prior to the scheduled time for reporting on duty on the first day of such absence and each workday thereafter, unless otherwise authorized by the Department Head or supervisor. Failure to do so may result in the employee being considered absent without pay.
- G. An employee shall not receive sick leave accruals during periods of unpaid leave. This includes leave due to injuries that occurred while on the job as an employee of the City (workers compensation injuries). Civil Service Fire and Police shall accrue leave in accordance with Civil Service laws and local agreements which have amended Civil Service laws.
- H. Official holidays occurring during a period of illness shall be accorded to the employee, thus replacing the charge of sick leave.
- I. Sick leave shall not be extended to temporary employees appointed to positions of limited duration, temporary employees appointed to positions required by seasonal activities, or employees appointed to positions on a part-time basis. Employees transferring from full-time to part-time or temporary status shall not be due any sick leave accrual.
- J. Employees transferring between departments shall carry with them their accrued sick leave credits.
- K. Employees shall not be permitted to engage in any employment or business outside of their regular City duties from the time they give notice of absence due to illness or injury until such time as they have returned to work in their respective City department.
- L. An employee under suspension forfeits all claim to sick leave for the duration of such suspension.
- M. Official records of sick leave shall be maintained in the Human Resources Department.

**SECTION 39. ROLLOVER PAID TIME OFF** (Revised 10/01/24)

Employees who have a Sick Leave balance of more than 45 days may transfer a portion of their Sick Leave to their Rollover Paid Time Off bank. Hourly employees may transfer up to 5 days and salaried employees may transfer up to 7 days. This selection will be done at Open Enrollment prior to the start of each fiscal year.

- A. The employee must still have at least 45 days remaining in their Sick Leave bank and less than 25 days in their Vacation Leave bank in order to transfer their hours to their Rollover Paid Time Off bank. The minimum amount of time required to transfer is 1 day.
- B. Any hours transferred to Rollover Paid Time Off shall be used within the fiscal year they are transferred. At no time shall this paid leave carry over to the next fiscal year or be paid out upon termination or retirement.
- C. On the last business day of September each fiscal year, all remaining Rollover Paid Time Off shall be removed from each employee leave bank by Human Resources.  
(Revised 09/22/20)

- D. Full-Time Employees retiring from the City may, at the time of retirement, roll over Sick Leave to their regular Vacation Leave bank to be paid out as a part of their compensation on their final paycheck. The maximum amount rolled over cannot exceed the amount they are eligible to be paid at retirement per Section 37. Vacation Leave. This does not include Civil service employees.

#### **SECTION 40. FUNERAL LEAVE** (Revised 4/01/2014)

An allowance of up to five working days in a 12 month period with pay may be extended a full-time employee who experiences the death of an immediate family member. For Fire Fighters, the definition of a “working day” for this section shall be 12.0 hours. For Police Patrol Officers, the definition of a “working day” for this section shall be 8.4 hours. For other full-time City employees, the definition of a “working day” shall be 1/5 of their regular weekly schedule (ex: 32 hours X 1/5 = 6.4 hours, or 40 hours X 1/5 = 8 hours).

- A. “Immediate family member” shall be defined as an employee’s relatives, plus the employee’s stepchild, stepparent, stepbrother, stepsister and any member of the employee’s household. “Relative” is defined as a person related within the second degree by marriage or third degree by blood as shown on Nepotism Chart located in the appendixes. The employee may be required to provide proof of relationship to Department Head.
- B. Department Heads may grant an employee vacation leave or leave without pay to attend a funeral of a person other than an immediate family member or to serve as a pallbearer.
- C. Funeral leave is not dependent upon the length of service of an employee.

#### **SECTION 41. CATASTROPHIC LEAVE POOL PROGRAM** (Revised 10/01/24)

##### **I. Purpose**

To help reduce the hardship due to a prolonged or catastrophic off-the-job qualifying event that forces an eligible employee to exhaust all accrued paid leave for medically related reasons due to a serious health condition of self or an immediate family, or death as covered under Section II of this policy.

##### **II. Definitions**

- 1. “Prolonged or catastrophic off-the-job qualifying event” – is defined as medically necessary surgery, illness, injury or disability which requires hospitalization and / or convalescence or recuperation in an extended care facility or at home while under the care of a licensed physician for either the eligible employee or immediate family member. Death of an immediate family member is also a qualifying event.
- 2. “Eligible Employee” – in order to receive additional sick leave from the “Catastrophic Leave Pool” an eligible employee must meet all the criteria set forth below:
  - a. Has experienced a prolonged or catastrophic off-the-job qualifying event.
  - b. Has exhausted all accrued paid leave (including sick, vacation, and holiday leave).
  - c. Has met job performance and work rules prior to application.
  - d. Is a current member of the catastrophic leave pool.
  - e. Is not off of work due to an on-the-job injury or receiving worker’s compensation benefits.
  - f. Has at least one year of service with the City of Brownwood as a full-time employee.
  - g. At the time the employee requests Catastrophic Leave, the employee may not be off of work due to disciplinary reasons.

h. An employee with written disciplinary action(s) regarding the abuse of leave within the last 12 months will be reviewed by the “Catastrophic Leave Pool Committee,” and may not be eligible for donations from the catastrophic leave pool.

3. “Immediate family member” shall be defined as an employee’s relatives, plus the employee’s stepchild, stepparent, stepbrother, stepsister and any member of the employee’s household. “Relative” is defined as a person related within the second degree by marriage or third degree by blood as shown on Nepotism Chart located in the appendixes. The employee may be required to provide proof of relationship to Department Head.
4. “Member” – an eligible city employee who has donated a minimum number of hours to the catastrophic leave pool.
5. “Day” – adjustment of donations to equate one day or one-half day will be made when Fire Civil Service employees are donating to or receiving donations from the pool (example: 1 day for Fire Civil Service employees = 12 hours, 1 day for Police Patrol Division = 8.4 hours, 1 day for other employees = 8 hours).
6. “Plan Year” – the 12 months that run concurrent with the City’s fiscal year.

### **III. Eligibility**

Participation in the catastrophic leave pool is on a voluntary basis. In order to be a member of the catastrophic leave pool, the city employee must be:

- (1) A full-time regular employee who accrues sick leave in accordance with the Personnel Rules and Regulations manual; and
- (2) Have completed twelve calendar months of full-time employment with the city; and
- (3) Have a minimum accrued sick leave balance of 40 hours (72 hours for Fire Civil Service employees) remaining after donating hours during the annual enrollment period.
  - a. Exceptions may be made due to extenuating circumstances if approved by the Department Head and Catastrophic Leave Pool Committee.

### **IV. Enrollment Period**

The annual enrollment period will be held during Open Enrollment and in April each year.

### **V. Membership Requirement**

#### **A. Enrollment:**

To become a member of the catastrophic leave pool, an employee must contribute a minimum of four hours of their individual accrued sick leave each plan year during the open enrollment period (minimum of six hours for Fire Civil Service employees). An employee may elect to donate more accrued sick leave hours as long as a minimum required balance of 40 hours is maintained in their individual accrued sick leave at the time of membership, provided that an employee may not donate more than 40 hours in any plan year. Fire Civil Service Employees may not donate more than 60 hours in any plan year.

A member may not donate additional hours to the catastrophic leave pool after the employee has given notice of retirement or resignation or after he has been given notice of termination. After the member leaves the employment of the City, the hours that the member has previously donated, less any hours that have been used for catastrophic leave by the pool, shall be removed from the catastrophic leave pool.

The Catastrophic Leave Pool balance will be reviewed periodically by Human Resources and the Catastrophic Leave Pool Administrator to ensure the balance in the Catastrophic Leave Pool is sufficient. The employee shall complete a Catastrophic Leave Pool Donation Form available in the Human Resources office.

Members may cancel their participation at any time by giving written notice to the Catastrophic Leave Pool Committee; however, sick leave hours contributed to the sick leave pool will not be restored to the member upon cancellation.

#### **A. Members on Approved Catastrophic Leave**

Members of the catastrophic leave pool who are on approved catastrophic leave assistance time during an annual enrollment period shall not be required to donate to the pool for that enrollment period. However, the member shall be required to donate four hours (6 hours for Fire Civil Service employees) of accrued sick leave for all future enrollment periods if he/she wishes to continue as an active member of the catastrophic leave pool.

If an employee is on approved catastrophic leave prior to the start of the City's fiscal year, and the approved leave continues past the start of the City's fiscal year (October 1<sup>st</sup>), the catastrophic leave with pay from the pool will continue as approved by the Catastrophic Leave Pool Committee.

If the member on approved catastrophic leave has been approved for Family Medical Leave Act / FMLA leave, the FMLA leave will run concurrently with the catastrophic leave.

#### **B. Contributions are non-refundable.**

Sick leave hours contributed to the catastrophic leave pool will not be refunded to a contributing member for any reason.

### **VI. Administration of Catastrophic Leave Pool**

#### **A. Catastrophic Leave Pool Administrator**

The City Manager shall designate the Catastrophic Leave Pool Administrator. The Catastrophic Leave Pool Administrator shall adopt forms, procedures, and regulations for the administration of this policy. The Catastrophic Leave Pool Administrator has the authority to request an unscheduled meeting of all committee members if the need arises. After reviewing, the Committee will make recommendations to the Catastrophic Leave Pool Administrator for approval or denial of applications for catastrophic leave pool hours in accordance with the provisions of this policy. The decision of the Catastrophic Leave Pool Administrator to approve or deny request for catastrophic leave assistance will be final and binding.

#### **B. Catastrophic Leave Pool Committee Membership**

A Catastrophic Leave Pool Committee will be established to review requests for leave and recommend awards of catastrophic leave hours to the Pool Administrator. The members of the Catastrophic Leave Pool Committee shall be appointed by the City Manager and shall serve for staggered terms. The Catastrophic Leave Pool Committee shall consist of at least three members made up of the City Manager, one Department Head and one participating member of the Catastrophic Leave Pool. Such members will be required to protect the privacy of employee requests in accordance with HIPPA regulations. The Catastrophic Leave Pool Committee will meet as needed to review requests submitted to the Human Resources Office.

### **VII. Processing Requests for Catastrophic Leave Pool Time**

The following procedures shall be used to request catastrophic leave pool time:

1. A member shall complete a Catastrophic Leave Pool Application Form available in the Human Resources office. A participating member may request catastrophic leave assistance when he/she has experienced a qualifying event off the job and has exhausted all their paid leave entitlement. The member's qualifying event must be supported by a physician's statement that certifies the member's

inability to work, provides a prognosis for recovery and provides a projected time for return to work if applicable. The City of Brownwood's "Attending Physician's Statement" or the approved FMLA form titled "Certification of Health Care Provider" may be used for this purpose. The member must agree to provide any relevant information in the event verification is required by the Catastrophic Leave Pool Committee. In the event of death, a death certificate may be required.

2. The completed request form should be returned to the Catastrophic Leave Pool Administrator or the Human Resources office. The Catastrophic Leave Pool Administrator or the designee shall verify the eligibility of the requestor and forward all requests to the Catastrophic Leave Pool Committee.
3. The Catastrophic Leave Pool Committee shall make a recommendation on a member's request to the Catastrophic Leave Pool Administrator. The recommendation to the Catastrophic Leave Pool Administrator shall be made and delivered within three working days from the date the Committee meets and reviews the request(s).
4. The Catastrophic Leave Pool Administrator will notify the employee of his/her decision to approve or to deny the request within three additional working days from the date the recommendation is received.
5. A member's request for catastrophic leave assistance will not be denied on the basis of pre-existing conditions or reapplication as long as the eligibility criteria are met at the date of each application. The Catastrophic Leave Pool Committee may request recertification of the medical condition by a licensed physician as required by this procedure.

A member who applies for catastrophic leave assistance may not withdraw more time than "the lesser of one-third of the total amount of hours in the pool or 30 workdays" in any 12-month period. This may be extended to 90 workdays with proper documentation from treating physician, for each 30-day increment. The 12-month period is measured forward from the date on which the employee begins use of catastrophic leave. Subject to the yearly maximum, catastrophic leave assistance, if approved, may be requested all at one time or it may be requested intermittently, if medically necessary. If requested intermittently, a separate request must be made each time catastrophic leave is withdrawn from the catastrophic leave pool and each separate request must meet the eligibility requirements specified including medical certification. The maximum Catastrophic Leave that an employee may receive during his / her employment with the City of Brownwood is 180 workdays. (Workday for the purpose of this policy shall equal 12 hours for Fire Fighters, 8.4 hours for Police Patrol Division, and 8 hours for all other full-time employees.)

If a member withdraws catastrophic leave hours from the Catastrophic Leave Pool and is certified by his/her physician to return to work before all the catastrophic leave hours have been used, the remaining balance of awarded and unused catastrophic leave hours will be returned to the Catastrophic Leave Pool. If a member is not able to return to work following utilization of his/her rolling year maximum catastrophic leave assistance time, the member may request an unpaid leave of absence in accordance with the policy on "Personal Leave" and/or "Leave Without Pay (LWOP)". The employee may qualify for protection under the "Family Medical Leave Act (FMLA)".

### **VIII. Processing Approved Requests**

The Catastrophic Leave Pool Administrator shall provide written notification to the employee informing him/her of their approved request and the amount of catastrophic leave hours to be awarded within three (3) workdays from receipt of the recommendation submitted by the Catastrophic Leave Pool Committee. The notice will inform the employee with a schedule of when their first and last payment of the awarded hours will be issued. A copy of this notification will also be provided to the Human Resources office for processing. The employee's catastrophic leave balance will be updated to reflect the number of hours being awarded.

The employee's pay will be calculated using the employee's current hourly rate of pay times the number of awarded catastrophic leave hours. Disbursements of approved requests for catastrophic leave hours will be made at the end of each payroll reporting period to cover absences for that period until the approved amount of catastrophic leave hours has been exhausted or until such time as the employee returns to work. If an employee

returns to work before the approved catastrophic leave hours have been exhausted, the unused hours will be returned to the Catastrophic Leave Pool.

**IX. Employee Terminations**

Terminating employees with unused catastrophic leave hours will have their balance reduced to zero.

**X. Change of Employment Status**

If a member of the Catastrophic Leave Pool experiences a change in employment from a full-time regular position to a non-qualifying position, he/she will be treated as an employee termination with the unused catastrophic leave hours reduced to zero and donated to the Catastrophic Leave Pool. The employee's membership in the Catastrophic Leave Pool will be terminated effective as of the date of the change in employment status and the employee forfeits any benefits under the catastrophic leave pool.

**XI. Revisions to Procedure**

The Catastrophic Leave Pool Administrator reserves the right to make changes to the procedures if approved by the Catastrophic Leave Pool Committee when a situation or event not addressed in the procedures proves necessary. Any revisions will be communicated to all existing members of the Catastrophic Leave Pool in the month that the revision is made. The revision will also be communicated to all eligible employees on or before the next scheduled enrollment period.

**SECTION 42. MILITARY LEAVE** (Revised 4/01/2014)

To the extent that there is a conflict with the provisions of USERRA (Uniformed Services Employment Reemployment Rights Act) and this policy, USERRA shall control.

**Paid Military Leave:**

Any full time or regular part-time employee of the City who is a member of the Texas Army/Air National Guard or a member of other reserve components of the National Armed Forces, and the Texas State Guard or other active militia or military force organized under state law, is entitled to a leave of absence from assigned duties with the City without loss of time, seniority, or benefits on all days during which they are engaged in authorized training or duty ordered by proper authority. Employees will be paid for Military absences up to a maximum of 15 workdays per calendar year. The paid leave days may be consecutive or intermittent throughout the year. (Workday for the purpose of this policy shall equal 12 hours for Fire Fighters, 8.4 hours for Police Patrol Division, and 8 hours for all other full-time employees.)

In granting such leave of absence whether paid or unpaid, the Department Head shall require the employee to furnish certification that the employee was ordered or authorized to duty by proper authority. Such certification or copy thereof, showing inclusive dates, shall be furnished to the Human Resources Office by the Department Head.

**Unpaid Military Leave:**

Employees absent for more than the "maximum paid leave period" shall be considered on leave of absence without pay for all days in excess of the "maximum paid leave period". An employee may use accumulated vacation leave or holiday leave, if eligible, for leave in excess of the "maximum paid leave period."

Any full-time employee of the City who is drafted or serves in the regular military service shall, upon written application of the employee, be granted military leave of absence without pay. Such leave of absence shall continue during the period of active military service of such employee, not to exceed five years, plus any involuntary extension.

The City must maintain medical coverage and benefits coverage for the employee when he/she is called for military duty, with the same coverage as was in effect when the employee was called to active duty, unless the employee indicates in writing his/her desire to discontinue the City coverage. The employee must continue to pay any share of his/her employee-paid health benefits premium and any cost of dependent coverage and other elected coverage if applicable if he wishes to continue medical coverage.

**Re-employment Rights Eligibility Criteria:**

Any employee returning from military leave shall be reinstated in the same position or to a position of equal status, and at the pay level they would have attained if they had remained continuously employed, provided the employee is qualified to perform the duties of his previous position, can produce evidence of an honorable discharge from his military service, and reports back to work within the time frames set forth below. The City will reinstate the employee’s personal and family health insurance coverage to the same plan / coverage as other employees in the same or equal positions.

An employee who has a disability that was incurred during “qualified military service” still retains the right to reinstatement to his/her previous position or a position of equal status and pay that they would have attained if they had remained continuously employed, provided the employee is qualified to perform the duties of his/her previous position. The City will make reasonable efforts to accommodate a disability if it limits the employee’s ability to perform the job.

Following a period of “qualified military service”, a service member must report back to his/her civilian job in a timely manner or make timely application for re-employment, based on the following deadlines:

**Length of Period of Service**

Service of 1 to 30 days

**Reapply No Later Than**

Next regular workday after completion of service and time to travel from place of service to residence.

Service of 31 to 180 days

14 days after completion of service.

Service of 181 or more days

90 days after completion of service.

If the employee was discharged from the military for one of the following reasons, he/she may no longer have USERRA rights:

- a. Dishonorable or bad conduct;
- b. Under other than “honorable” or “general” discharge;
- c. Dismissal by sentence of general court-martial;
- d. Commissioned officer dropped from rolls due to absence without authority for at least three months.

If an employee returns from military leave in accordance with this policy, the employee shall begin accruing vacation, sick and holiday leaves at the rates established by the City for the number of years of service with the City plus the time of active military service. The employee’s Longevity Pay shall also be set at the rate established by the City for the number of years of service with the City plus the time of active military service.

**SECTION 43. FMLA LEAVE** (Revised 4/01/2014)

The City of Brownwood must provide eligible employees paid or unpaid FMLA leave for certain family reasons; continue health coverage for the employee during the FMLA leave; and return the employee to the same or equivalent position and employment benefits if the employee returns to work after the FMLA leave.

## **Definitions:**

“Child” or “Son or Daughter” is defined as a child 18 years or younger and includes a biological, adopted or foster child, stepchild or legal ward or a child of a person standing in loco parentis (i.e. in place of a parent). A child 18 years of age or older is included only if he or she is incapable of self-care because of mental or physical disabilities. To define a mental or physical disability, refer to the Social Security Act Regulations.

“Continuing Treatments” are those that may be met with a period of incapacity of more than three consecutive calendar days combined with at least 2 visits to a health care provider, or 1 visit to a health care provider and a regimen of continuous treatments such as prescription medication or therapy, incapacity due to pregnancy or to a chronic condition.

“Exigency” is defined as a situation calling for immediate attention; a state of affairs that makes urgent demands. A covered employer must grant an eligible employee FMLA leave for qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation as defined in the FMLA statute.

“FMLA Year” is defined as a 12-month forward period, measured from the first date of FMLA leave usage.

“Health Care Provider/Physician” includes Doctor of Medicine or Osteopathy who are authorized by the State in which they practice, or any other person determined by the Family Medical Leave Act to be capable of providing health care services.

“Key Employee” is defined as a salaried employee who is among the highest paid 10 percent of all City employees. If reinstatement of a key employee at the conclusion of the leave period would result in substantial and grievous economic injury to the City, reinstatement to the key employee can be denied.

“Leave of Absence” for eligible employees is defined as an approved absence for up to 12 weeks of unpaid leave per FMLA year, under particular circumstances.

“Medical Certification” is defined as certification from a health care provider to support the claim for leave to care for a seriously ill child, spouse or parent, or for an employee’s serious health condition.

“Needed to Care for” provides physical and/or psychological care. The employee does not need to be the only individual or family member available to provide care, nor is the employee required to provide actual care (e.g., someone else is providing inpatient or home care) as long as the employee is providing at least psychological comfort and reassurance.

“Parent” is defined as a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined.

“Serious Health Condition” is defined as an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of his/her job or prevents the qualified member from participating in school or daily activities. Common colds, earaches, headaches, other than migraines, etc. are not usually considered serious health conditions.

“Spouse” is defined as husband or wife as defined or recognized by State law for purposes of marriage, or a common law spouse as recognized by the State of Texas.

## **Qualifications of Employee**

Regular employees who have completed one year of employment with the City and have worked at least 1,250 hours during the previous 12 months are entitled to receive family and medical leave (also called “FMLA Leave”) in a 12-month forward period for one or more of the reasons listed below:

1. Birth of a child of the employee in order to care for such child (leave must be taken within a 12-month period after birth);
2. Upon the placement of a child with the employee for adoption or foster care (leave must be taken within a 12-month period after placement);
3. To care for the employee’s spouse, child or parent who has a serious health condition; or
4. When the employee is unable to perform the essential functions of his or her position because of a serious health condition;
5. Any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;” or twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness who is the spouse, son, daughter, parent or next of kin to the employee (military caregiver leave).

The Human Resources Director may require the employee to provide reasonable documentation or statement of a family relationship prior to approval of FMLA leave to care for a spouse, son, daughter or parent.

Requests for FMLA Leave should be made at least 30 days prior to the leave start date.

A “12-month-forward” period is measured forward from the employee’s first date an employee takes FMLA leave.

**Allowable Time for FMLA (non-Military Leave)**

An eligible employee is entitled to take up to 12 weeks of paid or unpaid FMLA Leave in any 12-month period. The 12-month period shall be a 12-month forward period measured from the first date an employee takes FMLA leave. At the time FMLA leave is requested by the employee, vacation, holiday and sick leave shall be used if available and **SHALL RUN CONCURRENTLY** with FMLA leave.

**(THE POLICY CHANGE ON LEAVE RUNNING CONCURRENTLY WITH FMLA LEAVE IS EFFECTIVE 6/01/2014)**

Sick leave may be used only as prescribed by the City of Brownwood Personnel Rules and Regulations. The provisions for using FMLA Leave for items 1 through 3, listed above, are as follows:

1. An employee who has accrued paid leave shall first use all accrued paid leave toward the 12 weeks of FMLA leave;
2. An employee who has no accrued paid leave will receive unpaid family and medical leave up to a maximum of 12 weeks;
3. An employee who has less than 12 weeks of accrued paid leave must first use all accrued paid leave toward the 12 weeks; thereafter, the remaining balance of the 12 weeks shall be unpaid FMLA leave; and
4. An employee who has more than 12 weeks of accrued paid leave may use the accrued paid leave over and beyond the 12 weeks, if necessary, for family and medical leave causes, only upon review by the Human Resources Department and approval by the City Manager.

An employee who takes FMLA leave under these provisions is entitled to be restored to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

A husband and wife who are eligible for FMLA leave and are both employed by the City of Brownwood may be limited, by law, to a combined total of 12 weeks of leave during any 12-month period if the leave is taken for any of the following reasons:

1. For the birth of a son or daughter or to care for the child after birth.
2. For the placement of a son or daughter for adoption or foster care, or to care for the child after placement.
3. To care for a parent with a serious health condition.

When the husband and wife both use a portion of the total 12-week entitlement for one of the purposes noted above, each spouse shall be entitled to the difference between the amount of time he or she has taken individually and 12 weeks of FMLA leave for a purpose other than those listed above.

### **Supervisor's Responsibility**

The employee's supervisor shall notify the Human Resources Director when he/she is aware of an employee under his direction with a "serious health condition" or "continuing treatments" by a health care provider as described in the definitions of this section. If an employee has been dealing with an illness or incapacity for five consecutive workdays, the supervisor should notify the Human Resources Director in case FMLA is needed.

### **Status of Service and Benefits**

No loss of service with the City will occur as a result of FMLA leave. No benefit credits, including TMRS contributions, will accrue during an unpaid status of the leave. Employees on unpaid leave will be notified by Human Resources of contribution options with TMRS. It is the employee's responsibility to initiate arrangements with TMRS for contribution payments.

1. Employees will be required to provide documentation from the health care provider certifying a medical necessity for FMLA leave, and the time and length of the leave requested. The City of Brownwood may require a second or a third medical opinion at the City's expense.
2. During FMLA leave, employee health, dental, vision and life benefits will continue. Therefore, the employee must continue to pay any share of his/her employee-paid health benefits premium and any cost of dependent coverage and other elected coverage if applicable.
3. The employee shall make payments to the City on a monthly schedule. If the employee desires to continue other types of benefits such as AFLAC or the Cafeteria Plan, he/she must make specific arrangements with the Human Resources Department for continuation and payment of the required cost. The employee shall reimburse the City on a monthly basis, and if not paid by the 20<sup>th</sup> of the current month, a notice of possible termination of the benefits shall be sent to the employee. If no payments are made for their dependent coverage or these other benefits by the end of the current month, the coverage will be cancelled.
4. Employees are responsible for repayment of any benefit costs paid by the City if they do not return to work, unless failure to return to work was for a verifiable reason beyond the employee's control.

### **Intermittent or Reduced Leave**

1. Leave may be taken on an intermittent or reduced leave schedule, if necessary, for approved reasons under this policy. The employee must attempt to schedule the leave so as not to disrupt the City's operations.
2. Employees will be required to provide documentation from the health care provider certifying a medical necessity for intermittent leave, and the time and length of the leave requested. The City of Brownwood may require a second or a third medical opinion at the City's expense.
3. The City may require the employee to transfer temporarily to an alternative position (equivalent in pay and benefits) which accommodates recurring periods of absence or to a part-time schedule provided the position has the equivalent rate of pay and benefits.

### **FMLA-MILITARY FAMILY LEAVE** (Revised 4/01/2014)

**Military Caregiver Leave** (also known as Covered Servicemember Leave): Under the first of these new military family leave entitlements, eligible employees who are family members of covered servicemembers will be able to take up to 26 workweeks of leave in a “single 12-month forward period” to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty. The definition of “serious injury or illness” also includes an injury or illness that existed before the beginning of the service member’s active duty that was aggravated by service in the line of duty on active duty. Based on a recommendation of the President’s Commission on Wounded Warriors (the Dole-Shalala Commission), this 26-workweek entitlement is a special provision that extends FMLA job-protected leave beyond the normal 12 weeks of FMLA leave. This provision also extends FMLA protection to additional family members (i.e., next of kin) beyond those who may take FMLA leave for other qualifying reasons.

Covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

### **Qualifying Exigency Leave**

Any qualifying exigency arising due to the spouse, son, daughter or parent of the employee being on active duty (or having been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to a total of 26 workweeks of leave during a 12-month forward period to care for the service member. The leave described in this paragraph shall only be available during one single 12-month forward period. Qualifying exigency refers to a number of broad categories for which employees can use FMLA leave:

- (1) Short-notice deployment;
- (2) Military events and related activities;
- (3) Childcare and school activities;
- (4) Financial and legal arrangements;
- (5) Counseling;
- (6) Rest and recuperation;
- (7) Post-deployment activities; and
- (8) Additional activities not encompassed in the other categories but agreed to by the employer and employee.

### **Allowable Time for FMLA-Military Leave**

An eligible employee qualifies for a **“combined” total of 26 workweeks** of FMLA military caregiver leave or this leave may be combined with any other FMLA-qualified leave during the same single 12-month period, but for no more than a combined total of 26 workweeks. The eligible employee must take no more than 12 workweeks of leave for a “qualifying exigency” or any FMLA leave other than FMLA military caregiver leave.

If both you and your spouse are employed by the City of Brownwood, the FMLA leave is limited to a combined total of 12 weeks (or combined total of 26 weeks if leave is to care for a covered service member with a qualified serious injury or illness).

Employees scheduled to work 40 hours work weeks will be eligible for 480 hours (1040 hours for the care of a covered service member) of FMLA leave each 12-month period. **For Fire fighters** whose schedules vary from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period will be used to calculate the hours eligible for FMLA leave during the 12-month period. **Police Officers** who are scheduled to work an average of 84 hours biweekly will be eligible for 504 hours (1092 hours for the care of a covered service member) of FMLA leave each 12-month period. Eligible full-time employees who work less than 40 hours per work week will receive the 12-week entitlement calculated on a proportional basis. For example, if

an employee normally works 32 hours per week, the employee is entitled to 32 hours per week for 12 weeks (384 hours) of FMLA leave each 12-month period.

### **Outside Activities**

While an employee is on FMLA leave, the City prohibits an employee from engaging in activities that could hinder an employee's recovery during that time period. Engaging in such activities may be grounds for disciplinary action up to and including possible termination.

Under no circumstances may an employee on FMLA, sick leave or workers' compensation leave seek outside employment or work at a second job unless expressly authorized in writing in advance by the employee's Department Head and the City Manager.

### **Physician's Certifications**

To be eligible for FMLA Leave, proof of a serious health condition must be certified by a health care provider, as defined by the FMLA. The employee shall make every effort to obtain the "Certification of Health Care Provider" from the appropriate physician and deliver to the Director of Human Resources by the deadline specified in the FMLA notice. A minimum of 15 calendar days shall be allowed from the date of delivery of notice to the employee. If the health care provider's certification is not provided to Human Resources within a reasonable amount of time after a second written notice has been sent to the employee, FMLA leave may be denied.

An employee may be required to submit periodic written status reports from their physician to the Human Resources Department. The City may require second or third medical opinions (at the City's expense) and periodic recertification of a serious health condition.

Employees returning from FMLA leave for their own serious health condition will be required to submit a certification from their treating physician indicating that they are able to resume work and perform the required duties of their job.

### **Paid or Unpaid FMLA Leave**

While on paid FMLA leave, holiday, vacation and sick leave will continue to accrue. If the FMLA Leave is unpaid, holiday, vacation and sick leave will not accrue.

### **Employee Benefits**

An employee shall continue to receive health insurance benefits during FMLA Leave. The City shall continue paying its portion and the employee shall continue to pay his portion of health insurance benefits.

### **Termination of FMLA Leave and/or Employment**

FMLA Leave may be delayed or denied due to the failure of an employee to adhere to these Regulations. An employee may be terminated if the FMLA Leave exceeds 12 weeks within a 12-month period of time. Further information regarding the federal regulations concerning the Family and Medical Leave Act is available in the Human Resources Department.

If an employee does not return to work on the date indicated on the related FMLA forms or on the date released by attending health care provider, the employee may be considered absent without leave and his or her employment may be subject to termination. (Revised 6/24/2003)

Appropriate forms for applying for FMLA leave are available in the Human Resources office. Taking of leave may be denied if requirements are not met.

The employee will be required to submit a "fitness for duty" report (medical certification) before returning to work following FMLA leave for a serious health condition.

#### **SECTION 44. PERSONAL LEAVE** (Revised 4/01/2014)

Except those employees on job injury leave, all regular full-time employees who have exhausted their 12-week FMLA leave (if applicable), all paid leave accruals, Catastrophic Leave and are unable to return to work due to their serious health condition supported by a physician's certification, may request Personal Leave. If the employee is granted Personal Leave, employee health insurance coverage, will no longer be paid for by the City of Brownwood. The employee will then be eligible for continued medical coverage pursuant to applicable COBRA federal regulations. All other benefits accruals (including, without limitation, sick leave, vacation, longevity pay and holiday pay) will be suspended immediately upon the granting of Personal Leave. (Revised 1/01/05)

In accordance with the guidelines set forth in this policy, the City of Brownwood may provide unpaid personal leave to regular full-time and regular part-time employees who wish to take time off from work duties to fulfill personal needs or obligations. The need for time off must exceed two consecutive calendar weeks and all vacation, sick, Catastrophic, and FMLA leave (if applicable) must be exhausted prior to beginning a personal leave.

An employee must submit a written request for personal leave, which contains the start date and length of leave, not to exceed 90 calendar days, to the department head and City Manager. If the Personal Leave is approved, it shall be reviewed every 30 calendar days. Any request for an extension beyond 90 calendar days must go before the "Personal Leave Review Board". This Review Board will consist of the City Manager and 4 Department Heads. The Department Heads who serve on the Review Board will be appointed by the City Manager and shall not include the Department Head who supervises (directly or indirectly) the employee requesting an extension of leave. The Review Board shall meet within 10 calendar days of the request for extension of leave. The employee requesting the leave shall give the Review Board access to his/her medical information related to the specific injury or illness requiring this employee to take leave.

Requests for personal leave will be evaluated based on a number of factors, including, without limitation, operational requirements and staffing considerations during the proposed period of absence.

When possible, employees will be returned to their former position. If their former position is not available, their employment may be subject to termination.

Employees returning to work after an absence of more than 10 consecutive work days of "Personal Leave" due to an illness or off-job injury of the employee may be required to undergo a drug screen and a physical assessment, if applicable, to ensure that the employee has fully recovered or that reasonable working restrictions are set out to prevent an injury.

Employees failing to make necessary arrangements to return to work on an agreed upon date prior to the expiration of their leave will be deemed to have resigned.

#### **SECTION 45. PAID PARENTAL LEAVE** (Added 10/01/2024)

The City believes in providing family-friendly policies that are intended to benefit employees without sacrificing their family obligations. This policy allows for up to 4 weeks (20 days) of Paid Parental Leave (PPL) to employees immediately following the birth of an employee's child or the placement of a child with an employee in connection with adoption, or another legal placement to care for and bond with the child. This must be taken within the first two months of the birth or placement of a child. The definition of a day is the same as any other Leave type.

In order to be eligible for PPL, an employee must be eligible for leave under the Family and Medical Leave Act (FMLA). Please see Section 43 regarding FMLA.

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

Have given birth to a child;  
Be a co-parent of a person who has given birth to a child;  
Have adopted a child aged 17 or younger, except for adoption by one spouse of the other spouse's child.  
An employee may use any available accrued leave time to take up to 12 weeks total leave per FMLA guidelines. As per the City FMLA policy, FMLA time off must run current with any PPL time taken as well as any additional accrued leave time.

PPL is not allowed for placement of a child in parental custody cases or legal assignments as a Guardian ad Litem.

#### How to apply

The employee must request and fill out the PPL form and attach supporting documentation from the attending physician or the court if it's a court ordered placement at least 2 week prior to the actual event occurring, if possible.

The Director of HR along with the members from the Catastrophic Leave Pool Committee will make the decision whether to not allow the time, allow the full time, or allow partial time. The employee and their Supervisor will be notified of the decision within three working days.

### **SECTION 46. LEAVE WITHOUT PAY (LWOP)** (Revised 4/01/2014)

Leave without pay (LWOP) may be granted as a matter of administrative discretion and must be authorized by the Department Head. Leave without pay is an approved absence from duty in a non-pay status for no more than 15 workdays in a rolling 12 months period. No employee may demand leave without pay as a matter of right, but it may be granted to any regular full-time employee at the discretion of the Department Head. All appropriate accrued leaves shall be required to be exhausted prior to requesting leave without pay.

No employee may be absent from duty for a single day or any part of a day without permission of their Department Head or other responsible supervisor. Any such absence will be without pay (LWOP – Leave Without Pay) and will be subject to disciplinary action. An unauthorized absence for a period of two working days will automatically be considered by the Department Head as a voluntary resignation.

### **SECTION 47. LEAVE FOR JURY DUTY / COURT DUTY** (Revised 4/01/2014)

**Pay Continued:** Regular full-time employees required by law to render jury duty or serve as a witness in court by order of a subpoena shall receive their regular pay for normally scheduled work hours which occur during the period of jury service or while attending court proceedings as required by the subpoena provided the employee is not under threat of prosecution or part of plea bargaining or been subpoenaed due to his own investigation by a Grand Jury. Payment of wages shall be limited to a reasonable period of time subject to the approval of the City Manager.

**Documentation Required:** Employees summoned to jury duty or to witness in court by order of a subpoena must provide an Official Certificate of Attendance or Order from the court to appear to their immediate supervisor who shall submit a copy to the Human Resources Department.

**Return to Work:** Upon release from jury duty or duties related to the subpoena, the employee must immediately return to their assigned workplace. If the employee is released after the end of the regular work day, the employee shall report to their assigned workplace at the start of the next work day.

**Personal Legal Business:** Employees absent for personal legal business must use accrued vacation or holiday leave. Leave without pay may be used with the Department Head’s approval.

**City Witness:** Employees directed to appear as a witness for the City of Brownwood will be compensated for the time, they are required to be present at the court proceedings.

**SECTION 48. LEAVE FOR TRAINING / TRAVEL REIMBURSEMENT** (Revised 7/01/2009)

Department Heads may grant employees “training leave” with pay and reimbursement of expenses incurred when the employee attends training classes, professional conferences, or short courses, or to visit other cities in the interest of the City, as authorized by the City Manager. The reimbursement of expenses will be based on the City of Brownwood travel policy.

Non-exempt employees will be compensated for travel time, to and from training seminars in the amount of their current hourly rate of pay for each hour spent for travel time.

Note that normal travel time from home to work is not working time, no matter how long the commute. Generally, an employee is not at work until he or she reaches the work site. However, if an employee is required to report to a location / meeting place where he/she is to pick up materials, equipment or other employees, or to receive instructions before traveling to the work site, compensable time starts at the location / meeting place.

**IV. AWARDS & BENEFITS**

**SECTION 49. SERVICE AWARDS** (Revised 4/01/2014)

The City of Brownwood sincerely appreciates the faithful service rendered by its employees and realizes the value of skill, knowledge and judgment that comes from long years of experience. In recognition, service awards are presented to employees to commemorate certain milestones in their career with the City. The service awards presentation will be held annually. The employee’s continuous years of service as of September 30<sup>th</sup> calculated in five-year increments will determine the annual awards to be presented. The Mayor and City Council may present the service awards.

**SECTION 50. RETIREMENT PLANS**

All full-time City employees are required, as a condition of their employment, to participate in the retirement program or programs made available to them in their respective departments.

- A. **Texas Municipal Retirement System:** By action of the City Council on September 28, 1949, the City of Brownwood became a member of the Texas Municipal Retirement System, a cooperative organization of Texas towns and cities formed and operating under the provisions of House Bill No.166, Acts of the 51<sup>st</sup> Legislature (1949), the purpose of which is to provide an adequate and dependable plan for retirement of employees of Texas municipalities. All full-time employees, except fire fighters, are required to enroll in the Texas Municipal Retirement System. (Revised 1/01/05)

Eligibility for Service Retirement Annuity:

- 1. A member is eligible, beginning on the first anniversary of the effective date of the person’s membership, to retire and receive a service retirement annuity, if the member:

- a. Is at least 60 years old and has at least five years of credited service in the retirement system. *(Revised 1/01/2002)*
  - b. Has at least 20 years of credited service in the retirement system. *(Revised 10/01/2002, Ordinance No. 02-44)*
2. **Withdrawing Deposits:** If a member's employment ceases for any reason, the member is entitled to (but does not have to) apply for a refund of total deposits. To withdraw these deposits, the member should notify the Human Resources Department and complete an Application for Refund of Retirement Deductions form. This will be filed with the retirement system and the process of the member's refund begins.

Refunds are processed by TMRS (not by the City) and refunds are sent directly to the employee near the end of the month following the month in which a member makes his final deposit to the System, provided that the application and the City's monthly payroll report have been received by the 15<sup>th</sup>; request for earlier processing cannot be honored.

Also, if a member ceases working for one participating City but becomes employed by another participating City (before withdrawing his deposits), membership in the System does not terminate and such deposits may not be withdrawn.

3. A booklet entitled "The Texas Municipal Retirement System Handbook of Information" is available to all participating employees or employees may go online to [www.tmr.com](http://www.tmr.com). Questions not clearly answered by this booklet should be referred to the Human Resources Department or TMRS.
- B. A deduction of 7% of gross earnings each pay period will be credited to the employee's Texas Municipal Retirement System account. TMRS deposits are deducted from the employee's pay before taxes. The City of Brownwood matches the employee's deposits and interest at a rate of 2 to 1. City matching funds are held in the City's TMRS retirement account until the employee retires. If requested in writing, a deduction from the employee's last paycheck will not be made for a person leaving employment with the City of Brownwood with less than five years of credible service. *(Revised 1/01/05)*
- C. Social Security: Effective April 25, 1955, all employees became covered under Social Security, as a result of approval by the employees indicated in a general election on the question, with final approval by the City Council. There are many variations of circumstances under which claims may arise under this fringe benefit coverage; in addition, an individual employee's service record presents a considerable variety of determining factors. Consequently, no attempt is made herein to give details concerning benefits available. A local Social Security office exists in Brownwood. Briefly, there are three very important times for consulting this office: (1) if one is disabled before age 6; (2) when one reaches age 65; and (3) if a worker in one's family dies.
- D. Firemen's Relief and Retirement: The Firemen's Pension Plan was set up by House Bill No. 258 in the 45<sup>th</sup> Legislature in regular session in 1937, as amended. This statute with its various amendments through the years now provides a pension for fire fighters who reach age fifty and have 20 years of service. The pension is financed by payroll deductions of 14% of the gross earning of the fire fighters and is matched by the City of Brownwood by 20% of the gross earning of the fire fighters. *(Revised 10/1/24)*

## **SECTION 51. GROUP MEDICAL COVERAGE PLAN** *(Revised 4/01/2014)*

The City pays the full cost of providing medical, dental, vision and life coverage for its full-time employees. Each full-time employee, upon entering the service of the City, is required to become a member of the group insurance

plan, except employees accessing their spouse's plan, Tricare Plan and/or retirement plan coverage. If an employee declines medical, dental, or vision coverage on their self or on their dependents, they may reenroll at the next Open Enrollment or through a qualifying event. Employees become insured when the employee completes a 90-day waiting period as a full-time employee. (Revised 1/01/05)

- A. Membership in the group insurance plan shall not be extended to temporary employees selected to positions of limited duration, temporary employees selected to positions required by seasonal activities, or employees selected to positions on a part-time basis.
- B. Employees selected on a full-time basis may enroll their eligible dependents in the group insurance plan, provided written application for coverage is made by the employee during the first 30 days of full-time employment or during the City's official "open enrollment" period, and provided further that the employee pays full cost of his dependent's coverage.
- C. Employees pay the cost of their dependents' insurance by bi-weekly payroll deduction. In the event an employee is sick or disabled and not receiving any salary but is being carried on the payroll of the City, the City will maintain the group insurance in force on his dependents until he returns or is terminated, provided the continuation of coverage is allowed under a policy as stated in these Personnel Rules (ex: qualified FMLA situations) and provided the employee makes satisfactory arrangements with the Director of Human Resources for the premiums to be paid to the City. The employee shall reimburse the City on a monthly basis, and if not paid by the 20<sup>th</sup> of the current month, a notice of possible termination shall be sent to the employee. If no payments are made for their dependent coverage or these other benefits by the end of the current month, the coverage will be cancelled.
- D. Employees, who retire under a City of Brownwood sponsored retirement program, may continue to participate in the group medical, dental, vision and life insurance plans available through the insurance carrier. The retiring employee's eligible dependents may also continue to be on the plans, provided such dependents were covered immediately prior to the employee's retirement. The retiring employee must request insurance to be continued at the time of retirement and must pay the full cost of medical, dental, vision and life insurance plans. Such payment shall be made at the time and place specified by the City, and failure to keep the premiums paid on a current basis will result in cancellation of insurance coverage. (Revised 1/01/05)
- E. The Human Resources Department administers the group medical, dental, vision and life insurance plans, in accordance with the terms of the contract in effect and shall render such assistance as is necessary to explain the operation and benefits of the plans to City employees. (Revised 1/01/05)
- F. The City's group medical, dental, vision and life insurance program may be revised by the City from time to time. Benefit provisions shall be those specified in the current contract of coverage and shall be outlined on brochures and/or certificates issued to each member of the group insurance plans. (Revised 1/01/05)
- G. The City of Brownwood does not participate in, nor does it sponsor or recommend, any insurance program other than the one to which it contributes the employee's cost. The City does not make payroll deductions for other insurance programs except through the City's Cafeteria Plan.
- H. If a full-time employee goes on unpaid leave (ex: suspension without pay, leave without pay), excluding FMLA leave, and is not working at least 20 hours per work week or is not on paid leave, the employee no longer qualifies for the medical, dental, vision and life coverage plans. The employee's current coverage with the City's insurance carrier will be terminated at the end of the month in which all pay ceases and/or the employee is no longer covered by FMLA leave.

The employee may continue the coverage through COBRA (continuation of coverage) as allowed by law and as offered by the provider of coverage.

## **SECTION 52. MEDICAL PROCEDURES**

Employees may be required to have a medical examination when the medical examination is job-related and consistent with business necessity. For example, a medical examination may be required when an employee is exposed to toxic or unhealthful conditions, request accommodation for disability, or has a questionable ability to perform required duties of the job.

Employees are encouraged, but not required, to have physical examinations periodically during their employment. The City's Group Health Plan provides benefits for annual wellness examinations.

Medical examinations required by the City will be paid for by the City and must be performed by the physician or licensed medical facility designated or approved by the City. Medical examinations paid for by the City are the property of the City, and the examination records are to be treated as confidential and held in separate medical files. However, records of specific examinations, if required by law or regulation, will be made available to the employee, persons designated and authorized by the employee, relevant insurance companies, or the employee's doctor.

Employees who need to use prescribed drugs or narcotics while at work must report this requirement to their Department Head or supervisor if the use might impair their ability to perform the job safely and effectively. Depending on the circumstances, employees may be reassigned, forbidden to perform certain tasks, or even prohibited to working if they are judged unable to perform their jobs safely and properly while taking prescribed drugs or narcotics.

## **V. SAFETY REQUIREMENTS, ACCIDENTS & INJURIES**

### **SECTION 53. SAFETY RESPONSIBILITY** (Revised 4/01/2014)

It shall be the duty of each Department Head to provide safe, clean surroundings in all places of employment coming under their jurisdiction. The direct responsibility for providing accident-free service shall rest with the Department Head.

- A. Department Heads shall instruct all supervisors in their departments against the use of unsafe equipment and unsafe work methods and shall require development and observance of safety habits and shall expedite removal and correction of safety hazards.
- B. Supervisors shall give constant attention to preventing accidents and promoting safety. They shall emphasize the importance of safety to their employees and train them in correct work procedures and shall, by their own actions, set a good example at all times.
- C. Supervisors shall constantly be on the alert for unsafe flooring; defective electrical equipment; insufficient light or ventilation; defective chains, cables or ropes; unguarded machines, belts, pulleys; unsafe vehicular equipment; tools and machinery in poor state of repair; or any other condition or practice that might jeopardize the safety of employees.
- D. Supervisors shall be on the alert for and prevent any of the following actions by employees: improper or illegal operation of any vehicular equipment; running, scuffling and horseplay; improper and heavy lifting; use of gasoline in a closed room or near an open flame; failure to use

required safety equipment (i.e. wear goggles when grinding, chipping, welding, torch cutting or doing any other work where flying material might injure the eyes); riding atop a loaded truck or hanging on the truck side while the truck is in motion; or commission of any other overt act which may endanger the employee or the safety of others.

- E. Supervisors shall encourage safety suggestions and discussions. Supervisors shall schedule periodic safety training for the employees in their department. Department Heads and/or supervisors who do not provide safety training periodically or do not implement progressive discipline for employees who are involved in frequent accidents may be subject to discipline up to and including possible termination.
- F. Employees are required, as a condition of employment, to observe all safety regulations and requirements given verbally or in writing by their supervisors. Each employee, in addition to guarding their own safety and the City's property, shall do everything possible to safeguard their fellow workers and other people affected by their work. Employees who are involved in or cause frequent accidents shall be disciplined as outlined in the section on "Disciplinary Systems and Suspensions" and may be subject to possible termination.
- G. All drivers of motorized equipment owned by the City of Brownwood shall be responsible for the operation of such motor vehicles and shall be required to obey all traffic rules and regulations prescribed by law and to use every safety measure possible to prevent accidents. All drivers must have a current Texas Class C driver license and, where required, shall have a current Texas Class A or B CDL driver license with required endorsements.
- H. All employees are required to use seat belts when operating or riding as passengers in City vehicles equipped with seat belts, in accordance with State law.
- I. It shall be the duty and responsibility of operators of motor equipment, both heavy and light, to report to their supervisors any defect in mechanical equipment when same occurs and to use every precaution to prevent additional property loss, expense or recurrence of such conditions.

Operators of motorized equipment of the City of Brownwood who violate this regulation or becomes involved in any accident, will be subject to disciplinary action if, upon investigation by the Department Head and/or City Administration, it is determined that the employee is responsible for such accident or that carelessness or recklessness contributed to the cause of such accident.

- J. All City employees will be responsible for reporting any conditions creating a traffic hazard such as potholes, traffic control signs or traffic control signals, to the proper department for correction and/or repair.

#### **SECTION 54. INJURIES AND MEDICAL CARE** (Revised 4/01/2014)

When an injury occurs on the job, the following immediate action should be taken:

- A. Medical Attention:  
If an employee who sustains a bona fide, on-the-job, work-related injury requires medical attention, he/she must seek medical attention from a medical facility or professional in the workers' compensation providers' network. The employee must immediately report the circumstances of the accident and/or injury to his supervisor. If the employee is injured and unable to report the accident, a co-worker who witnessed the accident should report it to the Supervisor. If the injured employee is unconscious, bleeding

profusely, or displaying other evidence of serious injury, an ambulance should be requested by radio or telephone (9-1-1).

B. Minor Injuries:

If the injured employee is not ambulatory and displays no outward indication of serious injury, first aid should be applied if necessary. If in need of medical treatment, the employee should be referred directly to the office of a physician of his/her choice within the workers compensation carrier's network (consult Human Resources Department).

C. Payment of Bills:

All bills and statements for medical service and/or prescriptions in connections with on-the-job injuries should be directed to the City's Workers' Compensation insurance carrier. The employee or medical provider should contact Human Resources for this information.

D. Second / Third Medical Opinion:

The City Manager or Director of Human Resources may require an injured employee to submit to a full and complete examination by a physician (or physicians) of the City's choice. In case of conflicting medical opinion between the employee's doctor and the doctor selected by the City concerning the physical fitness and recommended duty status of the injured employee, a third medical opinion may be obtained from a doctor approved by both the City and the employee, which will be binding on both the City and the employee. Any required second or third opinions will be paid for by the City or the City's workers compensation carrier. The City Manager shall have authority to take necessary steps to cease the City's payment of the Salary Continuation Benefits.

## **SECTION 55. INJURY LEAVE AND WORKERS COMPENSATION COVERAGE**

(Revised 4/01/2014)

The City provides workers compensation benefits for all full-and part-time employees and volunteers. Workers' Compensation coverage is designed to cover certain costs associated with injuries resulting from identifiable and specific accidents or injuries occurring during the course and scope of one's employment. It is not designed to cover ordinary diseases of life. An employee injured on the job may be eligible for workers' compensation benefits, which may cover the cost of hospitalization, doctors' treatment, prescription drugs, and may include possibly partial salary continuation.

A. Reporting and Documentation:

1. All employees are required to notify their supervisor at the time of the injury, or no longer than 15 minutes following the time of the injury. Failure to report an injury within time limits shown above may result in City's refusal to grant injury leave or Salary Continuation Benefits. A "Report of Injury" form must be completed by the employee or their representative and turned in to his supervisor no later than 9:00 am on the next workday following the date of injury.
2. Supervisors of employees who have had an on-the-job injury are required to complete the "Report of Injury" form and turn it in to their Department Head and to the Human Resources Department no later than 12:00 pm on the next workday following the injury.
3. The employee's supervisor is responsible for notifying the Department Head and Human Resources Department immediately upon being made aware of an employee's involvement in an accident or injury if the employee requires medical attention. Timely notification is critical in allowing Human Resources to authorize treatment of the employee's work-related injuries. If the medical attention is needed after work hours, then the Supervisor shall report this to the Human Resources Department as soon as possible on the morning of the next workday.

4. After a motor vehicle accident where an individual was injured, alcohol and drug tests shall be conducted on the employee driving the City vehicle and on any other employees who were determined to have contributed to the accident. Any employee involved in an accident involving motorized equipment may also be subject to alcohol and drug tests. The alcohol and drug tests shall be conducted within time constraints listed in the sections on Alcohol and Controlled Substance Use and Testing. An employee may not report back to work until a drug test has been completed. Driving of City vehicles is not allowed until results of the drug test are known. Refer to the sections on Alcohol and Controlled Substance Use and Testing, for details on “Post-accident Testing” and “Return to Duty” requirements.
5. The employee’s supervisor (or other appropriate City personnel) will initiate a thorough investigation into the cause and circumstances of the accident or injury, interview all witnesses and prepare a detailed written report explaining how and why the accident occurred. The supervisor must submit the Accident Report, First Report of Injury or Illness and any other related information to their Department Head by the deadlines indicated above.
6. If the employee’s supervisor has reason to believe that an injury has been reported that is not directly related to or caused by a specific accident or incident occurring in the performance of the employee’s assigned job duties, the supervisor must advise Human Resources of these circumstances. The decision of whether or not an injury will be covered by workers’ compensation will be made by the City’s workers compensation carrier.
7. In the event an employee sustains an injury attributable in whole or in part, directly or indirectly, through the negligence or wrongdoing of a third person, firm or corporation, it shall be reported to the Human Resources Department. The workers compensation carrier will determine if there shall be a claim against such third party to the extent of the amounts expended by the City for and on behalf of such employee, due to an on-the-job injury.
8. All leave for more than 1 working day, which is due to an on-the-job injury, requires a note from a medical physician stating that if the employee can or cannot return to work and if applicable approximately how long the employee is expected to be off work. For every hospital stay and doctor's office visit, the employee is required to obtain from his doctor a completed Work Status Report, which includes the employee’s diagnosis, when the employee is expected to be able to return to work, the employee’s restrictions and the date of the employee’s next appointment. It is the employee’s responsibility to ensure that a copy of the Work Status Report is given to his supervisor and the Human Resources Department.
9. Reports on recurrence of old injuries should be routed to the Human Resources office and approval obtained from the workers compensation carrier before further injury leave, Salary Continuation Benefits or medical treatment is authorized.

B. Pay While on Injury Leave or Workers Compensation Leave:

It should be understood that the Council of the City of Brownwood does not intend that an employee receive more money off the job, where an injury is involved, than when normally working for a salary or wages.

The first seven days an employee is off duty due to a job injury may be charged against the employee’s sick leave, vacation leave or holiday leave (if banked). If no paid leave is available, the time off is without pay. Subsequent to the initial seven calendar days following the injury, the City may voluntarily pay Salary Continuation Benefits, as set out below. (Revised 1/01/05)

Civil Service employees will be paid Injury Leave to supplement his/her workers compensation pay for time off work due to job related injuries / illnesses as required by Civil Service rules and regulations

and/or local agreements. The Injury Leave pay plus the workers compensation payment should equal the Civil Service employee's regular full pay for the periods of time commensurate with the nature of the line of duty illness or injury. This pay will not be charged to the Civil Service employee's accrued leave balances. (Refer to Texas Local Government Code, Chapter 143.)

If the employee is paid by the City for the initial seven calendar days of injury leave (including vacation, sick leave, holiday leave or injury leave pay), and is later paid by the City's workers compensation carrier for the same time period, the employee shall reimburse the City for the amount the workers compensation carrier paid him/her for this same time period. The amount will be withheld from the employee's next paycheck or upon his return to work. If the employee does not return to work, the duplication of payment will be withheld from the employee's final paycheck, which may include leave pay. If the employee does not return to work and does not have any leave pay due to him/her, the employee is obligated to reimburse the City for the duplication of pay within 30 days of "doctor's release to return to work" or within 30 days of termination of employment.

C. Salary Continuation Benefits for Workers' Compensation:

1. An employee who is unable to work for any period of time, either at his/her regular job or at any alternative City position, because of an injury that occurred while performing official job duties or conducting official City business, is eligible to receive workers' compensation benefits equal to approximately 70% of his regular salary (excluding overtime). The City may make up the remainder of the employee's regular pay for at least a portion of the time off by charging the pay to the employee's leave accruals, provided certain conditions are met. This benefit is paid starting from the 8<sup>th</sup> day of leave due to the job injury and is available to only full-time employees.
2. Employees wishing to supplement their workers compensation payments may elect through Salary Continuation Benefits to use their sick leave, vacation accruals or holiday leave (if banked) to offset the loss of income during the recovery. Salary Continuation Benefits shall cease after exhaustion of accumulated sick and vacation leave.
3. The employee shall complete the proper forms with the Human Resources Department indicating his/her desire to use their available sick leave, vacation leave and holiday leave (if banked) as Salary Continuation Benefits.
4. To be eligible for Salary Continuation Benefits, the employee must furnish to the City the "Report of Injury" form within the time requirements stated earlier in this section of the policy.
5. The maximum duration of Salary Continuation Benefits for employees is 90 days from the first day of lost time as a result of the work-related injury, unless such an extension is expressly authorized by the City Manager. Extensions by the City Manager may be authorized in no more than 30-day intervals.
6. If the employee does not turn in the Work Status Report to his supervisor and the Human Resources Department, his/her Salary Continuation Benefits may be discontinued.

D. Requirements of an Employee on Salary Continuation Benefits:

If any employee chooses to receive Salary Continuation Benefits, the employee must follow the procedures as outlined below:

1. The employee must inform his/her immediate supervisor and Human Resources Department of the attending doctor and provide required documents mentioned above;
2. The injured employee must report at the proper time and place for all appointments required or scheduled by the attending doctor;

3. If any therapy or treatment is required to rehabilitate the employee's injury, the employee must attend the appointments as scheduled for such therapy or treatment;
4. While the employee is on injury leave, the employee must receive permission from their immediate supervisor and Department Head prior to leaving for any extended travel, unless such travel has been designated by the attending doctor as a part of a rehabilitation process. For the purpose of this order, extended travel shall mean more than 100 miles from the employee's residence;
5. While receiving Salary Continuation Benefits, the employee shall not work at any other job or vocation unless expressly authorized in writing in advance by the employee's Department Head and City Manager.

Failure to follow any of the above procedures shall mean the immediate suspension of Salary Continuation Benefits.

An employee shall not accrue any sick leave, vacation leave, or holiday leave while on workers compensation / injury leave or while being paid Salary Continuation Benefits under this policy.

E. Termination of Salary Continuation Benefits:

Salary Continuation Benefits shall be terminated at any time if:

1. The injury is determined by medical authority to be permanent and stationary, and the employee has applied for and been awarded disability retirement;
2. The employee is found to be working, either part-time or full-time, at another job and the employee has not obtained prior written approval from his/her Department Head and the City Manager;
3. The employee resigns or is dismissed from his City job for any reason;
4. The employee refuses to perform modified or part-time City work when offered by his Department Head or Human Resources Director and the duties are within the employee's physical capacity as authorized by a physician and for which the employee is qualified or will be trained;
5. The employee does not comply with the treating physician's instructions regarding treatment of their injury;
6. The employee falsifies or misrepresents his physical condition or capacity or disability to be other than in fact it is;
7. The employee refuses to return to regular duty after being released for regular duty by a physician.

Salary Continuation Benefits shall cease after exhaustion of accumulated sick leave, vacation leave and holiday leave (if banked).

F. Continuation of Group and/or Dependents' Medical Coverage:

1. The City will continue to pay the City's portion of the employee's group medical, dental, vision and life coverage for a period of time not to exceed 26 weeks for an employee on injury leave.

2. The employee's eligible dependents will remain on the applicable medical, dental, vision and life coverage for up to 26 weeks, provided the employee pays the required premiums in a timely manner.
  3. The employee has the option to continue group and/or dependents' medical, dental and vision coverage after the 26th week through COBRA (continuation of coverage) as allowed by law and as offered through the benefits carrier. The employee must pay both the employee's and the City's portions of these premiums if he wishes to continue the coverage through COBRA.
- G. Maximum Time Limits and FMLA: Provided the employee meets the requirements of this policy, the City will hold an employee's position, following an injury that occurred while performing official job duties or conducting City business, for no more than 26 weeks. Twelve weeks of this period may qualify for Family and Medical Leave (refer to the section on FMLA Leave) and will run concurrently with such leave if applicable. At the end of the aggregate 26-week period, should the employee still be unable for any reason to perform the essential duties of his/her job, with or without accommodation, his/her position may be filled, and he/she may be considered for a vacant position for which he/she is qualified. If no vacant position is available for which the employee is qualified, if he/she is not selected to fill the vacant position or if the employee declines to accept another position, his/her employment with the City may be terminated.
- H. Return to Service: A written statement from the attending physician certifying that the employee has been released to return to work and specifying the type(s) of work he/she is capable of performing as well as any limitation(s) must be received by the City before an employee may return to work. All employees on injury leave must return to work after approval of either the employee's attending physician or an independent physician paid by the City. Upon receipt of a release to return to work, the City may require the employee to submit to a medical examination to determine whether the employee can perform the essential functions of his/her position. Failure to return to work when directed will result in appropriate disciplinary action up to and including possible termination.

## **SECTION 56. MODIFIED DUTY** (Revised 4/01/2014)

It is the goal of the City, with the cooperation of all departments, to locate and assign restricted work assignments when necessary and feasible, to employees who are temporarily restricted from performing the essential functions of his/her job as a result of a work related or non-work-related injury or illness. If an employee is released by his or her physician for modified duty, the employee's job or alternative job assignment(s) will be evaluated for a determination of whether a temporary position is available in which the City can use the employee's limited services for a temporary period of time. Assignment to modified work is at the discretion of the Department Head. The Department Head should notify the Director of Human Resources. No overtime may be worked by any employees placed on modified duty status. If no acceptable modified duty assignment can be found, the employee will be placed on inactive status until released by the physician to return to his/her regular duties.

- A. General Provisions:
1. All provisions of this policy apply to work related injuries/illnesses unless specifically noted otherwise within this policy. Non-work-related injuries/illnesses will be handled on a case-by-case basis at the request of the employee and at the discretion of the Department Head and Director of Human Resources.
  2. While on modified duty assignment, the City will continue to pay the City's portion of the employee's group medical, dental, vision and life coverage. The employee's eligible dependents will remain on the applicable medical, dental, vision and life coverage through the City's group health plan as long as:

- a. The employee pays the premium for dependent coverage under the City's plan on a timely basis either through payroll deduction or personal payment; and
  - b. The employee is still an active employee and meeting the requirements for modified duty as stipulated in this policy.
3. The City will maintain the employment of an individual who is temporarily restricted from performing the essential functions of his/her job as a result of a work-related injury or illness for a maximum of 90 calendar days. The 90-day period begins on the first day of medical certification. An employee shall not be permitted more than one 90-day period of modified duty assignments in one calendar year unless approved by the City Manager. (Exception: Civil Service personnel will be handled according to Texas Local Government Code, Chapter 143 and local Civil Service Rules and/or agreements.)
4. For the purposes of this policy, a workday consists of eight (8) hours, however, the time limits will be converted to shift equivalents for persons regularly assigned to other than an 8-hour workday. (A regular workday for Fire Civil Service employees is counted as 12 hours. A regular workday for Police Patrol Division employees is counted as 8.4 hours.)
5. When an employee returns to work on a modified duty status for less than a regular work shift, accrued paid leave may be used to offset the difference in hours if the employee is not receiving workers' compensation benefits for the same time period.

**B. Modified Duty Assignments: (Added 1/01/05)**

1. An employee will be considered for a modified duty assignment when physical restrictions placed on him/her by the treating physician do not allow the employee to perform the essential functions of his/her job.
2. The employee must provide to Human Resources Department a written release or work status report from the treating physician stipulating the following:
  - a. Specific restrictions;
  - b. Period of time during which the restrictions apply;
  - c. Date on which the employee may return to work for restricted duty;
  - d. Date of the employee's next physician appointment; and
  - e. Expected date on which the employee may be fully recovered and able to perform the essential functions of his/her job without restrictions.
3. The Department Head or Supervisor is responsible for identifying specific modified duty assignments available within his/her department based upon the recommendations by the treating physician as outlined in the work status report.
4. A modified duty assignment will be made within the department/division in which the injured employee works if one is available which is within the scope of the restrictions.
5. An employee placed on modified duty shall be paid at his/her regular rate of pay for any hours worked even though he/she may be required to work in a different department and perform duties not contained within his/her current job description.
6. An employee on modified duty may be assigned several types of work at various locations and times, necessitated by changing medical restrictions or by completion of all available work of a particular type at a particular location.

7. Employees on workers' compensation who are released to modified duty will be contacted by his Supervisor or Department Head and notified of the modified work assignment, start time and location. If the employee rejects the modified work assignment, he/she will be sent a bona fide offer of employment letter from Human Resources Director indicating available modified work duty assignment. The employee must respond in writing within 2 workdays of receiving the written notice. The employee has the option to accept or reject the offer of modified work assignment.
8. If the employee rejects the modified work assignment, the employee will not be eligible to use accrued leave in order to receive any type of salary and may be placed on leave without pay and may be subject to termination as provided in this section. In addition, if his/her injury is work related, he/she will not be eligible for Salary Continuation Benefits.
9. Modified duty assignments are temporary and not intended to create permanent jobs. Modified duty assignments may be eliminated at the City's sole discretion.
10. Should an employee fail to adhere to the City's policy or the treating physician's work restrictions, the employee may be subject to disciplinary action, up to and including possible termination.

C. Returning To Full Duty Status: (Added 1/01/05)

1. Prior to returning to full duty, an employee must present to his/her Supervisor and Human Resources Department an acceptable medical release from his/her treating physician. Human Resources Department will provide the treating physician with a copy of the employee's job description. The treating physician shall evaluate the employee prior to release to full duty based on the duties and requirements of the employee's job description.
2. The City will make every possible effort to restore the employee to the position held by the employee prior to being placed on modified duty, or to a comparable position with equivalent comparable pay and benefits for which he/she is qualified to perform.
3. The City reserves the right to require an independent physical/mental assessment, at the City's expense, upon the return to work of an employee from a work related or non-work-related disability, illness, injury or medical condition.
4. This policy is not an employment contract and does not alter an employee's at-will employment status. The City or the employee may terminate its working relationship at any time, for any reason.

D. Termination: (Added 1/01/05)

Employees who are restricted from performing the essential functions of his/her job as a result of a work related or non-work-related injury/illness may be terminated based upon one or more of the following:

1. Evidence that the employee will not be able to perform the essential functions of his/her job with or without reasonable accommodations within 90 calendar days of modified duty (Exception: Civil Service personnel will be handled according to Texas Local Government Code Chapter 143 and local Civil Service rules and/or agreements.);
2. An employee's refusal to participate in a rehabilitation program or failure to cooperate with rehabilitation efforts as directed by the treating physician;

3. An employee's refusal of placement in a modified duty assignment for which the employee is qualified;
4. The employee's refusal of a modified duty assignment that is within the physical parameters provided by the treating physician;
5. The employee's failure to follow established safety rules and regulations and/or City work rules and regulations;
6. The failure of the employee to present satisfactory medical certification of his / her inability to return to work, either in a limited duty capacity or to regular duty according to the timetable established in the policy, or upon request by the City;
7. Falsification or misrepresentations made by the employee concerning his/her physical condition or capacity;
8. The failure or refusal of the employee to return to regular duty on the date specified by the treating physician;
9. The employee's failure to provide work status reports timely from the treating physician;
10. The employee becomes disabled, ill, injured or acquires a medical condition as a result of his / her own willful misconduct or gross negligence as determined by the City Manager, after consultation with the Director of Human Resources and the City Attorney;
11. The employee is found to be participating in any activity, including outside employment and/or self-employment that violates the medical restrictions; or
12. The employee fails to report his/her participation in any other employment, including self-employment, while on medical leave and/or while on modified duty.

**SECTION 57. MOTOR VEHICLE ACCIDENTS** (Revised 4/01/2014)

All accidents involving City vehicular equipment must be reported immediately to the employee's supervisor. Failure to report any accident, however minor, or to comply with the following accidents procedures, may result in disciplinary action.

The operator of a City vehicle shall take the following actions when involved in an accident:

1. Stop immediately.
2. Keep the accident from becoming worse by warning other drivers.
3. If able, render aid to injured and stop severe bleeding. Move injured persons as little as possible to avoid further injury or bleeding.
4. Notify police immediately by radio or telephone.
5. Make no admission of fault or negligence to anyone. Be courteous but do not discuss the accident except with the police and do not sign any statements or releases for anyone.
6. Exchange name and address with drivers of other vehicles involved.
7. Write down license numbers of all vehicles involved.
8. Complete appropriate accident report forms (Incident/Vehicle Accident Report Form, and Employee's Report of Injury, see Appendixes) and send report of accident to Human Resources Department by noon of the following day. The Human Resources Department should be notified immediately if serious injury or death is involved or if the situation warrants a drug or alcohol test as specified in the sections on "Alcohol/Drug Use and Testing Policy".

## **VI. USE OF CITY PROPERTY**

### **SECTION 58. USE OF CITY PROPERTY**

A. Each employee will be responsible for maintaining and operating City equipment in a safe manner. Equipment assigned to personnel to perform a task or duty will not be abused and it will be the employee's responsibility to assure that proper maintenance and operation is performed on said equipment to prevent unneeded and costly damage or repairs to equipment resulting from a lack of such preventative maintenance or from abuse.

B. Employees will not be allowed to wear headphones, earbuds, or other devices while operating City Equipment or Vehicles unless they are a part of the employees required equipment or uniform for doing their day-to-day job requirements. Civil Service employees are covered under Chapter 143 and their Meet & Confer Agreements

C. The use of City-owned equipment supplies and/or material, for personal use by an employee or any other person, is strictly prohibited.

### **SECTION 59. USE OF CITY VEHICLES** (Added 4/01/2014)

#### **I. STATEMENT OF PURPOSE:**

The purpose of this policy is to establish the rules and procedures governing the assignment, use and reporting requirements of city vehicles including take-home vehicles. This policy will implement both federal and state mandated regulations and city policy and procedures.

#### **II. ELIGIBILITY:**

The Department Director may recommend a take home vehicle for an employee if the following criteria are met:

- The employee is the primary operator of the vehicle; and
- The employee resides in Brownwood or no more than 15 miles from Brownwood city limits; and
- The employee is authorized to drive a City vehicle; and
- The employee has not had the privilege revoked; and
- The City Manager has approved the employee for a take-home vehicle.

#### **III. DEFINITIONS:**

**A. Take-Home Vehicle:** is any vehicle that is owned, leased, rented or otherwise under the care, custody or control of the City and is taken from the City premises after normal working hours to remain in "home storage" overnight for the use of a City employee or authorized representative for a bona fide city purpose. Take-home vehicles are either assigned to an employee by their Department Head or used by employees for on-call purposes.

**B. Bona fide City Purpose:** A bona fide city purpose is defined as conducting only official city business.

**C. Personal Use:** Personal use of a City vehicle is not allowed except for circumstances where the personal use is performed while traveling to or from work and is of minimal use and minimal deviation from normal route to or from work. Only City employees or authorized individuals may ride in City owned vehicles. Any exceptions to this policy must be approved in writing by their Department Head and City Manager.

1. No City vehicles may be taken home unless authorized by the Department Head and the City Manager. (See section on "Use of City Vehicles".)

2. Employees will not permit unauthorized persons to ride in City vehicles, except such persons who are required to be conveyed in the performance of duty. Examples of those allowed: vendors, guests, elected officials, contractors, airport patrons who have rented a City vehicle as well as those with expressed written consent by their Department Head and City Manager.

D. Non-Exempt Vehicles: According to Federal guidelines and for purposes of tax calculation only, all other vehicles of the City that do not meet the criteria to be exempt vehicles are classified as "non-exempt." These non-exempt vehicles normally include pickup trucks and vans. By "non-exempt" the Federal government means that a tax liability will be incurred by the employee to whom the use of the vehicle is assigned.

E. Tax Liability: An employee who has a non-exempt, assigned take-home vehicle will have an assessment, as set by the Federal government each year, added to their taxable income for each day of use. The assessment amount will be determined by the Finance Director. The assessed amount is added to the employee's taxable income only for the purpose of calculating the tax liability. The employee assigned the use of a non-exempt take-home vehicle will be responsible for the tax on the assessed amount.

F. Assignment/Reporting Requirements for Take-Home Vehicles: Employees that are to be assigned a take-home vehicle, whether for daily use or an on-call basis, must be recommended by the Department Head and approved by the City Manager.

Below is a partial list of exempted vehicles as outlined in the Federal Register Vol. 50. No. 215/Public Law 99-44:

1. Clearly marked police and fire vehicles,
2. Delivery trucks with seating only for the driver and folding jump seat,
3. Flatbed trucks,
4. Cargo vehicles with a gross vehicle weight over 14,000 pounds,
5. Passenger buses with a capacity of at least 20 passengers,
6. Specialized utility repair trucks,
7. Unmarked law enforcement vehicles operated by an officer or arson investigator who is a full-time employee, authorized to carry a firearm, execute search warrants, and make arrests.
8. All other vehicles exempted by the IRS under special rulings.

#### **IV. PROCEDURES:**

A. Department Heads will prepare a written request which will indicate the individuals to be assigned vehicles, the length of the assignment, the location of home storage, the vehicle type and number and a bona fide City purpose for each assignment. This request will be reviewed annually by the Department Head and be accompanied by an acknowledgement form signed by the employee acknowledging having read and received this policy. The Department Head will submit their department's list to the City Manager for approval by October 1<sup>st</sup> of each year.

B. Modifications to the take-home list will be reported to City Manager as they occur.

C. For security purposes all records for Police undercover vehicles will be maintained in the Police Department following approval by the City Manager.

#### **V. GENERAL PROVISIONS:**

A. City vehicles are to be used only for conducting official city business. The City reserves the right to search City vehicles at any time, for any purpose. Employees have no expectation of privacy in City vehicles. Use of a City vehicle is a privilege of employment, not a right.

B. The operation of City take-home vehicles by non-employees is not allowed.

C. All precautions shall be taken to ensure the safety and security of City vehicles. This includes, but is not limited to, locking all doors and/or compartments, removing any valuables from view in the vehicle, and properly parking vehicles in accordance with applicable laws and ordinances.

D. Employees authorized to take a vehicle home must drive the vehicle to and from work by the most direct route or with only minimal deviation from the direct route. The location of home storage for a City vehicle **may not be further than 15 miles from the City limits** unless approved in writing by the City Manager.

E. Other employees may ride in a City vehicle as long as the bona fide city purpose is not for carpooling or commuting on a regular basis. *Example: Inclement Weather, Schools and Conferences, etc. are acceptable reasons for carpooling.*

F. If an accident occurs while using a City vehicle, the employee and their supervisor shall report the accident to their Department Head immediately but no later than 30 minutes after the accident occurred. A drug and/or alcohol test will then be administered as described in the City's Drug & Alcohol Testing Policy.

G. City employees involved in accidents while not acting in the "course and scope of employment or with approved use" are responsible for all liabilities arising from the accident.

H. Smoking/Vaping and the use of tobacco products or electronic cigarettes is prohibited in all City vehicles and equipment. This policy applies to all employees of the City of Brownwood, volunteers or employees of other agencies performing work for the City. It shall also apply to any member of the general public who has access to a City vehicle as a passenger. The assigned vehicle operator is at all times responsible for insuring that no one smokes or uses tobacco products, vapes, or electronic cigarettes in the vehicle.

I. Employees may not store, possess or use alcohol or other controlled substances while operating or in possession of any City Vehicle as set out under the City's Drug & Alcohol Testing Policy.

K. Employees and supervisors who fail to comply with the requirements of this policy will be subject to discipline as described in the City's discipline policy.

## **VII. DISCIPLINE, GRIEVANCES & TERMINATIONS**

### **SECTION 60. DISCIPLINARY SYSTEMS AND SUSPENSIONS** (Revised 4/01/2014)

To the greatest extent practical, the City will use a progressive discipline system. The City, however, is not obligated to use all of the progressive disciplinary steps. Additionally, the City may begin the disciplinary process at any level, up to and including termination, based upon the severity of the infraction. All suspensions, demotions, discharges, or resignations in lieu of terminations of employees, regardless of probationary status or employment category (part-time, seasonal, etc.), shall be approved by the Human Resources Director and if necessary, the City Manager prior to action being taken.

1. Levels of Discipline
  - a. Oral Warning: The oral warning is a conference, discussion, talk, or any other form of oral communication between a supervisor and employee in which the intent is to correct unsatisfactory job performance or conduct. Supervisors will document in their files oral warnings given to their employees, citing at a minimum the date of warning, content of the warning, and expected action to be taken by the employee to avoid further disciplinary action.
  - b. Written Reprimand: The written reprimand may be used to document, in writing to the employee, the unsatisfactory job performance or conduct that has been demonstrated by the employee. The employee will be requested to sign the reprimand. If the employee refuses, the supervisor present shall document on the reprimand that the employee was given the opportunity to sign but refused. A Personnel Action Form shall accompany the written reprimand. The employee shall be given a copy of the supervisor's signed, written reprimand.
  - c. Suspension with Pay: In unusual circumstances, and employee may be suspended with pay with the approval of the City Manager.
  - d. Suspension Without Pay: Suspension without pay may be used when an employee's unsatisfactory job performance or conduct on or off the job requires more severe disciplinary action than a written reprimand. A suspension must be no less than one-half workday and no more than thirty calendar days for any single disciplinary incident. Employees on disciplinary suspension without pay may not use compensatory, vacation, or sick leave to recuperate the lost time.
  - e. Disciplinary Demotion: A disciplinary demotion is the reduction of an employee's pay grade as a result of action initiated by the City. Disciplinary demotion should only be considered as an appropriate form of action when the employee's job performance or conduct is unsatisfactory in the current position, and it is determined that the employee should be retained in a lower graded position.
  - f. Termination or Discharge: Termination or discharge is an involuntary discharge from the City. Terminations may be for disciplinary or non-disciplinary reasons.
  
2. Filing of Disciplinary Actions
 

A signed copy of all reprimands, suspensions, demotions (disciplinary and voluntary), and terminations shall be promptly submitted to the Human Resources Director for inclusion in the employee's Human Resources file and may only be removed by court order, or in accordance with Chapter 143 Local Government Code Municipal Civil Service, where applicable.
  
3. Effect of Disciplinary Termination
  - a. Employees terminated as a result of disciplinary action are leaving "not in good standing" and are not eligible for rehire.

In the interest of good discipline, a Department Head may suspend an employee without pay for up to thirty (30) calendar days. The reason or reasons for suspension will be explained to the employee. The remarks section of the Personnel Action Form shall include reason or reasons for suspension and a copy of this form shall be furnished to the suspended employee and the Human Resources Director.

The City of Brownwood may suspend an exempt employee without pay for one or more days for violating generally applicable written policy prohibiting sexual harassment, workplace violence, safety violations and/or other policy violations, which are considered serious or grievous.

During investigation, hearing or trial of an employee on any civil cause or criminal charge when suspension would be in the best interest of the City, an employee may be suspended without pay for the duration of the proceedings. A verdict of "not guilty" will make the suspended employee eligible for reinstatement and back pay upon such terms and conditions as may be specified by the Department Head and approved by the City Manager.

## **SECTION 61. GROUNDS FOR DISCIPLINE AND/OR TERMINATION** (Revised 4/01/2014)

Employment with the City of Brownwood is for no “fixed” or definite term. All employment by the City of Brownwood has been and continues to be at-will, except for those positions that may have a written contract approved by the City Council. Both the employee and/or the City have the right to terminate employment at any time, with or without notice, and with or without cause. These Personnel Rules and Regulations do not constitute a contract of employment with the City.

Although adherence to these policies is considered a condition of continued employment, nothing in these policies alters an employee’s status and shall not constitute nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time for any or no reason, without notice, and the City retains the right to terminate any employee at any time for any or no reason. (See the section on “Employment at Will and Applicability of Policies”.) The failure of an employee to give the notice required under the section on “Separation from Employment” may preclude future employment with the City.

Grounds for termination include but are not limited to the following. The City reserves the right to determine the degree of violation and take appropriate action to maintain the functions and order of the organization.

- A. Disciplinary Termination – Discharge of a full-time employee resulting from disciplinary termination is appealable to the City Manager as set forth in these rules:
1. Unsatisfactory Attendance.
    - a. Abuse of approved leave.
    - b. Tardiness.
    - c. Failure to report to work without timely notification.
    - d. Failure to follow procedures for requesting or using leave.
    - e. Unauthorized absence from work site.
    - f. Excessive absences from work. (Added 4/01/2014)
  2. Negligence or Indifference in Performing Job.
    - a. Neglect of duty.
    - b. Loafing.
    - c. Carelessness.
    - d. Lack of initiative.
    - e. Lack of cooperation.
    - f. Failure to remain at workstation.
    - g. Sleeping or otherwise being inactive during work hours.
    - h. Inefficiency.
    - i. Performing or conducting personal business during working hours.
    - j. Abuse of eating or rest periods.
    - k. Interfering with work of others.
    - l. Discourteous treatment of the public or other employees.
    - m. Disregard of ISERVE Core Values.
  3. Incompetence or unsatisfactory Work Performance.
    - a. Inability to performing the duties of the job.
    - b. Inefficient or unproductive behavior.
    - c. Violation of departmental rules.
    - d. Deliberate or careless damage to property or equipment.
    - e. Unsatisfactory quality or quantity of work.
    - f. Inability to work effectively with other employees.
    - g. Inability to adjust or adapt to changing work requirements.
    - h. Failure to make requested changes in job performance.

- i. Repeated disciplinary action for minor infractions of policy or procedure.
  - j. Incurring an expense or liability for the City without proper authorization.
4. Insubordination.
- a. Failure or refusal to perform assigned work or fully comply with instructions or orders as requested by appropriate authorities.
  - b. Failure or refusal to fully cooperate with official investigations.
  - c. Acts of defiance toward a superior including but not limited to arguing about assignments, talking back, and deliberate attempts to undermine or put the superior in a false light.
5. Violation of safety rules.
- a. Unauthorized removal of safety guards, fire extinguishers or other equipment designed to protect employees or equipment.
  - b. Failure to use safety equipment or to follow safety practices or rules.
  - c. Careless, neglectful or improper use of tools or equipment.
  - d. Causing injury or damage to person or property through negligence or deliberate action.
  - e. Causing a preventable accident or injury.
  - f. Failure to report maintenance deficiencies or properly maintained equipment.
  - g. Operating equipment in an unsafe manner.
  - h. Violation of traffic laws.
  - i. Excessive injuries and/or vehicle or equipment accidents.
6. Dishonesty.
- a. Stealing or taking City property without prior authorization.
  - b. Misuse of funds.
  - c. Misrepresentation.
  - d. Cheating.
  - e. Providing false or misleading information or omitting material information during course of an official investigation.
  - f. Forging or otherwise falsifying official reports, records or documents.
  - g. Misusing paid leave.
  - h. Unauthorized use of official documents or information.
  - i. Releasing or making known in any manner confidential information without authorization.
  - j. Failure to properly account for City documents or property.
  - k. Misuse or unofficial assumption of authority, or destruction of documents or property without authorization.
7. Disturbance.
- a. Fighting, using profane, abusive or threatening language.
  - b. Using unnecessary loud or boisterous language.
  - c. Offensive or lewd conduct.
  - d. Spreading false reports or otherwise disrupting the harmonious relations of the workplace.
  - e. Possession of unauthorized firearms, explosives or lethal weapons on City property of job site.
  - f. Engaging in disruptive personal behavior.
  - g. Bullying.
8. Alcohol or Drugs.
- a. Violation of the City's Substance Abuse Policy.

- b. Failure to pass a drug test required as a condition of continued employment.
  - c. Possessing, buying or selling, or transferring illegal drugs or drug paraphernalia while performing assigned duties during working hours or while on breaks or lunch periods.
  - d. Consuming or being intoxicated by use of drugs or alcohol while performing assigned duties or while operating vehicles or equipment during working hours.
  - e. Reporting for work while under the influence of drugs or while intoxicated from consumption of alcoholic beverages.
  - f. Alcohol or drug intoxication in public while off duty if such behavior adversely reflects upon his/her employment as a City employee.
  - g. Refusal to take a controlled substance test or alcohol test as directed under the Sections on “Alcohol/Drug Use and Testing” policies.
9. Unlawful Conduct.
- a. Conviction or disposition other than acquittal, including probation or deferred adjudication, of any criminal offense except Class C misdemeanor traffic offenses.
  - b. Engaging in any unlawful activity or actions showing lack of good moral character.
  - c. Indecent, provocative or offensive behavior or any unlawful activities.
  - d. Any form of discrimination (cite Civil Rights Act).
10. Conduct Inconsistent With Interests of the City.
- a. Violations of the City Charter, Civil Service Rules and Regulations, City Departmental policies and directives or other policies addressed in this manual.
  - b. Actions that demonstrate disloyalty to the goals and objectives of the City.
11. Solicitations.
- Solicitations of funds or anything of value for personal profit from either employee or the public during work hours without prior authorization from the City Manager.
12. Personal Appearance.
- a. Failure to dress appropriately and in good taste in relation to assigned job duties.
  - b. Failure or refusal to wear assigned uniforms in the manner prescribed.
13. Acceptance of Gifts.
- a. Accepting significant gifts or gratuities (valued at \$50 or more) from individuals or firms which the City does business or an individual or firm seeking City business.
14. Sexual Harassment.
- a. Violations of the City’s Sexual Harassment policy in any manner.
  - b. Failure to cooperate in the conduct of an investigation of sexual harassment.
15. Political Activity. (Revised 7/01/2009)
- City employees will not be appointed or retained on the basis of their political support or activities. City employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies. City employees may not:
- a. Use his/her position or office to coerce political support or opposition from employees or citizens.

- b. Use his/her official authority to interfere with or affect the result of a campaign issue, an election or nomination for public office.
  - c. Use working hours or City property to be in any way concerned with soliciting or receiving any subscription, contribution or political service to circulate petitions or campaign literature on behalf of an election issue or candidate for public office in any jurisdiction.
  - d. Hold an appointive or elective office of public trust where service would constitute a direct conflict of interest with City employment. Upon becoming a candidate or otherwise deciding to seek or assume an office that would constitute a direct conflict of interest with City employment, an employee must immediately resign or will be dismissed upon failure to do so.
16. Secondary Employment.
- a. Engaging in activities related to secondary employment during normal working hours or while performing secondary employment which would reflect unfavorably upon the City or impair performance of job duties.
  - b. Use of City facilities, equipment, supplies, or time for engaging in secondary employment.
  - c. Use of information gained during employment for personal profit or gain.
17. Dereliction of Duty.
- a. Failure to report and take appropriate corrective or disciplinary action.
  - b. Failure to observe and abide by the policies of the City.
  - c. Failure to report or document violations of policy or procedure.
18. Failure to Maintain Minimum Job Requirements.
- a. Failure to maintain or secure licenses or certifications required as a condition of performing the job.

**SECTION 62. WHISTLEBLOWER ACT** (Added 4/01/2014)

The Texas Whistleblower Act was enacted by the Texas Legislature to protect public employees who report violations of law by their governmental employers. For a City employee to be protected by the Whistleblower Act, the employee must:

- 1. Report a violation of the law;
- 2. Issue the report in good faith;
- 3. Report the violation to an appropriate City staff (ex: Department Head and Director of Human Resources), and
- 4. As a result of making the report, the employee is suspended, terminated or suffered some adverse employment action.

If you believe that you have suffered an adverse employment action as a result of making a good faith report of a violation of the law, please notify your supervisor or the Director of Human Resources to discuss your concerns. It is the City's policy that no employee suffers an adverse employment action for a good faith reporting of a violation of the law.

## **SECTION 63. GRIEVANCE PROCEDURES** (Revised 4/01/2014)

It is the policy of the City that employees should have an opportunity to present their work-related complaints and to appeal management decisions through a grievance procedure. The City will attempt to resolve promptly all grievances that are appropriate for handling under this policy.

An appropriate grievance is defined as an employee's expressed dissatisfaction concerning any interpretation or application of a work-related policy by management, supervisors, or other employees. Examples of matters that may be considered appropriate grievances under this policy include:

1. A belief that City policies, working conditions, practices, rules, regulations, or procedures have been applied in a manner inappropriate or illegal to an employee;
2. Treatment considered unfair by an employee, such as coercion, reprisal, harassment, or intimidation;
3. Alleged discrimination because of race, color, gender, age, religion, national origin, marital status, disability, or any protected class as defined by Federal law;
4. Violation of Whistleblower Protection Act, ex: taking retaliatory personnel action against an employee or applicant because of disclosure of information by that employee or applicant concerning the City's or supervisor's violation of a law, rule or regulation, gross mismanagement, or a substantial and specific danger to public health or safety; and
5. Termination.

Employees should notify the City, in a timely fashion, of any grievance considered appropriate for handling under this policy. The filing of the grievance must be in writing, signed by the employee, and shall include the following:

1. The names of each individual involved in the grievance either as a party whose action is subject to the grievance or as a witness;
2. A description of the basis of the appeal sufficient to reasonably appraise the decision maker of the nature of the grievance;
3. A description of any documentation or physical evidence which should be considered in determining the grievance;
4. If a grievance involves a violation of law, the City policy or procedure, an ordinance, a state or federal law, if any, which the employee in good faith believes has been violated or may be relevant to the appeal as well as a description of how the provision is relevant to the grievance and indicate which law, policy or ordinance has been violated;
5. A statement of the specific remedial action requested by the employee along with the employee's signature.

The grievance procedure is the exclusive remedy for employees with appropriate grievances. As used in this policy, the terms "timely fashion", "reasonable time", and "promptly" will mean five (5) working days from the date of the event giving rise to the grievance. The Director of Human Resources may grant extensions.

The grievance procedure has a maximum of three steps unless the grievance is against the City Manager, but grievances may be resolved at any step in the process. A decision becomes binding on all parties whenever an employee does not file a timely appeal or when a decision is made in the final step and the right of appeal no longer exists.

Employees who feel they have an appropriate grievance should proceed as follows:

Step 1 - File the written grievance with the supervisor within five working days of the incident upon which the grievance is based. If the grievance involves the supervisor, then the employee may proceed directly to step two. The supervisor should investigate the grievance, attempt to resolve it, and give a decision to the employee within a reasonable time, not to exceed five working days unless additional time is needed.

The supervisor should prepare a written and dated summary of the grievance and proposed resolution for the employee's personnel file. (Revised 05/01/07)

Step 2 – Appeal the decision to the Department Head, if dissatisfied with the supervisor's decision, or initiate the procedure with the Department Head if Step One has been bypassed because it involves the supervisor. This appeal or initial complaint must be made in writing within five working days of the incident or receipt of the supervisor's proposed resolution, as the case may be. The supervisor's version of the grievance and decision will then be submitted in writing. The Department Head will within five working days (or longer with the consent of the employee) of the incident or receipt of the supervisor's proposed resolution, as the case may be, confer with the employee, the supervisor, and any other members of management considered appropriate; investigate the issues; and communicate a decision in writing to all the parties involved.

Step 3 – Appeal an unsatisfactory Department Head decision or a termination to the City Manager. The timeliness requirement and procedures to be followed are similar to those in Step Two. The City Manager will take the steps he/she deems necessary to make a fair and reasonable review and investigation of the grievance and will then issue a written decision within 10 working days. The City Manager's decision is final and binding.

If the employee brings a formal grievance against the City Manager, the formal grievance must be in writing, signed by the employee, and presented to the Mayor or City Attorney within five working days after the alleged grievance occurred. The grievance document shall include the same information as required above in this section.

A final decision on a grievance is not precedent-setting or binding on future grievances. When appropriate, the decisions will be retroactive to the date of the employee's original grievance.

Employees will not be penalized for proper use of the grievance procedures. However, it is not considered proper use if an employee raises grievances in bad faith or solely for the purposes of delay, or harassment, or repeatedly raises grievances, which are groundless. Groundless grievances subject the employee to disciplinary action. Implementation of the grievance procedure by an employee does not limit the rights of the City to proceed with any disciplinary action that is not in retaliation for the use of the grievance procedure.

The City may, at its discretion, refuse to proceed with any complaint it determines is improper under this policy or has become moot. Further, this policy does not alter the employment-at-will relationship in any way.

#### **SECTION 64. SEPARATION FROM EMPLOYMENT (Revised 4/01/2014)**

All separations from employment are designated as one of the following types:

- Resignation;
- Retirement;
- Reduction in Force / Layoff;
- Involuntary Termination / Discharge; or
- Death.

Employees separating from the service of the City, for any reason, shall be required to surrender and return to their department, or other proper source, all records and/or property of the City of Brownwood, which may be in their possession or custody. Final payroll checks will be held in the Human Resources Office until the Department Head advises that all City of Brownwood properties have been returned. In the event any piece of City property is not returned, the employee understands that the City of Brownwood may deduct the cost of the property, in addition to other replacement costs, from all funds owed to the employee at the time his/her employment is terminated. Final pay for any employees terminating under this section will be issued on the next regular payroll schedule.

- A. Resignation. An employee may leave the service of the City in good standing by submitting notice of resignation in writing to the Department Head at least fourteen (14) days before leaving. Failure to give such notice shall be entered in the service record of the employee and shall be considered grounds for denying future employment with the City. The Department Head shall submit notice of the employee's resignation to the Human Resources Department on the Personnel Action Form, indicating thereon the effective date of resignation and reason for leaving. Where the best interest of the employee and the City might be served, a Department Head may ask for the resignation of an employee. Unauthorized absence from work for a period of two (2) working days will automatically be considered by the Department Head as a voluntary resignation. (*Revised 9/12/00*)

Employees are free to resign at any time and for any reason.

Requests for re-employment by former employees will be screened by the Human Resources Department and handled in the same manner as new applicants. The Department Head considering the ex-employee for rehire should review the ex-employee's personnel file prior to making a recommendation to hire. If the applicant had two periods of prior employment with the City, the approval of the City Manager is required before proceeding with the hiring process. (Refer to the section on "Recruitment and Appointment Procedures.")

- B. Retirement. Where practical, employees should give the Human Resources Department written notice of their intent to retire at least 30 days prior to the proposed date of retirement in order to file a written application for retirement with Texas Municipal Retirement System or Firemen's Relief and Retirement. A retirement with the City of Brownwood shall be through one of these two retirement systems in order for the employee to qualify for benefits of a retiree as stated in the leave policies and medical coverage plan/policy. (Refer to the section on "Retirement Plans.")
- C. Reduction in Force / Layoff. Department Heads shall lay off employees when necessary due to changes in duties or organization, or lack of work or funds. When possible, employees who are to be laid off in one department will be assimilated into other departments by transfer. When layoffs are required, employees shall be retained first on the basis of demonstrated job performance, attitude and efficiency, and second on the length of service with the City.
- D. Involuntary Termination / Discharge. All employees are employed at will. An employee may be discharged at any time. Discharge can be for any reason not prohibited by law. A Personnel Action Form shall be completed, and the remarks section of the Personnel Action Form shall include the reason or reasons for discharge. Final pay for employees being discharged will be issued on the next regular payroll.
- E. Death. If a City employee dies, his or her estate receives all pay due and any earned and payable benefits as of the date of death. If probate is not opened, the legal heirs may apply for payment and shall be requested to provide proper documentation and identification and execute all documents deemed necessary by the City to receive payment of any earned and payable benefits or wages.

## **SECTION 65. EXIT INTERVIEW**

Exit interviews with all employees leaving employment with the City may be conducted by the Human Resources Department for the purpose of:

- A. Discussing the employee's reason for leaving.
- B. Attempting to locate causes that contribute to employee turnover.

- C. Informing the exiting employee of options on insurance conversion and retirement benefits.
- D. Explaining final paycheck and other possible separation pay.

## **SECTION 66**

### **VIII. EAP PROGRAM, ALCOHOL/DRUG USE & TESTING**

#### **CITY OF BROWNWOOD**

#### **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

(Revised 4/01/2014)

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# **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

(Revised 4/01/2014)

## **A. PURPOSE**

The City will afford employees and their families with the opportunity to seek a confidential, professional assessment and/or referral for assistance in resolving or accessing treatment for addiction to, dependence on, or problems with alcohol, drugs, or other personal problems adversely affecting their job performance. Confidential referral to possible services will be provided by the Human Resources Department. The cost of treatment, counseling or rehabilitation resulting from EAP referral will be the responsibility of the employee. The EAP counselor will assist the employee in determining how the rehabilitation costs can be paid. In most instances, the employee's medical benefit plan can be used with appropriate deductibles and co-pays applied.

When documented job impairment has been observed and identified, a supervisor may recommend participation in the EAP. Any action taken by the supervisor, however, will be based on job performance. When an employee seeks assistance or is referred to a counselor, his or her status and problem-solving actions will remain confidential and will not be released to other persons except on a need-to-know basis.

The employee will be required to sign a release of information consent form to be returned to the Human Resources Department. Refusal to participate in or failure to complete the EAP-directed program will be documented. Should job performance not improve after a reasonable amount of time, the employee is subject to progressive corrective action up to and including possible termination of employment.

Self-referral by employees or family members is strongly encouraged. The earlier a problem is addressed, the easier it is to deal with and the higher the success rate. While self-referral in itself does not preclude City's use of disciplinary actions, participation in an EAP-directed program may enable the supervisor to allow time for completion of such program before initiating or determining additional corrective actions.

EAP-related activities, such as referral appointments, will be treated on the same basis as other personal business or health matters with regards to use of accrued sick leave or vacation leave.

The Employee Assistance Program does not in any way alter the City of Brownwood's prerogatives in accordance with the existing employment policies. Participation in the Employee Assistance Program does not waive the City's right to terminate employment at any time, with or without notice, and with or without cause.

## **B. QUALIFICATIONS FOR EMPLOYEE'S USE OF EAP**

1. The employee is requesting assistance and has voluntarily and completely disclosed his/her reason for requesting assistance through the Employee Assistance Program (EAP); or
2. The employee is recommended by his supervisor for participation in the EAP based on documented job impairment or job performance; and
3. The employee's or supervisor's request for use of the EAP is not a result of receiving notification that the employee must submit to a drug or alcohol test; and
4. The employee's or supervisor's request for use of the EAP is not a result of a positive drug or alcohol test; and
5. The employee agrees to follow all requirements of the EAP program; and
6. The employee has met the requirements of probation for his/her current position.

### **C. REHABILITATION/TREATMENT**

1. It is the City's desire to assist employees who voluntarily request assistance. For City support and assistance, however, an employee must acknowledge the problem and seek and accept counseling and/or rehabilitation before it impairs job performance and/or jeopardizes the employee's employment.
2. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to participate in a rehabilitation or treatment program. The employee will sign an agreement to follow the rules of the Employee Assistance Program. An employee may not enroll in a rehabilitation or treatment program in lieu of disciplinary action or after a positive drug or alcohol test. The leave of absence for EAP may be granted in the City's sole discretion. Factors considered by the City in deciding whether to approve the request for EAP include:
  - a. The length of the employee's employment with the City; the employee's prior work and disciplinary history (must have passed probation);
  - b. The employee's agreement to abstain from the use of the problem substance and follow all other requirements of the rehabilitation/treatment program;
  - c. The likelihood of a successful outcome;
  - d. The employee's compliance with City policies, rules, and prohibitions relating to conduct in the workplace; and
  - e. The resulting hardship on the City due to the employee's absence.

Unless otherwise required by law, it is the City's policy to approve participation in the EAP only once during the course of an employee's employment with the City.

3. During time off for a City-approved rehabilitation or treatment program, the employee must use any available vacation leave, sick leave, or other accrued paid leave time.
4. The employee shall agree to participate satisfactorily in and complete a drug abuse and/or alcohol abuse rehabilitation program provided by a licensed professional counselor who is approved by the City Manager and Director of Human Resources.
5. If the employee successfully completes the prescribed rehabilitation or treatment, the City will make reasonable efforts to return the employee to the prior position or one of comparable pay and duties. However, employment with the City following a City-approved leave for rehabilitation or treatment is conditioned on the following:
  - a. Initial negative test for drugs and/or alcohol before returning to work;
  - b. A written release to return to work from the City-approved rehabilitation or treatment facility/program;
  - c. Periodic and timely confirmation of the employee's on-going cooperation and successful participation in any follow-up or ongoing counseling, testing, or other treatment required in connection with the City-approved rehabilitation or treatment program, if applicable.
6. If the reason for participation in the EAP is due to alcohol or chemical dependency, the employees will also be required to submit to periodic and/or random testing by the City during the two years following the employee's return to work following treatment. The random testing shall consist of no less than 6 random tests per year over a 60-month time period.
7. A positive drug or alcohol test during the follow-up testing period or during the remaining time he/she is employed by the City will result in the employee's immediate dismissal from employment.

8. The employee must sign a formal written agreement to abide by the above conditions. The City Manager and the appropriate Department Head must approve in writing the employee's participation in the Employee Assistance Program. The employee must meet with the Director of Human Resources to discuss the terms of continued employment and sign a formal agreement before returning to work.

#### **D. AGENCIES FOR COUNSELING AND REHABILITATION PROGRAMS**

A list of resources or agencies for counseling is available through the Human Resources Department.

**SECTION 67**

**ALCOHOL / DRUG USE AND TESTING POLICY  
FOR ALL EMPLOYEES**

**(Revised 4/01/2014)**

# CITY OF BROWNWOOD

## SECTION 67 ALCOHOL / DRUG USE AND TESTING POLICY FOR ALL EMPLOYEES (Revised 4/01/2014)

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# **ALCOHOL / DRUG USE AND TESTING POLICY FOR ALL EMPLOYEES**

## **A. PURPOSE**

The purpose of this policy is to make clear that the City of Brownwood Departments (the “Departments”) are dedicated to protecting the trust of the public for which they serve. These Departments have a responsibility to provide the highest level of public service attainable by a city. All employees of the Departments share in this responsibility. These employees involved in public services require assurance that there is no use of illegal drugs, alcohol or any other substance which may cloud their judgment or adversely affect their decision made during the course of employment. The City of Brownwood (the “City”) has established the City as a Drug Free Workplace, and this policy establishes the manner in which these Departments will be drug free.

This policy is also designed to comply with The Department of Transportation’s (DOT) Omnibus Transportation Employee Testing Act of 1991 (49 CFR Part 40).

## **B. EFFECTIVE DATE; All Employees Covered**

This policy will become effective upon its approval by the City Council of the City of Brownwood and will apply to all employees, including all existing personnel who serve in these Departments and all future employees in these Departments. Regulations that apply to Fire and Police Civil Service employees are subject to approval of the Civil Service Commission. The drug and alcohol testing of Applicants and employees who are in non-DOT positions, including Safety Sensitive positions as defined herein are excluded from the Department of Transportation (“DOT”) drug and alcohol regulations found in 49 CFR parts 40, 382, 653 and 654. Policies contained in this section which are not in conflict with the section on “Alcohol/Drug Use and Testing Policy for DOT Employees” shall be controlling and applicable to all “DOT Employees”.

Upon approval by the City Council of the City of Brownwood and the Civil Service Commission, this policy will become effective for Civil Service employees (all Police Officers in the Police Department and all Fire Fighters in the Fire Department) including all existing personnel who serve in these Departments and all future employees in these Departments.

## **C. DEFINITIONS**

**Alcohol** means any intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol. This includes over the counter and prescribed medications which contain more than one-half (1/2) of one percent (1%) of alcohol by volume.

**Alcohol Testing** – testing for alcohol by content by an evidential breath-testing device (“EBT”) or other Department of Transportation (DOT) approved device that shall be completed by a certified Breath Alcohol Technician (“BAT”) in accordance with the testing procedures set out in Attachment A-2.

**Alcohol-Related or Drug-Related Offense** means any violation of a Federal statute, State statute or local ordinance which involves Alcohol, a Controlled Substance, Drug Paraphernalia or any combination thereof, including, without limitation, open container laws, public intoxication, driving while intoxicated, the possession, manufacture, transportation, use or sale of Alcohol, Controlled Substances or Drug Paraphernalia or any combination thereof, which possession, manufacture, transportation, use or sale is prohibited by Federal statute, State statute or local ordinance.

**Applicant** means any individual who has submitted an application for employment with the City of Brownwood for a new hire position.

**Breath Alcohol Technician (BAT)** means an individual who instructs and assists individuals in the alcohol testing process and operates and evidential breath-testing or alcohol screening device (EBT).

**City** means City of Brownwood, its agents, officers and representatives.

**City Premises** means all property, buildings, structures, job sites (where an employee is working), parking lots, and City Vehicles, owned, leased, or otherwise used for City business. An employee's Motor Vehicle is also included in this definition when being used to conduct City business or when parked on City Premises during an employee's Working Hours; provided, however, that personal vehicles owned, leased or operated by an employee may only be inspected or searched based on probable cause.

**City Vehicle** means any Motor Vehicle owned, operated or leased by the City.

**Collection site** means a place designated by the City where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of controlled substances.

**Confirmed Positive Alcohol Test** means that a confirmation test shows a breath alcohol content of .02 percent or greater.

**Confirmed Positive Controlled Substance Test** means that a confirmation test shows positive evidence of the presence of a Controlled Substance above the cut-off levels established in this policy.

**Controlled Substance** means any drug or other substance included in Schedules I, II, III, IV, or V of the Controlled Substances Act of 1970, 21 U.S.C.§§ 801, et seq., or the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety Code), as such may be amended from time to time, including any successor statutes, the manufacture, distribution, possession, sale or consumption of which is illegal, or which is legally obtained but is not being used for its intended purposes or which is legally obtainable but has not been legally obtained. A controlled substance shall also mean an over-the-counter drug or substance which is legally obtained but is not being used for its intended purpose.

**Controlled Substance Testing** means collection of a urine sample by medical personnel and a laboratory analysis of that sample. All testing shall be conducted in accordance with the testing procedures set out in Attachment A-1.

**Department Head** means the Department Head as applicable to the appropriate department or his/her designee.

**DOT employee** means any City of Brownwood employee who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle requiring a commercial driver license, a mechanic, and a freight handler.

**Drug Paraphernalia** means any device use to inject, ingest, inhale, or otherwise introduce into the human body a Controlled Substance as prohibited by Texas Health and Safety Code § 481.125, as may be amended.

**Fire Chief** means the Fire Chief for the City of Brownwood Fire Department or his designee. If the Fire Chief is the subject of Controlled Substance Testing or Alcohol Testing under this policy, the Fire Chief's designee shall be the City Manager.

**Legal Drug** means both prescribed and over-the-counter Drugs which have been legally obtained, and which are being taken in prescribed or recommended quantities for the purpose for which they are prescribed, manufactured or compounded.

**Medical Review Officer (“MRO”)** means a licensed physician responsible for reviewing laboratory results generated by the City’s Controlled Substance and Alcohol Testing program who has knowledge of Substance Abuse disorders and has appropriate medical training to interpret and evaluate an individual’s positive test result together with his medical history and any other biomedical information.

**Motor vehicle** means any self-propelled vehicle.

**Negative Alcohol Test** means that initial testing or confirmation testing does not show a blood alcohol content of .02 percent or greater.

**Negative Controlled Substance Test** means that initial testing or confirmation testing does not show evidence of a Controlled Substance above the cut-off levels established in this policy.

**Non-CDL & Non-Safety Sensitive Employees** means employees who are in positions that do not require a commercial driver license and are not Police Officers or Fire Fighters.

**On-Call Employees** means employees temporarily assigned by supervisory personnel to respond to calls to duty after scheduled work hours. Employees are free to perform personal activities but are required to be fit to respond to work via pagers, phone, or radio.

**Performing (a safety-sensitive function)** means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**Police Chief** means the Police Chief for the City of Brownwood Police Department or his designee. If the Police Chief is the subject of Controlled Substance Testing or Alcohol Testing under this policy, the Police Chief’s designee shall be the City Manager.

**Refuse to submit to Alcohol Testing or Controlled Substances Testing** means that an employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer.
- (2) Fail to remain at the testing site until the testing process is complete;
- (3) Fail to provide a urine specimen for any drug test required by this policy or other applicable City policies;
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
- (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- (6) Fail or declines to take a second test the employer or collector has directed the driver to take;
- (7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the City Manager. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- (8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- (9) Is reported by the MRO as having a verified adulterated or substituted test result; or

(10) Refusal to sign required consent forms provided by the City or the testing facility.

**Substance Abuse** means the use of any substance (Alcohol, Controlled Substance and Legal Drugs) to the degree that the user experiences physical, emotional or social complications which threaten the health, safety, well-being or performance of the individual or fellow employees.

**Safety Sensitive employee** means all Police Officers regardless of rank including the Chief of Police and Assistant Chief of Police and all Fire Fighters regardless of rank including the Fire Chief and Assistant Fire Chief.

**Safety Sensitive position** means all Police Officers regardless of rank including the Chief of Police and Assistant Chief of Police and all Fire Fighters regardless of rank including the Fire Chief and Assistant Fire Chief.

**Substance abuse professional (SAP)** means a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of the clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders. The SAP evaluates employees who have violated a drug and/or alcohol program regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**Under the Influence** means indulging to any degree in Alcohol, a Controlled Substance, or a Legal Drug which may limit an employee's ability to safely and efficiently perform his duties or possess a threat to the safety of the employee or others.

**Unfit Condition** means a condition whereby the employee's behavior or ability to work is adversely affected by a Controlled Substance or Alcohol, or the combination of them, in any manner, causing adverse side effects, such as drowsiness, mood changes, impaired cognitive ability or impaired motor skills, that may adversely impact their job performance,

**Working Hours** means on duty, from the time the employee begins compensable time at work with the City until the time he leaves compensable work and including all lunch or other types of breaks while on City premises (even if such breaks are non-compensable).

#### **D. PROHIBITED ACTIVITIES UNDER THIS POLICY**

An employee shall be prohibited from:

1. The manufacture, distribution, dispensing, possession, sale, purchase or use of a Controlled Substance or Alcohol during Working Hours or while on City Premises. This prohibition does not apply to Department employees functioning within the scope of their assigned duties, such as undercover Police Officers, firefighter/paramedics.

2. Entering City Premises or reporting to work Under the Influence or in an Unfit Condition because of the use or consumption of a Controlled Substance or Alcohol.

3. The possession, sale, purchase or use of Drug Paraphernalia during Working Hours or while on City Premises.

4. Failing to pass any Controlled Substance Test and/or Alcohol Test administered under this Policy, i.e., receiving a Confirmed Positive Controlled Substance Test and/or receiving a Confirmed Positive Alcohol Test.

5. Being Under the Influence while operating any City Vehicle at any time;

6. Tampering with, or attempts to tamper with, a urine specimen and/or falsify the results of a Controlled Substance Test or Alcohol Test.

7. Refusal to submit to Alcohol Testing or Controlled Substance Testing when required under this policy. If employee states he/she has a medical condition which prevents him/her from providing sufficient specimen (urine or breath), the employee shall submit to a physical medical exam by the City's designated physician. Refusal to submit to the physical medical exam is reason for dismissal.

8. Arrest, conviction or a guilty plea (including deferred adjudication and/or pre-trial diversion) for any Alcohol-Related or Drug-Related Offense committed at any time.

9. Failure to notify the Human Resources Department within five days after arrest, conviction or a guilty plea (including deferred adjudication and/or pre-trial diversion) for any Alcohol-Related or Drug-Related Offense committed at any time.

10. Failing to report to their supervisor and the Human Resources Department the use of any Legal Drugs which may impair the employee's ability to safely and fully perform his /her duties.

11. Using alcohol for eight hours following an accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

12. Having an alcohol concentration 0.04 or greater or a verified positive result of a controlled substance test.

## **E. DISCIPLINARY ACTION FOR VIOLATIONS OF THIS POLICY**

1. This policy shall be a "no tolerance" policy. When an employee subject to Controlled Substance or Alcohol Testing receives a Confirmed Positive Controlled Substance Test and/or a Confirmed Positive Alcohol Test, the City shall initiate the termination process. In addition, the following violations of this policy shall also be grounds for immediate termination:

- (a) manufacture, distribution, dispensing, possession, sale, purchase or use of a Controlled Substance or Alcohol during Working Hours or while on City Premises;
- (b) the possession, sale, purchase or use of Drug Paraphernalia during Working Hours or while on City Premises;
- (c) tampering with, or attempting to tamper with a urine specimen and /or falsify the results of a Controlled Substance Test or Alcohol Test;
- (d) refusing to consent or submit to a Controlled Substance Test or Alcohol Test under this policy.

2. Any other violations of this policy shall be disciplined, up to and including, possible termination.

## **F. EMPLOYEE USE OF LEGAL DRUGS**

1. An employee who is using a Legal Drug that may cause an unfit condition must inform their supervisor and the Human Resources Department that they are taking such medication.

2. All employees who are using a Legal Drug, which may cause an unfit condition or adversely impact their job performance, must complete the “Prescription/OTC Drug Notification” form (see Appendixes section) and forward the form to the Human Resources Department.

3. The Human Resources Director or supervisor may request written medical authorization showing the employee may possess/use such medication, that it was used in the prescribed manner and showing the employee is fit to perform assigned duties.

4. The City reserves the right to have a designated City physician determine if a Legal Drug produces potentially hazardous effects. The City's physician has final determination on whether the Legal Drug has a hazardous effect. In such instances of temporary impediment to safe performance of regular duties, the employee may be temporarily reassigned to non-hazardous duties if such duties are available, or required to take sick leave if available, and then any other accrued leave or placed on leave without pay.

5. All doctors' statement(s) and related medical information shall be confidential and maintained in a separate medical file in the Human Resources Department.

6. Failure to report use of Legal Drugs as described above shall constitute a violation under this policy.

#### **G. USE OF ALCOHOL AT SOCIAL FUNCTIONS**

1. Employees attending City sponsored activities (when off-duty), training programs and conferences may use Alcohol in associated social functions, where Alcohol is being served, so long as the employee's conduct does not reflect adversely upon the City as determined by their Department Head or the City Manager.

2. The operation of a City Vehicle following the drinking of Alcohol shall be a violation of this policy and shall result in disciplinary action.

#### **H. EMPLOYEES ON-CALL**

1. Employees designated for “on-call” status are expected to be free of Alcohol or Controlled Substances, and available to work for the duration of their on-call status.

2. “On-call Employees” who fail to report to a call to duty, or who report for duty Under the Influence, may be subject to Controlled Substance Testing or Alcohol Testing and disciplinary action.

3. The City recognizes that, at times, employees who are not designated as on-call may be requested to report for emergency or unexpected duty. Employees who are in an Unfit Condition shall report this fact to their supervisor when contacted to report for duty. In no event, however, shall employees reporting for emergency duty be in an Unfit Condition or Under the Influence. Employees shall decline such calls for emergency duty if they are in an Unfit Condition or Under the Influence without being subject to disciplinary action.

4. Employees taking Legal Drugs who are assigned to on-call status shall report this fact to their supervisor in accordance with Section F. of this policy.

#### **I. CONTROLLED SUBSTANCE AND ALCOHOL TESTING**

The City may require testing of an Applicant or an employee under the circumstances set out below.

##### **1. Pre-employment Controlled Substance Testing:**

Every Applicant for a position with the City will be required to pass a Controlled Substance Test before employment may begin. Applicants must submit to a Controlled Substance Test at the time and date indicated when given the “conditional offer of employment”. The City requires that every newly hired employee be free of Controlled Substances. Each offer of employment shall be conditional upon the passing of a controlled substance test. The City will not hire any Applicant who refuses to take the pre-employment Controlled Substance Test. All pre-employment Controlled Substance Testing shall be conducted in accordance with Attachment A-1 in the Appendixes section.

Applicants for Civil Service positions/Safety Sensitive positions must submit to a Controlled Substance Test at the time designated in the “conditional offer of employment letter.”

a. An Applicant with a Confirmed Positive Controlled Substance Test, which is not legitimately explained to and accepted by the Medical Review Officer, will not be considered for employment.

b. An Applicant with a Confirmed Positive Controlled Substance Test or who refuses to submit to a Controlled Substance Test will not be considered for employment and/or retesting for a period of 3 years from the date the test results are received by the Human Resources Department or date of the refusal to test.

c. An Applicant who tampers with, or attempts to tamper with, a urine specimen in any manner shall be disqualified from current and future consideration of employment with the City. **Notice: It is a Class B misdemeanor offense to knowingly or intentionally use any substance or device designed to falsify Controlled Substance Test results. It is a Class A misdemeanor offense to deliver, possess with intent to deliver, or manufacture with intent to deliver a substance or device designed to falsify Controlled Substance Test results. (see Texas Health and Safety Code 481.133 as it currently exists or is hereafter amended.)**

d. An Applicant whose positive test is upheld by the Medical Review Officer may request that the same sample be retested at his own expense at a City approved laboratory. The Applicant’s request for a retest shall be no later than five business days following the date he was notified of the positive test.

## 2. Post-Accident / Injury Testing:

a. Controlled Substance Testing and Alcohol Testing shall be conducted when an employee contributes to or cannot be completely discounted as a contributing factor, in the judgment of their Department Head or the City Manager, to any employment related incident/accident resulting in damage to personal or City property or injury to any person, and:

1. The incident/accident caused injury of a person which requires medical attention at a medical facility; or
2. Release of a hazardous material accompanied by an evacuation or reportable injury resulting from the hazardous material release (e.g. from fire, explosion, inhalation, or skin contact with the material); or
3. the accident resulted in a fatality, or
4. apparent damage to any property of an amount of \$1,000 or more; or
5. the employee received a citation for a moving traffic violation.

Estimate of damage will be determined by the Fleet Services Director. The employee’s supervisor shall contact the Fleet Services Director immediately after being notified of the accident/incident. The Fleet Services Director or appointee may review the damage in person or via photos. The estimate and decision to test or not to test shall be made within one (1) hour of the accident. Human Resources shall be notified immediately by the supervisor if any of the criteria for reason to test has been met or if in doubt if there should be a Controlled Substance and Alcohol Test.

The employee shall remain readily available for such testing up to a maximum of 8 hours or may be deemed to have refused to submit to testing. The employee's supervisor must arrange transportation of the employee to the testing and/or collection site.

In the case of an employee fatality in an accident/incident described above, the City's representatives shall make every effort to cooperate fully with the Brownwood Police and other law enforcement agencies to obtain appropriate body fluid and/or tissue samples from the remains of the employee for toxicological testing.

b. Controlled Substance Testing and Alcohol Testing shall be conducted when a reasonable suspicion exists from documentable facts that the accident or injury resulted due to the use of a Controlled Substance or consumption of Alcohol in violation of this policy.

c. Employee(s) rendered unconscious or seriously injured in a Motor Vehicle accident or other accident and are taken for emergency treatment, shall be given a Controlled Substance Test and/or Alcohol test as a part of the medical treatment, if possible.

d. The employee(s) involved in the accident, or employee(s) first arriving at the accident site, shall inform supervisory personnel of the accident immediately, but no longer than 15 minutes following the accident. Failure to report an accident by the employee or supervisory personnel shall result in disciplinary action up to and including possible termination.

e. Under no circumstances shall the employee be permitted to drive to the testing and/or collection site. Nothing in this section shall be construed to require the delay of necessary medical attention for injured employees following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. Alcohol testing must be administered within two hours following the accident. If not, the supervisor must submit to the Director of Human Resources a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight hours following an accident, the supervisor shall cease attempts to administer the test and submit a report to Director of Human Resources stating the reasons the test was not administered within the time prescribed above.

f. Controlled substance testing must be administered within 32 hours following an accident. If the controlled substance test is not administered within 32 hours following an accident, the supervisor shall cease attempts to administer the test and submit a report to the Director of Human Resources stating the reasons the test was not administered within the time prescribed above.

g. All accidents shall be fully investigated by the supervisor of the employee who was involved in the accident. The investigation shall be documented in writing and submitted to the Department Head and Human Resources.

h. An employee involved in an accident while on an out-of-town assignment, shall notify their supervisor and their Department Head as soon as possible but no later than within 15 minutes of the accident. The supervisor shall notify Human Resources to set up a Controlled Substance Test and Alcohol Test at a nearby facility if one of the requirements is met as listed in 2.a. above.

i. If a post-accident Controlled Substance and Alcohol Test are required, the employee(s) involved in the accident or who is considered a contributing factor shall be prohibited from working until reporting to the City's designated clinic. The employee may be returned to a non-driving position or an administrative position if available, and if all three of the following criteria are met:

1. the Supervisor determines the employee shows no signs of influence from drugs or alcohol; and
2. it was determined that the accident was not the employee's fault; and

3. there were no fatalities or injuries requiring medical attention at a medical facility due to this accident.

If any of these three criteria listed above are not met, the employee shall remain off work until the City receives the results of the controlled substance and alcohol tests, and these tests are negative. If either the controlled substance or alcohol test is positive, the employee shall be terminated.

If a non-driving position is not available, the employee may be placed on Administrative Leave with pay pending Controlled Substance Test and/or Alcohol Test results.

j. Post-Accident/Injury Controlled Substance Testing and Alcohol Testing will be conducted in accordance with the procedures outlined in Attachments A-1 and A-2 in the Appendixes section.

### 3. **Promotional/Transfer Testing:**

Controlled Substance Testing shall be conducted on any employee who applies for a transfer to position classified as a Safety Sensitive position or a DOT employee position. All transfers to Safety Sensitive positions or DOT employee positions shall be subject to the applicable regulations and policies on alcohol/drug use and testing which includes random testing.

Controlled Substance Testing shall be conducted on any employee in a Safety Sensitive Position who applies for a promotion or a transfer to another Safety Sensitive position. All promotional and/or transfer Controlled Substance Testing shall be conducted in accordance with Attachment A-1 in the Appendixes.

### 4. **Reasonable Suspicion Testing:**

a. Any employee may be required to report for Controlled Substance Testing and/or Alcohol Testing when the employee's supervisor has a reasonable suspicion to believe that an employee is Under the Influence. Testing may be conducted only when reasonable suspicion exists as defined in this policy, and only when a supervisor trained in Controlled Substance or Alcohol awareness has observed conduct or behavior creating reasonable suspicion or when a supervisor has been provided information by reliable and/or credible sources or independently corroborated that creates reasonable suspicion. Reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee or the receipt of information from reliable and/or credible sources or independently corroborated that creates reasonable suspicion.

For alcohol testing only, the required observations must be made during, just preceding, or just after the work day. For controlled substance testing, the required observation may be made at any time.

Circumstances which constitute a factual basis for determining reasonable suspicion may include, but are not limited to:

- i. direct observation of Controlled Substance or Alcohol use or possession;
- ii. odor of alcohol beverage about the person;
- iii. inability to walk a straight line;
- iv. observation of physical indications of Controlled Substance or Alcohol use such as slurred speech or dilated pupils;
- v. behavior which is so unusual that it warrants summoning a supervisor;
- vi. an accident resulting in injury to the employee or to others which requires medical attention, and which shows an obvious level of carelessness or negligence; and

vii. the receipt of information from reliable and/or credible sources or independently corroborated that creates reasonable suspicion.

b. If reasonable suspicion is documented, the employee's immediate supervisor shall NOT allow the employee to work or continue to work. The supervisor shall complete a Referral Questionnaire (Attachment C in the Appendixes section) and submit this form to his Department Head and Director of Human Resources for authorization. No reasonable suspicion Controlled Substance Tests or Alcohol Tests shall be conducted without first being authorized by the Department Head and Director of Human Resources.

c. The supervisor or supervisor's designee shall transport the employee to the approved lab facility for testing. Under no circumstances, shall the employee be allowed to drive.

d. Following the evaluation, if the employee is determined to be physically and/or emotionally impaired to the degree that efficiency would be severely affected or that the safety of the employee or others could be in jeopardy if the employee returned to duty, he or she shall be driven home and placed on leave without pay pending the results of the Controlled Substance Test and/or Alcohol Test.

Employees in Safety Sensitive positions who are determined to be physically and/or emotionally impaired to the degree that efficiency would be severely affected or that the safety of the employee or others could be in jeopardy if the employee returned to duty, shall be driven home and shall be placed on administrative leave with pay pending the results of the Controlled Substance Test and/or Alcohol Test.

e. Reasonable suspicion testing for Controlled Substances and Alcohol shall be conducted in accordance with Attachments A1 and A2 in the Appendixes section.

f. If either the controlled substance or alcohol test is positive, the employee shall be terminated.

**5. Return-to-duty testing:** In the event an employee is permitted to return to work after engaging in any of the prohibited conduct, the employee shall submit to a return-to-duty alcohol test and the result must indicate an alcohol concentration of less than 0.02 if the prohibited conduct involved alcohol, or submit to a return-to-duty controlled substance test and the result must indicate a verified negative result if the prohibited conduct involved controlled substances. The "return-to-duty" test will be conducted as an "observed collection". The observer shall be an employee of the collection agency and shall be of the same sex as the employee performing the "return-to-duty test".

**6. Follow-up testing:** In the event an employee is permitted to return to work and following a determination by the Substance Abuse Professional that an employee needs assistance in resolving problems associated with alcohol misuse, and/or use of controlled substance the employee shall be required to undergo unannounced follow-up alcohol and/or controlled substance testing as directed by a Substance Abuse Professional. The number and frequency of such follow-up testing shall be as directed by the Substance Abuse Professional and consist of at least six tests in the first 12 months following the employee's return to duty. Follow-up testing shall not exceed 60 months from the date the employee returns to duty. Follow-up testing shall be conducted only during the employee's normal workday. All follow-up tests for controlled substance will be an "observed collection".

**7. Random Testing:**

**There shall be no random Alcohol or Controlled Substance Testing of employees who are not "DOT employees" or "Safety Sensitive employees".**

Random Alcohol and/or Controlled Substance Testing shall apply to only "Safety Sensitive employees" as addressed in this section of the policy. Random Alcohol Testing and Controlled Substance Testing for DOT employees is addressed in the section titled "Alcohol/Drug Use and Testing Policy for DOT Employees." Random alcohol tests shall only be administered during the selected employee's normal working hours. Controlled substance testing may be conducted at any time before, during or after normal working hours.

a. The selection of employees for random Alcohol and Controlled Substance Testing shall be made by scientifically valid method, such as a random number table of a computer-based random number generator that is matched with the Safety Sensitive employees' Social Security numbers, payroll identification numbers or other comparable identifying numbers. Each "Safety Sensitive employee" shall have an equal chance of being tested each time selections are made.

b. The Director of Human Resources shall ensure that each test is unannounced and the dates for administering random alcohol and controlled substance tests are spread reasonably throughout the calendar year.

c. The Director of Human Resources will notify all supervisors whose employees have been selected for random alcohol and/or controlled substance testing. The supervisor will be responsible for directly notifying his or her employees in person that they have been selected for random alcohol and/or controlled substance testing and escorting the selected employee to the test site immediately. If the immediate supervisor is not available another supervisor with the required training may take the selected employee to the test site.

d. The following "Safety Sensitive positions" in the Fire or Police Department including all existing personnel who serve in these positions and all future personnel who may serve in these positions shall be subject to random testing: all Police Officers regardless of rank including the Chief of Police, Assistant Chief of Police and all Fire Fighters regardless of rank including the Fire Chief and Assistant Fire Chief.

e. **Annually not less than 30% of the total number of employees in the Safety Sensitive positions shall be randomly tested for Controlled Substances.**

f. **Annually not less than 5% of the total number of employees in the Safety Sensitive positions shall be randomly tested for Alcohol.**

g. The Human Resources Director or designee or contractor shall be the only individual to produce a list of names for random Controlled Substance Testing. This shall be done by means of a scientifically valid random number generation method at time periods to be determined by the Human Resources Director or designee or contractor.

h. The Chief or his designee shall be notified of the names produced from each random selection and shall keep the information confidential. The employee's name will be reentered into the random data file following selection.

i. Upon receiving the names of employees who are to be tested for Controlled Substances and/or Alcohol, the Chief shall ensure that the employees are escorted by a trained supervisor and report to the lab as soon as possible but not later than one hour after the employee is notified to appear unless extenuating circumstances exist. If such circumstances exist beyond the employee's control, where it is not possible for him/her to appear for testing within the time allowed, the Chief shall immediately advise the Human Resources Director or designee of the circumstances. The employee shall provide written documentation to the Chief and the Human Resources Director explaining the reasons why he/she was unable to appear for the testing. This documentation shall be delivered to the H.R. Director's office within 24 hours of the Chief receiving notice of the required test.

j. If the Chief is notified of the name of an employee who is not on duty, or who is unable to report for testing the Chief and the Human Resources Director shall retain the name in a confidential manner and ensure the employee is notified as soon as practical after he/she returns to work. Once the employee receives notification of his/her random test, he/she must report to the lab as soon as possible but not later than one hour after notification.

k. Random testing for Controlled Substances shall be conducted in accordance with Attachment A-1, attached hereto and incorporated herein.

1. If either the controlled substance or alcohol test is positive, the employee shall be terminated.

## 8. **Observed Collections:**

If an applicant/employee is required to take a drug test, and the specimen was adulterated or substituted, this is treated as a refusal to test. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for control substances.

If the applicant/employee is allowed to provide a second specimen, the second collection must be under direct observation by an employee of the collection agency, and observer shall be of the same sex as the applicant / employee.

Directly observed collections are authorized and required when the applicant / employee attempts to tamper with his or her specimen at the collection site. Possible tampering with a specimen is indicated when:

- a) The specimen temperature is outside the acceptable range;
- a) The specimen shows signs of tampering (i.e. unusual color / odor / characteristic);
- b) The collector finds an item in the employee's pockets or wallet which appears to be brought into the site to contaminate a specimen;
- c) The collector notes conduct suggesting tampering; or
- d) The specimen results are "diluted" specimen. Two consecutive drug tests with the results of "diluted" specimen will be handled the same as a "positive" test.

Failure of the employee to permit any part of the direct observation procedure is a refusal to test.

## **J. PAY WHILE WAITING FOR TEST RESULTS**

An employee, who is sent home and remains off duty while waiting for results of a drug test and/or alcohol test, shall be on leave without pay. However, if the results of the drug test and alcohol test (if applicable) are negative, the employee shall receive pay for the regular hours he/she would have normally worked for the time he/she was off work, unless disciplinary actions are warranted. If the Department Head decides to impose disciplinary actions, refer to the section on "Grounds for Discipline and/or Termination".

A "Safety Sensitive employee" who is sent home and is off duty while waiting for the results of a drug test and/or alcohol test shall be on administrative leave with pay. If the Police Chief or Fire Chief decides to impose disciplinary actions, refer to "Grounds for Discipline and/or Termination" and "Chapter 143 – Local Government Code Municipal Civil Service", "Local Civil Service Rules" and local Civil Service agreements.

## **K. MEDICAL REVIEW OFFICER**

The Medical Review Officer ("MRO") for the City will be a licensed physician who has knowledge of Substance Abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other biomedical information. The MRO shall review all Confirmed Positive Controlled Substance Tests and Confirmed Positive Alcohol Tests to determine if there is an alternative medical explanation of the test results. If the MRO's review of the test results indicates a legitimate medical explanation for the Confirmed Positive Controlled Substance Test or Confirmed Positive Alcohol Test, no further action will be taken against an employee and/or an Applicant will be eligible for hire. If the MRO's review determines that there is no legitimate medical explanation for the Confirmed Positive Controlled Substance Test or the Confirmed Positive Alcohol Test, the employee will be terminated as provided herein. If the person with the positive tests results is an applicant, and there is no legitimate medical explanation for the Confirmed Positive Controlled Substance Test or the Confirmed Positive Alcohol Test, the applicant will not be hired and may not be

considered for employment and retesting for a period of three (3) years from the date the test results are received by the Human Resources Department.

#### **L. SEARCHES**

1. When reasonable cause exists, the City of Brownwood reserves the right to conduct unannounced searches for Controlled Substances or Alcohol anywhere on City Premises, including, but not limited to:

- a. Lockers;
- b. Desks;
- c. File cabinets;
- d. City equipment; and
- e. City vehicles.

2. All such searches must be authorized and conducted under the direction of the City Manager or his designee. Employees who refuse to cooperate during such unannounced searches shall be subject to disciplinary action, up to and including termination. See the section on “Confidentiality of Information and Workplace Privacy”.

#### **M. CONFIDENTIALITY OF DATA**

Test results will be held in the strictest of confidence. The personal identification of the Applicants or employee failing to pass the test will not be communicated to anyone other than the Applicant and the appropriate City staff members, who are the Human Resources Department, the City Manager, the City Attorney and the employee's supervisor(s) and Department Head. Information may also be released if required by court order from any court of competent jurisdiction or upon written request by the employee. Applicants and employees who are tested will be provided with a copy of the test results if requested. Dissemination of information relating to the results of any Controlled Substance/Alcohol testing other than those listed in this section may result in disciplinary action including possible termination of the person disseminating the information.

#### **N. SELF-DISCLOSURE OF SUBSTANCE ABUSE; EMPLOYEE ASSISTANCE PROGRAM AND RETURN TO DUTY**

1. Notwithstanding the above, it is the City’s genuine desire to assist any employee who sincerely wants help in overcoming an Alcohol or Controlled Substance dependency/addiction, to get drug-free and stay “clean.” Therefore, all employees who voluntarily disclose Substance Abuse to the Director of Human Resources and their Department Head and state they are seeking help, provided that they make such disclosure and seek such help prior to their being notified, or their supervisor being notified, of their selection for an upcoming Controlled Substance Test and/or Alcohol Test, will be given an opportunity to preserve their jobs and careers by referral to the City’s Employee Assistance Program for treatment and to establish a plan for return to normally assigned duties.

2. Employees who are involved in the City’s Employee Assistance Program and are able to report for work may do so under the following conditions:

a. The employee may resume regular duties only after the employee tests Negative for a Controlled Substance under a Controlled Substance Test and Negative for an Alcohol Test administered by the City-approved laboratory and can provide a release to return to work from an appropriate Substance Abuse treatment facility and confirmation of continued and on-going participation in a City recognized Substance Abuse assistance program. An employee must test Negative for a Controlled Substance within a reasonable period of time prior to the return to work, not to exceed five business days prior to date of return to work. All other

conditions specified herein shall apply. A repeat occurrence of Substance Abuse or violation of any other aspect of this policy will result in immediate termination.

b. Prior to being allowed to return to work, the employee shall be required to meet with the Human Resources Director to receive an explanation of the terms of continued employment and sign a written treatment plan.

c. Such treatment plan will require that the employee, at the City's request, be required at any time, to submit to interviews and physical examinations by the authorized City physician and/or evaluation by the professional staff at an appropriate Substance Abuse treatment facility approved by the employee's Department Head and the Director of Human Resources.

d. The treatment plan will also stipulate that the employee be required to submit to unannounced Controlled Substance Testing and/or Alcohol Testing for up to 60 months after resuming duties.

## **O. TRAINING FOR SUPERVISORS**

The Director of Human Resources will ensure that management and supervisory personnel designated to make a reasonable suspicion determination receive at least 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances. Supervisors and management personnel who make reasonable suspicion determinations shall attend follow-up training at least once every three years.

## **P. RECORDS RETENTION**

1. The following records shall be maintained for five years:
  - a. Alcohol test results indicating an alcohol concentration of 0.02 or greater;
  - b. Verified positive controlled substances test results;
  - c. Refusals to take required alcohol and/or controlled substance tests;
  - d. Calibration documentation of the evidential breath testing devices;
  - e. Employee evaluation and referrals; and
  - f. The annual calendar year summary required under "Required Reports" below:
2. The following records shall be maintained for two years: records related to the alcohol and controlled substance collection process and training.
3. The following records shall be maintained for one year:
  - a. Records of negative and canceled controlled substance test results; and
  - b. Alcohol test results with a concentration of less than 0.02.
4. The following records shall be maintained for an indefinite period: records related to the education and training of supervisors and drivers. These records shall be maintained by the City while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

**Q. ACCESS TO RECORDS**

The City shall not release records required to be maintained unless the employee has authorized the release in writing. Records shall be made available to the employee's future employers only if requested in writing and accompanied by a signed release by the employee. This shall not prohibit the releasing of records to administrative agencies of the federal or state governments with regulatory authority over the City or in a lawsuit or grievance or other proceeding initiated by or on behalf of the employee and arising from the results of an alcohol and/or controlled substance test.

**R. REQUIRED REPORTS**

Prior to March 15 of each year, the Director of Human Resources or the testing site shall prepare and maintain or receive from the testing facility the annual calendar year summary of the results of alcohol and controlled substances testing programs utilizing appropriate forms.

**S. RIGHT TO AMEND POLICY; NO WAIVER OF CITY'S "AT-WILL" POLICY**

The City of Brownwood reserves the right to change, modify, amend, revoke, or rescind all or part of this policy at any time. This policy shall not waive the City of Brownwood's policy as an "at-will" employer, that is, the City may terminate the employee at any time, for any non-discriminatory reason or for no reason.

# CITY OF BROWNWOOD

## SECTION 68

### ALCOHOL / DRUG USE AND TESTING POLICY FOR DOT EMPLOYEES

(Revised 4/01/2014)

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# ALCOHOL / DRUG USE AND TESTING POLICY FOR DOT EMPLOYEES

## A. POLICY STATEMENT

In order to comply with The Department of Transportation's (DOT) Omnibus Transportation Employee Testing Act of 1991 (49 CFR Part 40), the City of Brownwood has adopted the following alcohol and controlled substance use and testing policy.

Violation of these rules is a violation of the City of Brownwood Personnel Rules and Regulations. Employees who violate the City's Alcohol and Controlled Substance Use and Testing Policy are subject to disciplinary action up to and including termination of employment.

All employees covered under this section are also bound by the provisions of the section on "Alcohol and Drug Use and Testing Policy for All Employees" except provisions which are in conflict with this section. In cases of conflict, this section shall prevail.

The City of Brownwood reserves the right to be more restrictive than DOT regulations on Alcohol and Controlled Substance Testing.

## B. PURPOSE

The purpose of this policy is to make clear that the City of Brownwood CDL drivers/DOT employees are dedicated to performing their duties in the safest manner possible. These employees have a responsibility to drive safely for the benefit of public safety. All employees who are CDL drivers/DOT employees share in this responsibility. These safety sensitive positions operate vehicles requiring a commercial driver license and performing other assigned duties which may involve repairs to commercial motor vehicles. The performance of these duties require assurance that there is no use of illegal drugs, alcohol or any other substance which may cloud their judgment or adversely affect their ability to safely operate a commercial motor vehicle or make the necessary repairs (if applicable) during the course of employment. The City of Brownwood (the "City") has established the City as a Drug Free Workplace, and this policy establishes the manner in which these employees will be drug free.

## C. EFFECTIVE DATE

This policy will become effective upon its approval by the City Council of the City of Brownwood and will apply to all employees who are CDL drivers/DOT employees or who do repairs on commercial motor vehicles, including all existing personnel who serve in these positions and all future employees in these positions. The drug and alcohol testing of Applicants and employees herein are covered by the Department of Transportation ("DOT") drug and alcohol regulations found in 49 CFR parts 40, 382, 653 and 654.

## D. DEFINITIONS

All definitions listed in the section on "Alcohol and Drug Use and Testing Policy for All Employees" are applicable to this section in addition to the following definitions.

**Actual knowledge** for the purpose of subpart B of this part, means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a Commercial Motor Vehicle while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in §382.121. Direct observation as used in this definition means observation of

alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under §382.307.

**Applicant** means any individual who has applied for employment with the City for a position as a CDL driver or a position which requires the employee to make repairs to commercial motor vehicles or a position meeting the definition of a “DOT Employee”.

**Cancelled or invalid test.** In controlled substances testing where a controlled substances test has been declared invalid by a Medical Review Officer. A canceled test is neither a positive nor a negative test. In alcohol testing, a test that is deemed invalid under 49 CFR § 40.79, is neither a positive or negative test.

**CDL driver or Driver** means any person employed by the City who operates a commercial motor vehicle and is required to hold a commercial driver license (CDL) as a requirement of his or her job. This includes, but is not limited to full time, regularly employed drivers; casual, intermittent or occasional drivers. For the purposes of pre-employment/pre-duty testing only, the term *driver* includes any person applying to the City for a position which drives a commercial vehicle.

**Commercial motor vehicle** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle—

- (1) Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- (2) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

**Confirmation (or confirmatory) alcohol test** means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

**Confirmation (or confirmatory) drug test** means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

**Confirmation (or confirmatory) validity test** means a second test performed on a urine specimen to further support a validity test result.

**DOT or DOT Agency** means an agency (or “operating administration”) of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with part 40 of this title.

**DOT employee** means any City of Brownwood employee who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle requiring a commercial driver license, a mechanic, and a freight handler.

**Refuse to submit (to an alcohol or controlled substances test):** see definitions in section on “Alcohol and Drug Use and Testing Policy for All Employees”.

## **E. REQUIREMENT FOR NOTICE**

Before performing an Alcohol or Controlled Substance Test, the supervisor or Human Resources Department must notify the employee that the alcohol or controlled substance test is required by the City. If the employee subject to testing is a CDL-driver or in a DOT employee position, the supervisor or Human Resources Department must notify the employee that the testing is required in accordance with 49 CFR, Part 382.

## **F. DOCUMENTATION REQUIRED FOR DOT EMPLOYEES**

**1. Pre-employment documentation:** Prior to employment the Director of Human Resources shall request the following information from DOT-regulated employers who have employed the employee during any period during the 3 years before the date of the employee's application or transfer:

- (a) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- (b) Verified positive drug tests;
- (c) Refusals to be tested (including verified adulterated or substituted drug test results); and
- (d) Other violations of DOT agency drug and alcohol testing regulations.

Any applicant who had violations of DOT agency drug and/or alcohol testing regulations during the 3 years before the date of their application or transfer shall not be considered for hire or transfer.

Records obtained from prior employers as described above must be maintained in the employee's confidential file for a minimum of three years from the date of the transfer request. Records on applicants shall be maintained in the City's confidential file related to the drug and alcohol testing.

## **G. CONTROLLED SUBSTANCE AND ALCOHOL TESTING**

**1. Random testing:** The City shall randomly select a sufficient number of DOT employees for Alcohol and Controlled Substance during each calendar year of not less than the annual percentage rate prescribed by law (49 CFR § 382.305).

Random Alcohol Tests shall only be administered during the selected employee's normal working hours. Controlled Substance Testing may be conducted at any time before, during or after normal working hours.

a. The selection of employees for random alcohol and controlled substance testing shall be made by scientifically valid method, such as a random number table of a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers or other comparable identifying numbers. Each driver shall have an equal chance of being tested each time selections are made. The random testing pool for DOT employees shall be separate from all other random testing pools of City of Brownwood employees.

b. The Director of Human Resources shall ensure that each test is unannounced and the dates for administering random alcohol and controlled substance tests are spread reasonably throughout the calendar year.

c. The Director of Human Resources will notify all supervisors whose employees have been selected for random alcohol and/or controlled substance testing. The supervisor will be responsible for directly notifying his or her employees in person that they have been selected for random alcohol and/or controlled substance testing and escorting the selected employee to the test site immediately. If the immediate supervisor is not available another supervisor with the required training may take the selected employee to the test site.

d. The employees in the positions of "DOT Employees" in the Department including all existing personnel who serve in these positions and all future personnel who may serve in these positions shall be subject to random testing.

e. Annually not less than the annual percentage rate prescribed by law (49 CFR § 382.305) shall be randomly tested for Controlled Substances by use of a computerized random selection software process under the direction and control of the Human Resources Department, or their contractor. In the random selection process, employees will be identified by a number, with no reference to their name.

f. Annually not less than the annual percentage rate prescribed by law (49 CFR § 382.305) shall be randomly tested for Alcohol by use of a computerized random selection software process under the direction and control of the Human Resources Director, or the City's contractor. In the random selection process, employees will be identified by a number, with no reference to their name.

g. The Human Resources Director or designee or contractor shall be the only individual to produce a list of names for random Controlled Substance Testing. This shall be done by means of a scientifically valid random number generation method at time periods to be determined by the Human Resources Director or designee or contractor.

h. The Department Head or Supervisor shall be notified of the names produced from each random selection and shall keep the information confidential. The employee's name will be reentered into the random data file following selection.

i. Upon receiving the names of employees who are to be tested for Controlled Substances, the Department Head or Supervisor shall ensure that the employees are escorted by a trained supervisor and report to the lab as soon as possible but not later than one hour after the employee is notified to appear unless extenuating circumstances exist. If such circumstances exist beyond the employee's control, where it is not possible for him/her to appear for testing within the time allowed, the Department Head shall immediately advise the Human Resources Director or designee of the circumstances. The employee shall provide written documentation to the Department Head and the Human Resources Director explaining the reasons why he/she was unable to appear for the testing. This documentation shall be delivered to the H.R. Director's office within 24 hours of the Department Head receiving notice of the required test.

j. If the Department Head or Supervisor is notified of the name of an employee who is not on duty, or who is unable to report for testing the Department Head, Supervisor and the Human Resources Director shall retain the name in a confidential manner and ensure the employee is notified as soon as practical after he/she returns to work. Once the employee receives notification of his/her random test, he/she must report to the lab as soon as possible but not later than one hour after notification.

k. Random testing for Controlled Substances shall be conducted in accordance with Attachment A-1 in the Appendixes section.

1. If either the controlled substance or alcohol test is positive, the employee shall be terminated.

2. **Other Controlled Substance and Alcohol Testing** for DOT employees is addressed in section titled "Alcohol / Drug Use and Testing Policy for All Employees".

## **H. PROCEDURES FOR CONTROLLED SUBSTANCE TESTING**

The procedures established in the section on "Alcohol & Drug Use & Testing Policy for All Employees" and the related attachments shall be applicable and controlling for "DOT Employees".

## **I. TRAINING FOR SUPERVISORS**

The Director of Human Resources will ensure that management and supervisory personnel designated to make a reasonable suspicion determination receive at least 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances. Supervisors and management personnel who make reasonable suspicion determinations shall attend follow-up training at least once every three years.

## **J. REQUIRED RECORDS / RECORDS RETENTION**

The following records shall be maintained by the Director of Human Resources in a secure location with controlled access.

1. The following records shall be maintained for five years:
  - a. Alcohol test results indicating an alcohol concentration of 0.02 or greater;
  - b. Verified positive controlled substances test results;
  - c. Refusals to take required alcohol and/or controlled substance tests;
  - d. Calibration documentation of the evidential breath testing devices;
  - e. Document related to the random selection process;
  - f. Documentation of breath alcohol technician training;
  - g. Documents generated in connection with decisions on post-accident tests;
  - h. Documents verifying the existence of a medical explanation of the employee's inability to provide adequate breath or to provide a urine specimen for testing;
  - i. Documents sent by the Medical Review Officer to the City;
  - j. Documents relating to the refusal of the employee to submit to an alcohol or controlled substances test;
  - k. Documents presented by an employee to dispute the result of an alcohol or controlled substance test;
  - l. Records related to education and training of employees;
  - m. Records related to education and training of supervisors;
  - n. Agreements with collection site facilities, laboratories, and Medical Review Officers;
  - o. Employee evaluation and referrals;
  - p. The annual calendar year summary required under the section on "Required Reports" below: and
  - q. City's drug testing policy and procedures
2. The following records shall be maintained for three years:
  - a. Records obtained from prior employers as related to positive alcohol and drug tests;
  - b. Refusals to be tested; and
  - c. Other violations of DOT agency drug and alcohol testing regulations.
3. The following records shall be maintained for two years: records related to the alcohol and controlled substance collection process and training.
4. The following records shall be maintained for one year:
  - a. Records of negative and canceled controlled substance test results; and
  - b. Alcohol test results with a concentration of less than 0.02.

## **K. REQUIRED REPORTS (only applies to CDL/DOT-required employee testing)**

Prior to March 15 of each year, the Director of Human Resources or the testing site shall prepare and maintain or receive from the testing facility the annual calendar year summary of the results of alcohol and controlled substances testing programs utilizing appropriate U.S. Department of Transportation forms.

**L. POLICY REQUIREMENTS**

The Director of Human Resources shall ensure that every employee in this testing pool is provided a copy of this policy and ensure that each employee signs a statement certifying that he/she has received a copy of the policy. The Director of Human Resources shall maintain the original of the signed certificate and provide a copy to the employee upon request.

The Director of Human Resources shall be responsible for the City’s compliance with the above policy. The Director of Human Resources shall also be responsible for answering employee’s questions regarding the City’s alcohol and controlled substance policy.

**M. OTHER POLICIES FOR DOT EMPLOYEES**

Policies contained in the section titled: “ALCOHOL / DRUG USE AND TESTING POLICY FOR ALL EMPLOYEES” which are not in conflict with this section for DOT employees shall be controlling and applicable to all DOT employees.

**N. RIGHT TO AMEND POLICY; NO WAIVER OF CITY’S “AT-WILL” POLICY**

The City of Brownwood reserves the right to change, modify, amend, revoke, or rescind all or part of this policy at any time. This policy shall not waive the City of Brownwood’s policy as an “at-will” employer, that is, the City may terminate the employee at any time, for any non-discriminatory reason or for no reason.

## **IX. ADDITIONAL LEAVE POLICIES**

### **Section 69. MENTAL HEALTH LEAVE POLICY FOR NON-CIVIL SERVICE EMPLOYEES**

The purpose of this policy is to provide guidance in accordance with Chapter 614.015 of the Local Government Code (the “Law”) regarding paid mental health leave for full-time and part-time Non-Civil Service Employees employed by the City of Brownwood who experience a traumatic event while on duty. Although the Law does not require that a City adopt a mental health leave policy for all Employees, the City of Brownwood recognizes the impact traumatic events have on the mental health of our employees and desires to extend the same benefits and coverage to its all of its full-time and part-time Employees.

#### **A. ELIGIBILITY**

A full-time or part-time Non-Civil Service Employee who is employed by the City of Brownwood is eligible for mental health leave if they experience a traumatic event while on duty. The traumatic event must involve extreme injury, near-death, or death of an individual, or other similarly stressful situations, experienced by the employee while on duty.

#### **B. CONDITIONS**

A Non-Civil Service Employee shall be allowed up to ten days of paid mental health leave per calendar year, subject to the following conditions: (1) the leave is (a) approved based upon the information provided to the Department Head and Director of Human Resources; or (b) ordered by a mental health professional; and (2) the leave is taken as a result of a traumatic event that occurred while on duty. For the purposes of this policy, “day” is defined as an 8.0-hour day.

#### **C. PROCESS**

1. The Employee will contact their Department Head and request the use of mental health leave in order to obtain mental health assistance. The Department Head may recommend mental health leave to the employee to consider.
2. The Department Head will consult with the Director of Human Resources and, upon granting the leave, will allow mental health leave for a reasonable time, subject to the annual maximum leave per calendar year.
3. The Director of Human Resources will provide the Employee with information about the City of Brownwood offered Employee Assistance Program (EAP).

#### **D. ANONYMITY**

The City will keep requests to take mental health leave, and any medical information related to mental health leave under this policy confidential to the extent allowed by law and separate from the Employee’s general personnel file. The City cannot guarantee anonymity of information that is otherwise public or necessary to carry out the City’s duties under the law. The hours away from work will be noted on the timesheet as regular hours to provide anonymity. However, there will be notes placed in the Employee’s Confidential file to provide a record of the time away as well as a historical record that the leave was granted.

#### **E. EFFECT ON PAID LEAVE BALANCES**

The City will not reduce an eligible Employee’s sick leave, vacation leave, holiday or other paid leave balance for mental health leave taken under this policy.

#### **F. PROHIBITED FROM WORKING ANOTHER JOB**

Employees who are on paid mental health leave are prohibited from working another job on the days that they use mental health leave.

## **G. OFF THE JOB MENTAL HEALTH LEAVE**

If you have an off the job mental health need, please refer to the Sick Leave policy in the Personnel Rules & Regulations handbook as well as the City and TML Employee Assistance Programs as these are not covered under this policy.

## **Section 70. MENTAL HEALTH LEAVE POLICY FOR FIREFIGHTERS**

The purpose of this policy is to provide guidance in accordance with Chapter 614.015 of the Local Government Code (the “Law”) regarding paid mental health leave for full-time firefighters employed by the City of Brownwood Fire Department who experience a traumatic event while on duty. Although the Law does not require that a City adopt a mental health leave policy for firefighters, the City of Brownwood recognizes the impact traumatic events have on the mental health of our firefighters and desires to extend the same benefits and coverage to its firefighters.

### **A. ELIGIBILITY**

A full-time firefighter who is employed by the City of Brownwood Fire Department is eligible for mental health leave if they experience a traumatic event while on duty. The traumatic event must involve extreme injury, near-death, or death of an individual, or other similarly stressful situations, experienced by the firefighter while on duty.

### **B. CONDITIONS**

A firefighter shall be allowed up to ten days of paid mental health leave per calendar year, subject to the following conditions: (1) the leave is (a) approved by the Fire Chief based upon the information provided to the department administration after the traumatic event or by the Fire Chief's next in command, if the Fire Chief is unavailable; or (b) ordered by a mental health professional; and (2) the leave is taken as a result of a traumatic event that occurred while on duty. For the purposes of this policy, “day” is defined as a 12.0-hour shift.

### **C. PROCESS**

1. The firefighter will contact the Fire Chief and request the use of mental health leave in order to obtain mental health assistance. The Fire Chief may recommend mental health leave to the firefighter to consider.
2. The Fire Chief will consult with the Director of Human Resources and, upon granting the leave, will allow mental health leave for a reasonable time, subject to the annual maximum leave per calendar year.
3. The Director of Human Resources will provide the firefighter with information about the City of Brownwood offered Employee Assistance Program (EAP).
4. The time missed by the firefighter while on mental health leave will be covered by other firefighters, and no reason for the firefighter’s absence will be noted.

### **D. ANONYMITY**

The City will keep requests to take mental health leave, and any medical information related to mental health leave under this policy confidential to the extent allowed by law and separate from the firefighter’s general personnel file. The City cannot guarantee anonymity of information that is otherwise public or necessary to carry out the City’s duties under the law. The hours away from work will be noted on the timesheet as regular hours to provide anonymity. However, there will be notes placed in the firefighter’s separate medical file to provide a record of the time away as well as a historical record that the leave was granted.

### **E. EFFECT ON PAID LEAVE BALANCES**

The City will not reduce an eligible firefighter’s sick leave, vacation leave, holiday or other paid leave balance for mental health leave taken under this policy.

## **F. PROHIBITED FROM WORKING ANOTHER JOB**

Firefighters who are on paid mental health leave are prohibited from working another job on the days that they use mental health leave.

## **Section 71. MENTAL HEALTH LEAVE POLICY FOR PEACE OFFICERS**

The purpose of this policy is to provide guidance in accordance with Chapter 614.015 of the Local Government Code regarding paid mental health leave for full-time licensed peace officers employed by the City of Brownwood Police Department who experience a traumatic event while on duty. The City of Brownwood recognizes the impact traumatic events have on the mental health of our peace officers.

### **A. ELIGIBILITY**

A full-time licensed peace officer who is employed by the City of Brownwood Police Department is eligible for mental health leave if they experience a traumatic event while on duty. The traumatic event must involve extreme injury, near-death, or death of an individual, or other similarly stressful situations, experienced by the peace officer while on duty.

### **B. CONDITIONS**

A peace officer shall be allowed up to ten days of paid mental health leave per calendar year, subject to the following conditions: (1) the leave is (a) approved by the Chief of Police based upon the information provided to the department administration after the traumatic event or by the Police Chief's next in command, if the Police Chief is unavailable; or (b) ordered by a mental health professional; and (2) the leave is taken as a result of a traumatic event that occurred while on duty. For the purposes of this policy, "day" is defined as an 8.4-hour shift.

### **C. PROCESS**

1. The peace officer will contact the Police Chief and request the use of mental health leave in order to obtain mental health assistance. The Police Chief may recommend mental health leave to the peace officer to consider.
2. The Police Chief will consult with the Director of Human Resources and, upon granting the leave, will allow mental health leave for a reasonable time, subject to the annual maximum leave per calendar year.
3. The Director of Human Resources will provide the peace officer with information about the City of Brownwood offered Employee Assistance Program (EAP).
4. The time missed by the peace officer while on mental health leave will be covered by other peace officers, and no reason for the initial officer's absence will be noted.

### **D. ANONYMITY**

The City will keep requests to take mental health leave, and any medical information related to mental health leave under this policy confidential to the extent allowed by law and separate from the peace officer's general personnel file. The City cannot guarantee anonymity of information that is otherwise public or necessary to carry out the City's duties under the law. The hours away from work will be noted on the timesheet as regular hours to provide anonymity. However, there will be notes placed in the Peace Officer's separate medical file to provide a record of the time away as well as a historical record that the leave was granted.

### **E. EFFECT ON PAID LEAVE BALANCES**

The City will not reduce an eligible peace officer's sick leave, vacation leave, holiday or other paid leave balance for mental health leave taken under this policy.

### **F. PROHIBITED FROM WORKING ANOTHER JOB**

Peace officers who are on paid mental health leave are prohibited from working another job on the days that they use mental health leave.

## **Section 72. PAID QUARANTINE LEAVE POLICY NON-CIVIL SERVICE EMPLOYEES**

Pursuant to Texas Local Government Code Section 180.008, the City of Brownwood hereby adopts this paid quarantine leave policy not only for firefighters and police officers, but also for any other Full or Part-Time Non-Civil Service Employees who are employed by or appointed by the City and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

### **DEFINITIONS**

- (1) "Employee" means a paid person employed by the City of Brownwood in a Full-Time or Part-Time position. This excludes Firefighters, Police Officers, and Seasonal Employees.
- (2) "Health authority" means a physician appointed by City of Brownwood and Brown County to administer state and local laws relating to public health within the City's jurisdiction.
- (3) "Paid quarantine leave" means: (1) all employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits provided by the City; and (2) if applicable, reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation costs.
- (4) "On Duty" means while the employee is "on the clock" and being paid for their work by the City of Brownwood.

### **QUARANTINE LEAVE**

A City of Brownwood Employee who is ordered to quarantine or isolate by the person's supervisor or the local health authority due to a possible or known exposure to a communicable disease while on duty is entitled to receive paid quarantine leave for the duration of the leave. An employee may be required to provide proof of an order to quarantine and may be denied paid leave or benefits if the employee fails to provide proof within a reasonable time.

### **PROCESS TO REQUEST PAID QUARANTINE LEAVE**

Eligible employees may request paid quarantine leave as follows:

1. The employee must notify their supervisor and the Department of Human Resources of their need for paid quarantine leave as soon as possible after exposure, but not later than two days after an exposure or onset of symptoms. The supervisor or Human Resources Department must complete a DWC 1, Employers First Report of Injury or Illness form.
2. The employee must complete the Paid Quarantine Leave Request form.
3. The supervisor, the Department of Human Resources and/or the local health authority shall review the request and determine whether the employee is eligible for paid quarantine leave.

### **PROHIBITED FROM WORKING ANOTHER JOB**

Employees who are on paid quarantine leave are prohibited from working another job on the days that they use quarantine leave.

## **NO REDUCTION IN COMPENSATION BENEFITS**

If an Employee is placed on paid quarantine leave, the employee will continue to be eligible for all employee benefits and compensation, including continuing their leave accrual, pension benefits, and eligibility for health benefit plan benefits for the duration of the leave. While on quarantine leave, the employee will not use any other paid leave type (vacation, sick, holiday, compensatory time).

## **REIMBURSEMENT OF REASONABLE COSTS RELATED TO QUARANTINE**

If an Employee is ordered to quarantine under this policy, the employee may, after providing written notice to their supervisor and Department of Human Resources that they may incur expenses related to the quarantine, the types of expenses that they may incur and the estimated cost of those expenses, request authorization to incur costs related to the quarantine, including, lodging, medical treatment, and transportation. The supervisor and Department of Human Resources may authorize reimbursement for the reasonable requested costs related to the quarantine, including, lodging, medical treatment, and transportation, in writing. If the supervisor and Department of Human Resources provide the written authorization to the employee to incur the expenses, the employee will be reimbursed for the expenses approved. An employee may be required to provide receipts or proof of payment with the request to establish that the expenses were required to be incurred by the quarantine and were reasonable. The supervisor and/or the Department of Human Resources may deny reimbursement, in whole or in part, if the expenses are not required to be incurred by the quarantine; the employee did not request prior authorization to incur the expenses; the employee failed to provide prior written notice of the estimated expenses; or the employee incurred expenses that exceed the estimate of expenses approved and/or are different expenses than were approved, and/or are not reasonable.

## **Section 73. PAID QUARANTINE LEAVE POLICY CIVIL SERVICE**

Pursuant to Texas Local Government Code Section 180.008, the City of Brownwood hereby adopts this paid quarantine leave policy for firefighters and police officers who are employed by or appointed by the City and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

## **DEFINITIONS**

- (1) “Firefighter” means a paid employee of the City’s fire department who: (a) holds a position that requires substantial knowledge of firefighting; (b) has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code; and (c) performs at least one of the following functions: (i) fire suppression; (ii) fire prevention; (iii) fire training; (iv) fire safety education; (v) fire maintenance; (vi) fire communications; (vii) fire medical emergency technology; (viii) fire photography; (ix) fire administration; or (x) fire arson investigation.
- (2) “Health authority” means a physician appointed by City of Brownwood and Brown County to administer state and local laws relating to public health within the City's jurisdiction.
- (3) “Paid quarantine leave” means: (1) all employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits provided by the City; and (2) if applicable, reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation costs.

(4) “Police officer” means paid police officers licensed by the Texas Commission on Law Enforcement and employed by the City.

(5) “On Duty” means while the employee is “on the clock” and being paid for their work by the City of Brownwood.

### **QUARANTINE LEAVE**

A City of Brownwood firefighter or police officer who is ordered to quarantine or isolate by the person’s supervisor or the local health authority due to a possible or known exposure to a communicable disease while on duty is entitled to receive paid quarantine leave for the duration of the leave. An employee may be required to provide proof of an order to quarantine and may be denied paid leave or benefits if the employee fails to provide proof within a reasonable time.

### **PROCESS TO REQUEST PAID QUARANTINE LEAVE**

Eligible employees may request paid quarantine leave as follows:

1. The employee must notify their supervisor and the Department of Human Resources of their need for paid quarantine leave as soon as possible after exposure, but not later than two (2) days after an exposure or onset of symptoms. The supervisor or Human Resources Department must complete a DWC 1, Employers First Report of Injury or Illness form.
2. The employee must complete the Paid Quarantine Leave Request form.
3. The supervisor, the Department of Human Resources and/or the local health authority shall review the request and determine whether the employee is eligible for paid quarantine leave.

### **PROHIBITED FROM WORKING ANOTHER JOB**

Firefighters and police officers who are on paid quarantine leave are prohibited from working another job on the days that they use quarantine leave.

### **NO REDUCTION IN COMPENSATION AND BENEFITS**

If a firefighter or police officer is placed on paid quarantine leave, the employee will continue to be eligible for all employee benefits and compensation, including continuing their leave accrual, pension benefits, and eligibility for health benefit plan benefits for the duration of the leave. While on quarantine leave, the employee will not use any other paid leave type (vacation, sick, holiday, compensatory time).

### **REIMBURSEMENT OF REASONABLE COSTS RELATED TO QUARANTINE**

If a firefighter or police officer is ordered to quarantine under this policy, the employee may, after providing written notice to their supervisor and Department of Human Resources that they may incur expenses related to the quarantine, the types of expenses that they may incur and the estimated cost of those expenses, request authorization to incur costs related to the quarantine, including, lodging, medical treatment and transportation. The supervisor and Department of Human Resources may authorize reimbursement for the reasonable requested costs related to the quarantine, including, lodging, medical treatment and transportation, in writing. If the supervisor and Department of Human Resources provide the written authorization to the employee to incur the expenses, the employee will be reimbursed for the expenses approved. An employee may be required to provide receipts or proof of payment with the

request to establish that the expenses were required to be incurred by the quarantine and were reasonable. The supervisor and/or the Department of Human Resources may deny reimbursement, in whole or in part, if the expenses are not required to be incurred by the quarantine; the employee did not request prior authorization to incur the expenses; the employee failed to provide prior written notice of the estimated expenses; or the employee incurred expenses that exceed the estimate of expenses approved and/or are different expenses than were approved, and/or are not reasonable.

## **X. MISCELLANEOUS**

### **SECTION 74. SAVINGS CLAUSE**

The provisions of these rules are declared to be severable and if any rule, section, sentence, clause, phrase or word of these rules shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining rules, sections, sentences, clauses, phrases and words of the rules, but they shall remain in effect, it being the intent of the City Council, that these rules shall stand notwithstanding the validity of any party.

### **SECTION 75. CHANGE OF RULES**

The rules and regulations may be amended, repealed or supplemented and new rules issued by the City Council at any time. Any new rules, regulation or special orders formally issued by the City Council that conflict with these rules, shall supersede these rules and be fully binding on all City employees.

# **XI. APPENDICES**

**APPENDIX 1**

***CITY OF BROWNWOOD***

**PERSONNEL REQUISITION FORM**

**CITY OF BROWNWOOD  
PERSONNEL REQUISITION**

\_\_\_\_\_  
DATE

APPROVED BY: \_\_\_\_\_  
Dir. of H.R.      Date

\_\_\_\_\_  
DEPARTMENT

APPROVED BY: \_\_\_\_\_  
City Manager      Date

**DESCRIPTION OF PERSONNEL NEEDED**

<i>DATE NEEDED</i>	<i>NUMBER OF EMPLOYEES</i>	<i>JOB ASSIGNMENT</i>	<i>RATE OF PAY MONTHLY-HOURLY</i>

**REQUIREMENTS:**

Knowledge, skills, abilities, education, etc per current job description, unless indicated below.

**Job Description #**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**INTERNAL POSTING ONLY: YES \_\_\_\_\_ NO \_\_\_\_\_**

(Internal postings will be posted within City of Brownwood departments and not on the City's website. Not advertised with the news media.)

*If Temporary employee, please indicate here if you wish to use "Temporary Employment Agencies" to hire the personnel.* YES \_\_\_ NO \_\_\_ TEMPORARY AGENCY USED: \_\_\_\_\_

Job description is okay as is: Yes \_\_\_ Needs Revision: \_\_\_ Dept Head's Initial: \_\_\_\_\_

Revised by: \_\_\_\_\_ Date: \_\_\_\_\_

**POSTING REQUESTED BY:**

\_\_\_\_\_  
DEPARTMENT HEAD SIGNATURE

\_\_\_\_\_  
Date

**HR – IN OFFICE NOTES:**

Applicant hired for this position: \_\_\_\_\_ Start Date: \_\_\_\_\_

\_\_\_\_\_  
DAVID DALLEH

Dir. of Human Resources/Civil Service

\_\_\_\_\_  
DATE

**REPLACES:** \_\_\_\_\_

(Form Revised 12/26/13)

**APPENDIX 2**

***CITY OF BROWNWOOD***

**EMPLOYEE PERFORMANCE  
EVALUATION**

## City of Brownwood Employee Annual Evaluation Evaluator Portion

Employee Name: \_\_\_\_\_ ID #: \_\_\_\_\_ Period from: \_\_\_\_\_

Department: \_\_\_\_\_ Employee's Job Title: \_\_\_\_\_ Evaluation Date: \_\_\_\_\_

### I. Job Description (Attach a copy of the job description for reference)

Highlight the duties on the job description that the employee **exceeds** expectations.

Comments:

Underline the duties on the job description that the employee needs to **improve** upon.

Comments:

List any **compliments** and **achievements** the employee has received from you or others this year.

Comments:

**II. Personnel Rules and Regulations Policy:**

(Attendance, Leave, Safety, Use of City Property, Internet Use, etc.)

If the employee has been verbally counseled, given a written reprimand and/or disciplinary action in the past 12 months for Policy violations state them here:

Comments:

List improvements needed in any area addressed in the Rules and Regulations Policy.

Comments:

**III. Core Values**

**Integrity** - *Honesty, truthfulness, accuracy, consistency of character*

**Service** - *Friendly, helpful, intentionally placing others above self*

**Excellence** - *Is this the best we can do? Ability + Attitude*

**Respect** - *Honor yourself, co-workers, City Council, citizens, property and equipment*

**Vision** - *Working today with tomorrow in mind, creativity, problem solving*

**Empathy** - *Seek to understand the perspective of another*

How does the employee model our Core Values and are there areas that need attention?

Comments:

**IV. Employee Goals**

**Goal Review**

Did employee accomplish the goals set last year and explain?  Yes  Somewhat  No

Comments:

**New Goals**

Employee and supervisor will work together to list a few goals for the employee. Make sure they are SMART (Specific, Measurable, Achievable, Realistic, and Timely).

1 .

2 .

3 . \_\_\_\_\_

4 .

Long Term Goal: \_\_\_\_\_

**V. Conclusion** – This section is for documenting action steps, improvement plans, comments, etc. not already listed above. If there is none, leave blank.

Comments:

**Signatures**

\_\_\_\_\_  
Primary Evaluator Signature Date

\_\_\_\_\_  
Secondary Evaluator Signature Date

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

\_\_\_\_\_  
Dept. Head or City Manager Reviewing (if applicable) Signature Date

**City of Brownwood Employee Annual Evaluation  
Employee Self-Evaluation**

Complete this self-evaluation then return to your supervisor prior to your evaluation meeting. You may keep a copy for yourself.

**I. Job Description**

Review your Job Description. List a few duties that you believe you excel in. List a few duties or responsibilities that you would like to improve in.

I excel in:

Comments:

I would like to do better:

Comments:

**II. Goals**

Review your goals from last year. Be prepared to discuss the outcomes.

Come up with one or two work-related goals for the coming year. Make sure they are SMART (Specific, Measurable, Achievable, Realistic, and Timely).

- 1. \_\_\_\_\_
- 2.

List one of your long-term professional goals (more than 1 year). This will be for you and your supervisor to discuss.

Comments:

**III. Conclusion**

This section is for any other comments or feedback you would like to make not already stated above. If there is none, leave blank.

Comments:

**Employee Signature**

**Date**

\_\_\_\_\_

**CITY OF BROWNWOOD**  
**EMPLOYEE PROBATIONARY EVALUATION**

Employee's Name: \_\_\_\_\_ Period from: \_\_\_\_\_ to: \_\_\_\_\_

Employee's Assignment: \_\_\_\_\_ Evaluation Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Department: \_\_\_\_\_

**EVALUATION TYPE: 3 MONTH: \_\_\_\_ ; 6 MONTH: \_\_\_\_ ;**

**RATINGS:** An employee may receive a rating from 1 to 5, 1 = Poor, 2 = Is slightly below requirements but is better than poor, 3 = Average or meets requirements, 4 = Better than average or often does more than is expected, 5 = Way above average or excellent. An explanation is required from the Supervisor for ratings other than 3. Have the employee do his/her personal rating first, and then the Supervisor will do his/her rating. If the employee wishes to write comments, there is a place on the last page for this. *If an employee rates himself / herself more or less than a 3, he / she should attach a page with explanation on each rating other than a 3.*

**GENERAL FACTORS** Employees will be evaluated on the common items that are applicable to their jobs.

FACTORS	EMPLOYEE RATING	SUPERVISOR'S RATING	SUPERVISOR'S EXPLANATION
1. Has a good attendance record & does not abuse leave time.	_____	_____	_____
2. Arrives to work on time (within 7 minute rule).	_____	_____	_____
3. Provides prompt and courteous customer service.	_____	_____	_____
4. Uses City materials and equipment properly.	_____	_____	_____
5. Displays a high energy level when doing the job.	_____	_____	_____
6. Has a good attitude toward other employees.	_____	_____	_____
7. Shows initiative and problem solving skills.	_____	_____	_____
8. Seeks increased responsibility.	_____	_____	_____
9. Effectively assists others.	_____	_____	_____
10. Demonstrates dedication to the job.	_____	_____	_____
11. Performs job in a safe manner while observing safety rules.	_____	_____	_____
12. Follows City policies and procedures.	_____	_____	_____

**SECTION'S TOTAL RATING**

\_\_\_\_\_

Employee's Initials: \_\_\_\_\_

(Revised 12/01/09)

**PERFORMANCE FACTOR:** The Supervisor will choose 7 major job duties from the employee’s job description and list them below in numbers 1 through 7. The performance of the employee on these 7 major job duties will be rated from 1 to 5 (the explanation of ratings is on page 1).

JOB DUTIES	EMPLOYEE RATING	SUPERVISOR'S RATING	SUPERVISOR'S EXPLANATION
1. _____ _____ _____	_____	_____	_____ _____ _____
2. _____ _____ _____	_____	_____	_____ _____ _____
3. _____ _____ _____	_____	_____	_____ _____ _____
4. _____ _____ _____	_____	_____	_____ _____ _____
5. _____ _____ _____	_____	_____	_____ _____ _____
6. _____ _____ _____	_____	_____	_____ _____ _____
7. _____ _____ _____	_____	_____	_____ _____ _____
<b>SECTION'S TOTAL RATING</b>	_____	_____	Employee's Initials: _____

**SUPERVISOR'S RATING:** *(Use **only** for evaluations of supervisory personnel and above.)*

FACTOR	EMPLOYEE RATING	SUPERVISOR'S RATING	SUPERVISOR'S EXPLANATION
1. Prioritizes work efficiently and orderly.	_____	_____	_____ _____
2. Solves problems creatively and effectively.	_____	_____	_____ _____
3. Makes sound decisions based on facts.	_____	_____	_____ _____
4. Completes assignments in proper time and manner.	_____	_____	_____ _____
5. Supervises staff effectively and efficiently.	_____	_____	_____ _____
6. Effectively counsels and/or addresses difficult personnel actions in proper manner.	_____	_____	_____ _____ _____
7. Schedules and coordinates work of staff efficiently.	_____	_____	_____ _____
8. Works well with other City departments.	_____	_____	_____ _____
9. Is knowledgeable of and sensitive to Citizens needs and concerns.	_____	_____	_____ _____ _____
10. Demonstrates integrity and loyalty to the City.	_____	_____	_____ _____
11. Maintains effective communication with City employees and Supervisor.	_____	_____	_____ _____ _____
12. Writes clearly and effectively in informal and formal business communication.	_____	_____	_____ _____

**SECTION'S TOTAL RATING**

\_\_\_\_\_

\_\_\_\_\_

Employee's Initials: \_\_\_\_\_

**OVERALL RATING:**

GENERAL RATING:

\_\_\_\_\_

PERFORMANCE RATING:

\_\_\_\_\_

SUPERVISOR RATING: (If applicable)

\_\_\_\_\_

**OVERALL TOTAL:** \_\_\_\_\_

EMPLOYEE'S COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EMPLOYEE'S SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

SUPERVISOR'S COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUPERVISOR'S SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

DEPT. HEAD'S COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPT. HEAD'S SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

DIVISION DIRECTOR'S COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DIVISION DIRECTOR'S SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

(Revised 12/01/2009)

**APPENDIX 3**

***CITY OF BROWNWOOD***

**PERSONNEL ACTION FORM**



**APPENDIX 4**

***CITY OF BROWNWOOD***

**APPLICATION FOR  
TRANSFER OR PROMOTION**



**APPENDIX 5**

***CITY OF BROWNWOOD***

**EMPLOYEE'S REPORT  
OF INJURY**

**CITY OF BROWNWOOD**  
**EMPLOYEE'S REPORT OF INJURY**

**TO BE COMPLETED BY EMPLOYEE:**

Name: \_\_\_\_\_ Department: \_\_\_\_\_  
Social Security Number: XXX-XX-\_\_\_\_ Home Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Marital Status: Married \_\_\_\_\_ Widowed \_\_\_\_\_ Separated \_\_\_\_\_ Single \_\_\_\_\_ Divorced \_\_\_\_\_  
Number of dependent children: \_\_\_\_\_ Name of spouse: \_\_\_\_\_  
Name of Doctor seen for this injury: \_\_\_\_\_  
Address of Doctor: \_\_\_\_\_  
Date of Injury: \_\_\_\_\_ Time of Injury: \_\_\_\_\_  
Describe injury and part of body affected: (left, right, etc.) \_\_\_\_\_

Describe in detail how and why accident occurred and what you were doing when injured: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Worksite location when injured: (stairs, alley, etc.) \_\_\_\_\_  
Address where accident occurred: \_\_\_\_\_  
Name of business if incident occurred on a business site: \_\_\_\_\_  
Cause of Injury: (fall, tool, equipment, machine, etc.) \_\_\_\_\_  
Witnesses to your accident: \_\_\_\_\_  
Date and Time you notified supervisor: \_\_\_\_\_

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

**EMPLOYEE – PLEASE NOTE:** You must provide a doctor's note to your Supervisor and Human Resources for any time off work due to an on-the-job injury if the leave time is more than one (1) day. You must complete this form and **submit to your Supervisor no later than 9:00 am on the next work day following the date of injury.**

**TO BE COMPLETED BY SUPERVISOR:**

Date and time employee reported injury: \_\_\_\_\_  
Nature of Injury and why did it happen: \_\_\_\_\_  
\_\_\_\_\_

Has employee received Medical attention for this injury: Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, give full name of physician, hospital, etc. (if different from above): \_\_\_\_\_  
\_\_\_\_\_

Lost time due to injury or medical treatment: Yes \_\_\_\_\_ No \_\_\_\_\_  
FROM: Date \_\_\_\_\_ Time \_\_\_\_\_ TO: Date \_\_\_\_\_ Time \_\_\_\_\_

***Please notify the Human Resources Department if medical attention is needed at a later date or of any lost time due to this injury, giving date and time employee left work and date and time when employee returned to work. Time off due to injury should be marked as SICK (sick leave) or WORK COMP (no pay) on their Kronos time card.***

\_\_\_\_\_  
Supervisor's Signature \_\_\_\_\_ Department Head Signature \_\_\_\_\_

\_\_\_\_\_  
Date \_\_\_\_\_ Date \_\_\_\_\_

This form should be **turned in to the Human Resources Department no later than 12:00 pm on the next work day** following the injury. In case of emergency, notify the Human Resources Department by telephone immediately.

**APPENDIX 6**

***CITY OF BROWNWOOD***

**INCIDENT / VEHICLE ACCIDENT  
REPORT FORM**

**CITY OF BROWNWOOD**  
**INCIDENT / VEHICLE ACCIDENT REPORT FORM**

**NOTE: Contact Fleet Services immediately. Must complete form & submit to Human Resources within **1 hour** of time of accident if drug/alcohol testing is required. (H.R. fax # 325-643-3749)**

**TO BE COMPLETED BY EMPLOYEE:**

Date of Report: \_\_\_\_\_ Department \_\_\_\_\_  
Employee's Name: \_\_\_\_\_ Home Phone: \_\_\_\_\_  
Employee's Address: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_  
Date of Incident / Accident: \_\_\_\_\_ Time of Incident / Accident \_\_\_\_\_ AM/PM  
Incident / Accident Type:  Property Damage  Vehicle (City/Private)

**VEHICLES OR EQUIPMENT INVOLVED:**

City Vehicle or Equipment:  
License # \_\_\_\_\_ Account # \_\_\_\_\_ Make/Model \_\_\_\_\_

*Other Vehicle or Equipment:*

Owner's Name \_\_\_\_\_  
Address \_\_\_\_\_

Driver's Name \_\_\_\_\_  
Address \_\_\_\_\_

Driver's License/State \_\_\_\_\_ Make/Model of Vehicle \_\_\_\_\_

Investigated by Police:  Yes  No Police Report Attached:  Yes  No

Insurance Carrier's Name: \_\_\_\_\_ Policy # \_\_\_\_\_

Carrier's Address: \_\_\_\_\_

Incident / Accident Location: \_\_\_\_\_

Damage Detail: (PHOTOS REQUIRED) \_\_\_\_\_

How did incident / accident occur?: \_\_\_\_\_

Injury to Persons:  Yes  No If yes, give name(s) of injured and type of injury: \_\_\_\_\_

Witnesses: \_\_\_\_\_

Comments: \_\_\_\_\_

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

\_\_\_\_\_  
**Date**

**SUPERVISOR, PLEASE COMPLETE BACK PAGE. (Revised 4/01/14)**

**INCIDENT / VEHICLE ACCIDENT REPORT FORM**

*(Continued)*

**NOTE: Contact Fleet Services immediately. Must complete form & submit to Human Resources within **1 hour** of time of accident if drug/alcohol testing is required. (H.R. fax # 325-643-3749)**

**TO BE COMPLETED BY SUPERVISOR:**

Worker's Comp. Report:    Yes    No      (If applicable, attach worker's compensation report)

If yes, give name(s) of injured and type of injury: \_\_\_\_\_

Visual Inspection By: \_\_\_\_\_      Date: \_\_\_\_\_

Employee Conference:    Yes (Date \_\_\_\_\_)       No

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Department Head Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\*\*\*\*\*

**FLEET SERVICES -ESTIMATE OF REPAIR COSTS:**

Vehicle or Equipment: \_\_\_\_\_

Parts: \_\_\_\_\_ \$ \_\_\_\_\_

Employees' Labor: \_\_\_\_\_ \$ \_\_\_\_\_

Other Costs: \_\_\_\_\_ \$ \_\_\_\_\_

TOTAL COSTS: \$ \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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

Title: \_\_\_\_\_      Date: \_\_\_\_\_

(Revised 4/01/14)

# **APPENDIX 7**

## ***CITY OF BROWNWOOD***

### **CATASTROPHIC LEAVE FORMS** **(Adopted by Resolution R-05-25 on 7/12/05)**

**CATASTROPHIC LEAVE POOL  
ATTENDING PHYSICIAN'S STATEMENT**

NAME OF PATIENT \_\_\_\_\_  
SOCIAL SECURITY NUMBER \_\_\_\_\_

**Statement of Patient:** In support of my application for catastrophic leave hours from the City of Brownwood Catastrophic Leave Pool, I authorize all health care professionals, including, but not limited to, physicians, psychiatrists, chiropractors or any other examining health care professionals, to release information concerning my illness/injury and any other pertinent data to the City of Brownwood Catastrophic Leave Pool Committee.

\_\_\_\_\_  
**Signature of Patient** **Date**

\* \* \* \* \*

**PHYSICIAN'S STATEMENT**

**Please clearly print or type the requested information. Use additional sheets if necessary.**

**PHYSICIAN'S NAME** \_\_\_\_\_ **License No.** \_\_\_\_\_

**MAILING ADDRESS** \_\_\_\_\_ **Phone No.** \_\_\_\_\_

\_\_\_\_\_

Date you first examined patient for this condition \_\_\_\_\_

Was treatment elective? \_\_\_\_\_

1. Name of referring health professional \_\_\_\_\_ Phone \_\_\_\_\_

2. Diagnosis \_\_\_\_\_

3. Current Condition \_\_\_\_\_

4. Is the Current Condition Serious and/or Catastrophic? \_\_\_\_\_ Yes; \_\_\_\_\_ No Please explain \_\_\_\_\_

\_\_\_\_\_

5. Course of Treatment \_\_\_\_\_

\_\_\_\_\_

6. Can patient currently perform essential functions of job? (Please see attached job description)  
\_\_\_\_\_ Yes \_\_\_\_\_ No

7. Prognosis \_\_\_\_\_

8. Anticipated date of return to work \_\_\_\_\_

\_\_\_\_\_  
Signature of Physician

\_\_\_\_\_  
Date



**City of Brownwood**  
**CATASTROPHIC LEAVE POOL DONATION FORM**

Print Name: \_\_\_\_\_ Last 4 #'s of Social Security #: \_\_\_\_\_

Job Title: \_\_\_\_\_ Dept. \_\_\_\_\_

**NOTE:** To become a member of the catastrophic leave pool, an employee must have at least one (1) year of service with the City as a full-time employee and contribute a minimum of four (4) hours of their individual accrued sick leave each plan year during open enrollment period (minimum of six (6) hours for Fire Civil Service employees. An employee must have a minimum sick leave balance of forty (40) hours remaining after donating hours during open enrollment (Fire Civil Service employees must have a minimum sick leave balance of seventy-two (72) hours remaining after donation). An employee may not donate more than forty (40) hours in any plan year. Fire Civil Service Employees may not donate more than 60 hours in any plan year.

In accordance with the City of Brownwood Catastrophic Leave Pool Administration, and the applicable Catastrophic Leave Pool Procedures, **I wish to contribute** \_\_\_\_\_ **hours.**

I understand that this contribution

- √ is strictly voluntary
- √ is no longer for my personal use
- √ will reduce my accrued sick leave balance by the corresponding contribution amount
- √ is for use by any eligible employee and that I may not stipulate who is to receive this contribution
- √ will not be refunded back to me

\_\_\_\_\_ **I do not wish to participate in the Catastrophic Leave Pool, and I realize that I can't become a member or continue my membership of this Pool except during open enrollment and the month of April.**

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

\_\_\_\_\_  
Date

**THANK YOU FOR YOUR CONTRIBUTION TO THE CATASTROPHIC LEAVE POOL.**

**TO BE COMPLETED BY THE OFFICE OF HUMAN RESOURCES:**

Eligibility Requirements:

\_\_\_\_\_ This employee has completed 12 calendar months of full-time employment with the City of Brownwood  
Full-time hire date: \_\_\_\_\_

\_\_\_\_\_ This employee has a minimum of 72 hours of accrued unused personal sick leave remaining after donation.  
Sick leave balance: \_\_\_\_\_ hours as of \_\_\_\_\_.

Membership in Catastrophic Leave Pool: \_\_\_\_\_ Approved \_\_\_\_\_ Disapproved

I certify that this employee has \_\_\_\_\_ has not \_\_\_\_\_ met the membership requirements of the Catastrophic Leave Pool as defined in Section 41-A of the City's Personnel Rules and Regulations.

\_\_\_\_\_  
Catastrophic Leave Pool Administrator

\_\_\_\_\_  
Date

**APPENDIX 8**

***CITY OF BROWNWOOD***

**PAID PARENTAL LEAVE**  
**(Adopted 10/01/2024)**



# **APPENDIX 9**

## ***CITY OF BROWNWOOD***

### **ALCOHOL / DRUG TESTING POLICY- ATTACHMENTS & FORMS**

Revised 4/01/2014

## **Attachment A-1**

### **CONTROLLED SUBSTANCE TESTING PROCEDURES**

#### **Step 1:**

The Human Resources Department will advise all Applicants of the City's pre-employment Controlled Substance Testing Procedures during the selection process. All current employees will be advised of the testing procedures at the time this policy is distributed and during the initial enrollment process.

#### **Step 2:**

A clinic will be selected by the City Manager to conduct the pre-employment testing and collection of any necessary specimens for Controlled Substance Testing. The City will also contract with a testing laboratory which is NIDA certified and has an assigned a physician to serve as the Medical Review Officer.

#### **Step 3:**

The Applicant or employee will be notified by the City to submit to Controlled Substance Testing. The Applicant will travel or be taken to the clinic or a collection site approved by the Human Resources Director and City Manager. If the person being tested is an employee, he/she shall be taken to the approved clinic by a trained Supervisor. The applicant/employee will present identification containing a photograph and will complete and sign the Consent Form as provided by the clinic where the testing is being performed. The failure to complete the Consent Form is considered a refusal to test.

#### **Step 4:**

The clinic will perform the collection of an Applicant's or employee's urine specimen for Controlled Substance Testing. The following procedures will be observed in the administration of screening tests:

#### **THE APPLICANT OR EMPLOYEE WILL:**

- A. Provide the urine sample in a private restroom facility within the clinic to and immediately deliver the receptacle to the clinic representative. For DOT testing of CDL personnel or applicants, the clinic's lab technician will divide the urine sample into two (2) samples.
- B. Initial the specimen collection receptacle(s) after it has been sealed.
- C. Along with clinic representative, initiate "chain of custody" by signing and dating the Chain of Custody form. The specimen will be placed with original copy of Test Requisition form in tamper proof chain-of-custody pouch for forwarding to the NIDA approved laboratory for analysis.

#### **THE CLINIC WILL:**

- A. Check the specimen for appropriate volume, temperature, and specific gravity (color) immediately upon its collection.
- B. Seal and initial the specimen collection receptacle.

- C. Along with the patient, initiate "chain of custody" by signing and dating the Chain of Custody form.
- D. Perform a quick test Controlled Substance screen on one of the two specimens. Negative Controlled Substance Test results will be reported immediately to the Human Resources Director or designee, nothing further is required of the employee. In the event of a positive quick Controlled Substance screen, the specimen will be placed with the original copy of the Test Requisition Form in a tamper-proof chain of custody pouch for forwarding to the NIDA approved laboratory for analysis.

**THE SPECIMEN TESTING LABORATORY WILL:**

- A. Complete Controlled Substance Testing of specimen.

The initial test will be by the Enzyme Multiplied Immunoassay Technique (EMIT). Should this test be positive, the laboratory will use the Gas Chromatography/Mass Spectrometry (GC/MS) for confirmation.

<b><u>CONTROLLED SUBSTANCE NAME</u></b>	<b><u>INITIAL CUT-OFF LEVELS</u></b>	<b><u>CONFIRMATION CUT-OFF LEVELS</u></b>
1. Amphetamines	500 ng/ml	250 ng/ml
2. MDA-Analogues	500 ng/ml	250 ng/ml
3. Cocaine Metabolites	150 ng/ml	100 ng/ml
4. Marijuana Metabolites	50 ng/ml	15 ng/ml
5. Opiates	2000 ng/ml	2000 ng/ml
6. 6-Monoacetylmorphine	10 ng/ml	10 ng/ml
7. Phencyclidine	25 ng/ml	25 ng/ml

- B. Send the appropriate forms indicating test results to the designated Medical Review Officer.
- C. If the test is a Confirmed Positive Controlled Substance Test, retain the specimen for a period of eighteen (18) months.

**THE MEDICAL REVIEW OFFICER (MRO) WILL:**

- A. If the test is a Confirmed Positive Controlled Substance Test, contact the Applicant or employee to allow him/her the opportunity to provide any valid reasons (such as prescription or over-the-counter drugs taken or foods eaten) for which positive results may have been achieved. The Medical Review Officer will also inform the Applicant or employee that he or she may request the lab to retest the sample if the positive result is ultimately upheld. Retesting is at the Applicant's or employee's expense and **must be requested within 72 hours of the employee receiving notification of a positive test.**
- B. Attempt to verify any reasons provided by the Applicant or employee which would explain the positive result.

- C. If there is a legitimate explanation for the positive result, the Medical Review Officer shall mark the test negative, sign the appropriate form, and forward it to the Human Resources Director.
- D. Notify the Human Resources Manager of any indication of prescription medication use that may be hazardous to the performance of the employee's duties.
- E. Verify the positive result, if there is no legitimate explanation for the positive result, sign the appropriate form, and immediately forward it to the Human Resources Manager. The Medical Review Officer shall identify the name of the employee for whom the test results are being reported, the type of test indicated on the custody and control form, the date and location of the test collection, the results of the controlled substances test, and if positive, the type of controlled substance(s) for which the test was positive.
- F. If the Medical Review Officer is unable to contact the applicant or employee, the MRO shall report to the Director of Human Resources that he or she has made all reasonable efforts to contact the employee. The Director of Human Resources shall immediately notify the applicant or employee that he or she must contact the Medical Review Officer. If the Director of Human Resources is unable to contact the applicant or employee after several reasonable attempts, the Director shall note in the file the dates and times of attempts to contact the applicant or employee and send written notice of test results to the applicant or employee at their last known address.

The Director of Human Resources or the testing site shall have on file in his/her office the laboratory's-controlled substance testing procedures and provide a copy to any employees who request a copy.

**Step 5:**

**APPLICANT NOTIFICATION OF REJECTION/EMPLOYEE TERMINATION**

An Applicant will be denied employment and an employee's employment will be terminated when test results are a Confirmed Positive Controlled Substance Test. If the Applicant or Employee requests further explanation, he/she will be advised that the urine specimen tested positive. The Applicant or Employee will be eligible for consideration of employment after three (3) years from date the test results are received or date of test refusal. The Applicant or Employee will be provided a copy of the test results upon request.

**Step 6:**

**CONFIDENTIALITY WITH RESPECT TO CONTROLLED SUBSTANCE TESTS**

Controlled Substance Test results will not become a part of the Applicant's or employee's personnel file. All test result documentation will be restricted to the Human Resources Department. The test results will be placed in a separate file and secured in the Human Resources Department in a locked file. The results of any test, whether negative or positive, will not be discussed with any other City employees, except those defined in Section L. of this policy. Unless legally required, no other individuals will be advised of the test results.

(Revised 4/01/2014)

## **Attachment A-2**

### **ALCOHOL TESTING PROCEDURES**

#### **Step 1:**

An individual who is required to undergo an Alcohol Test will be required to sign the Consent Form as provided by the clinic where the test is being performed. The Consent Form will be completed at the test collection site.

#### **Step 2:**

A clinic will be selected to conduct the Alcohol Test in compliance with this policy. The City Manager will make the clinic selection.

#### **Step 3:**

The Applicant/employee will present identification containing a photograph and will complete and sign the consent form provided by the testing facility for Controlled Substance/Alcohol Testing. The failure to complete the consent form is considered a refusal to test.

#### **Step 4:**

The clinic will perform the collection of an employee's breath for alcohol analysis.

All Alcohol testing must be performed by a trained and certified breath-alcohol technician (BAT).

Once the initial test is conducted, if the test results are an Alcohol concentration of 0.02 or greater, then a confirmation test must be performed.

If the confirmation test results in a Confirmed Positive Alcohol Test, that is, an Alcohol concentration of 0.02 or greater, the employee's employment will be terminated.

If the Alcohol confirmation test results in a Negative Alcohol Test, that is, an Alcohol concentration lower than 0.02, nothing further is required of the employee.

(Revised 4/01/2014)

**Attachment B**

**PRESCRIPTION/OVER THE COUNTER (OTC) DRUG NOTIFICATION**

Employee Name: \_\_\_\_\_ Department: \_\_\_\_\_

Employee's Position: \_\_\_\_\_

\_\_\_\_\_ Prescribed Under Doctor's Care

\_\_\_\_\_ Elected for Myself

	<i>Prescription/Over-the-Counter Medication Name/Dosage</i>	<i>Prescribing Physician</i>	<i>Start Date</i>	<i>Duration</i>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

By completing this form, I am notifying my supervisor, Dept Head and the Human Resources Director of medications that may affect my job performance in accordance with Section F of the City of Brownwood Alcohol and Drug Use and Testing Policy.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department Head's Signature

\_\_\_\_\_  
Date

---

\*\*\*\*\* For Human Resources Department Use Only \*\*\*\*\*

Date Received: \_\_\_\_\_

Date Forwarded to City's Physician: \_\_\_\_\_

Approval/Disapproval

1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_ 4. \_\_\_\_\_ 5. \_\_\_\_\_

\_\_\_\_\_  
Dir of Human Resources' Signature

\_\_\_\_\_  
Date

(Revised 4/01/2014)

**Attachment C**

**CONFIDENTIAL  
DRUG / ALCOHOL USE AND ABUSE  
REASONABLE SUSPICION REFERRAL FORM**

If an employee is observed in conduct or behavior which creates reasonable suspicion of controlled substance or alcohol use, only supervisors who have received controlled substance awareness training may refer the employee for controlled substance and/or alcohol testing. A trained supervisor must document that there is sufficient evidence for reasonable suspicion and complete this questionnaire in full prior to referring the employee for testing. Complete confidentiality must be maintained in the submission of this form to the Supervisor, Department Director and Director of Human Resources.

\*\*\*\*\*

EMPLOYEE NAME: \_\_\_\_\_ POSITION: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_ DATE(S) OF SUSPICIOUS/BEHAVIOR: \_\_\_\_\_

Directions: Check pertinent items.

- 1. WALKING:       Stumbling                       Staggering       Falling               Unable To  
                          Swaying                               Unsteady               Holding On
- 2. STANDING:     Swaying                               Staggering       Rigid                       Unable To  
                          Feet Wide Apart                       Sagging At Knees
- 3. SPEECH:         Shouting                               Slobbering       Mute                       Whispering  
                          Slurred                                       Silent                       Incoherent               Rambling  
                          Slow
- 4. DEMEANOR:     Sarcastic                               Crying                       Talkative               Fighting  
                          Calm     Sleepy                       Polite                       Excited
- 5. ACTIONS:         Erratic                                       Calm                       Hostile                       Drowsy  
                          Profanity                                       Fighting                       Hyperactive  
                          Threatening                                       Resisting Communications
- 6. EYES:             Bloodshot                               Dilated                       Glassy                       Droopy  
                          Closed     Watery
- 7. FACE:             Flushed                                       Pale                                       Sweaty
- 8. APPEARANCE     Unruly                                       Messy                       Neat                               Dirty  
  /CLOTHING:       Having Odor of Alcohol       Bodily Excrement Stains  
                          Partially Dressed
- 9. BREATH:          Alcohol Odor                               Faint Alcoholic Odor                       No Alcoholic Odor
- 10. MOVEMENTS:     Fumbling                                       Jerky                                       Slow                                       Hyperactive  
                          Nervous     Normal
- 11. EATING/  
  CHEWING:          Gum     Candy                                       Mints

12. Receipt of information from a reliable or credible source or independently corroborated creating reasonable suspicion.

\_\_Other...Identify, if possible

OTHER COMMENTS:

The areas checked above have been observed in the conduct and behavior of referenced employee during period specified. These actions and behaviors have been observed by the undersigned and, I believe, constitute sufficient reasonable suspicion to refer the employee for controlled substance and/or alcohol testing.

---

Supervisor Signature

Date

Confirmed:

---

Director or Designee Signature

Date

(Revised 4/01/2014)

# **APPENDIX 10**

## ***CITY OF BROWNWOOD***

### **NEPOTISM CHART**

(Added 7/01/2009)

# NEPOTISM CHART

