



# **City of Athens**

# **Administrative Directives**

Adopted April 2017

## Welcome to the City of Athens!

The Athens City Council has adopted the following Vision for our community:

*City of Athens commits to building on our heritage, while enhancing a high quality of life for **all** our citizens.*

*We pledge to work in collaboration with our residents and business community to foster community pride, develop a vibrant, diverse economy, thoughtfully plan for our future, prioritize quality growth, preserve and enhance the beauty of our natural environment and to use our resources efficiently.*

You are an essential element of this vision. Every member of the City's staff is key to turning this vision into reality and we hope you are excited to be part of the opportunities and challenges that await you at the City of Athens!



# Table of Contents

<b>1</b>	<b>GENERAL.....</b>	<b>7</b>
1.1	PROCESSES AND PROCEDURES.....	7
1.2	EQUAL EMPLOYMENT OPPORTUNITY.....	9
<b>2</b>	<b>INITIAL EMPLOYMENT .....</b>	<b>10</b>
2.1	EMPLOYMENT SELECTION PROCESS.....	10
2.2	VACANCIES .....	11
2.3	EMPLOYMENT APPLICATION .....	11
2.4	NEPOTISM .....	12
2.5	NEW HIRE COMPENSATION .....	14
2.6	PROOF OF AGE AND EMPLOYMENT OF MINORS .....	15
2.7	I-9 REQUIREMENTS .....	16
2.8	NEW EMPLOYEE ORIENTATION.....	16
2.9	ORIENTATION PERIOD.....	16
2.10	EMPLOYMENT RELATIONSHIPS.....	18
2.11	RE-EMPLOYMENT .....	19
<b>3</b>	<b>CHANGES IN EMPLOYMENT .....</b>	<b>21</b>
3.1	PROMOTIONS.....	21
3.2	ACTING POSITIONS.....	21
3.3	LATERAL TRANSFERS.....	22
3.4	DEMOTIONS.....	22
3.5	RECLASSIFICATION.....	23
3.6	OUTSIDE EMPLOYMENT .....	23
<b>4</b>	<b>COMPENSATION, ATTENDANCE AND WORK HOURS.....</b>	<b>25</b>
4.1	COMPENSATION PLAN .....	25
4.2	REGULAR WORK HOURS .....	27
4.3	OVERTIME AND COMPENSATORY TIME .....	28
<b>5</b>	<b>PAY TYPES.....</b>	<b>31</b>
5.1	LONGEVITY.....	31
5.2	ON-CALL .....	31
5.3	STEP-UP PAY .....	32
5.4	SICK LEAVE BUY-BACK .....	32
5.5	CAR ALLOWANCES/MILEAGE REIMBURSEMENT .....	33
5.6	CELL PHONE ALLOWANCES .....	34
5.7	CERTIFICATION/BI-LINGUAL PAY .....	34
<b>6</b>	<b>PAYROLL-TIMEKEEPING .....</b>	<b>35</b>
6.1	TIMEKEEPING RESPONSIBILITIES.....	35
6.2	PAYROLL.....	37
6.3	EMERGENCIES .....	37

<b>7</b>	<b>LEAVE .....</b>	<b>39</b>
7.1	VACATION.....	39
7.2	SICK LEAVE.....	41
7.3	HOLIDAYS .....	42
7.4	JURY DUTY.....	43
7.5	VOTING .....	43
7.6	INCLEMENT WEATHER .....	44
7.7	LEAVE WITHOUT PAY.....	44
7.8	BEREAVEMENT LEAVE .....	45
7.9	LEAVE OF ABSENCE.....	45
7.10	ADMINISTRATIVE LEAVE.....	46
7.11	MILITARY LEAVE.....	47
7.12	FAMILY MEDICAL LEAVE .....	49
7.13	CONVERSION OF ACCRUED LEAVE BANKS .....	53
<b>8</b>	<b>BENEFITS.....</b>	<b>54</b>
8.1	TMRS.....	54
8.2	LIFE INSURANCE AND LTD .....	54
8.3	WORKERS' COMPENSATION.....	55
8.4	SOCIAL SECURITY .....	56
8.5	DEFERRED COMPENSATION .....	56
8.6	COBRA.....	56
8.7	FLEXIBLE SPENDING .....	57
8.8	EMPLOYEE HEALTH & DENTAL INSURANCE.....	58
<b>9</b>	<b>WORKPLACE STANDARDS.....</b>	<b>59</b>
9.1	CONTACT WITH THE NEWS MEDIA .....	59
9.2	SOCIAL MEDIA.....	60
9.3	HARASSMENT AND DISCRIMINATION .....	62
9.4	CODE OF ETHICS .....	65
9.5	WORKPLACE VIOLENCE PREVENTION.....	68
9.6	DRUG FREE WORK PLACE/SUBSTANCE ABUSE .....	68
9.7	RELEASE OF EMPLOYEE INFORMATION.....	74
9.8	STANDARDS OF CONDUCT .....	74
9.9	ACCIDENT INVESTIGATION AND REPORTING.....	77
9.10	MODIFIED/LIGHT DUTY ASSIGNMENTS .....	79
9.11	FITNESS FOR DUTY EXAMS .....	82
<b>10</b>	<b>WORK-LIFE CONCERNS.....</b>	<b>83</b>
10.1	SMOKING AND TOBACCO .....	83
10.2	PERSONAL APPEARANCE/DRESS CODE.....	83
<b>11</b>	<b>EMPLOYEE PERFORMANCE AND RECOGNITION .....</b>	<b>85</b>
11.1	DISCIPLINE SYSTEM.....	85

11.2	PERFORMANCE EVALUATIONS .....	90
11.3	EMPLOYEE RECOGNITION PROGRAMS.....	91
11.4	GRIEVANCE PROCEDURE.....	91
<b>12</b>	<b>TECHNOLOGY .....</b>	<b>93</b>
12.1	TECHNOLOGY USE .....	93
12.2	INTERNET AND EMAIL.....	93
12.3	USE YOUR OWN DEVICES .....	95
12.4	WORK FROM HOME .....	95
12.5	CELL PHONES.....	95
<b>13</b>	<b>END OF EMPLOYMENT .....</b>	<b>98</b>
13.1	RESIGNATION.....	98
13.2	JOB ABANDONMENT .....	98
13.3	REDUCTION IN FORCE (RIF) .....	98
13.4	EXIT PROCESSING .....	98
13.5	INVOLUNTARY SEPARATIONS .....	99
13.6	RETIREMENT.....	99
13.7	REFERENCES .....	100

# 1 GENERAL

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## 1.1 PROCESSES AND PROCEDURES

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### 1.1.1 EMPLOYMENT AT WILL

The Administrative Directives, including any modifications, are prepared for informational and guideline purposes only and do not constitute a contract (either expressed or implied) in any respect between the City and its employees. Employment with the City of Athens (City) for non-Civil Service positions is “at will,” and either the employee or the employer may terminate the relationship at any time for any reason not contrary to law or no reason at all. Any non-Civil Service employee of the City who is not appointed by the City Council may be removed with or without cause. This removal power is subject to any applicable provisions of the City Charter. The at-will status of any employee may not be modified or rescinded by any oral or written statements by any person including appointed or elected officials, any employee handbooks, administrative directive, employment applications or other materials provided to employees.

### 1.1.2 DISCLAIMER

The City of Athens reserves full discretion to modify, revoke, suspend, interpret, terminate, or change any or all provisions in the Administrative Directives at any time, and without any prior notice. These Administrative Directives supersede and replace all previous policies, practices, guidelines or handbooks. The issuance of these Administrative Directives does not constitute a contract between the City and its employees for any duration of employment.

On October 23, 1995, the City Council of the City Athens adopted Ordinance O-39-95, adopting the Texas Local Government Code Chapter 143 Municipal Civil Service for the Athens Police Department and the Athens Fire Department. If a Civil Service employee encounters a conflict between the City of Athens Administrative Directives and a Civil Service statute, the Civil Service statute will be upheld.

Administrative Directives administration rests with City Management and City Management reserves sole authority to administer City operations.

### 1.1.3 OBJECTIVES

The objectives of the Administrative Directives are as follows:

- A. To promote good and uniform personnel practices and administration in the management of the City’s human resources;
- B. To develop a program of recruitment advancement and tenure, that will make municipal employment attractive as a career and encourage each employee to render the employee’s best services to the citizens of the City;
- C. To provide compensation based upon individual merit and the relative duties and responsibilities of positions in the service of the City;
- D. To promote high morale by the consistent administration of these policies; and
- E. To provide that tenure of employees covered by these policies shall be subject to good conduct, satisfactory performance, necessity for the position, and availability of funds.

#### **1.1.4 DISTRIBUTION OF ADMINISTRATIVE DIRECTIVES**

All employees will have access to the Administrative Directives through the City's website. Additionally, employees can request printed copies from their Department Director, or management team member. The Human Resources Department will send a notification email when there are updates to the Administrative Directives.

Employees are responsible for reading and understanding all Administrative Directives. During employee orientation, employees will sign an acknowledgement form stating that they have received and understand that they should consult their supervisor regarding any questions not answered in the City of Athens Administrative Directives. At any time during employment, employees may request a copy of the Administrative Directives from the Human Resources Department.

#### **1.1.5 NEW ADMINISTRATIVE DIRECTIVES AND REVISIONS**

Administrative Directives are subject to change with or without prior notice. All new Administrative Directives and revisions to existing directives must be approved by the City Manager. The Human Resources Department will be responsible for updating and revising directives on a regular basis.

General and final authority for human resources administration rests with the City Manager, except for matters reserved to the City Council by state law or the City Charter. Authority may be delegated to appropriate staff members to act in the City Manager's behalf in the administration of these directives; however, the final authority on human resources decisions shall be reserved to the City Manager. Operational changes to any administrative directive, handbook, policy, practice, or process (including department specific ones) will require approval by the City Manager. The City Manager will inform the City Council, in writing, of any changes within 30 days of the effective date.

No City of Athens supervisor, other than the City Manager, is authorized to modify these Administrative Directives for any employee or to enter any agreement, oral or written.

#### **1.1.6 APPLICABILITY**

The Administrative Directives apply to all regular full-time, regular part-time, temporary, interns, contract and seasonal employees who work for the City of Athens, unless specifically excepted by law, the terms of the Administrative Directives or action taken by the City Manager. Questions about application, interpretation or clarification regarding Administrative Directives should be directed to the Director of Human Resources.

In addition to these Administrative Directives, individual departments may have additional directives, policies, general orders, rules, regulations, standing orders, and/or operating procedures (collectively referred to as "Department Directives") that are created by the Department Director and are applicable to the respective department. The Department Directives may be more restrictive than the provisions contained in the City's Administrative Directives. Department Directives are enforceable and controlling on the respective employees as the Administrative Directives. Questions about application, interpretation or clarification regarding Department Directives should be directed to the Department Director.

#### **1.1.7 COMPENSATION LIMITED BY APPROPRIATIONS**

No provisions in these directives shall be construed as authorizing any increase in salary or wages during a fiscal year which would result in exceeding appropriations made for such purpose.



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## 1.2 EQUAL EMPLOYMENT OPPORTUNITY

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### 1.2.1 POLICY

The City of Athens is committed to providing all applicants and employees with equal employment opportunities. The City will not discriminate on the basis of race, color, religion, sex, national origin, age, disability, military status, the good faith report of a violation of law, or any other legally protected basis. Furthermore, the City will make reasonable accommodations for qualified individuals with known disabilities, unless doing so would result in an undue hardship, safety, and/or health risk.

### 1.2.2 APPLICATION

This directive applies to all areas of employment including recruitment, hiring, training, transfer, promotion, termination, compensation and benefits.

Any incident of discrimination should be promptly reported to the employee's supervisor Department Director, the allegedly offending employee's supervisor or Department Director, or the Director of Human Resources within three (3) days of the offense. An employee is not required to approach the person who they claim is engaging in discrimination or harassment, and they may bypass any such person if he/she is a member of management or in the employee's direct chain of command. The City Manager must be notified when the complaint comes in. The City Manager in coordination with the Director of Human Resources will determine the means and method of investigation.

## 2 INITIAL EMPLOYMENT

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### 2.1 EMPLOYMENT SELECTION PROCESS

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#### 2.1.1 POLICY

The City hires employees based on their knowledge, skills and abilities, experience, and other qualifications as they relate to the duties and responsibilities of a position without regard to race, national origin, religion, color, sex, age, political affiliation, disability, military status, or any other characteristic protected by law.

Each Department Director is responsible for the selection and hiring process in his/her department subject to final approval by the City Manager. A representative from Human Resources may sit in on any interview to provide guidance and answer any questions. Vacancies should be posted noting the job title, nature of the position, and required qualifications.

Applicants who have received a conditional job offer may be required to undergo screening examinations to determine fitness for employment.

#### 2.1.2 HIRING PROCESS

At a minimum, applicants for employment shall be required to submit to an oral interview, a drug and alcohol examination, and are required to submit to pre-employment testing and background investigation.

#### 2.1.3 DISQUALIFICATION

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

- A. Failure to meet the minimum qualifications necessary for performance of the duties for the position;
- B. If employment will result in a violation of the City's Nepotism Policy as prescribed in Section 2.4;
- C. Failure to meet minimum age requirement set out in Section 2.6 of the Administrative Directives;
- D. False statements or material omissions on the application form or during the application process;
- E. False statement of material facts during the interview process;
- F. Failing any of the City's background and employment requirements including, but not limited to, drug testing;
- G. The applicant commits or attempts to commit a fraudulent act at any stage of the selection process;
- H. The applicant is not legally permitted to work in the United States;
- I. Failure to disclose familial relationships;
- J. Failure to report for an interview or provide documentation requested by the City;
- K. The applicant is unable to perform the essential functions of the job applied for with or without a reasonable accommodation; or
- L. Any other reason deemed to be in the best interests of the City.

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## 2.2 VACANCIES

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### 2.2.1 POLICY

Department Directors shall notify the Human Resources Department when a vacancy exists in their department. The Human Resources Department will validate that the position requisition is for a budgeted position and is available for filling and will forward the request to the City Manager for final approval.

City Council is responsible for filling vacancies for appointed positions identified in the City Charter.

### 2.2.2 PROCEDURE

All vacant positions determined eligible to be filled will be posted. To determine eligibility, a job requisition form must be approved by the Director of Human Resources and the City Manager prior to posting. Job vacancies will be posted both internally and externally at the same time. However, at the City's discretion, positions may be posted internally first. The City Manager may decide not to post a position that is needed for a demotion, transfer or other administrative action.

All position vacancies except Police and Fire promotion positions will be posted at all City facilities. Police and Fire promotional positions will be posted in accordance with State and Local Civil Service Statutes. All position vacancies except internal promotion opportunities will be placed on the City's website. Advertisements will be placed in newspapers and other publications when appropriate. All positions must be open to receive applications for a minimum of three (3) business days. The Human Resources Department will coordinate the opening and closing date of accepting applications with the requesting department. APPLICATIONS WILL BE ACCEPTED IN THE HUMAN RESOURCES DEPARTMENT ONLY.

Prior to making a conditional offer of employment to a candidate, the Department Director must receive final approval from the City Manager.

The recruitment and selection method for vacant Director level positions will be determined by the City Manager on a case by case basis.

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## 2.3 EMPLOYMENT APPLICATION

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### 2.3.1 POLICY

Anyone seeking employment, promotion, transfer, or reemployment with the City, or other such human resources actions as prescribed by the City of Athens, must complete a City of Athens Employment application. All information set forth on an application is subject to verification. Applications for employment will be considered by the Department Director.

The City will only accept applications for open positions. Applications will normally be considered active until the vacancy is filled. Applicants wishing to apply for more than one position will need to submit a separate application for each position (copy is appropriate).

A Department Director (other than those for Civil Service positions) may use applications from a previous posting for the same position that has closed within the past 30 days. Civil Service procedures will be followed for all Civil Service postings.

### 2.3.2 COMPLETE APPLICATION

The application form must be completed in its entirety to the best of the applicant's ability, signed and dated. Supplemental pages may be attached to the application form to provide added information such as work history or photocopies of degrees, certifications, licenses, etc.

### 2.3.3 EVALUATION OF APPLICATIONS

The Human Resources Department and/or the appropriate department shall evaluate the applications against job requirements to identify the most qualified candidates.

### 2.3.4 MISREPRESENTATIONS

Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the exclusion of the candidate from consideration for employment, or termination if the person has been hired.

### 2.3.5 BACKGROUND CHECKS

All applicants will be provided with the Applicant Notification/Release of Information Form by Human Resources to be used to conduct a background check. This form will be sent with the offer letter and must be returned with the signed letter.

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## 2.4 NEPOTISM

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### 2.4.1 POLICY

In order to prevent conflicts of interest, to avoid accusations and perceptions of biased conduct, and to maintain the confidentiality of restricted information, it is the policy of the City to maintain a policy regarding nepotism.

### 2.4.2 DEFINITIONS

- A. **Conflict of Interest** – Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal relationship.
- B. **Nepotism** – The practice of showing favoritism to relatives in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.
- C. **Personal Relationship** – Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.
- D. **Public Official** – a supervisor, officer or employee who is vested with authority by law, rule or regulation, or to whom authority has been delegated.
- E. **Relative** – An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling, or grandparent.
- F. **Subordinate** – An employee reporting to an individual who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.
- G. **Cohabitants** – persons who live together in a sexual relationship but are not married, nor are declared to be married.
- H. **Roommates** – anyone sharing the same residence in a non-sexual relationship.

### 2.4.3 DISALLOWED RELATIONSHIPS

- A. An applicant/employee related to the City Manager by blood or marriage within the second degree according to common law shall not be employed by the City.
- B. An applicant/employee related by blood or marriage within the second degree according to common law to the Mayor or any member of the City Council shall not be employed by the City.
- C. Under no circumstances will an applicant/employee be employed in a department or position in which the employee may directly or indirectly supervise or be supervised by a relative, cohabitant or roommate on an ongoing basis.
- D. The employees' relationship must not create a conflict of interest between employee/City interests.
- E. There must be no interdependence or relationship between the jobs of the individuals concerned which could be potentially detrimental to the interests of the City.

Relatives will not normally be permitted to work in the same department with each other without prior written authorization from the City Manager (or designee). In addition, written authorization must also be obtained from the City Manager (or designee) to employ any relative of a current City employee.

	Consanguinity (Blood)	Affinity (Marriage)
<b>First Degree</b>	Mother	Wife
	Father	Husband
	Son	Son-in-law
	Daughter	Daughter-in-law
		Parent(s)-in-law
		Stepparent(s)
		Stepchildren
<b>Second Degree</b>	Brother	Brother-in-law
	Sister	Sister-in-law
	Grandparent(s)	Spouse's Grandparent
	Grandchildren	Spouse's Grandchildren
		Grandchild's Spouse
		Spouse of Grandparent(s)
<b>Third Degree</b>	Great Grandparents	
	Great Grandchildren	
	Nephew	
	Niece	
	Uncle	
	Aunt	

### 2.4.4 PROMOTION

In the event of a proposed promotion to a position that would create a disallowed relationship described in Section 2.4.2, any employed family member of a person considering promotion must agree to immediately tender written, conditional resignation before the candidate will be formally considered for the proposed promotion. If the candidate is selected for and chooses to accept the promotion, the conditional resignation becomes final. Normally, once final, any such resignation will not become effective until ninety (90) days after the promotion takes effect.

#### **2.4.5 REORGANIZATION**

In the event of a reorganization, or any other situation (other than a promotion) giving rise to a relationship disallowed by Section 2.4.2 of this directive, the lower ranking employee will be required to immediately resign employment. If both employees are of an equal rank, one of them will be required to immediately resign employment. In the event that the employees do not decide which employee will resign, the employee with the least seniority will be deemed to have resigned. Normally, any such resignation will not be effective until ninety (90) days after the engagement, reorganization, etc. occurs.

#### **2.4.6 MARRIAGE OF CURRENT EMPLOYEES**

In the event of a marriage between two City employees creating a relationship disallowed by Section 2.4.2 of this directive, one or both affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of Section 2.4.2 of this policy. If a suitable transfer cannot be made within ninety (90) days of the event giving rise to a relationship prohibited by this policy, one or both affected employees will be required to resign from employment.

#### **2.4.7 NOTIFICATION REQUIREMENT**

At the point of application, applicants have a responsibility to notify the City of any existing relationships that may violate this administrative directive on their application. Employees are also required to notify their Department Director of any existing or newly created relationships that are disallowed by this policy. This notice must be in writing and be done immediately upon creation of the relationship or upon discovery of the relationship. Department Directors have the responsibility once they are notified of a disallowed relationship to work with the Director of Human Resources and the City Manager to determine, verify the relationship, mitigate the situation and determine the final appropriate resolution.

#### **2.4.8 PERIODIC REVIEW**

Periodically, the City Manager (or designee) will review the job descriptions and inter-relationship between the affected jobs and determine whether they meet the requirements set out in Section 2.4.2. If one or more of these requirements are not met, one or both affected employees must immediately seek a transfer to another available position within the City for which he/she is qualified and that meets the requirements of Section 2.4.2 of this policy. If a suitable transfer cannot be made within ninety (90) days, one or both affected employees will be required to resign from employment.

#### **2.4.9 APPLICATION OF POLICY**

This policy applies to all full-time, part-time, temporary and seasonal employees of the City.

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## **2.5 NEW HIRE COMPENSATION**

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### **2.5.1 POLICY**

Employees are compensated as defined by the City of Athens Compensation Plan. To that end, the following guidelines are provided to Directors to be used in the hiring process to assist in setting salaries in a fair and consistent manner.

## **2.5.2 COMPENSATION CONSIDERATIONS**

There are several considerations in deciding what to offer someone to come to work for the City of Athens. These considerations are broken down into two parts: the total compensation package and the salary offer. What is offered to a person in exchange for his/her time, talent, services, and judgment are compensation, benefits, challenging work, effective working environment, and career opportunities.

## **2.5.3 DOCUMENTATION**

Determinations of actual salary offer amounts should consider relevant factors such as internal pay relationships, the individual's qualifications and previous experience for the position, and current compensation level (salary and benefit package).

## **2.5.4 TOTAL COMPENSATION**

The hiring Department Director should consider these factors and, in particular, the monetary value of all benefits offered by the City. The total package is what should be explicitly communicated in extending the offer. This will aid the applicant in evaluating and making an informed decision.

## **2.5.5 SALARY OFFER**

Based on the City's ability to pay, the application of survey data, and the process of evaluation, the salary range for each position has been assigned, thereby defining the pay opportunities for each position. The following guidelines should apply to starting salaries:

- A. For someone meeting the minimum requirements of the job, the hiring salary should be the minimum of the pay range established for the position;
- B. When an applicant's experience and background exceed the City's established requirements, and using the criteria in 2.5.2 above, the hiring Department Director upon consultation with the Director of Human Resources and City Manager may set starting salary up to the mid-point of the salary range. Appropriate documentation should be maintained in the Human Resources Department; and
- C. A request for a starting salary more than the mid-point of the salary range must be approved by the City Manager. Justification for starting salaries above the mid-point must be in writing and should be verified with salary survey data provided by the Human Resources Department. This information must be maintained in the personnel file of the individual.

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## **2.6 PROOF OF AGE AND EMPLOYMENT OF MINORS**

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### **2.6.1 POLICY**

As part of the employment criteria, all applicants of employment must show proof of age after they have been selected for the job. The City has the responsibility to only hire those of a lawful employment age.

The minimum age of permanent employment for the City of Athens is 18 years of age. The minimum age for seasonal or temporary employment is 16 years of age.

### **2.6.2 EMPLOYMENT OF MINORS**

- A. Minors under the age of 18 may not be employed in any hazardous occupation as defined by current laws and regulations.
- B. No one under the age of 18 may operate a City Vehicle.

- C. Release signed by parents or guardians is required for background checks and drug/alcohol tests for minors being considered for employment.
  - D. Hiring of minors must be in compliance with Child Labor Laws.
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## 2.7 I-9 REQUIREMENTS

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### 2.7.1 POLICY

The City of Athens is committed to employing only United States citizens and aliens who are authorized to work in the United States and who comply with the Immigration Reform and Control Act of 1986.

### 2.7.2 IMMIGRATION REFORM AND CONTROL ACT

The Immigration Reform and Control Act of 1986 requires employers to verify the citizenship, or authorization to work in the United States, on all people employed since November 6, 1986. It is the Human Resources Department's responsibility to ensure the appropriate documentation within the first 3 days of an employee's date of hire.

### 2.7.3 PROCEDURE

- A. Within the first 3 days of employment, each new employee must properly complete, sign, and date the first section of the Immigration and Naturalization Service Form I-9 and provide the appropriate documentation for section two.
  - B. Rehired employees must also complete the Form I-9 within 3 days of the rehire date if, a) they had not previously filed with this organization, b) their previous form is more than 3 years old, or c) the previous form is invalid in any other aspect.
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## 2.8 NEW EMPLOYEE ORIENTATION

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### 2.8.1 POLICY

Each new or rehired employee will receive an employment orientation from the Human Resource Department and his/her immediate supervisor. The orientation briefing is designed to acquaint the new employee to the City services and to ease his/her adjustment to the new position. Questions and policies concerning hours, pay, benefits, conduct and work place will be covered. The new employee shall receive a copy of the Administrative Directives and is expected to be familiar with its provisions upon starting work. The employee is required to become familiar with the provisions of the Administrative Directives and any amendments or changes upon issuance.

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## 2.9 ORIENTATION PERIOD

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### 2.9.1 POLICY

Except as otherwise set forth herein, all regular full-time, regular part-time and fixed term positions must fulfill a six (6) month orientation period starting from the date of employment. Civil Service employees must fulfill a twelve (12) month orientation period starting from the date of employment.



## **2.9.2 ORIENTATION PERIOD**

- A. During the orientation period, employees are subject to all Administrative Directives, policies and procedures of the City. The orientation period assists the City in maintaining an effective, productive, and efficient workforce to provide quality services to the citizens. This period is to be used by the supervisor to evaluate, train and coach employees on their job duties.
- B. Respectively, the employee should use this period to show the supervisor their best possible work and continuously improve performance. Each employee serving in the orientation period is responsible for knowing, understanding, and meeting the expectations and standards for the position. In addition, each employee is also responsible for performing the job in a safe, productive, and effective manner within the instructions and established standards for the position. Furthermore, employees are expected to maintain acceptable standards of conduct in their employment. During the orientation period, it is the responsibility of the employee to correct any deficiencies or inadequacies in job performance or conduct.
- C. At the end of the orientation period, the orientation period may be extended for up to an additional three months when an employee's performance has been marginal due to extenuating circumstances, additional training is warranted, or an employee's absence from work for an extended period did not permit an opportunity for adequate assessment of performance. The decision to extend or not to extend an employee's orientation period may not be appealed. If an extension is granted, the employee will be advised in writing and given the date on which the extended orientation period will be completed. Such extension will be at the sole discretion of the Department Director and the Director of Human Resources.
- D. An orientation period may be extended for time spent on an approved Leave of Absence including leaves of absences due to injury or illness or approved Military Leave. The approved extension will normally equal the length of time away from work.
- E. Seasonal and temporary employees do not serve an orientation period.

## **2.9.3 CHANGE IN ASSIGNMENT OF EMPLOYEES SERVING IN THE ORIENTATION PERIOD**

Employees serving in the orientation period may not request or make application for reassignment, promotion, or transfer during the orientation period without written approval from the City Manager, or if requested by their Department Director. If the reassignment, promotion, or transfer is approved, the employee will serve the remainder of the orientation period (see above) for the new position.

## **2.9.4 SUCCESSFUL COMPLETION OF ORIENTATION PERIOD/"REGULAR" STATUS GRANTED**

Employees have no guarantee of employment either during or after their orientation period. An employee is granted "regular" status in the new position upon the successful completion of the orientation period.

## **2.9.5 PERFORMANCE EVALUATION DURING ORIENTATION PERIOD**

Employees in their Orientation Period will receive a performance evaluation upon completion of the Orientation Period.

## **2.9.6 BENEFIT/LEAVE ELIGIBILITY DURING ORIENTATION PERIOD**

See individual benefits and leave policies.

## **2.9.7 UNSUCCESSFUL ORIENTATION PERIOD**

At any time during the Orientation Period where the Department Director determines that the employee is not a good fit for the organization, the Orientation Period can be ended. Failure to complete an Orientation Period can be based on many things, including, but not limited to, the employee's fitness to do the job, job performance, quality

or quantity of work, attendance, inability to work with team, does not meet minimum job performance standards and/or expectations for the position. However, the decision cannot be based on any of the protected classes as defined in Title VII of Federal Law. An employee who does not successfully complete the orientation period will normally be terminated from the City's employment. If desirable and feasible, the employee may be administratively transferred to a more suitable position at the sole discretion of the City of Athens. Department Directors are responsible for ensuring thorough written documentation of all cases of failure of the orientation period, including documentation of counseling, training, and other efforts to help employees during their orientation period. All such documentation must be reviewed by the Director of Human Resources before an employee serving in the orientation period can be terminated and all documentation should be forwarded to the Human Resources Department for personnel file documentation.

### **2.9.8 TERMINATION OF EMPLOYEES SERVING IN THE ORIENTATION PERIOD**

Employees serving in the orientation period may be terminated at any time during the orientation period, with or without notice or cause. An employee serving in the orientation period who is terminated has no right of appeal. These employees are not entitled to progressive levels of discipline. Civil Service employees will be subject to the actions as outlined in the City of Athens Civil Service Rules and Regulations. Employees serving in the initial orientation period are otherwise subject to all administrative directives, policies and procedures of the City of Athens.

### **2.9.9 HARASSMENT AND DISCRIMINATION**

Employees serving in the orientation period are subject in all respects to the City's Harassment and Discrimination Directive 9.3. Any employee serving in the orientation period who believes that harassment or discrimination has occurred, must immediately report such conduct as set out in the Administrative Directives.

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## **2.10 EMPLOYMENT RELATIONSHIPS**

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### **2.10.1 POLICY**

The City assigns employees to a category of employment relationship for purposes of determining benefit eligibility and policy application:

- A. Orientation Period.** A full-time or part-time employee during the orientation period as set out in Section 2.9.
- B. Regular Full-Time.** An employee in a budgeted position with an officially scheduled work week of 40 hours or more each workweek (except for certain Civil Service shift personnel who have different work cycles) who has successfully completed the initial orientation period. Generally, regular full-time employees are eligible for the City's full benefits package, subject to the terms, conditions, and waiting periods of each benefit program. Regular full-time employees are required to participate in the Texas Municipal Retirement System (TMRS).
- C. Regular Part-Time.** An employee in a budgeted position with an officially scheduled work week less than 40 hours who has successfully completed 6 months of active service with the City. Regular part-time employees who regularly work more than 20 hours per week accrue certain benefits on a pro rata basis, part-time employees who work more than 30 hours per week are considered full-time employees by Affordable Care Act (ACA) and may be eligible to be on the health plan. Additionally, part time employees regularly budgeted to work at least 1000 hours in a year, are required to participate in Texas Municipal Retirement System (TMRS).

- D. **Temporary/Seasonal.** An employee who is employed for only a specific time, for a special assignment, or as an interim replacement. Employment assignments in this category are of a limited duration. Seasonal employees may not work more than six months. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary and seasonal employees retain that status unless and until notified of a change in writing by the Human Resources Department. Temporary and seasonal employees receive all legally mandated benefits (such as worker's compensation insurance coverage, ACA mandated health care etc.). Temporary employees who are placed with the City but are employed by a temporary staffing agency must look to the temporary staffing agency to determine what benefits are provided. Such employees are not eligible for benefits from the City and are not eligible for participation in TMRS.
- E. **Volunteers.** Volunteers are not employed by the City in any capacity. Volunteers elect to donate their time and services as a volunteer for the City without any expectation of compensation. Volunteers are generally not paid, are not entitled to any benefits other than worker's compensation.
- F. **Internships.** Internships are either paid or non-paid. In either instance, interns will not receive City health or retirement benefits, and internships offered will be for a limited number of hours below any thresholds that would require the City to provide benefits.

### **2.10.2 EXEMPT/NON-EXEMPT**

In addition to being in one of the above categories, each employee is also designated as either exempt or non-exempt at the time of their initial employment, or subsequently if their classification changes for any reason. An employee's exempt or non-exempt classification may be changed only upon written notification by the Human Resources Department. Exempt/Non-exempt status determines whether the position is exempt from or eligible for overtime. Exempt/Non-exempt status will be reviewed by the Human Resources Department periodically to determine if the work performed by the position has changed or if the federal regulations regarding exempt/non-exempt status have changed.

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## **2.11 RE-EMPLOYMENT**

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### **2.11.1 POLICY**

To be considered for re-employment, former employees must have demonstrated acceptable prior service with the City and must meet the current minimum qualifications for the position for which they are applying. Rehired employees are subject to the conditions of employment and benefits of a newly-hired employee, except where specifically stated otherwise.

### **2.11.2 CLASSIFICATION**

Former non-Civil Service City employees may be rehired into the same classification at the same rate of pay provided it has been less than one (1) year since they left employment. If rehired, more than one (1) year after leaving employment, they may be paid according to the job grade, but not necessarily at the same rate of pay as prior to leaving City employment.

### **2.11.3 CREDIT FOR PRIOR SERVICE FOR LONGEVITY PAY**

If a former full-time employee is rehired within one (1) year of his/her separation date from the City, the employee will be credited with the time previously worked for the City minus the time separated from the City. This will only affect the employee's longevity date as it pertains to years of service for purposes of calculating longevity pay.

Vacation and other leave accruals are not based on the recalculated longevity date, but are based on the re-hire date.

#### **2.11.4 RETIREES REHIRED**

Non-Civil Service retirees may be rehired into their former City position, or another vacant position for which they qualify, in a part-time or seasonal/contract labor capacity. Retirees hired as part-time or seasonal employees cannot work more than 999 hours per year in a part-time or seasonal capacity without it affecting the TMRS benefits they are receiving.

#### **2.11.5 TMRS**

An employee who is retired from the City through TMRS and works over 1,000 hours in the budget year, becomes an eligible employee under TMRS and is required to suspend their retirement benefit and participate in TMRS.

## 3 CHANGES IN EMPLOYMENT

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### 3.1 PROMOTIONS

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#### 3.1.1 POLICY

It is the desire and intent of management to provide promotional opportunities for employees of the City by offering assistance to interested employees in developing career plans and making applicable training and educational opportunities available.

A promotion is the selection of a current employee through the selection process to a vacant position whose pay grade has a higher maximum salary. Non-civil service employees who are promoted must complete a six-month orientation period and will be evaluated by the supervisor prior to completion of the orientation period.

#### 3.1.2 COMPENSATION

A newly promoted employee shall ordinarily be compensated at the start of the new range providing their salary is increased by 5% for the promotion. If the newly promoted employee's current salary is greater than the start of the range, the employee shall receive a 5% increase, based on base salary, but shall not exceed the maximum of the range.

In situations where the experience of the employee significantly exceeds the minimum requirements of the new position, the Department Director may set the salary up to a 15% increase with the approval of the City Manager.

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### 3.2 ACTING POSITIONS

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#### 3.2.1 POLICY

The City Manager may authorize an Acting Position to ensure the proper performance of City functions if a position is vacant, or its regular incumbent is absent for more than two (2) consecutive pay periods, or whenever deemed necessary.

#### 3.2.2 PROCEDURE

Requests for Acting Positions should be on the Personnel Data Change form and routed to the Director of Human Resources for review and recommendation to the City Manager. All requests must state the specified period, employee's name, and qualifications. All acting positions must be of a duration of less than six (6) months unless special authorization is given by the City Manager.

#### 3.2.3 COMPENSATION

Employees in Acting Positions may be additionally compensated for the duration of their assignments with the approval of the City Manager.

#### 3.2.4 STATUS/RIGHTS

Acting Positions shall not be used to circumvent normal promotional procedures. The employees involved shall not acquire any status or rights to the position to which temporarily placed, except as provided above.

### 3.2.5 TYPES OF ACTING POSITIONS

- A. There are two types of Acting Positions:
  - a. **Category A** – The employee meets the minimum requirements of the job; and
  - b. **Category B** – The employee is able to perform the majority of the essential functions; however, the employee does not meet the minimum qualifications.

“Acting Positions” will only be approved in limited situations. Employees selected to “Act”, and who are in Category B, will not be considered for a promotion if the position becomes vacant, unless at that time they meet the minimum qualifications.

Nothing herein shall be construed to prevent the assignment of additional and higher level duties to an employee without additional compensation. Authorized additional compensation shall be paid only in cases of formal Acting Positions of a higher grade affected in accordance with these rules. A formal Acting Position is defined as a temporary assumption of a position of a higher grade which requires the employee to temporarily perform the majority of the essential functions of the job and has been approved by the City Manager. Formal Acting Positions warrant the employee “acting pay” according to applicable policies and pay constraints. (See Section 3.2.2).

Employees placed in an acting Position will resume their prior position and compensation once the period of “Acting” is complete. Employees selected to “Act” will not be guaranteed a promotion into that position if it becomes vacant.

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## 3.3 LATERAL TRANSFERS

### 3.3.1 POLICY

A lateral transfer occurs when an employee moves from one position to a different position, both of which are assigned the same pay grade.

### 3.3.2 TYPES OF LATERAL TRANSFERS

- A. **Voluntary Lateral Transfer** – when an employee voluntarily applies for and gets a position in the same pay range as his/her current position.
- B. **Administrative Lateral Transfer** – when the Department Director and/or the City Manager determines it is in the best interest of the City to move an employee to another position in the same pay grade. An administrative transfer can be made for disciplinary or non-disciplinary reasons.

### 3.3.3 COMPENSATION WITH LATERAL TRANSFERS

There is no pay increase associated with a lateral transfer of either type. The employee who takes a lateral transfer will be eligible for performance reviews on the regular schedule, with the possibility of a performance increase.

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## 3.4 DEMOTIONS

### 3.4.1 POLICY

A demotion is the assignment of an employee from one position to a position in a lower pay grade or change in rank. An individual may be demoted upon his/her request, administratively, or for disciplinary purposes. Involuntary demotions in classified Civil Service positions are controlled by Civil Service statutes. Voluntary demotions in classified Civil Service positions are at the sole discretion of the Department Head.

The City Manager must be notified prior to the demotion occurring. The Director of Human Resources will review all demotions and approve all paperwork. The Department Director and the Director of Human Resources will be responsible for consulting with the City Manager and keeping him/her apprised of any demotions.

### **3.4.2 DISCIPLINARY DEMOTIONS**

For disciplinary demotions, a written notice of demotion must be given to the employee which describes the circumstances that caused the demotion and states the likely consequences of further unsatisfactory performance or conduct.

### **3.4.3 ADMINISTRATIVE DEMOTIONS**

Administrative demotions will not be considered disciplinary actions, and they do not disqualify the employee involved from consideration for later advancement. An employee administratively demoted shall be eligible for the annual performance review, with the possibility of a performance-based increase.

An employee's salary may be affected by a demotion according to applicable circumstances. If an employee's salary is affected, the employee's salary must be within the salary range of the grade of the new lower position.

The employee's job performance for the position he/she is in prior to the demotion should be evaluated by the employee's supervisor upon transfer.

### **3.4.4 VOLUNTARY DEMOTIONS**

Voluntary demotions will be considered Administrative demotions and will be handled the same.

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## **3.5 RECLASSIFICATION**

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### **3.5.1 POLICY**

Periodically, positions may be audited/reviewed by the Human Resources Department or considered for reclassification in the City of Athens Compensation Plan. Such reviews could, but not always, create a change in the classification and possibly the pay of the individual.

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## **3.6 OUTSIDE EMPLOYMENT**

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### **3.6.1 POLICY**

Employees may hold a job outside the City of Athens as long as they satisfactorily perform their job responsibilities with the City. Employees should give due consideration to the impact that outside employment may have on their health and physical endurance. Employees must receive prior written approval from the Department Director and City Manager (or designee) on an Outside Employment Form.

All employees will be subject to the City's scheduling demands and special requests or consideration brought about by outside employment will be secondary to meeting the City's needs.

If an employee's outside work hinders the performance or ability to meet the City's requirements as they change with time, the employee may have to make a choice of which job to continue employment.

### **3.6.2 CONFLICT OF INTEREST**

Outside employment that presents an actual or potential adverse impact on the City will be construed as a conflict of interest.

Employees who have attained certain professional or technical expertise may do consulting work outside of this jurisdiction or perform work for agencies whose business dealings would not create a conflict with this jurisdiction.

### **3.6.3 OUTSIDE EMPLOYMENT WHILE ON LEAVE**

An employee on paid FMLA leave using sick time, vacation, Workers' compensation wage replacement, compensatory time, or holiday pay is not permitted to perform outside work for compensation prior to returning from FMLA leave and working his/her scheduled shift. An employee found to be in conflict with this policy shall be subject to the loss of the paid leave time (in accordance with the Fair Labor Standards Act regarding the docking of pay for exempt employees) and subject to appropriate disciplinary action including termination of employment.

An employee on unpaid FMLA is not permitted to perform outside work for compensation prior to returning from FMLA leave and working his/her scheduled shift. An employee found to be in conflict with this policy shall be subject to appropriate disciplinary action including termination of employment.

An employee using sick pay is not permitted to perform outside work for compensation prior to returning from sick leave and working his/her scheduled shift. An employee found to be in conflict with this policy shall be subject to the loss of the pay (in accordance with the Fair Labor Standards Act regarding the docking of pay for exempt employees) and subject to appropriate disciplinary action including termination of employment.

An employee on an approved Non-FMLA leave of absence is not permitted to perform outside work for compensation prior to returning from personal leave and working his/her scheduled shift. An employee found to be in conflict with this policy shall be subject to appropriate disciplinary action including termination of employment.



## 4 COMPENSATION, ATTENDANCE AND WORK HOURS

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### 4.1 COMPENSATION PLAN

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#### 4.1.1 POLICY

The City of Athens is committed to providing a systematic and organized approach for administration of a total compensation program.

To meet this commitment, the City will (1) maintain a competitive pay structure for the purpose of recruiting and retaining an effective and efficient workforce; (2) establish a salary range for each position that is based on a systematic blending of the position's internal worth to the City and its external value in the market; (3) evaluate employees' job performance, and if funds are available, award employees with annual increases based on the employee's individual job performance for non-civil service positions; (4) provide guidelines for salary adjustment to employees' pay through promotion, transfer, demotion, position reclassification, acting pay, and special assignment pay; (5) grant incentive pay for longevity, bilingual and job-related certification attainment; (6) provide guidelines for travel expenses for employees attending training programs; and (7) adhere to the Fair Labor Standards Act in establishment of minimum wage, overtime pay and child labor standards affecting full and part-time employees.

#### 4.1.2 COMPENSATION PROGRAM OBJECTIVES

The objectives of the City's compensation program are with the use of clearly defined functions stated in the written job descriptions:

- A. To reinforce employee perception of fair compensation between positions and with comparable positions outside the City;
- B. To establish a program that is fiscally sound, cost effective and easily administered and maintained;
- C. To establish a salary range for each position that is based on a systematic blending of the position's internal worth to the City and its external value in the market; and
- D. To provide a methodology that allows the City Manager to determine market-based salary adjustments consistent with the City's ability to pay.

#### 4.1.3 COMPENSATION PRINCIPLES

- A. Pay
  - a. The City will provide total compensation opportunities such as direct pay, indirect pay, and career opportunities that are a blend of those offered by its competitors.
  - b. Direct pay includes an employee's salary and any other type of monetary pay such as longevity, certification, bilingual pay, etc. Indirect pay includes flex time, recognition awards, etc.
- B. Salary Ranges
  - a. Each position in the City will be assigned to a pay structure that will have a salary range defined by minimum and maximum dollar limits. The salary range defines the pay opportunities for the position.
  - b. All salary ranges will be reviewed annually and revised to reflect the City's changing competitive position, economic conditions, and compensation objectives. The annual review will be subject to the budgetary guidelines established by the City Manager.

C. Job Descriptions

- a. The City makes every effort to create and maintain accurate job descriptions for all positions within the City. Each position title in the City will have a written job description.
- b. The City maintains job descriptions to aid in orienting new employees to their jobs, identifying the requirements of each position, establishing hiring criteria, setting standards for employee performance evaluations, and establishing a basis for making reasonable accommodations for individuals with disabilities.
- c. Existing job descriptions will be reviewed on an as needed basis and on a periodic schedule defined by Human Resources to ensure that they are up to date and reflect changes. Employees are expected to help ensure that their job descriptions are accurate and current, reflecting the work being done. The job description will be modified, if warranted, through documentation provided by an updated job description questionnaire submitted by the Department Director. The job description questionnaire is the basis for position evaluation and all changes to job descriptions.

D. Job Evaluation

- a. Each position (except Civil Service employees) will be placed in a pay structure at a grade and accompanying salary range. The Director of Human Resources under the direction and with the approval of the City Manager, is responsible for position evaluation and placement in the appropriate pay structure within a pay plan. A pay plan is a document that assigns dollar values to each position, groups positions into pay groups, arrays pay groups on a pay schedule showing salary and wage ranges for each group and sets forth procedures for administering the pay plan.

E. Administration

- a. Under the direction of the City Manager, the Director of Human Resources will manage and administer the compensation program and will be responsible for:
  - i. Maintaining and administering the pay plan;
  - ii. Recommending changes in the basic philosophy and objectives of the compensation policy, which ensure compliance with all relevant laws and regulations;
  - iii. Ensuring that job descriptions are current and accurate;
  - iv. Ensuring that position evaluations are performed in a timely manner;
  - v. Conducting periodic salary surveys to recommend salary increases and salary structure adjustments; and
  - vi. Coordinating the implementation and periodic review of the salary administration guidelines.

#### **4.1.4 SALARY ADJUSTMENT GUIDELINES**

During the normal budget process, the Director of Human Resources is responsible for developing recommendations regarding structure adjustments to the pay plan or market adjustments for specific positions. The purpose of adjustments is to respond to situations that might affect the external competitive position or adversely affect internal equity. As these recommendations reflect the compensation policy of the City, the final decision will rest with City Manager. Once direction has been given regarding salary plan adjustments/increases, Human Resources will coordinate the implementation. All proposed salary adjustments to specific positions must have the approval of the Department Director.

At the beginning of the fiscal year, all employees should be at least at the minimum of the salary range for their positions. If an employee's salary is below the minimum of the salary range for the new fiscal year, the salary will be adjusted to the minimum, effective on the first pay period in the new fiscal year.

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## 4.2 REGULAR WORK HOURS

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### 4.2.1 POLICY

Full-time nonexempt employees of the City, except for the Police Department and Fire Department normally work 40 hours in a seven-day workweek. Exempt employees may be required to work in excess of 40 hours. The work week begins at 12:01 a.m. on Sunday and ends at 12:00 mid-night on Saturday. Hourly employees outside of the Police Department and Fire Department normally work an 8-hour shift which begins at 8:00 a.m. and ends at 5:00 p.m., although employees in some departments may have different work hours. For example: The Fire Department shift employees work 24-hour shifts every third day, based on a 21-day work period. In times of disaster or emergency, working hours shall be determined by the Department Director or the City Manager.

Daily work schedules may include an unpaid lunch period of up to 1 hour and up to 2 paid breaks not to exceed 15 minutes each as the work load allows.

### 4.2.2 ADJUSTMENT TO WORK HOURS

To assure the continuity of City services, it may be necessary for Department Directors to establish other operating hours for their departments. Work hours and work shifts must be arranged to provide continuous service to the public. Employees are expected to cooperate when asked to work overtime or a different schedule. Acceptance of work with the City includes the employee's acknowledgement that changing shifts or work schedules may be required, and indicates that the employee will be available to do such work.

Staffing needs and operational requirements may necessitate different starting and ending times, as well as changes in the total hours that may be scheduled each work day or week. Supervisors will advise employees of their normal work schedule and such deviations or alterations that may be necessary to accomplish the required work. As a condition of employment, employees may be requested and required to work beyond their regularly scheduled hours from time to time. Supervisors will give employees as much notice as possible under the circumstances, but employees may be required to work additional hours without advance notice at any time. Refusing to work beyond the regular schedule when requested is a violation of policy. If an employee's personal affairs require that he/she be relieved of the potential for unscheduled work on any given day, the employee must request relief from unscheduled work as soon as possible. This request must be made to their supervisor or the individual acting in the capacity of a supervisor.

When a non-exempt employee works additional hours during a work week or work cycle, flextime may be provided during that same work week or work cycle hour for hour of work time. The supervisor should make every effort to schedule the employee's work time so that the employee does not work in excess of the total number of hours included in that employee's regular work schedule for the work week or work cycle.

### 4.2.3 ATTENDANCE RECORDS

Employees are expected to be at their work stations and ready to work at their scheduled start time. Non-exempt employees are required to record the number of hours worked each day, as well as the time they began their shift, the time they left for and returned from lunch, the time(s) they left for and returned from any unpaid break during the work day and the time their shift ended on the approved time keeping system. Exempt employees should only record leave via a request for paid time off for tracking purposes.

#### 4.2.4 NOTIFICATION

To maintain a safe, productive and efficient work environment, the City expects all employees to speak directly with his/her supervisor in advance of an anticipated tardy or absence. Employees are expected to provide as much notice as possible in advance of the tardiness or absence in accordance with departmental procedures. The employee must disclose to his/her supervisor the reason for the absence or tardiness and the date and time of his/her anticipated arrival.

- A. For absences of a day or more, the employee must personally notify his/her supervisor on each day of his/her absence, unless the supervisor expressly waives this requirement.
- B. In most instances, an employee who fails to properly notify his/her supervisor in advance of an absence or tardiness will be subject to disciplinary action up to and including termination of employment.
- C. An employee who fails to notify his/her supervisor of an absence of three days or more may be presumed to have voluntarily resigned his/her employment.

#### 4.2.5 REGULAR WORK SCHEDULE

Each hourly employee shall have an established work schedule for the work week or work cycle. Whenever possible, the schedule shall be uniform within occupational groups and shall be determined in accordance with the needs of the City and the reasonable needs of the public.

- A. **Establishment of Schedule** - The regular work schedule shall be established by the Department Director with notification to the Human Resources Department. Employees shall be at their place of work in accordance with City and departmental policies and regulations.
- B. **Deviation from Regular Work Schedule** – On occasion, an hourly employee may need to deviate from his/her regular work schedule, with the result of working additional hours on a particular day or days. Said additional hours of work shall be at the direction of the employee’s supervisor.
- C. **Attendance Records** – Supervisors are responsible for ensuring that their employees are paid correctly. Employees shall record their time for each day either by recording it on the approved time keeping system. This record should be turned in to the department supervisor for payroll purposes. Employees shall review and submit their record of time worked on the last day of each pay period prior to submitting to their supervisor. Hours worked will be rounded to the nearest 15-minute increment and recorded in quarter-hours.

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### 4.3 OVERTIME AND COMPENSATORY TIME

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#### 4.3.1 POLICY

All employees are compensated as defined in the City of Athens Compensation Plan. This plan is administered by the Human Resources Department. Any deviations, changes or updates to the plan must be reviewed and approved by the City Manager.

#### 4.3.2 OVERTIME COMPENSATION

Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour requirements. Exempt employees are not paid overtime compensation. The Human Resources Department is responsible for determining the exempt/non-exempt status of City positions according to the Fair Labor Standards Act.

### **4.3.3 NON-EXEMPT EMPLOYEES**

When the City's operating requirements or other needs cannot be met during regular working hours, non-exempt employees may be scheduled to work overtime at the request of their supervisor. When possible, advance notification of mandatory overtime assignments will be provided. Overtime assignments will be distributed as equitably as practical to all non-exempt employees qualified to perform the required work. Refusal or other failure to work mandatory overtime may result in disciplinary action up to and including termination of employment.

### **4.3.4 AUTHORIZATION REQUIRED**

All non-exempt employees must receive their supervisor's and Department Director's prior authorization before performing any overtime work. This means employees may not begin work prior to their scheduled work day, and may not continue working beyond the end of their scheduled work day, without prior authorization from the appropriate supervisor. Similarly, employees may not work through their lunch break without prior authorization from the appropriate supervisor. On the employee's time sheet, the appropriate supervisor must also approve any overtime before the time is submitted for processing and payment.

### **4.3.5 WORK WEEK AND OVERTIME RATE**

Generally, except for Police and Fire shift employees, overtime pay for non-exempt employees is at the rate of 1-1/2 times the employee's "regular rate" (as defined by the Fair Labor Standards Act) for hours actually worked in excess of 40 in the City's workweek. The City's workweek begins at 12:01 am on Sunday and ends at mid-night on the following Saturday. An employee's "regular rate" includes all components of pay, such as longevity, assignment pay, incentive pay, regular pay, performance pay, etc. The City of Athens Police and Fire declared a 207k exemption under FLSA. Police shift personnel are paid overtime based on a 14-day work cycle adopted by their Department under Section 207(k) of the Fair Labor Standards Act for hours worked in excess of 80 in a work cycle. The Fire Department has elected a 21-day work cycle and are paid overtime for hours work in excess of 156 in a work cycle.

### **4.3.6 HOURS WORKED**

All paid hours in work cycle are counted toward hours worked for purposes of calculating overtime with the exception of paid sick time.

### **4.3.7 COMPENSATORY TIME**

In accordance with the Fair Labor Standards Act, non-exempt employees may accrue compensatory time in lieu of being paid overtime. Civil Service employees may accrue up to a 160-hour cap. Other non-exempt employees may accrue up to an 80-hour cap. Overtime hours worked beyond the above stated cap must be paid or flexed, as described below. Compensatory time accrues at a rate of 1 ½ hours for every hour of overtime worked by non-exempt employees. Comp time accruals are to be monitored at the department level and maximum hours accrued will be restricted based on the requirements of this policy. All compensatory time earned must be documented on the approved time keeping system.

### **4.3.8 USE OF COMPENSATORY TIME**

An employee who has accrued compensatory time and requests use of such time must be permitted to use the time off within a "reasonable period" after making the request, if it does not "unduly disrupt" the work of the department. If use of requested comp time would be disruptive, the department may elect to pay the employee in lieu of approving the requested time off. The City may, at any time, elect to pay a non-exempt employee for any, or all, of the employee's accrued comp time. The City may also require employees to take time off in order to reduce their

accrued comp time. Otherwise, compensatory time off may be used the same as vacation time. Comp time cannot be used or granted prior to being earned.

#### **4.3.9 PAYMENT OF COMPENSATORY TIME AT PROMOTION/TERMINATION**

All employees who are reclassified/promoted from a non-exempt position to an exempt position will be paid all accrued comp time upon approval of the reclassification/promotion and will cease to be eligible for any additional overtime and/or compensatory time. Likewise, an employee who is either promoted, transferred or demoted to another non-exempt position will be paid in full for any comp time accrued before the change becomes effective. Upon leaving employment with the City, a non-exempt employee will be paid for unused compensatory time at the employee's current hourly rate.

**NOTE:** Exempt employees are not eligible to accrue compensatory time.

#### **4.3.10 EXEMPT EMPLOYEES**

Exempt employees are those who are not covered by the overtime requirements of the FLSA. Accordingly, exempt employees are not entitled to overtime compensation for work performed beyond 40 hours in a workweek. Exempt employees are expected to put in the hours necessary to complete their assignments with an acceptable level of quality and in a timely manner.

An exempt employee's pay will not be reduced for a partial day's absence; absences for full days will be permitted only as authorized by law and approved by the Director of Human Resources. Use of available leave does not constitute docking. Absent accrued paid leave time, an exempt employee need not be paid for any workweek in which no work was performed.

It is the policy of the City not to make improper deductions from an exempt employee's pay. Any exempt employee who believes an improper pay deduction has been made, must immediately notify the Director of Human Resources. The City will promptly reimburse an exempt employee for any improper deduction(s) and will make a good faith commitment to comply in the future.

#### **4.3.11 FLEX-TIME WORK SCHEDULE**

In situations where overtime payment is not feasible due to budgetary constraints, the Department Director or supervisor may consider flexing the employee's work schedule to minimize the need for overtime compensation. Flexing must be completed within the same FLSA work period.

- A. Flex time scheduled during the work period in which it is earned will be traded hour for hour because the flex time used results in no actual overtime for the work period. Department Directors and supervisors should schedule flex time where applicable for more efficient operation of the department and to minimize overtime for non-exempt employees.
- B. Adjusting work schedules within a work period may be done to reduce overtime hours. Supervisors may require an employee to be off without pay to offset "extra" hours worked during the same work period. For instance, if an employee works three extra hours on a Wednesday, the supervisor may adjust the employee's work schedule by reducing his/her work time by three hours on Friday.
- C. Flex time may allow an employee to work outside the normal work hours for his/her department if approved by the employee's immediate supervisor.

## 5 PAY TYPES

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### 5.1 LONGEVITY

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#### 5.1.1 POLICY

Once a full-time employee has been employed with the City for one (1) full year, he/she is eligible for longevity pay. Longevity pay equals \$4.00 a month for each full year of service, to a maximum of \$100.00 a month, or \$1,200.00 per year (25 years of service).

#### 5.1.2 ACCRUAL

Employees on approved FMLA will accrue longevity for up to 12 weeks of leave.

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### 5.2 ON-CALL

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#### 5.2.1 POLICY

The City provides for after-hour service needs by allowing some departmental operations to designate certain nonexempt 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. Employees "on-call" must refrain from drinking alcohol and refrain from using illegal drugs or any drug that can impair your ability to perform your duties, or that which prevents you from safely reporting to work.

#### 5.2.2 RETURN TO WORK PROVISIONS

After regularly scheduled working hours, "on-call" employees are free to pursue personal activities but must respond to a call (via paging, phone or radio) within 30 minutes.

#### 5.2.3 COMPENSATION

- A. "On-call" employees are guaranteed a minimum of an additional one (1) hour of pay for each designated "on-call" day. If the employee works a minimum of 40 hours during his/her designated "on-call" workweek, then he/she will receive the additional hours as overtime pay.
- B. "On-call" employees will be compensated for time actually worked in excess of the five-hour minimum. Only hours worked in excess of the 40-hour minimum per workweek will be compensated at the overtime rate.
- C. In all cases, employees must report their actual hours worked on their time sheets.
- D. Travel time to and from a call-back is eligible for compensation under this policy.
- E. Vacation will not be granted during an "On-Call" period, except for extraordinary or unforeseen circumstances.
- F. Employees exempt from overtime are not eligible for compensation under the provisions of this policy.

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## 5.3 STEP-UP PAY

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### 5.3.1 POLICY

The City of Athens will provide step-up pay for Police and Fire Department personnel who are required to perform duties of a higher classification in accordance with the guidelines of this directive.

### 5.3.2 PAY

Employees who are required to perform the duties of a higher classification shall be paid an hourly stipend calculated by the difference in their current rate and the next full step higher hourly rate for the position classification whose duties they are performing for the period of time in which they perform the duties.

### 5.3.3 REQUIREMENTS

- A. The term “required to perform” shall mean that the member was directed or ordered by their supervisor to perform the duties.
- B. The employee “stepping up” must be qualified to perform and must actually perform the full range of duties of the higher-level position during the step-up period. The duties performed must be above and beyond the duties described in the employee’s current job classification.
- C. When the higher-level duties are no longer being performed, the extra pay will be removed.
- D. Employee’s performing at a higher position will not acquire any status or rights as a result of the temporary assignment.
- E. Step-up pay will be recorded on the timesheet by the department.

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## 5.4 SICK LEAVE BUY-BACK

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### 5.4.1 POLICY

In November of each year, employees may opt to receive pay in lieu of time off for a portion of their unused Sick Leave earned during the past calendar year, subject to specific conditions, and in accordance with the following:

- A. 2,080 Hour Per Year Employees may sell up to 24 hours
- B. 2,724 Hour Per Year Employees may sell up to 36 hours

No employee may sell back any number of unused Sick Leave that would reduce the remaining balance of Sick Leave hours below forty (40) for 2,080 Hour Per Year Employees and forty-eight (48) for 2,724 Hour Per Year Employees.

Employees that used Sick Leave in the calendar year preceding the Sick Leave buy-back period in excess of the buy-back limits stated above, shall not be eligible for the Sick Leave buy-back.

Payment of this benefit will be made during the last pay period in November of each year.



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## 5.5 CAR ALLOWANCES/MILEAGE REIMBURSEMENT

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### 5.5.1 POLICY

The City of Athens provides car allowances to reimburse employees required to use personal vehicles extensively for City-related business. For some employees at a Manager level and above, a car allowance may be set above the reimbursement level as a part of the employee's total compensation package, at the discretion of the City Manager.

The use of mileage reimbursement is to reimburse employees who are required to use personal vehicles occasionally for City-related business.

### 5.5.2 ELIGIBILITY FOR CAR ALLOWANCE

The City Manager has established an eligibility list for those employees who are to receive car allowances. The dollar amount of car allowances will be considered annually during the budget process. Allowances will be based upon the cost that would otherwise be incurred by the City if a City vehicle were provided using the following criteria:

- A. Nature and extent of vehicle utilization required for official business;
- B. Size and type of vehicle required for effective job performance; and
- C. Current costs of vehicle purchase, operation, and maintenance.

Employees are not eligible for both a car allowance and use of a City vehicle. The only exceptions are emergency situations or special uses as approved by the City Manager where an employee on car allowance may be temporarily assigned a City vehicle.

Each recipient of a car allowance shall maintain current vehicle registration and tags, a current state inspection sticker, and at least the minimum of liability insurance required by state law.

The City encourages all recipients of a car allowance to maintain comprehensive collision insurance coverage including rent-a-car protection in case of their personal vehicle being rendered inoperative.

### 5.5.3 COVERAGE OF CAR ALLOWANCES

Car allowance recipients are responsible for any record keeping requirements of the Internal Revenue Service and any tax implications. All or any portion of a recipient's car allowance may be subject to Federal Income Tax.

A car allowance will cover all car-related expenses incurred by travel within the City. Any travel outside a 50-mile radius of the City will be eligible for mileage reimbursement for actual mileage from the beginning of the trip. Any such reimbursement shall be submitted on a Travel Request Form in accordance with the City Travel Policy.

The City Manager may eliminate car allowances at any time.

### 5.5.4 ELIGIBILITY FOR MILEAGE REIMBURSEMENT

Employees who utilize personal vehicles to conduct City-related business are eligible for mileage reimbursement. Exceptions are car allowance recipients who are traveling within a 50-mile radius of the City and those employees who are using a City vehicle. The Department Director must approve travel qualifying for mileage reimbursement.

### 5.5.5 DISBURSEMENT OF CAR ALLOWANCE/MILEAGE REIMBURSEMENT

- A. If an employee works any part of a pay period, they will receive their car allowance for that pay period.
- B. Claims for mileage reimbursement must be submitted on the designated City form.

- C. Effective upon approval, mileage reimbursement will be made at the standard rate established by the IRS and approved by the City.
- D. The City of Athens reserves the right to change, modify, amend, revoke, or rescind all or part of this policy at any time.

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## 5.6 CELL PHONE ALLOWANCES

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### 5.6.1 POLICY

The City of Athens provides cell phone allowances for specific positions in accordance with the Cell Phone Administrative Directive 12.5

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## 5.7 CERTIFICATION/BI-LINGUAL PAY

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### 5.7.1 POLICY

Employees in qualified positions may be eligible to receive pay for some job-related certifications as approved in the City of Athens compensation plan. For certification pay, employees must submit proof of the certification including renewals, if applicable. An eligible employee will only be paid for the highest level of certification held. For bilingual pay, employees will be required to pass a fluency test as provided by the City.

## 6 PAYROLL-TIMEKEEPING

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### 6.1 TIMEKEEPING RESPONSIBILITIES

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#### 6.1.1 POLICY

Accurately recording of time worked is the responsibility of every employee and records should represent actual time worked on the job performing assigned duties. Federal and state law requires that the City of Athens keep accurate records of time worked in order to calculate employee pay and benefits.

#### 6.1.2 TIMEKEEPING RESPONSIBILITIES

- A. In accordance with the Fair Labor Standards Act, nonexempt employees will be paid only for actual hours worked unless they have accrued benefits under the City's sick leave, vacation, holiday, compensatory time or other leave policies.
- B. In accordance with the Fair Labor Standards Act, exempt employees will be paid on a salary basis and, in general, must be paid their full salary for any week in which they perform work. Their pay may be reduced only in the following circumstances:
  - a. Employees who are absent from work for at least a full day because of sickness will not be paid for that day unless they have accrued benefits. An employee's pay will not be reduced if absent for less than a full day because of sickness; however, sick accruals must be used if available;
  - b. Exempt employees pay will not be reduced if they are absent for less than a full day;
  - c. Employees who take intermittent leave under the Family and Medical Leave Act will not be paid for that time unless they have accrued benefits. Pay will not be reduced by the hours missed even if it is less than a full day;
  - d. Employees who are absent from work for at least a full day for personal reasons will not be paid for that day unless they use approved benefit time. An employee's pay will not be reduced if late or absent for less than a full day for personal reasons; however, benefit time must be used if available;
  - e. Employees may be suspended without pay for other types of workplace misconduct such as sexual harassment, drug or alcohol use or violations of state or federal laws, but only in full-day increments. Their pay will be reduced an amount that is proportionate to the number of days suspended; or
  - f. Employees who work less than 5 days during their first or last week of employment will be paid 8 hours per day for the actual number of days worked.
- C. Employees who believe that their salary has been improperly reduced or subject to improper deductions should notify the Director of Human Resources who will promptly investigate the complaint. If the deduction was improper, the City will reimburse the employee for the improper deduction and will take all reasonable steps necessary to ensure that no such improper deductions are made in the future.
- D. It is the immediate supervisor's responsibility to accurately document and/or verify the time his subordinates begin and end their work period, each meal period, any split shift and departure from work for personal reasons.
- E. The appropriate supervisor or Department Director will review and sign the payroll time sheet before submitting to payroll.
- F. No person shall tamper with, alter, or falsify payroll information or wages for personal benefit.

- G. Any category of time recorded on time sheets must be in no less than 15-minute increments as this is the smallest increment of time recorded for timekeeping purposes.

### **6.1.3 EXEMPT TIME RECORDING**

Exempt employees will be paid 80 hours per pay period for any pay period in which the employee works the entire pay period; there is no requirement to document the time via a time sheet. Any pay period in which an exempt employee is away from work and is to be paid under a benefit leave plan, the benefit time should be submitted to payroll via a time sheet along with the Personal Absence Request Form. The exception to this is the submission of a timesheet for holiday pay, the payroll system will automatically designate the holiday as they occur.

### **6.1.4 TIMESHEET CORRECTIONS**

Any corrections made to a time sheet after an employee has signed it must be returned to the employee for initialing to ensure they are aware and understand the change.

### **6.1.5 TARDINESS**

Employees are expected to be at work every day on time. Tardiness in excess of 5 minutes and without notifying the supervisor, as well as a pattern of tardiness (any time past the employee's designated start time) is grounds for discipline up to and including termination.

### **6.1.6 MEAL & BREAK PERIODS**

The City of Athens allows rest periods twice a day and a meal break to assure the employee time to refresh and take care of personal necessities. When possible, rest periods will be provided in the middle of the work periods. Because of the need to cover operations over the noon hour, employees may be assigned different meal periods.

- A. When possible, rest periods are provided to full-time non-exempt employees twice daily and not to exceed 15 minutes in length. These rest periods are considered paid time for payroll purposes.
- B. Federal law states that rest periods are not required and therefore not cumulative for use at later time or other purposes.
- C. Meal periods are time away from the duty station of not less than 30 minutes nor more than one hour as assigned/approved by the supervisor. Meal breaks are unpaid time and should be uninterrupted.
- D. Meal periods of less than 30 minutes or spent at the duty station working is compensable time and must be approved in advance by the supervisor. This work time will be used in the calculation of total hours for the determination of overtime pay for non-exempt employees.
- E. Non-exempt nursing mothers are allowed two 20-minute break times in compliance with FLSA for the purpose of expressing breast milk for one year after the birth of the child. A private place (not a bathroom) shielded from view and intrusion will be provided. Any additional breaks required for this purpose will be unpaid or with the approval of the supervisor this time could be made up, leave used or the lunch period shortened to accommodate this need.

### **6.1.7 TIME OFF REQUESTS**

All requests for time off shall be made on the Personal Absence Request Form and except for unexpected illness or personal emergency should be scheduled in advance of the day requested. Unscheduled days shall be counted as an absence for purposes of eligibility for any attendance bonus.

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## 6.2 PAYROLL

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### 6.2.1 POLICY

The City of Athens will take all reasonable steps to assure that its employees' pay and benefits as well as accumulated vacation, sick leave, and compensatory time are accurate. It is important that employees participate in this effort by examining the paycheck stub received and bring to the attention of the Human Resources any discrepancies immediately.

### 6.2.2 DIRECT DEPOSIT

The City uses automatic electronic deposit of payroll checks ("Direct Deposit"). It is mandatory for all new employees to participate in direct deposit. Employees may select up to five (5) different accounts for distribution.

### 6.2.3 PAY DAYS

All employees are paid bi-weekly on every other Thursday.

In the event a payday falls on a holiday, employees will receive their paychecks on the last work day preceding the regular scheduled payday.

Each paycheck will include earnings for all work performed during the previous payroll period. Each paycheck stub itemizes earnings and deductions; provides year-to-date totals for wages, income tax, TMRS, and Medicare.

### 6.2.4 DIRECT DEPOSIT STUB DISBURSEMENT

Direct deposit stubs will be delivered to each Department Director or supervisor via hand delivery or in the appropriate mailbox at City Hall. Department Directors or their designee must deliver these to the individual employees on duty that day by the end of the employee's shift. For any employee not at work that day, the stub should be delivered on the day they return to work.

Department Directors should be aware that the direct deposit stubs may have sensitive information that should be carefully controlled.

### 6.2.5 W-2 PROCESSING

The city will provide W-2's to all employees who worked in any calendar year no later than January 31st of the following year. For active employees' the W-2 will be distributed at work. Employees who are no longer employed with the city at the time of the distribution of W-2's will have their W-2 mailed to them via the USPS to the address on file with the City.

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## 6.3 EMERGENCIES

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### 6.3.1 POLICY

If it is determined that a civil emergency exists, including but not limited to, riots, civil disorders, severe weather or hurricane conditions, other natural disasters, chemical incidents, or similar conditions, the City Manager may suspend any/or all provisions of the City of Athens Administrative Directives except for those sections concerning Safety, Wages and Discipline. This practice applies to all non-exempt and exempt employees.

### **6.3.2 DECLARATION OF EMERGENCY**

Notification of State of Emergency: When a state of emergency is imminent or has been declared, the City Manager, or designee, will notify selected and/or all employees through Department Directors of such declaration. As an employee of the City of Athens, you may be required to report to work just preceding, during or immediately following an emergency event. You will be notified if you are required to report. It is recommended that you discuss emergency plans and expectations with your family so they understand your obligations.

The City of Athens recognizes that employees have personal and family responsibilities that may conflict with the obligation to fulfill their job requirements during hazardous weather or state or local emergency. When evacuation of personal residences is required, employees will be permitted and expected to make arrangements for their families like any other citizen, including the use of authorized shelters. Employees who are not able to return to work due to emergency conditions (for instance, they have evacuated the area and are unable to return, or they are unable to leave their residence to return to work at City facilities due to impassable roadways, etc.) must contact their Department Director or designated supervisor as soon as possible and utilize appropriate leave time.

Each Department Director is responsible for identifying those employees who will be required to remain or respond in the event of emergency conditions.

Post-emergency, all City employees are to return to work after the City Manager declares it safe to do so. Department Directors will make assignments and/or dismiss employees as needed.

Employees who are out on prior-approved leave (FMLA, Workers' Compensation, sick leave pool, bereavement leave, etc.) will continue to be charged for such leave during a declared state of emergency. A medical certification will be required for an Emergency Essential employee who calls in sick during a declared emergency.

Previously approved vacation may be canceled when a state of emergency is imminent or declared.

All other policies concerning remuneration shall comply with the City of Athens Administrative Directives and the Fair Labor Standards Act.

## 7 LEAVE

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### 7.1 VACATION

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#### 7.1.1 POLICY

Vacation leave is for the purpose of rejuvenating both mental and physical faculties, and all employees are urged to utilize vacation leave as appropriate for the betterment of both employee and the City.

Full-time employees shall earn vacation leave as follows (hired prior to May 1, 2017 only):

Year of Service	Vacation Hours Per Year
<b>2,080 per Year:</b>	
0 through 10 years	120
11 through 20 years	160
21 years and over	200
<b>2,724 per Year (Civil Service):</b>	
0 through 10 years	180
11 through 20 years	240
21 years and over	300

Employees hired after May 1, 2017 shall earn vacation leave as follows:

Year of Service	Vacation Hours Per Year
<b>2,080 per Year (Non-Civil Service):</b>	
0 through 4 years	80
5 through 10 years	120
11 through 20 years	160
21 years and over	200
<b>2,080 per Year (Civil Service):</b>	
0 through 10 years	120
11 through 20 years	160
21 years and over	200
<b>2,724 per Year (Civil Service):</b>	
0 through 10 years	180
11 through 20 years	240
21 years and over	300

Vacation Leave is accrued every pay period beginning with the first full week of employment. New employees are not allowed to use or be paid for any accrual until after completing their orientation period with the City unless approved by the City Manager.

### **7.1.2 VACATION LEAVE ADMINISTRATION**

Vacation leave shall be administered according to the following rules:

- A. The maximum accrual an employee may carry over between fiscal years (Oct.-Sept.) is equal to their current year accrual. Employees may request a waiver from the City Manager to exceed the accrual limit provided they state in writing a plan to reduce the accrued amount in a timely manner (generally within three months). Civil Service employees may not accumulate vacation leave from year to year unless approved by the City Council (per Chapter 143 of the Local Government Code);
- B. Vacation hours earned each pay period by full-time employees will be updated and maintained by the Human Resources Department;
- C. Vacation leave may not be taken in less than 30 minute increments;
- D. Vacation leave shall be charged only for time during which the employee would ordinarily have worked. City holidays will not be charged against vacation leave;
- E. Employees being laterally transferred, promoted, or demoted shall retain accrued vacation leave. The vacation balance of an employee moving from a 2,080 per year position to a 2,724 per year position (or vice versa) will be converted to an equivalent balance in the new position;
- F. Vacation leave hours are not transferable between employees;
- G. Vacation leave shall not be credited to the employee until it is posted for the pay period, and it cannot be taken earlier than the next pay period. No leave shall be approved during the same pay period in which said leave time is earned; and
- H. Vacation leave may be used to supplement sick leave.

### **7.1.3 APPROVAL OF VACATION LEAVE**

The Department Director or his/her designee shall schedule or approve vacation leave giving due consideration to the needs of the City and the interests of the employee.

### **7.1.4 VACATION PAYOUT UPON TERMINATION**

Employees who have successfully completed six (6) months of employment and who are separated from City service for any reason shall be paid for any unused vacation leave up to, but not greater than, the maximum vacation leave accrual. If an employee should die after completing six months of employment and have accrued vacation, the balance of the accrued vacation will be paid to the beneficiary or estate.

### **7.1.5 SALE OF VACATION TIME**

Employees may sell up to 40 hours of vacation time once in a 12-month period from their anniversary date. In order to sell vacation time, the employee must have already taken at least 40 hours of vacation in the current anniversary period. The sale of vacation reduces the employee vacation balance by the number of hours sold. Hours to be sold will be added to the time sheet and paid with the normal payroll processing.

### **7.1.6 VACATION FOR OTHER THAN FULL TIME EMPLOYEES**

Part time, temporary and contract employees are not eligible for vacation benefits.



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## 7.2 SICK LEAVE

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### 7.2.1 POLICY

Sick leave is paid time away from work due to a bona fide illness or injury that prevents the employee from working, for visits to the doctor or dentist, or with limitations to care for certain family members who are ill or injured.

### 7.2.2 PROCEDURE

The use of Sick Leave for purposes other than personal illness of the employee or the employee's immediate family requires prior approval of the employee's Department Director or the Department Director's designee. In case of emergency, the employee shall contact their respective Department Director, or designee, regarding the absence.

Full-time employees shall earn sick leave as follows (hired prior to May 1, 2017 only):

Work Schedule	Sick Hours Per Year
2,080 per Year	120
2,724 per Year	180

Employees hired after May 1, 2017 shall earn sick leave as follows:

Year of Service	Sick Hours Per Year
<b>2,080 per Year (Non-Civil Service):</b>	80
0 through 4 years	80
5 years and over	120
<b>2,080 per Year (Civil Service):</b>	120
<b>2,724 per Year (Civil Service):</b>	180

Sick Leave is accrued every pay period beginning with the first full week of employment. New employees are not allowed to use or be paid for any accrual until after completing their orientation period with the City, unless specifically approved by the City Manager. However, in emergency situations, supervisors may also approve the use of sick time during the orientation period. There is no maximum accrual for this leave. Excluding Civil Service employees, it is not paid out upon termination. Civil Service employees will be paid upon termination for unused sick leave as follows:

Work Schedule	Not to exceed
2,080 per Year	720 hours
2,724 per Year	1,080 hours

### 7.2.3 FAILURE TO REPORT ABSENCE/ABUSE OF SICK LEAVE

Supervisors closely monitor the use of sick leave. It is anticipated that employees using paid sick time for their own illness/injury or that of a family member will use their sick leave to recuperate or care for their family member. Trips to the doctor or hospital stays/visits, which take the employee away from the home, are acceptable, but other personal pursuits during paid sick leave will be considered an abuse of this policy. Abuse of sick leave, including use

of sick leave for anything other than an illness, injury, or doctor/dentist appointment as provided for in this policy, may result in immediate disciplinary action, up to and including termination of employment, and may also render the employee ineligible for paid sick leave benefits. Similarly, employees who fail to timely report an absence or tardiness due to illness, injury or doctor/dentist appointment may be disqualified from using sick leave for their absence.

#### **7.2.4 USE OF OTHER LEAVE**

If approved by the Department Director (and in the case of Department Directors, by the Managing Director or City Manager), employees may use accrued vacation leave, compensatory time, other accrued paid leave or leave of absence without pay, but only if an employee has no accrued sick leave time. Official holidays observed by the City while an employee is on approved sick leave will be treated as a paid holiday, rather than a sick leave, if the employee is eligible for the paid holiday. Under certain circumstances and with the approval of the Department Director or supervisor, the employee may flex the work schedule to attend to medical or dental appointments. This is acceptable provided that work time is accurately recorded on the time sheet for the week or work cycle in which the flex time was approved. Under no circumstances can flex time to make up time missed extend beyond the affected workweek or work cycle.

#### **7.2.5 DOCUMENTATION**

Absence for illness/injury of 3 or more consecutive work shifts requires verification of the illness/injury. An employee must provide verification of an absence any time requested by the City. An employee may also be required to present satisfactory proof of family relationship and/or satisfactory proof of a family member's illness, injury, and/or doctor/dentist appointment if the employee wishes to use accrued sick leave to care for a family member. If the employee fails to present such proof in a timely manner, use of sick leave will not be permitted and no other paid leave may be used for the absence. Abuse of sick leave may result in disciplinary action up to and including termination of employment.

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### **7.3 HOLIDAYS**

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#### **7.3.1 POLICY**

The following days will be observed as paid City holidays for all full-time employees:

New Year's Day	September 11th Day/Personal Day
Martin Luther King, Jr. Day	Veteran's Day
Good Friday	Thanksgiving Day
Memorial Day	Friday after Thanksgiving
Independence Day	Christmas Eve
Labor Day	Christmas Day

#### **7.3.2 PROCEDURES**

- A. As many employees as possible shall be given each holiday off consistent with the maintenance of essential City functions, as scheduled by the Department.

- B. When an observed holiday falls on a Saturday, the holiday is observed on the preceding Friday, and if a holiday falls on Sunday, the following Monday shall be observed.
- C. Any employee who is required to work on an official City holiday will be paid two and one-half (2.5) times their regular rate of pay for hours worked on a holiday.
- D. September 11th will be designated as a personal day to be taken any time in the calendar year upon completion of the Orientation period, subject to supervisory approval. There is no payment upon termination of employment for the Personal Holiday.
- E. An employee who fails to report to work on the last scheduled work day preceding the holiday, or the first scheduled work day following a holiday, shall not be eligible for holiday pay unless he/she is on a pre-approved vacation, sick, or leave of absence.
- F. An employee on paid leave status will normally be paid holiday pay in lieu of the leave status pay they would ordinarily receive at the time of the holiday. An employee on paid leave due to an on the job injury will receive holiday pay.
- G. Employees may request an approved absence to celebrate a religious holiday that is not a scheduled City holiday. The request should be submitted no later than 30 days prior to the date of the holiday. The employee must charge the time to vacation, compensatory time, or an excused absence without pay.
- H. An employee will not be eligible for Holiday pay for any Holiday which is recognized or occurs after the employee's last day worked.

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## 7.4 JURY DUTY

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### 7.4.1 POLICY

Jury Duty leave will be granted to an employee who has been notified to report for jury duty.

### 7.4.2 ACTUAL SERVICE

Full-time employees will receive paid leave for the time of actual verifiable jury service. Employees reporting to Jury Duty and released shall return to their duty post upon release if it is during normal work hours. Employees who work a night shift shall be excused from duty the night before the scheduled jury duty and if serving for greater than 4 hours shall be excused the night after serving. Hours paid for Jury Duty will not be considered in the computation for overtime.

### 7.4.3 NOTIFICATION TO THE CITY

Upon receipt of the notice to serve on a jury, the employee will notify his/her supervisor and a copy of the jury notice should be given to the employee's supervisor. Upon return to work, the employee shall submit a signed Certificate of Jury Service verifying the days and hours served to his/her supervisor. The Certificate of Jury Service will be provided to the Human Resources Department to be placed in the employee's personnel file.

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## 7.5 VOTING

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### 7.5.1 POLICY

Employees are encouraged to exercise their right to vote in elections. If the polls are not open on election day for voting for two consecutive hours outside of the employee's working hours, the employee will be permitted reasonable time to vote during the working hours.

## 7.5.2 NOTIFICATION

Upon 3 days' notice to the supervisor, employees may be granted time off to attend a precinct convention or a county, district, or state convention to which the employee is a delegate. Time may be charged to vacation, accrued compensatory time, or leave without pay for the time missed.

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## 7.6 INCLEMENT WEATHER

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### 7.6.1 POLICY

City Hall will be open during inclement weather. Employees are expected to report for work if they can safely do so. Employees who cannot or do not feel they can safely report to work must notify their supervisor. Time not worked due to inclement weather will be charged to vacation or comp time leave balances.

The purpose of the inclement weather policy is to establish guidelines for attendance and pay during periods of inclement weather. This policy does not supersede any emergency management procedures or the emergency call-back procedures, and may be amended at any time by the City Manager at his/her discretion.

### 7.6.2 DEFINITIONS

- A. **Inclement Weather** – weather conditions which are physically severe and which may create hazardous travel situations. Inclement weather conditions include, but are not limited to: several inches of snow or ice on the street; the closing of streets and bridges due to impassability; and electrical or other utility failures or shortages.
  - B. **Essential Services** – generally defined as Police, Fire, Public Works and Parks. In the event of inclement weather, employees in these departments are to report to work for their regular shifts unless notified otherwise by their Department Director. This notification could require coming in early, for a different shift, to hold over after a shift or to delay coming in. Decisions about who and how many people are needed will be made by the Department Director and will be based on the resources needed at the time.
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## 7.7 LEAVE WITHOUT PAY

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### 7.7.1 POLICY

An employee failing to report for duty or remain at work as scheduled without proper notification, authorization, or excuse, shall be considered absent without leave and shall not be in a pay status for the time involved.

### 7.7.2 ABSENT WITHOUT LEAVE

Depending on circumstances, absence without leave constitutes abandonment of duties, which may result in termination.

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## 7.8 BEREAVEMENT LEAVE

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### 7.8.1 POLICY

Full-time employees are eligible for bereavement leave due to the death of an immediate family member. All 2,080 hour employees are eligible for 24 hours per covered event and 2,724 hour per year employees are eligible for 36 hours per covered event.

### 7.8.2 PROCEDURES

“Immediate family member” includes: wife, husband, mother, father, brother, sister, daughter, son, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, granddaughter, grandson, grandmother, grandfather, stepmother, stepfather, stepdaughter and stepson.

Employees needing more than the provided bereavement leave may use up to 2 days of Sick Leave in conjunction with the bereavement leave. The need for time off beyond 5 work days will require payment under available vacation balances.

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## 7.9 LEAVE OF ABSENCE

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### 7.9.1 POLICY

The City may grant approved leave of absence (without pay) to regular full-time employees and part-time employees for employees not yet eligible for FMLA or for personal events not covered by FMLA. Request will require approval of the Department Manager, the Director of Human Resources and the City Manager. Non FMLA for other than the employee’s own serious illness will be granted for up to ten (10) calendar days. Absences for an employee’s own serious illness will be available for up to 12 weeks based upon receipt of appropriate documentation by the employee’s health care provider. Employee’s paid leave must be utilized if available for the period of leave of absence.

### 7.9.2 BENEFITS

Employees on non FMLA authorized leave of absence status shall not accrue benefits. In circumstances not falling within other provisions of these rules, the City Manager may authorize an employee to take leave without pay under such terms and conditions as may be mutually agreeable.

- A. **Health Expenses.** Health benefit coverage continues only if the employee pays the employee’s share of the cost of employee and dependent coverage, if the employee is on Family and Medical Leave. Health benefit coverage continues during any other unpaid leave only if the employee pays both the employer and the employee share of individual and dependent coverage.
- B. **TMRS.** When an employee is on leave of absence with the City but is receiving pay from a third party (worker’s compensation or LTD) employee contributions to TMRS may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave of absence status. It is the employee’s responsibility to initiate such an arrangement with TMRS for contribution payments.

### 7.9.3 AUTHORIZATION

Employees may be granted extended leave of absence at the discretion of the City Manager, provided the employee’s absence shall not unduly disrupt the operations of the department.

#### **7.9.4 MAXIMUM TIME**

The maximum length of an extended leave of absence with or without pay shall be six (6) months. The maximum time allowed for Civil Service employees is controlled by Chapter 143 of the Local Government Code.

#### **7.9.5 REGULAR REPORTING**

Employees shall report to their supervisor on a weekly basis upon the status of their return to work during the leave period.

#### **7.9.6 VACANCIES FILLED**

If the need to fill the position should arise due to unforeseen circumstances, or if the job is eliminated due to a reduction in force, the City of Athens cannot guarantee the reinstatement of an employee on any extended leave of absence with or without pay. If possible, an employee will be returned to the same job, if it is available and the employee is able to perform the duties of the position, or if the position is no longer available, will be offered a comparable position if available, for which the employee meets the minimum qualifications. If the employee is not capable of performing the duties of the same or comparable job, the employee will be offered the highest level of position for which the employee is qualified and able to perform, if there is a position available.

#### **7.9.7 RETURN TO WORK**

Any employee granted a leave of absence and who wishes to return to work before the leave period has expired shall be required to give his/her Department Director at least a one-week notice. The employee shall be permitted to return to work with a physician's release if the absence is for the employee's own serious health condition.

#### **7.9.8 FAILURE TO RETURN TO WORK**

At the expiration of an approved leave, if an employee fails to return to work, refuses an offered position, or fails to request an extension of leave, the employee forfeits employment.

An employee who is on unpaid leave, and notifies the City that they will not return to work, is considered to have resigned effective on the notification date. The employee shall contact the Human Resources Department as soon as possible to arrange for repayment of any amounts owed to the City and to arrange for continuation of health insurance coverage under the federal COBRA law.

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### **7.10 ADMINISTRATIVE LEAVE**

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#### **7.10.1 POLICY**

An employee may be placed on Administrative Leave with Pay when it is in the best interest of the City. Such situations can include, but are not limited to time while an employee is under investigation and/or disciplinary review by the Department Director, has been arrested but not convicted of a crime that could pose a problem for the City or other similar situations. This Administrative Leave with Pay must be reviewed and approved by the City Manager immediately, or as soon as practical, if after hours.

#### **7.10.2 PROCEDURES**

During any period of Administrative Leave, the employee is to remain out of the work place. The employee is to remain available to City Administration for any discussions required or needed. If the employee leaves the area, they must notify their supervisor in advance to get approval and provide contact information where they can be

reached. Failure to remain in contact may result in loss of pay and/or disciplinary actions up to and including termination.

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## **7.11 MILITARY LEAVE**

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### **7.11.1 POLICY**

This policy establishes the rules and procedures that apply to employees enlisted in the United States military reserves or the Texas National Guard that are required to take military leave and regular employees who present official induction orders (draft notice) to enter the United States Armed Forces.

### **7.11.2 APPLICATION**

Military Training Leave applies to regular full-time employees who take a leave of absence to fulfill a military training obligation that does not exceed 15 days per fiscal year. Military Active Leave applies to regular full time employees who are in the United States Reserves or Texas National Guard and called to active duty.

- A. The City provides Military Training Leave to employees who are required to satisfy military obligations under the Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 U.S.C. Sec 4301 et seq) or other applicable law.
- B. The employee will continue to receive his/her salary for a period up to 15 workdays in accordance with Section 437.202 of the Texas Government Code for military training leave annually.
- C. The employee may use vacation leave or available compensatory time after exhausting the 15 days of Military Training Leave pay. Thereafter, military leave will be unpaid.
- D. Other benefits (i.e., vacation and sick leave) will continue to accrue during the 15 workdays of paid military leave and any other paid leave taken.
- E. Holiday pay will be granted for any holidays that occur during this paid leave period. Holidays will be paid at straight time.
- F. Employees will only be paid for workdays missed as a result of military leave. For example, if an employee works a standard five-day workweek Monday through Friday, the employee will only be paid for days they are scheduled to work but are absent due to a military leave obligation.
- G. After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay.

### **7.11.3 MILITARY TRAINING LEAVE PROCEDURES**

Employees must provide as much notice as possible, including written copies of military orders documenting the requirement to take Military Training Leave, to their immediate departmental supervisor.

The supervisor must notify their Department Director and the Human Resources Department. The Department will provide a copy of the military orders to the Human Resources Department.

### **7.11.4 MILITARY ACTIVE LEAVE**

The City provides Military Active Leave to employees who are required to satisfy military obligations under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Sec. 4301 et. seq) or other applicable law.

Federal law allows, but does not require, an employee to use vacation leave while on Military Active Leave. If the employee exhausts all their vacation time, the City will supplement the employee's military wage or salary in an

amount equal to the difference between the employee's military wage or salary and the employee's City wage or salary, if the employee's military wage or salary is less than the City wage or salary for a period of up to 12 months calculated from the date of the military activation. NOTE: Those employees who enlist in the U.S. military will not be eligible for supplemental pay or the City's participation in paying a portion of the dependent premium. These entitlements apply only to those employees who are activated from a military reserve or Texas National Guard unit.

Upon the end of the leave, the employees will, upon request, be reinstated to the position or similar position held prior to taking active military leave.

Other benefits (i.e., vacation and sick leave) will not accrue during the military leave. Employees will not be eligible for holiday pay during a military leave resulting from a military reserve or Texas National Guard unit activation. Employees should check with the Human Resources Department to determine their responsibilities under military leave of absence.

Employees must provide notice, including written copies of military orders documenting the requirement to take military leave, to their immediate departmental supervisor.

The supervisor must notify the Department and the Department will provide a copy of the military order to the Human Resources Department.

#### **7.11.5 BENEFITS**

- A. **Supplemental Pay.** Employees must provide Human Resources with a copy of their military pay record prior to receiving supplemental pay.
- B. **Health Insurance.** Employees may elect to continue dependent health insurance coverage as allowed by Federal law for up to 24 months from the date the leave begins, if serving more than 30 days. Otherwise, health insurance coverage is allowed for 18 months. For the first 12 months of leave, the cost of dependent coverage will be the same as the cost employees are being charged for dependent coverage if less than the full cost. Thereafter, employees may maintain the same dependent coverage by paying the full cost of the insurance and any administration fees for an additional six (6) months. Employees will receive health insurance automatically on the day they return to the City as a full-time regular employee, but must complete the required medical insurance forms to reinstate coverage.
- C. **TMRS Retirement Benefits.** Employees who take military leave may apply to the Texas Municipal Retirement System (TMRS) for service credits for the time they were on leave, if the employee:
  - a. Returns to work within 90 days of the end of the leave;
  - b. Receives an honorable discharge;
  - c. Completes an application and forms required by TMRS; and
  - d. Within five (5) years of the end of leave, deposits the money that would have been deducted from the employee's salary had the employee not been on leave.
- D. **TMRS Supplemental Death Benefit.** The TMRS Supplemental Death Benefit does not cover employees on active duty.
- E. **Deferred Compensation.** Employee deferred compensation plans (457 plans) will be maintained while on leave. If re-employed, the employee may resume contributions or contact the deferred compensation plan provider to make any changes.
- F. **Life Insurance.** Life insurance terminates coverage the day the employee enters the armed services of any state or country on active duty, except for duty of 30 days or less for training in the Reserves or National Guard. If coverage terminates due to an approved leave of absence or a Military Leave, any waiting period or evidence of insurability requirement will be waived upon the employee's return, provided: 1) employee returns within six months after the leave begins; 2) the employee applies or is enrolled within 31 days after



resuming active work; and 3) the reinstated amount of insurance does not exceed the amount which terminated.

#### **7.11.6 RETURN FROM MILITARY ACTIVE LEAVE**

Employees returning from Military Active Leave must provide written copies of their separation or deactivation orders to the City as follows:

- A. Less than 31 days of leave – within 72 hours of their release from service;
- B. More than 31 days, but less than 181 days of leave – within 14 days from their release from service; or
- C. More than 180 days of leave – within 90 days from their release from service.

The City, in accordance with the following USERRA guidelines, will reemploy employees who:

- A. Served for a period of five (5) years or less (unless their service fits into one of the excused categories defined in USERRA);
- B. Are discharged under honorable conditions; and
- C. Reapply in a timely manner.

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## **7.12 FAMILY MEDICAL LEAVE**

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### **7.12.1 POLICY**

In accordance with the Family and Medical Leave Act of 1993, an employee may be eligible to take up to twelve (12) weeks of unpaid family and medical leave during a rolling twelve (12) month period. An eligible employee is one who has worked for the City for twelve (12) months and has worked at least 1,250 hours during the twelve (12) months preceding the first date leave is to be taken. Leave can be taken for any of the following reasons: birth of a child; placement with the employee of a child for adoption or foster care (entitlement to family and medical leave expires twelve months after birth or placement); when the employee is needed to care for a child, spouse, or parent who has a serious health condition; or when the employee is unable to perform the essential functions of the position because of the employee's own serious health condition.

### **7.12.2 TWELVE MONTH PERIOD**

The twelve (12) month period for counting family and medical leave is a "rolling" 12-month period measured backward from the date an employee requests or is placed on FMLA leave. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months, or 26 weeks provided in certain circumstances.

### **7.12.3 EMPLOYEE NOTIFICATION**

An employee should give at least thirty (30) days' notice for the need to take foreseeable family and medical leave, unless the need is unforeseeable, in which case, as much notice as is practicable should be given. A form for requesting family and medical leave is available in the Human Resources Department. If it is determined that the need for family and medical leave was foreseeable, the leave may be delayed until at least thirty (30) days after the date that the employee provides notice to the City.

The employee is responsible for obtaining the required medical certifications. Failure to do so may result in the denial of family medical leave and subject the employee to discipline regarding their absence from the workplace.

#### **7.12.4 DEPARTMENT NOTIFICATION**

Each department supervisor is responsible for notifying the Human Resource Department immediately when an employee is away from work for a family and medical leave qualifying event (if family and medical leave has not been approved), even if the employee is utilizing paid vacation, sick, extended leave, or is out due to a work-related injury. An employee using sick leave should be reported to the Human Resource Department if it is anticipated that the duration of the illness will be three (3) or more days for 2,080 per year employees, or two (2) or more shifts for 2,724 hour per year employees, or once the employee exceeds the three (3) days, or two (2) or more shifts of sick leave use.

#### **7.12.5 HUMAN RESOURCES DEPARTMENT RESPONSIBILITY**

The Human Resources Department is responsible for central administration of all requests for family and medical leave. The Human Resource Department reserves the right to automatically place an employee on family and medical leave if it is determined that a qualifying event has occurred. The Human Resource Department may retroactively designate the beginning date of FMLA up to three days prior to notification of the qualifying event.

#### **7.12.6 APPROVAL**

An employee shall submit a request for family and medical leave through proper channels to the Department Director who will then forward it to the Human Resources Department for approval. Confidential medical information that accompanies the application can be submitted directly to the Human Resources Department.

#### **7.12.7 SUBSTITUTION OF PAID LEAVE**

An employee utilizing this policy for the placement of a child for adoption or foster care with the employee shall be required to exhaust all accrued vacation and any other applicable paid leave prior to going on unpaid leave. An employee utilizing this policy for the serious illness of a child, spouse or parent must exhaust all accrued sick leave, vacation leave and any other applicable paid leave prior to going on unpaid leave. If an employee gives birth to a child, sick leave can be utilized until the employee receives a release from the doctor. After being released, the employee may use additional sick leave in accordance with the sick leave policy. Once all applicable sick leave has been used, the employee shall be required to exhaust all accrued vacation and personal leave prior to going on unpaid leave. An employee utilizing this policy for the employee's own serious health condition shall exhaust all accrued extended leave, sick leave and vacation leave prior to going on unpaid leave. If an employee is off work due to a work-related injury and the employee qualifies for family and medical leave, it will run concurrently with any paid leave. The City reserves the right to count any paid leave that qualifies for family and medical leave toward the twelve (12) or twenty-six (26) weeks allowed under this policy.

#### **7.12.8 MAXIMUM TIME ALLOWED**

The maximum amount of family and medical leave available is twelve (12) weeks during a twelve (12) month period even if there is more than one family and medical leave qualifying event. The only exception to the twelve (12) week maximum is the leave to provide care of an injured service member, described below, which allows for an extended FMLA leave of 26 weeks.

#### **7.12.9 MEDICAL CERTIFICATION**

The City may require medical certification from a health care provider to support a claim for leave to care for a seriously ill child, spouse or parent, or for the employee's own serious health condition. Medical certifications must be returned to the Human Resources Department within fifteen (15) working days. Recertification may also be required on a monthly basis. For leave to care for a seriously ill child, spouse, or parent, the certification must include

an estimate of the amount of time the employee is needed to provide care. For the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the position, and expected duration. The City does not seek and should not be provided genetic information. If an employee or applicant's genetic information is inadvertently received by the City, the City will return this information to the employee/applicant and will not use genetic information for any employment decision or action.

Upon returning to work after leave for his/her own illness, an employee is required to provide certification to the supervisor that the employee is able to return to regular duties. If the validity of a certification is questioned, the City may require that a second opinion be obtained. If the first and second opinions differ, the City may require a third opinion be obtained. The employee and the City must agree upon a health care provider for the third opinion and this opinion shall be binding on both parties. The City shall bear the expense of second and third opinions.

#### **7.12.10 RETURN TO WORK**

When an employee returns to work after family and medical leave, the employee shall be restored to the same position or to an equivalent position involving the same or substantially similar duties and responsibilities. An employee will be restored to the same worksite or to a geographically proximate worksite. The employee is also entitled to return to the same shift or an equivalent schedule.

#### **7.12.11 EFFECT ON MARRIED COUPLES**

If a City employee is married to another City employee and either or both employees request family and medical leave for the birth or placement of a child with the employee for adoption or foster care, the total time allowed shall be limited to no more than twelve (12) weeks combined during any rolling twelve (12) month period. For other qualifying family and medical leave events, each employee is entitled to leave as long as the total amount of leave taken during any twelve (12) month period does not exceed twelve (12) weeks or twenty-six (26) weeks if applicable for one employee.

#### **7.12.12 CONTINUATION OF INSURANCE BENEFITS**

While utilizing family and medical leave, an employee's insurance benefits will continue without interruption as long as the employee pays his/her portion of the insurance premiums. Insurance premiums can be deducted from the paycheck before the leave begins, or during the leave, if the employee continues to receive pay (pre-tax), paid monthly or bi-weekly. An employee not receiving pay must provide payment for the insurance on a monthly basis.

#### **7.12.13 INTERMITTENT LEAVE**

When medically necessary, an employee may take family and medical leave on an intermittent basis or work a reduced schedule. Arrangements should be made with the employee's immediate supervisor so that the operations of the department are not unduly disrupted. An employee taking intermittent leave or leave on a reduced schedule may be temporarily assigned to an alternative position with equivalent pay and benefits if it better accommodates the needs of the department.

#### **7.12.14 HOLIDAYS**

Holidays will be paid in accordance with the Holidays policy. City holidays will be counted as part of the twelve (12) or twenty-six (26) weeks of family and medical leave, whether the employee is on paid or unpaid leave.

#### **7.12.15 TMRS**

Employee contributions to TMRS may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave without pay status with the City but is receiving a check from a Third Party (Workers'

Compensation or LTD). It is the employee's responsibility to initiate such an arrangement by timely contacting the City's Human Resources Department and completing the necessary paperwork.

#### **7.12.16 RECORDKEEPING**

Family medical leave time will be tracked on an hourly basis for payroll and compliance purposes. To determine entitlement for employees who work variable hours, the minimum hours required for eligibility is calculated on a pro rata or proportional basis by averaging the weekly hours worked during the twelve (12) weeks prior to the start of family and medical leave.

#### **7.12.17 EXEMPT EMPLOYEES**

Paid leave accounts may be charged for less than one (1) full work day according to department policy and the salary of an exempt employee may be docked for absences of less than one (1) full work day. Salaried executive, administrative, professional and other employees of the City who meet the Fair Labor Standards Act (FLSA) criteria for exemption from overtime do not lose their FLSA-exempt status by using any unpaid FMLA leave.

#### **7.12.18 DEFINITIONS**

- A. **Child** – A biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis, who is standing in the place of a parent, who is either under age 18, or age 18 or older and requires active assistance or supervision to provide daily self-care. A biological or legal relationship is not necessary. A more detailed definition is provided in the Family and Medical Leave Act of 1993 which is available in the Human Resources office.
- B. **Health Care Provider** – A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary of Labor to be capable of providing health care services. A more expansive definition is provided in the Family and Medical Leave Act of 1993 which is available in the Human Resources Department.
- C. **Parent** – A biological parent or an individual who stands or stood in the place of a parent to an employee when the employee was a child. This term does not include parents-in-law.
- D. **Serious Health Condition** – An illness, injury, impairment, or physical or mental condition that involves: (1) any period of incapacity or treatment that results in inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; (2) any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or (3) continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or 4) for prenatal care. Voluntary or cosmetic treatments (such as most treatments for orthodontia or acne) which are not medically necessary are not "serious health conditions," unless inpatient hospital care is required. Restorative dental surgeries after an accident or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met.
- E. **Spouse** – A husband or wife as defined or recognized under State law for purposes of marriage, including common law marriage.

#### **7.12.19 MILITARY FAMILY LEAVE ENTITLEMENT**

**Qualifying Exigency Leave.** Family Leave has been expanded to provide Family and Medical Leave due to a call to active military duty. Eligible employees with a spouse, child, or parent on covered active duty (deployed to a foreign country) or called to covered active duty status in the National Guard or Reserves (deployment to a foreign country or in support of a contingency operation) may use their 12-week leave entitlement to address certain qualifying

exigencies including eligible: short-notice deployments; attendance at military events and related activities; childcare and school activities; addressing financial and legal arrangements; attending counseling sessions; attending post-deployment activities; up to 15 days of rest and recuperation; and parental care.

**Military Caregiver Leave.** FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave (during a single 12-month period) to care for a covered spouse, child, parent, or next of kin. The covered service member must be a current member or eligible veteran of the Armed Forces (including a member of the National Guard or Reserves) with a serious injury or illness incurred in, or aggravated by, service in the line of duty on active duty that may render him/her medically unfit to perform his/her duties for which he/she is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

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## 7.13 CONVERSION OF ACCRUED LEAVE BANKS

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When an employee is transferred, or promoted between a 2,080 per year and 2,724 per year position or assignment, that employee's accrued leave balances (Sick, Extended Illness, Vacation and Holiday) shall be adjusted as follows:

- A. From a 2,080 per year and 2,724 per year assignment – the accrued leave balances will be re-calculated to reflect the comparable balances of leave hours as if they had accrued same on the 2,724 per year basis; or
- B. From a 2,724 per year and 2,080 per year assignment - the accrued leave balances will be re-calculated to reflect the comparable balances of leave hours as if they had accrued same on the 2,080 per year basis.

## 8 BENEFITS

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### 8.1 TMRS

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#### 8.1.1 POLICY

The City of Athens provides a retirement program through the Texas Municipal Retirement System (“TMRS”). The City’s plan provides employees a “2 to 1 match” benefit which employees will be eligible for after completing a 5-year vesting period and meeting all retirement qualifications.

#### 8.1.2 GUIDELINES

- A. All TMRS benefits and rules are governed by state law and City Ordinances.
- B. Retirement eligibility is twenty (20) years creditable service at any age, or, five (5) years of service and sixty (60) years of age, whichever comes first.
- C. If an employee leaves service with the City before vesting, he/she may leave deposits in TMRS for five (5) years, or roll over the deposits to another retirement program, or cash out their contributions with tax penalties applied. (Please refer to the TMRS Benefits Guide).
- D. TMRS is a mandatory program for all full-time and part-time employees whose regular scheduled hours total at least 1,000 hours per calendar year.

**TMRS Member Services:** (800) 924-8677

**TMRS Email:** [membership@tmrs.org](mailto:membership@tmrs.org)

**Web Site:** [www.tmrs.org](http://www.tmrs.org)

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## 8.2 LIFE INSURANCE AND LTD

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#### 8.2.1 LIFE INSURANCE POLICY

The City presently has a group life insurance program under which regular full-time City employees are eligible for an amount of coverage depending on annual salaries. The Human Resources Office can be contacted for further information.

The amount of life, accidental death & dismemberment insurance provided to the employee is equal to one times (1x) the amount of the employee’s base pay.

Additional voluntary life insurance, dependent life insurance is also available for the employee, spouse, and/or family, at an additional cost to the employee. This additional life coverage is subject to certain qualifying conditions of the insurance company.

Forms and information are available in the Human Resources Department.

#### 8.2.2 LONG-TERM DISABILITY

Long term disability insurance is provided to the Employee at no cost. The Long-Term Disability Benefit provides a percentage of an employee’s base pay when the employee becomes disabled after a specific period of time.

## 8.3 WORKERS' COMPENSATION

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### 8.3.1 POLICY

A regular full-time employee who is temporarily disabled in the line of duty shall receive salary continuation in the amount of their regular salary, including holidays, for the period of disability without charge against sick or vacation leave, subject to the following conditions:

- A. That the disability resulted from an injury or illness sustained directly in the performance of the employee's work, as provided by the Workers' Compensation Law of the State of Texas;
- B. That disability or injury leave shall not exceed two (2) pay periods for any one injury. If requested by the employee, accrued sick or vacation leave may be used at the end of disability leave. Employees on salary continuation will continue to accrue sick and vacation leave. Sick and vacation leave accruals will cease once the salary continuation period is over;
- C. Civil Service employees covered under Chapter 143 of the Local Government Code will be covered under the provision of Chapter 143 related to on-the-job injuries;
- D. That employees on Workers' Compensation injury leave be returned to duty at the earliest possible date. Employees on Workers' Compensation injury leave may be assigned light or modified duty in accordance with any medical limitations noted by the treating physician. Failure to accept such an assignment will make the employee ineligible for salary continuation payments from the City of Athens;
- E. That employees on Workers' Compensation injury leave will not be eligible to draw salary continuation unless their selection of a doctor is approved by the City or City's insurance carrier;
- F. An employee who is injured on the job due to his/her own gross negligence or misconduct or who fails to comply with injury reporting requirements may not be eligible for Workers' Compensation injury leave with pay for any period. An employee on Workers' Compensation injury leave may be required to submit proof of continuing disability from time to time or to be examined by a physician approved by the Human Resources Department in order to remain eligible for salary continuation payments;
- G. In order to receive salary continuation benefits, any Temporary Income Benefit payments received by the employee must be endorsed to the City. Failure to do so will result in the cessation of salary continuation benefits. Any employee who receives payment for work performed for another employer other than the City of Athens while on Workers' Compensation injury leave shall be subject to immediate dismissal; and
- H. An employee returning to duty after extended Workers' Compensation injury leave, generally 30 days or more, will be required to submit to a job related medical examination by a doctor of the City's choice to determine if the employee is fully capable of performing his/her essential job functions, with or without an accommodation. An employee who is determined to not be able to perform his/her essential job functions, with or without accommodation or who poses a direct threat to health or safety that cannot be reduced or eliminated by reasonable accommodation will not be returned to duty. An employee on Workers' Compensation injury leave for extended periods of time beyond the initial 60-day period may have his/her employment with the City terminated when in the best interest of the City to fill a critically needed position needed to provide essential City services. Such an employee may reapply for employment vacancies when fully able to perform the duties of the position applied for. An employee on Workers' Compensation injury leave who is not able to return to their regular position before the expiration of one year from the beginning of leave for the injury will have his/her employment with the City terminated.

### 8.3.2 WORKERS' COMPENSATION PROCEDURE

Responsible Person	Procedure
<b>Employee</b>	Report every injury occurring at work, no matter how minor, to the supervisor immediately.
<b>Supervisor</b>	Determine nature and extent of injury and ensure employee receives first aid or medical treatment.
<b>Supervisor</b>	For injuries requiring medical treatment by a doctor generate First Aid Report, and Supervisor's Investigation Report. Give details to the Human Resource Department.
<b>Human Resources</b>	Based on information received from employee and supervisor, generate <u>Employee First Report of Injury (DWC-1)</u> for each case requiring medical treatment.
<b>Human Resources</b>	Interface with Claims Adjuster and follow case until employee returns to work. Submit <u>Employer's Supplemental Report of Injury.</u>
<b>Human Resources</b>	Monitor frequency and severity of injury and generate reports to management depicting trends and need for further corrective action.

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## 8.4 SOCIAL SECURITY

### 8.4.1 POLICY

The City of Athens participates in the Social Security Program. Social Security is deducted for each employee subject to the annual maximum contribution rate each year. Benefits shall be established by Federal Law. For answers to specific questions, contact the Human Resource Department.

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## 8.5 DEFERRED COMPENSATION

### 8.5.1 POLICY

The City offers, in accordance with Section 457 of the Internal Revenue Code, a voluntary Deferred Compensation retirement plan available to all employees. There is no City contribution to this plan, and accordingly, the City does not "match" and/or pay a percentage of what an employee contributes into this plan. Furthermore, under this plan the employee has sole responsibility for the management of employee contributed funds.

Under this plan, employees may defer each year a maximum of fifty percent (50%) of his/her pre-deferral taxable income or an annual dollar limit set by the Internal Revenue Code, whichever is less.

Participation is handled through payroll deduction so the employee's taxes are reduced each pay period. If the employee is over 50 years of age, or within three years of normal retirement age, and already contributing the maximum to his/her plan, he/she may make additional "catch-up" contributions. Forms and information are available in the Human Resource Department.

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## 8.6 COBRA

### 8.6.1 POLICY

Federal law mandates that the City extend the right to employees for temporary continuation of coverage through its group health and dental plans to employees in the event the employee loses health and dental coverage due to



a reduction in hours of employment or for termination of employment (for reasons other than gross misconduct on the employee's part).

COBRA is elective and premium costs are the responsibility of the individual(s) electing continuation. The benefit to the employee is that such premiums are at the City's existing group rate(s). An additional administrative fee is also collected and is based upon the nature of the qualifying event(s).

### **8.6.2 DEPENDENT COVERAGE**

This law also extends the right for temporary continuation of health and dental coverage to the spouse of an employee if such coverage is lost due to:

- A. A reduction in the hours of employment for the employee, or for termination of the employee's employment (for reasons other than gross misconduct on the employee's part);
- B. The death of the employee;
- C. The divorce or legal separation from the employee; or
- D. The employee becomes eligible for Medicare benefits.

A dependent child of an employee has the right to the continuation of health and dental coverage if such coverage is lost due to:

- A. A reduction in the hours of employment for the employee, or for termination of the employee's employment (for reasons other than gross misconduct on the employee's part);
- B. The death of the employee (parent);
- C. The employee (parent) divorces or legally separates;
- D. The employee becomes eligible for Medicare benefits; or
- E. The dependent ceases to be a dependent under the definition of the health and dental plans.

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## **8.7 FLEXIBLE SPENDING**

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### **8.7.1 POLICY**

The City has adopted provisions of the Internal Revenue Service Code (Section 125) that allows employees to establish flexible spending accounts, so that an employee may use his/her income sheltered from federal taxation for the purpose of paying for applicable medical, health and/or for dependent care costs that are incurred due to being employed, with income sheltered from federal taxation.

### **8.7.2 PROCEDURES**

- A. Employees may elect to a salary reduction up to annual plan maximums in one or the combination of Flexible Spending Accounts. Available accounts are the Dependent Care Spending Account and the Medical Spending Account. The election is made once, at the beginning of the calendar year, and cannot be altered unless the employee experiences a qualifying life changing event such as birth of a child, marriage, divorce, etc.
- B. The reimbursement of eligible expenses is managed by a third party. Employees have until March 31st of each following calendar year for reimbursement of eligible expenses paid during the year of election. Employees may carry over up to \$500.00 from the Medical FSA from the prior year for expenses in the following year. Account balances in excess of the \$500.00 carry over will be forfeited by the employee and the money will be placed into the General Fund.

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## 8.8 EMPLOYEE HEALTH & DENTAL INSURANCE

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### 8.8.1 POLICY

The City provides health and dental insurance at no cost to all full-time employees.

The City attempts to provide the best health and dental insurance coverage to its employees at the most favorable cost. Dependent health and dental coverage is available at the employee's expense, which is treated as a salary reduction exempt from Federal Income Tax as well as FICA and Medicare for payroll purposes.

For employees who retire prior to October 1, 2017 and who have 20 years or more of continuous service with the City of Athens, the City will pay health insurance benefits (medical only) for eighteen (18) months or until retiree has reached his/her eligibility for Medicare benefits, whichever comes first. At the end of eighteen (18) months, the retiree only (no dependents) may continue to participate in the City's health insurance plan (medical only) at the retiree's expense until which time the retiree has reached his/her eligibility age for Medicare benefits.

For employees who have reached age 59 on or before September 30, 2017 who retire between October 1, 2017 and September 30, 2018 and who have 20 years or more of continuous service with the City of Athens, the City will pay health insurance benefits (medical only) for twelve (12) months or until retiree has reached his/her eligibility for Medicare benefits, whichever comes first. At the end of twelve (12) months, the retiree only (no dependents) may continue to participate in the City's health insurance plan (medical only) at the retiree's expense until which time the retiree has reached his/her eligibility age for Medicare benefits.

For all other employees retiring on or after October 1, 2017, with 20 years of service, may make a one-time election to continue health and dental insurance coverage, at group rates, at their expense. Retirees may continue to participate in the City's health insurance plan at the retiree's expense until which time the retiree has reached his/her eligibility age for Medicare benefits. Dependents of retiring employees may have coverage continued through a COBRA election per COBRA guidelines.

## 9 WORKPLACE STANDARDS

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### 9.1 CONTACT WITH THE NEWS MEDIA

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#### 9.1.1 POLICY

The City of Athens seeks to inform its citizens and others by engaging in pro-active communications. The news media and the City both play important roles in keeping the communities they serve informed. The City is committed to maintaining an ongoing positive and dynamic working relationship with the media. This policy is to assure that information about the City and its policies, practices, programs and activities are communicated properly and reported accurately to the media.

#### 9.1.2 TYPES OF MEDIA COMMUNICATION

This policy covers all communication to the news media including: news releases, media advisories, formal statements, interviews, press conferences and briefings, letters to the editor, opinion pieces, technical announcements, and other information or material given to a news media representative, a collective term that includes, but is not limited to reporters, editors, and writers for newspapers, magazines, scientific journals, trade publications, radio or television stations or networks, online news services, and any other electronic or print media related to news distribution that could serve as an information outlet.

#### 9.1.3 MEDIA RELATIONS

The City Manager's Office will coordinate media relations for the City and act as the official news source and principal contact for all communication between the City and media representatives. As appropriate, the City Manager may designate Department Directors to communicate with the media within their areas of responsibility and expertise. Other staff should refer media requests to their Department Director or City Manager's Office without comment.

Media representatives are asked to place their requests through the City Manager's Office in order to expedite a prompt and coordinated response.

The City Manager's Office must be notified of all potentially sensitive, contentious, or controversial media inquiries with respect to City activities. The City Manager's Office will promptly identify the appropriate spokesperson and arrange for an interview or statement.

#### 9.1.4 RESPONDING TO MEDIA INQUIRIES

The City Manager's Office is the City's primary media contact. If employees receive an inquiry from the media for an interview, to provide statistics, or write an article on behalf of the City, employees should get the reporter's name, phone number(s), deadline, and an idea of his/her area of interest. Before responding, the employee should refer the inquiry to the City Manager's Office. (Certain exceptions apply to the Fire and Police Departments - see below). This enables the City Manager to determine which individual in the City should respond to the inquiry, to make certain that consistent information is being disseminated, to stay abreast of areas of media interest, and to prepare for future inquiries.

#### 9.1.5 PUBLIC SAFETY ISSUES

The Police and Fire Departments can generate a high volume of media calls, and should have a designated media spokesperson that follows specific guidelines when releasing information. All information released to the media by the Police and Fire Departments must be provided immediately to the City Manager's Office, but if reasonable, it

should be provided to that office prior to release. Media calls to other City staff regarding a Police or Fire issue should immediately be referred to the Police or Fire Department. Press releases issued by the department or media inquiries that do not involve major incidents shall follow the procedures outlined in this policy pertaining to routine inquiries and press releases.

#### **9.1.6 CITY INITIATED INFORMATION**

Most proactive media contact is initiated through the City Manager's Office. This includes issuing press releases, media advisories, and personal contacts with reporters and editors for coverage. Departments seeking publicity for events or activities should submit the information to the City Manager's Office no less than 24 hours before distribution or as much in advance as possible to ensure the best media coverage of their activities. Departments may not initiate news media contact before notifying the City Manager's Office.

#### **9.1.7 OPINION PIECES AND LETTERS TO THE EDITOR**

It is recognized that all employees have the right to their personal points of view regarding any issue. However, personal points of view may conflict with the City's official policy. Therefore, City employees who write letters to the editor or any other type of opinion piece may not use official City stationery, City equipment or transmit it via a city-issued email account. If an employee chooses to identify himself or herself as a City employee in any personal communication to the media or if the association with the City is implied, he or she must include language which states the views set forth in the communication do not represent the views of the City, but rather, are the employees personally held opinions:

This (letter, article, editorial, etc.) contains the thoughts and opinions of (employee name) and does not represent the official policy of the City of Athens.

Similar disclaimers must be present when an employee addresses a public meeting, participates in a radio talk show, or is interviewed for a radio or television program, unless the employee is officially representing the City. Employees who are representing the City in any of the above formats must identify themselves as an official spokesperson for the City.

#### **9.1.8 LITIGATION, PERSONNEL AND ELECTION ISSUES**

Inquiries regarding election and campaign issues, pending litigation, matters involving a significant exposure to litigation, and certain personnel-related information should be referred to the City Manager's Office.

#### **9.1.9 CRISIS OR EMERGENCY ISSUES**

Timely release of breaking news and information during crises, such as natural disasters or other situations involving public health and safety, often require swift publication and/or dissemination of information in support of public confidence. The Department Director may issue a brief statement or media advisory to the news media in place of a news release. At a minimum, the Department Director must provide the City Manager's Office with copies of any such release of information concurrent with its release to the news media. It is preferable, however, to notify the City Manager's office prior to the release as long as that does not adversely impact the health and safety of the public.

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## **9.2 SOCIAL MEDIA**

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### **9.2.1 POLICY**

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

to regulate the creation and distribution of information concerning the City, its employees and citizens through electronic media, including, but not limited to online forums, instant messaging and internet social media and blogging sites. This policy is designed to protect the City's reputation and ensure that an employee's communications not only reflect positively on the employee as an individual, but also on the City. The term "social media" encompasses: tweets and twittering, Facebook, LinkedIn, blogs, and other online journals and diaries; bulletin boards and chat rooms, microblogging and all other social networking sites, instant messaging and the posting of video on YouTube and similar media.

### **9.2.2 USE OF CITY'S INTERNET**

Use of the City's Internet is a privilege and City employees must responsibly and ethically use it. The City may monitor an employee's access, use, and postings made through the City's Internet to: ensure compliance with internal policies; support the performance of internal investigations; assist management of information systems; and for all other lawful purposes. The City expects all employees to follow the Guidelines below when posting information on the City's Social media sites.

### **9.2.3 OTHER CITY POLICIES**

This policy should be read and interpreted in conjunction with other City policies, including but not limited to, policies prohibiting harassment, discrimination, offensive conduct or inappropriate behavior. Violations of the Social Media Policy may lead to disciplinary action. The City provides an effective system for employee complaints "off-line" through the "General Complaint and Grievance" policy without resorting to social media.

### **9.2.4 USE OF CITY'S SOCIAL MEDIA ON WORK TIME**

Any blogging or posting of information on the Internet or other City social media sites must comply with the City's guidelines, regardless of where the blogging or posting is done.

- A. Blogging, or posting information of a personal nature on the Internet or other City social media sites is prohibited during work hours. Employees are not permitted to engage in social networking of a personal nature while using any of the City's electronic social media sites.
- B. Employees must obtain written authorization from the City Manager or the IT Director to update or post on social media sites on behalf of the City and all content must be approved by the City Manager or his/her designee prior to posting. All the employee's time spent updating or posting on City social media sites as part of the employee's job duties is compensable time that must be reported and counted in the calculation of overtime.
- C. No use of social media on work time and on City equipment on City-operated networks is considered private or confidential, even if password protected or otherwise restricted. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed or received through its communications systems or equipment at any time.
- D. Never disclose any confidential information concerning another employee of the City in a blog or other posting to the Internet. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act
- E. Employees must abide by all federal and state law and policies of the City regarding information sent through the City's Internet.
- F. Individual supervisors do not have the authority to make exceptions to these guidelines.

### **9.2.5 USE OF PERSONAL SOCIAL MEDIA WHILE NOT ON WORK TIME**

The City recognizes that many City employees utilize social media when not at work. The City requires that employees be aware of guidelines regarding posting of work-related information on personal social media sites, as listed below:

- A. If the employee's social networking includes any information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City;
- B. Employees are encouraged to act responsibly on and off duty, and to exercise good judgment when using social media. Recognize that postings on your social media site, even if done off premises and while off duty, could have an adverse effect on the City's legitimate business interests;
- C. Respect co-workers and the City. Do not put anything on your personal social media site that may defame, embarrass, insult, demean or damage the reputation of the City or any of its employees;
- D. Do not put anything on your personal social media site that may constitute violation of the City's Harassment policy. Do not post any pornographic pictures of any type that could identify you as an employee of the City. Be mindful that the City's harassment policy covers both work and non-work time, including postings on social media sites;
- E. Do not post pictures of yourself or others on your personal social media site containing images of City uniforms or insignia, City logos, City equipment or City work sites that has or could have an adverse effect on your reputation, the reputation of a co-worker or the City;
- F. Do not post information on your personal social media site that could adversely impact the City and/or an employee of the City; and
- G. Do not permit or fail to remove postings violating this policy, even when placed by others on your social media site.

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## **9.3 HARASSMENT AND DISCRIMINATION**

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### **9.3.1 POLICY**

The City of Athens is committed to a work environment in which all individuals are treated with respect and dignity. Every individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the City expects that all relationships among persons at work will be businesslike and free of bias, prejudice and harassment.

The City is committed to an investigation process for all allegations of discrimination, sexual harassment, harassment and/or retaliation with an appropriate disciplinary action policy that would address any proven allegations of discrimination, sexual harassment, harassment and/or retaliation.

This policy is intended to comply with applicable federal, state and local laws and regulations regarding discrimination, harassment and retaliation.

### **9.3.2 DISCRIMINATION**

This policy covers allegations of discrimination in promotion, transfer and compensation and terms, conditions, or privileges of employment because of race, color, religion, sex, sexual orientation, age, disability, marital status, citizenship, veteran status, or any other characteristic that is protected by law. The City considers discrimination to be a grave act of misconduct and will subject the perpetrator to disciplinary action, up to and including termination. Supervisors are accountable and have an obligation to pursue a discrimination-free workplace environment.

### **9.3.3 SEXUAL HARASSMENT**

Sexual harassment constitutes discrimination and is illegal under Federal, State, and local laws. Under Equal Employment Opportunity Commission guidelines, sexual harassment in the workplace is described as unwelcome sexual advances, requests for sexual favors and other verbal comments (slurs, jokes) or physical conduct of a sexual nature when, for example:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment; and
- D. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender.

### **9.3.4 PROHIBITED BEHAVIORS**

Sexual harassment of employees by supervisors, co-workers, customers, visitors, vendors or other third parties will not be tolerated. The City of Athens specifically prohibits the following behaviors:

- A. Unwelcome sexual advances, defined as any invitation, no matter how blatant or subtle, which is intended to result in coerced sexual activity; requests for sexual favors; and all other verbal or physical conduct of a sexually offensive nature, especially where:
  - a. Submission to such conduct is clearly expressed or implied as a condition of employment by the person with authority by directly or indirectly threatening to base work-related decisions affecting an individual's employment on such submissions (e.g., promotions; desirable work assignments; future job opportunities; performance appraisals; merit pay recommendations; disciplinary actions, up to and including termination);
  - b. Such conduct has the purpose or effect of creating a hostile work environment. Examples of this type of sexual harassment include repeated unwelcome sexual flirtations, advances, or propositions; continued or repeated verbal abuse of a sexual nature; the display of sexually suggestive objects or pictures; any uninvited and unwelcome physical contact or touching, including patting, hugging, pinching, or constant brushing against another's body; threats; and assaults; and
  - c. Continued or repeated sexually explicit comments, such as describing a person's body; sexually explicit jokes and/or innuendoes; and other sexually oriented statements which include the use of derogatory and insulting terms related to an employee of the same or opposite sex; offensive calendars, magazines, or posters; suggestive or insulting sounds; leering; whistling; and obscene gestures.
- B. Supervisors are accountable and have an obligation to pursue a sexual harassment-free workplace environment.

### **9.3.5 HARASSMENT**

Harassment based on any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, citizenship, or any other characteristic protected by law, or that of his/her relatives, friends or associates, and:

- A. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- B. Has the purpose or effect of unreasonably interfering with an individual's work performance; and
- C. Otherwise adversely affects an individual's employment opportunities.

### **9.3.6 RETALIATION**

The City of Athens encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of the City to investigate such reports. The City prohibits retaliation against any individual who reports discrimination or harassment. The City considers retaliation to be a grave act of misconduct and will subject the perpetrator to disciplinary action, up to and including termination. Supervisors are accountable and have an obligation to pursue a retaliation-free workplace environment.

Retaliation, in any form, against an employee for reporting a complaint in good faith under this Administrative Directive, or for assisting in the investigation of such complaint, is prohibited. Any incident of retaliation shall be immediately reported by the employee to the Director of Human Resources.

### **9.3.7 REPORTING PROCEDURES**

- A. It is the individual's responsibility to notify the harasser that this behavior is unwelcome. If the individual feels uncomfortable with confronting the offender, or if he/she feels this would cause an employment detriment, then omit this step and contact one of the persons below.
- B. Any individual who feels he/she is being subjected to such conduct should immediately contact one of the persons below with whom the individual feels the most comfortable. Complaints may be made orally, or in writing, to:
  - a. Any Department Supervisor;
  - b. Any Department Director;
  - c. Director of Human Resources; or
  - d. The City Manager.
- C. Regardless to whom the complaint is made, the Human Resources Department must be notified immediately. All complaints of sexual harassment, harassment, discrimination and/or retaliation are taken seriously and will be investigated in a timely manner.
- D. Individuals have the right to bypass the chain of command in selecting which person to whom to make a complaint. To whoever on the above list of personnel the individual makes a complaint, the individual should be prepared to provide the following:
  - a. Individual's name, department and position title;
  - b. The name of the person or persons, committing the conduct, including their title(s), if known;
  - c. The specific nature of the conduct, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.), if applicable;
  - d. Witnesses to the conduct; and
  - e. Whether you have previously reported this offensive conduct and, if so, when and to whom.

### **9.3.8 INVESTIGATION**

- A. The Director of Human Resources is the person designated by the City to be the investigator of complaints of discrimination, sexual harassment, harassment, and/or retaliation. The Director of Human Resources will work in conjunction with the respective Department Director during the investigation. In the event the complaint is against the City Manager, the City Attorney will be contacted to do the investigation.
- B. When an allegation of discrimination, sexual harassment, harassment, and/or retaliation is made by any individual, the person to whom the complaint is made shall immediately prepare a report of the complaint



according to the preceding section and submit it to the Director of Human Resources, or in the event the complaint is against the City Manager, the Director of Human Resources will forward it to the City Attorney.

- C. The Director of Human Resources will keep a written record of the investigation, including notes of verbal responses made to the investigator by the person placing the complaint, witnesses interviewed during the investigation, the person against whom the complaint was made, and any other person contacted by the investigator about the investigation. The notes shall be made at the time the verbal interview is in progress.
- D. Based upon the report, the Director of Human Resources shall, within a reasonable time period, determine whether the conduct constitutes sexual harassment, harassment, discrimination, and/or retaliatory behavior. In making that determination, the Director of Human Resources shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, and the context in which the conduct, if any, occurred.

### **9.3.9 DISCIPLINE**

If the conduct is substantiated, immediate and appropriate action shall be taken.

The disciplinary action shall be consistent with the nature and severity of the offense. A written record of disciplinary action taken shall be kept, including verbal reprimands.

### **9.3.10 RESPONSIBILITIES AND ACCOUNTABILITY**

- A. In cases of discrimination, sexual harassment, harassment and/or retaliation in the workplace, the City shall take all lawful steps to ensure that the conduct is brought to an immediate end.
- B. Employees are not only encouraged to report instances of such conduct, they are obligated. No employee should assume that the City is aware of a problem. Complaints and concerns must be brought to the City's attention so that steps can be taken to correct the problem.
- C. Employees are obligated to cooperate in every investigation including, but not limited to, coming forward with evidence both favorable and unfavorable, and truthfully making a written report or verbally answering questions when required to do so. They are also obligated to refrain from filing bad faith complaints.
- D. Disciplinary action may also be taken against an individual who fails to report instances of such conduct, or who fails or refuses to cooperate in the investigation, or who files a complaint in bad faith.
- E. All supervisors are responsible for the implementation of this policy and for ensuring that all employees and contractors have knowledge and understanding of this policy. All supervisors shall take immediate and appropriate action to ensure compliance with the intent of this policy. Supervisors may be held personally liable if they have been put on notice about a complaint and fail to report the complaint to the appropriate authority.
- F. The City will continue to act responsibly to establish and maintain a pleasant working environment that is free from discrimination and unfair acts. This policy is not intended to replace, but is in addition to, any rights or remedies any individual may have under State and Federal laws.

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## **9.4 CODE OF ETHICS**

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### **9.4.1 POLICY**

It is the policy of the City of Athens to demand, promote and uphold the highest ethical standards from all its' employees. The City requires employees to perform their duties properly according to policies, procedures, laws and in a manner that will enhance the credibility of the City organization.

All employees at all levels of the organization should maintain the highest concern for personal integrity and honesty in carrying out their public duties and upholding the public trust.

The purpose of this policy is to provide a set of ethical guidelines for all City of Athens employees to use to assess whether their actions are proper and will contribute to creating a positive image for both the individual and the organization.

#### **9.4.2 EMPLOYEE DEFINED**

Employee - means any person employed by the City, including those individuals on a full-time, part-time, seasonal, or temporary basis. The term shall not apply to any independent contractor.

#### **9.4.3 PERSONAL CONDUCT**

Employees will not be involved in any dishonest or criminal act or engage in any other conduct that could discredit the City. Employees will take care to follow all Administrative and Financial Directives of the City.

Employees will always maintain accurate records and documents and will never tamper with or falsify any documents of any kind. Except as provided by laws and regulations, employees will not destroy any records or documents.

#### **9.4.4 POLITICAL ACTIVITY**

Employees will not be appointed or retained based on their political support or activities. City employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal laws. No City employee is prohibited from becoming a candidate for public office. However, City employees may not:

- A. Publicly endorse or campaign in any manner for any person seeking a City public office;
- B. Use the employee's position or office to coerce political support from employees or citizens;
- C. Use the employee's official authority or influence to interfere with or affect the result of a campaign issue, and election or nomination for public office;
- D. Make, solicit or receive any contribution to the campaign funds of any candidate, directly or indirectly through an organization or association, for the City Council, or take any part in the management, affairs or political campaign of any such candidate; provided nothing herein shall infringe upon the rights of an employee to seek office himself/herself, express his/her opinions and to cast his/her vote;
- E. 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;
- F. Contribute money, labor, time or other valuable thing to any person for city election purposes, except as permitted by law;
- G. Become candidates for any public office if the office has direct or indirect contractual relations with the City of Athens or presents a conflict of interest; or
- H. Become candidates for public office with the City of Athens.

Civil Service employees shall be covered by the rules governing political activity in Chapter 143.

#### **9.4.5 CONFLICT OF INTEREST**

Employees should be careful not to become involved in any conflict of interest involving their position and any non-City of Athens activities. Some examples of this include employment with another business that might do business with the City of Athens, have an interest in a contract with the City, or use privileged information gained through their association with the City of Athens for personal benefit. Conflicts of interest are often difficult to determine. If

an employee believes an outside job, business association or any other activity might create a conflict of interest the employee should discuss the issue with their supervisor/manager and/or the Director of Human Resources prior to undertaking the activity.

#### **9.4.6 GIFTS**

Employees will not accept any gifts, favors, services or thing of value that could reasonably tend to influence them in the discharge of their official duties. However, this guideline is not meant to prevent the acceptance of an infrequent, non-monetary gifts of de minimis value such as a meal, events, products or items to be used in an officially recognized activity of the City of Athens such as United Way fund raising or department sponsored services. Also, personal gifts given by co-workers in recognition of special milestones in an employee's life, such as the birth of a child, graduation and illness are not improper.

#### **9.4.7 CITY VEHICLES AND PROPERTY**

Employees should not use City vehicles, property or services to conduct or perform personal business. An example of this would be to use a City provided vehicle to haul an appliance from a store to the employee's home. City tools and equipment should never be used to perform personal work.

#### **9.4.8 REPORTING TO THE PUBLIC AND CONFIDENTIAL INFORMATION**

Employees providing any type of reporting to management, the City Council or public for developing policy alternatives should report facts, activities, programs and financial results in a complete, truthful and balanced manner, providing recommendations that include a variety of options for decision makers.

#### **9.4.9 OUTSIDE EMPLOYMENT**

The City of Athens is the primary employer for all full and part-time employees. Employees wishing to work another job with another employer must have the secondary position reviewed and approved by the Department Director to assure that there is no conflict of interest and that the employee's ability to perform for the City of Athens will not be impaired.

#### **9.4.10 REPORTING IMPROPER BEHAVIOR**

The actions of one employee impact the credibility of all other employees either in a positive or negative manner. Employees should always strive to conduct themselves in a positive manner. If an employee is uncomfortable with any decision or contemplated action, he/she should seek guidance regarding the propriety of the action. Similarly, if employees become aware of known or suspected wrongdoing on the part of another employee they should report that action or activity to their supervisor/manager or the Human Resources Department immediately.

#### **9.4.11 ETHICS SELF-CHECK**

Employees should be mindful that perception can supersede reality and they should avoid anything that gives the appearance of improper conduct. Below are questions which can provide guidance to individuals confronted with an ethical dilemma:

- A. Would I be embarrassed if my family or friends learned of my actions?
- B. Would I be embarrassed to have the public hear about my actions through news reports?
- C. How would the situation look for me and the City?
- D. If asked why I acted in a certain way, would I have to pause to think of a justification for my action? How would I feel about myself?

If the answer to any of the questions is “Yes” or “Not very good” then the employee should seek guidance from their supervisor/manager or perhaps Human Resources to determine if the action is proper and would bring credit to themselves and the City of Athens.

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## 9.5 WORKPLACE VIOLENCE PREVENTION

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### 9.5.1 POLICY

Any behavior which is sufficiently severe, offensive or intimidating to cause an individual to reasonably fear for his/her personal safety and/or property will not be tolerated. Any behavior that creates a hostile, abusive, or intimidating work environment will not be tolerated. Fighting on City property is strictly prohibited. This includes any physical attempt to bodily injure another individual.

### 9.5.2 REPORTING THREATS

Employees shall promptly report such activity using the following guidelines:

- A. **Non-Imminent Threats** – If the threat is not imminent, immediately inform your immediate supervisor. If that supervisor is the alleged offender, the employee should report the incident directly to a higher-level supervisor. The supervisor to whom the incident is reported will determine if the Director of Human Resources needs to be notified immediately or by the next business day.
- B. **Imminent Threats** – When reporting imminent threats and/or acts of violence, the employee shall: notify the local police by dialing “911” for threats or incidents in progress. Should the incident occur after normal business hours, the Police Department will evaluate the situation and determine whether Human Resources should be contacted immediately or by the next business day.

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## 9.6 DRUG FREE WORK PLACE/SUBSTANCE ABUSE

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### 9.6.1 POLICY

While at work, each City employee has a responsibility to the public to deliver services in a safe, efficient, and conscientious manner. In order to perform a job in the safest manner possible, City employees must be able to work in a drug-free environment and themselves be free from the effects of alcohol and other job impairing substances while on the job. Accordingly, while on the job or in a City vehicle, the use, sale, distribution, possession, or being under the influence of an intoxicating liquor, controlled substance, or drug not medically authorized, inhalant, or any other substance which impairs job performance or poses a hazard to the safety and welfare of the employee, the public, or other employees, is strictly prohibited and will result in immediate termination. Possession of a controlled substance or unauthorized drug also includes the possession of drug-related paraphernalia.

### 9.6.2 DEFINITIONS

- A. **"Alcoholic beverage"** – alcohol, or any beverage, containing more than one-half of one percent by volume, which is capable of use for beverage purposes, either alone or when diluted.
- B. **"Controlled substances"** – means any drug, substance or immediate precursor listed in Schedules I-V or Penalty Groups 1-4 of the Controlled Substances Act of 1988 as it may be revised from time to time.
- C. **"Cut-Off (Acceptable) Levels"** – shall be as established by Department of Transportation regulations. The established DOT cut-off level for alcohol is .04% blood alcohol level.

- D. **"Drug" or "Illegal drug"** – any drug in any detectable amount which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level different than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances such as marijuana and hashish, cocaine, heroin, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.
- E. **Refusal to submit to alcohol or drug test"** – that an employee:
  - a. Refuses to sign consent to testing form;
  - b. Fails to provide adequate breath or urine for testing without a valid medical explanation after he has received notice of the requirement for testing;
  - c. Engages in conduct that clearly obstructs the testing process. Any refusal to submit to testing will be treated the same as a positive controlled substances test result.
  - d. "Safety Sensitive Function" is any on-duty time as follows:
  - e. All time on City or other property waiting to be dispatched;
  - f. All time inspecting, servicing or conditioning any commercial motor vehicle;
  - g. All driving time;
  - h. All time, other than driving time, in or upon any commercial motor vehicle;
  - i. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, remaining in readiness to operate the vehicle;
  - j. All time spent performing driver requirements relating to accidents; or
  - k. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- F. **"Under the influence" or "Impaired"** – abnormal behavior during working hours or while on call or on standby duty, which results from indulging to any degree in any alcoholic beverage, controlled substance, or drug which may limit an employee's ability to safely and efficiently perform his duties or poses a threat to the safety of the employee or others.
- G. **"Working Hours"** – from the time the employee arrives at the job site until the time he leaves including all lunch or other types of breaks.

### 9.6.3 NOTIFICATION OF SUPERVISOR OF AUTHORIZED DRUG USE

Each employee shall report the use of medically authorized drugs or other substances which can impair job performance to his immediate supervisor and provide proper written medical authorization to work from a physician. It is the employee's responsibility to determine from the physician whether or not the drug would impair his job performance depending upon the nature of the employee's job. Failure to report the use of such drugs or other substances or failure to provide proper evidence of medical authorization will result in disciplinary action. Any information received from an employee under this provision will be kept confidential except to the extent it may be shared with individuals who are in a need to know position.

The City reserves the right to have a physician of its own choice determine if the medication produces hazardous effects at the prescribed dosage and may restrict the employee's work activity.

Any employee who makes a reasonable cause observation or who may be a witness at an accident scene shall also maintain complete confidentiality. Breach of confidentiality relating to test results or any other related matters will subject the employee to disciplinary action.

#### 9.6.4 REQUIRED DRUG AND/OR ALCOHOL TESTING

**Applicant Drug Screening.** A drug screen (urine) will be performed on all final applicants. If the test results indicate the presence of an illegal or prohibited drug or substance which exceeds the cut-off level, the applicant will be disqualified from further consideration at that time. It should be noted that if the drug screen provides a positive result, a second, more comprehensive test (Gas Chromatograph/Mass Spectrometer) will also be conducted to confirm the results of the first test. If the results of the first test are confirmed, the applicant would be eliminated from consideration for employment for at least six (6) months. The split sample method will be followed in accordance with DOT rules. If the applicant passes the drug screen test, then he will undergo the balance of the pre-employment physical examination.

An applicant must sign a Pre-Employment Urinalysis/Alcohol Test Notification form in order to be considered for employment. Any applicant who refuses or fails to sign this form will be removed from consideration for employment.

Sample collection and testing shall be administered by a City selected medical facility utilizing laboratory procedures as outlined by DOT regulations. Strict chain of custody procedures will be followed. Direct observation will normally not be used for applicants. Laboratory personnel will report any abnormalities or suspicion of tampering. If the collection site person believes tampering or adulteration has occurred, a second specimen shall be collected immediately under direct observation. Refusal to retest or cooperate with site collection personnel will render the applicant ineligible for employment.

**Employee Testing.** The City of Athens reserves the right to require drug or alcohol testing for incumbent employees when based on a reasonable suspicion that an employee is an illegal drug user or is under the influence of a substance or alcohol. Once the employee has been requested to be tested, urine sample and/or alcohol breath test should be given immediately by transporting the employee to the testing facility. Refusal to submit to an ordered drug or alcohol screening test is a violation of City policy and may result in disciplinary action, up to and including dismissal.

Prior to ordering a drug or alcohol screening test, the employee will be interviewed to determine if there is an alternative explanation for their behavior. The drug screening test will be the same as for applicants but must be ordered by a properly trained supervisor or City official based upon observations concerning the employee's appearance, pattern of behavior, speech, or body odor. For purposes of alcohol screening the City will employ existing methods of breath or blood testing to determine the level of intoxication.

If the collection site person believes tampering or adulteration has occurred, a second specimen shall be collected immediately under direct observation. Refusal to retest will be considered the same as a positive test result. Upon completion of ordered drug or alcohol testing under no circumstances should the employee be allowed to drive a City vehicle, operate machinery or perform a safety sensitive function until after the results of the drug or alcohol test are known. After testing is completed, supervisors also must insure that the employee does not drive himself or herself home. Arrangements shall be made to deliver the employee's personal vehicle to his/her home.

Reasonable suspicion shall include, but not be limited to, the following:

- A. Observable phenomena, such as direct observation of alcohol or drug use and/or the physical symptoms of being under the influence of a drug or alcohol;
- B. Arrest or conviction for a drug related offense; or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
- C. Information provided either by reliable and credible sources or independently corroborated;
- D. Vehicle accidents in which the employee was involved during working hours;

- E. Abuse of City property;
- F. Personal injury suffered by the employee, injuries caused to others, damage to others property;
- G. Employee behavior problems such as fighting, declining work performance, absenteeism, argumentative, uncooperative, or other disruptive behavior;
- H. Receipt of written or oral statements by employees or others concerning use of drugs or alcohol by employees or being under the influence;
- I. Possession of any drug or alcoholic beverage, or any drug or alcoholic beverage container, or any drug paraphernalia, during working hours, in a City vehicle or on City property; and
- J. Indications of possible impairment or intoxication which include the following:
  - a. Slurred speech;
  - b. Disorientation;
  - c. Job impairment (inability to perform employee's job in a routine manner);
  - d. Odor of alcohol;
  - e. Odor of other substances;
  - f. Unsteady gait or balance;
  - g. Glassy eyes;
  - h. Drowsiness;
  - i. Euphoria;
  - j. Mood swings;
  - k. Inattentiveness;
  - l. Excitement or confusion;
  - m. Irritability;
  - n. Aggressiveness; or
  - o. Other erratic behavior.

**Post-Accident Testing.** Any employee involved in an accident while operating a City owned vehicle, or a personal vehicle during the employee's working hours, shall be required to take a drug and alcohol test when any of the following conditions exist:

- A. The accident involves a fatality;
- B. The employee receives a moving traffic violation arising from the accident;
- C. The accident results in significant property damage and/or bodily injury where the employee is adjudged to be at fault by the investigating agency or the employee's direct supervisor; or
- D. The employee's supervisor has a reasonable suspicion that drugs or alcohol may have been a contributing factor in the accident.

Immediately following any accident in which the employee's direct supervisor determines that drugs or alcohol may have been a contributing factor, the employee shall not be allowed to operate any vehicle on behalf of the City or in furtherance of the employee's duties for the City until such time as the drug and alcohol testing shall be complete.

Post-accident testing as described herein shall be conducted within two (2) hours of the accident. If the testing is not completed within that time period, then the employee's supervisor shall submit to the Human Resource Director a written explanation of the reason(s) that the tests could not be administered within two (2) hours of the accident. If the testing is not completed within two (2) hours of the accident, alcohol testing shall take place not later than eight (8) hours after the accident, and drug testing shall take place not later than thirty-two (32) hours after the accident.

### **9.6.5 TESTING METHODS**

The methods by which substance abuse or alcohol use will be tested may include, but are not limited to, the following:

- A. Drugs: Urinalysis;
- B. Alcohol detection: Breath, Saliva or Urinalysis; or
- C. If alcohol detected, then Blood Screening may be used for validation.

### **9.6.6 EMPLOYEE COOPERATION**

All employees are expected to cooperate in the testing process. Refusal to take a drug or alcohol test or refusal to sign the consent form will be treated the same as a positive controlled substance test result or a breath alcohol test. Failure to provide adequate breath or urine specimens for testing without a valid medical explanation is also considered a refusal to submit to testing. Any conduct that clearly obstructs the testing process such as tampering with a specimen or the testing procedure will result in termination.

### **9.6.7 OPERATION OF VEHICLES AND EQUIPMENT**

Under no instances shall an employee operate a motor vehicle or motorized equipment while he or she is intoxicated, under the influence of drugs, or under the influence of medication which may affect the employee's ability to operate such equipment.

### **9.6.8 SEARCHES AND INSPECTIONS AT THE WORKPLACE**

An employee and their personal property, as well as City property and equipment may be searched when there is reasonable suspicion.

The City may conduct general inspection and searches for drugs, alcohol, or contraband on City premises or in City vehicles or equipment wherever located. Searches and inspections may be initiated without prior notification and conducted at times and locations deemed appropriate by the Town. Personal effects include, but are not limited to personal vehicles, baggage, lockers, desks, tool boxes, and lunch boxes.

An employee may have the right to refuse a search, however, an employee's consent to a search is required as a condition of employment and the employee's refusal will result in disciplinary action up to and including discharge, even for a first refusal.

Controlled substances, drugs believed to be illegal and drug paraphernalia found on City property will be turned over to the appropriate law enforcement agency and full cooperation given to any subsequent investigation. Substances which may be identified as an illegal drug by a layman's examination will be turned over to law enforcement authorities as well.

Other forms of contraband such as firearms, explosives and lethal weapons will be subject to seizure during an inspection or search. An employee who is found to possess contraband on City property or while on City business will be subject to discipline up to and including discharge.

### **9.6.9 EMPLOYEE CONVICTIONS**

Any employee convicted of a violation of a criminal drug statute for conduct occurring while on duty or on City property must notify the City of such conviction within (5) days of the conviction occurring.

If an employee fails to report such conviction, the employee will be subject to disciplinary action up to, and including termination for the first offense.



#### **9.6.10 PENALTIES**

An employee may be disciplined up to and including discharge for illegal drug use or possession or for working while under the influence of illegal drugs or alcohol. Employees may also be suspended with or without pay pending the outcome of an investigation.

#### **9.6.11 OFF-THE-JOB DRUG/ALCOHOL/SUBSTANCE USE AND ACTIVITY**

Employees who use drugs, alcohol, or chemical substances off-the-job run the risk of jeopardizing the safety of themselves, their family, the public and the City of Athens. Whenever such usage adversely affects public trust in the City to carry out its responsibilities, or increases potential liability for the City, the City may be forced to take disciplinary action against the offending employee(s).

As a matter of City policy, employees who are designated on-standby for emergency call-back are prohibited from consuming alcohol during the period they are on standby.

Employees, who are convicted, plead guilty or plead nolo contendere because of off-the-job activities (alcohol or drug related), may be considered in violation of this policy. In deciding what action to take, the employee's supervisor will consider the nature of the charges and other factors relative to the impact of the employee's conviction upon the conduct of the City's business.

Applicants involved in the illegal sale, manufacture or distribution of any controlled substance or dangerous drug will be permanently rejected from consideration for employment.

#### **9.6.12 RESERVATION OF RIGHTS**

The City reserves the right to interpret, change, rescind, or depart from this policy in whole or in part without notice. Nothing contained in this policy shall be construed as creating or constituting a contract with any employee, whether expressed or implied.

#### **9.6.13 REHABILITATION**

Incumbent employees who voluntarily admit substance abuse and seek rehabilitation assistance may normally do so without disciplinary action. Rehabilitation is the responsibility of the employee. Any employee seeking medical attention for alcoholism or drug addiction may use benefits under the City of Athens group medical insurance plan or other programs or agencies offering counseling and treatment. Employees enrolled in formal treatment programs may request sick leave, vacation leave or leave without pay.

Employees completing medical treatment or formal treatment programs will be required to submit to drug or alcohol screening tests prior to being allowed to return to work and periodically without notice thereafter for a period of up to 60 months. The employee will be responsible for payment of costs for return-to-duty and follow-up screening tests. Failure to pay will be cause for dismissal.

No employee will be eligible for this rehabilitation program more than one time. The recurrence of an alcohol or drug problem will be cause for dismissal.

#### **9.6.14 CONFIDENTIALITY**

The results of any drug or alcohol screening test will not be released by the testing laboratory to anyone other than the employee or applicant concerned and the Medical Review Officer and Human Resource Director or his designee.

The identity of individuals undergoing drug and or alcohol screening will be kept confidential as well as individuals in rehabilitation programs. The City may then use or release the results for counseling, disciplinary matters, for use

in Workers' Compensation claims administration, or for Texas Workforce Commission unemployment claims administration. Appropriate supervisors will be made aware of test results, only on a need-to-know basis.

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## 9.7 RELEASE OF EMPLOYEE INFORMATION

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### 9.7.1 POLICY

Official personnel files for all City employees shall be maintained in the Human Resources Department. Unless otherwise provided by law, personnel files and information contained therein shall be confidential and may not be used or divulged for purposes unconnected with the City personnel management system except with the permission of the employee involved. An employee may review the documents contained in his/her personnel file by making an appointment with the Director of Human Resources.

All personnel records shall be maintained and administered per state and federal laws.

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## 9.8 STANDARDS OF CONDUCT

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### 9.8.1 POLICY

The City of Athens is committed to establishing standards of conduct that hold the City's employees to the highest degree of accountability, both on duty and, when appropriate, off duty.

To meet this commitment, all employees are expected to: (1) conduct City business impartially and in an ethical manner; (2) provide all services in compliance with applicable laws, regulations, and guidelines, as well as in compliance with City and Departmental policies, procedures, and directives; (3) identify and correct any actual or perceived violations of applicable rules, regulations, or any other City and Departmental policy, procedure, and directive; (4) demonstrate professionalism in the effective and efficient delivery of services to the citizens of City of Athens, customers, and fellow employees; and (5) avoid activities that adversely affect the City's reputation, or present a conflict of interest with City operations, and therefore engender a high degree of confidence in, and support for, governmental operations within the City of Athens.

This policy is intended to comply with applicable federal, state and local laws and regulations.

### 9.8.2 PURPOSE

The Standards of Conduct for the City of Athens is designed to promote efficiency, discipline and good public relations setting forth policies governing the conduct of every employee, both on duty and, when appropriate, off duty.

Violations of this Policy shall be cause for disciplinary action as defined by the City's policies, procedures and directives and any applicable rules and regulations.

### 9.8.3 CONFORMANCE TO PERSONNEL POLICIES, ADMINISTRATIVE DIRECTIVES, RULES AND REGULATIONS

Employees shall not commit any acts or omit any acts, which constitute a violation of rules, regulations, directives or policies of the employees' department or the City of Athens.

Employees shall obey all federal, state and local laws and regulations.

- A. An indictment for a felony offense, the official charging for a misdemeanor offense Class B or above or other crime involving moral turpitude may be considered sufficient evidence of violation of this section.

- B. Employees shall immediately report any arrests, convictions or other dispositions to their immediate supervisor. Supervisors should contact the Director of Human Resources for guidance on steps to correct a violation of this policy.

#### **9.8.4 PERSONAL CONDUCT AND RESPONSIBILITIES**

- A. **Unbecoming Conduct.** Employees shall conduct themselves, both on and off duty, in such a manner as to reflect most favorably on the City. Conduct unbecoming an employee shall include that which brings or could bring the City into disrepute or that which impairs or could impair the operation or efficiency of the employee's department or employee.
- B. **Courtesy.** Employees shall be courteous to the public and to each other. Employees should be tactful in the performance of their duties, control their tempers and exercise the utmost patience and discretion in the face of provocation. In the performance of their duties, employees shall not use coarse, violent, profane, or insolent language or gestures.
- C. **Truthfulness.** Employees shall be truthful in their word and deed. Employees shall not knowingly falsify any report, document, or statement, whether written or spoken. However, there are times that in the official performance of their duties, a Police Officer might have to be less than truthful with people, such as when working undercover operations or when interrogating a suspect, etc.
- D. **Alcoholic Beverages and Drugs.** Employees shall not store or bring into any City facility or City vehicle any alcoholic beverages, controlled substances, narcotics, or hallucinogens. Employees shall not possess or use any controlled substances, narcotics, or hallucinogens except when prescribed in the treatment of an employee by a licensed medical provider. When controlled substances, narcotics or hallucinogens are prescribed, employees shall notify their supervisor upon reporting for duty if the substance may affect the employee's performance capabilities. Employees shall not consume intoxicating beverages while on-duty, except in their performance of duty as a peace officer and with the authorization of the Police Chief. Employees shall not appear for duty or be on duty, while under the influence of intoxicants to any degree whatsoever, or with an odor of intoxicants on their breath.
- E. **Tobacco Use.** In keeping with the City's intent to provide a safe and healthy work environment, smoking is prohibited in any City-owned or municipal buildings or in City-owned, rented, or leased vehicles or equipment. No employee shall use tobacco products while making public contact. Employees may use tobacco products outdoors in designated areas during their normal rest or meal periods.
- F. **Personal Relationships.** Supervisors are prohibited from dating subordinates. Personal relationships with peers are normally discouraged and, if such a dating relationship is established after employment, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the Department Director(s). Where a potential for conflict arises because of a relationship between employees, even if there is no line of authority or reporting involved, the employees may be separated by reassignment, or where no remedy is available, it may be necessary to dismiss one or both of the employees.

#### **9.8.5 GENERAL CONDUCT AND RESPONSIBILITIES**

- A. **Reporting for Work.** Employees are expected to be at their places of work in accordance with the work schedules established for their department. Unless officially excused by their supervisor, all employees are to report to work on time.
- B. **Financial Responsibility.** Employees shall not misuse or misappropriate City monies or property.
- C. **Unsatisfactory Performance.** Employees will be expected to: perform satisfactorily the duties of the position they presently hold; maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Unsatisfactory performance may be demonstrated by a lack of knowledge or inability to perform assigned tasks or the failure to conform to work standards established

for the employee's grade or position. In addition to other indicators of unsatisfactory performance, the following will be considered as unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directive or personnel/departmental policies.

- D. **Insubordination.** Employees shall promptly and respectfully obey, comply with and carry out any reasonable and lawful request of a supervisor. Employees shall not obey any request which they know or should know would require them to commit any illegal act. If in doubt as to the legality of the request, employees shall request the supervisor to clarify the request or confer with a supervisor with higher authority.
- E. **Failure to report a policy violation.** Employees should report any violation of City or departmental policy to the proper authority. In most instances, the proper authority is the employee's direct supervisor, unless that is the person who has committed the violation; in which case, the violation should be reported to the Department Director.

### **9.8.6 GIFTS AND GRATUITIES**

Normally employees are prohibited from soliciting, accepting or agreeing to accept any personal gift for themselves, their family, or their friends, which is attributable in whole, or in part, to their association with the City. This includes gifts of money, property, alcohol, service or other things of value from any source, except by or through the City's compensation and/or benefit plan. The City recognizes that food items may be received from citizens and vendors as a thank you for services during holiday times and on other occasions. Such offerings are permissible and shall be made available for the enjoyment of everyone in that department, division or worksite.

This policy is not intended to prohibit the employees or departments from accepting discounted values when carrying out department business or accepting courtesies generally extended to business or governmental organizations. Examples of this could include group or government rates at hotels and air travel or free continental breakfasts.

The purpose of the policy governing gifts to public employees is to regulate attempts to influence employees to use their authority or discretion to the advantage of the person making the gift, and prevent criminal conduct.

### **9.8.7 WEAPON PROHIBITION**

No weapons are allowed in City buildings, vehicles or property, unless specifically authorized by the City Manager. No employee, other than a City of Athens sworn peace officer, may carry a prohibited weapon in a City facility unless specifically authorized by the City Manager. Prohibited weapons include firearms, clubs, explosive devices, illegal knives or any other item that is specifically designed, made or adapted for the purpose of inflicting serious bodily injury or death.

Nothing in this policy shall be construed to prohibit or regulate the carrying of handguns in employee-owned motor vehicles by an employee in accordance with State law. Employees who carry a concealed weapon in accordance with State law, and keep the weapon in their vehicle on City property, are encouraged to carefully consider the potential for theft of the weapon from the vehicle.

### **9.8.8 SOLICITATION**

Solicitation of funds or anything of value for any purpose whatsoever shall not be permitted of, or by, City employees on the job unless authorized by the City Manager. An employee is not required to make any contribution, nor may an individual be penalized in anyway in connection with his/her employment according to his/her response to a solicitation. Any non-employee engaging in soliciting will be asked to leave the City premises immediately.

### 9.8.9 HORSEPLAY

Horseplay could result in injury, and therefore is prohibited in the work environment. Acts of this nature are a direct contradiction to the work environment. Therefore, horseplay is prohibited due to potential risk of injury.

### 9.8.10 INATTENTION TO DUTY

The City recognizes that employees make personal telephone calls during the work day, may use the internet occasionally for personal use and may watch TV or listen to the radio or other music service, but excessive use of these activities, that causes an inattention to the employee's job duties will not be allowed. Inattention to duty includes, but is not limited to:

- A. Excessive use of the telephone and internet for personal business;
- B. Watching TV or listening to the radio or other music service, if it interferes with the performance of the employee's job;
- C. Reading unauthorized material and playing games while on duty;
- D. Careless, negligent or improper use of City property or equipment;
- E. Neglect or carelessness in performance of duties; and
- F. Loafing or sleeping while on the job.

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## 9.9 ACCIDENT INVESTIGATION AND REPORTING

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### 9.9.1 POLICY

To the extent possible, each employee will be furnished a safe place of employment. In the event an accident occurs, each employee will be afforded prompt first aid or medical attention.

### 9.9.2 ACCIDENT PREVENTIVE MEASURES

Responsible Person	Preventative Measure
All Employees	Become familiar with Safety Policies.
All Employees	Assume an attitude about one's work that "anticipates", rather than "assumes."
All Employees	Report unsafe conditions to supervisors.
All Employees	Watch out for the unsafe acts of others.
Supervisor	Conduct frequent job safety observations.
Supervisor	Correct unsafe conditions at the work site. Correct unsafe work practices of employees.
Supervisor	Set the example of safety awareness.
Supervisor	Conduct frequent safety talks on a specific procedure or part of the job.
Human Resources	Monitor accident experience and provide technical assistance to help supervisors zero in on accident causes.
Human Resources	Work with supervisors to identify realistic preventative measures and get commitment to take corrective action.
Department Director	Review reports of accident frequency and severity and ensure appropriate timely corrective action is taken.
Department Director	Set an example of safety awareness and demonstrate positive support of the safety program.

### 9.9.3 ACCIDENT PROCEDURE INVOLVING CITY EQUIPMENT MOTOR VEHICLES AND ON-ROAD EQUIPMENT

Whenever an employee is involved in an accident while operating a City-owned motor vehicle or on-road equipment, the accident must be reported immediately to the Police Department (or the appropriate agency if outside of City limits), the employee's Department Director and the Human Resources Office. The Department Director shall be responsible for investigating the accident and filing all necessary reports with the Human Resource Office within two (2) days of the accident. The following procedures shall be followed for any and all accidents involving motor vehicles of the City:

- A. **Employee.** The driver of the vehicle, if physically able to do so, shall notify the Police Department (or appropriate agency if outside of City limits) of the accident and allow them to make their investigation before moving the vehicle.
- B. **Employee.** The driver shall notify the Department Director after the law enforcement agency has been notified.
- C. **Department Director.** Insure that employees operating commercial vehicles are subject to DOT Drug and Alcohol required tests.
- D. **Department Director.** A copy of the Accident Report, and any other forms required by this article, shall be collected by the Department Director and forwarded to the Human Resources Office.'
- E. **Department Director.** If the accident is the fault of a City employee, the Department Director shall proceed to have the damage to the City vehicle repaired in accordance with the procedure established by the department and the Human Resources Department.
- F. **Department Director.** If the accident is the fault of someone other than a City employee, the department shall obtain a valid estimate of the cost of repairs to the vehicle. The vehicle shall not be repaired until Department Director ensures that all insurance companies have been notified and provided an opportunity to inspect the damaged vehicle.

### 9.9.4 OTHER EQUIPMENT ACCIDENTS

Accidents involving off-road equipment or other City equipment must be reported immediately to the employee's supervisor and Department Director. The Department Director shall be responsible for investigating the accident and filing all necessary reports with the Human Resource Office within two (2) days of the accident. For bodily injury accidents, the following procedure will apply.

### 9.9.5 BODILY INJURY AND ACCIDENT PROCEDURE

- A. **Employee.** Immediately report accident.
- B. **Supervisor.** Immediately contact Department Director and Human Resources Office. If no medical treatment is involved, ensure employee completes DWC-1 Report Form.
- C. **Supervisor.** Conduct an investigation and complete DWC-1 (Employers First Report of Injury or Illness Form). Forward this information to the Department Director and to the Finance and Human Resource Office within three days of accident being reported.
- D. **Department Director.** Review with supervisor the results of the findings and discuss corrective action to be taken, by whom and when. Report to the Finance and Human Resource Office actions taken.
- E. **Human Resources.** Review with Department Director and/or supervisor to discuss corrective action to be taken, by whom and when.
- F. **Human Resources.** Participate in the investigation of all accidents that involve a death or two or more employees injured in one accident.
- G. **Supervisor.** If lost time was involved, notify Human Resources Office when employee returns to work.

- H. **Human Resources.** Ensure that all Workers' Compensation Forms are generated on a timely basis, accumulate accident frequency and severity data, monitor and maintain file of claims and generate reports to depict significant trends.
- I. **Department Director.** In all cases where occupational injury to an employee occurs and employee remains on disability for seven (7) days, the Department Director shall confer with the Director of Human Resources to review progress on the case and discuss further action to be taken on employee's behalf.

### **9.9.6 DISCIPLINE, REPORTING AND INVESTIGATIONS**

Each accident, no matter how minor, must immediately be reported by the employee to his/her supervisor. Failure to report an accident within 24 hours will result in a written corrective action being administered to the employee. Failure to report an accident within 3 work days will result in disciplinary for the employee failing to report. Repeated failures to report accidents will result in stronger disciplinary measure.

Failure to follow safety rules and policies will be grounds for discipline.

Investigation policy: It shall be the policy of the City of Athens to investigate thoroughly all reports of damage or accidents occurring to or caused by any unit of the motor fleet or equipment fleet.

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## **9.10 MODIFIED/LIGHT DUTY ASSIGNMENTS**

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### **9.10.1 POLICY**

The City will make every possible effort to assign modified duty assignments to those employees on restricted or modified work status. Proposed modified duty assignments must include duties that benefit the City and provide needed services to the citizens of City of Athens. Assignment to modified work duty is at the discretion of the Department Director subject to approval by the Director of Human Resources.

### **9.10.2 DEFINITIONS**

Modified Duty Assignment means a temporary reassignment of an employee with an illness, injury, or medical condition to duties that can be performed within the limitations of the employee's medical condition.

On-the-job Illness/Injury is a disability, injury, illness or medical condition that occurred as the result of the employee performing the assigned duties of his/her occupation within the course and scope of employment.

Reasonable Accommodation is a modification of the work environment and/or work process that enables a person with a disability to perform the essential functions of a job. The determination of what accommodations are reasonable shall be the sole determination of the City.

### **9.10.3 GENERAL PROVISIONS**

- A. 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 or non-work-related injury or illness for a maximum of one year. The one-year period begins on the first day of leave with medical certification. Modified duty assignments may be made available during the one-year period but will be limited to a maximum of 180 days.
- B. For purposes of this policy, a workday normally 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. Modified duty assignments may involve an assignment whereby an employee is working less than eight hours a day

or fewer than five days per week. Partial days worked shall count toward the 180-day period as full work days.

- C. When an employee returns to work on a modified duty status for less than a regular work shift, accrued paid leave can be used to offset the difference in hours if the employee is not receiving Workers' Compensation benefits. If the employee returns to work and earns less than 80% of his/her average gross base pay and the injury/illness is work related, he/she is entitled to supplemental income benefits as provided by Workers' Compensation and will not be allowed to use accrued paid leave in addition to receiving these benefits.
- D. Civil Service employees may be entitled to alternate provisions than listed in this policy through Chapter 143 of the Local Government Code.

#### **9.10.4 MODIFIED DUTY ASSIGNMENTS**

An employee will be considered for a modified duty assignment when physical restrictions placed on him/her by their treating physician do not allow the employee to perform the essential functions of his/her job.

The employee must provide to the Human Resource Department a written release or Work Status Report (DWC Form 73) from the treating physician stipulating the following:

- A. Specific restrictions;
- B. Period of time during which the restrictions apply;
- C. Expected date on which the employee may return to work for restricted duty;
- D. Date of the employee's next physician appointment; and
- E. Specific date on which the employee may be expected to be fully recovered and able to perform the essential functions of his/her job without restrictions.

Each department/division 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. Availability of a modified duty assignment will be at the discretion of the Department Director. The City reserves the right to require an independent physical/mental assessment, at the City's expense, if there is a question regarding the employee's modified duty capabilities and restrictions.

A modified duty assignment will be made within the department in which the injured employee works if one is available which is within the scope of the restrictions. If placement is unavailable within the Department, the Director of Human Resources will facilitate the placement of the individual in another department, based on the skills and abilities of the employee.

The salary of an employee placed on modified duty shall be paid by the department/division to which the employee is normally assigned at his/her regular rate of base pay and incentives pay.

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.

Employees on Workers' Compensation who are released to modified duty will be sent a bona fide offer of employment letter from the Human Resources Department indicating available modified work duty assignment. The employee has the option to accept or reject the offer of modified work assignment.

If the employee rejects the modified work assignment, the employee will not be eligible for salary continuation payments nor be able to use accrued leave in order to receive any type of salary, and may be placed on leave without pay. In addition, if his/her injury is work related, he/she will not be eligible for Workers' Compensation supplemental income benefits.



Modified duty assignments shall not exceed a total of 180 calendar days, for the original injury/illness or any subsequent re-injury or aggravation.

Modified duty assignments are temporary and not intended to create permanent jobs. Modified duty assignments may be eliminated at the City's sole discretion.

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 dismissal.

Employees on modified duty assignment must be under the regular and continuous care and attendance of a physician in order to remain qualified for modified duty. Employees must return to full duty as soon as they are medically and physically able to do so as released by their physician. The Department Director may at any time request a physician's report regarding the employee's condition, prognosis, and expected date of return to work. At a minimum, the employee must insure that monthly physician reports are submitted. Failure to provide a report or failure to follow prescribed treatment or rehabilitation plans will be grounds for discontinuance of modified duty.

#### **9.10.5 RETURNING TO FULL DUTY STATUS**

Prior to returning to full duty, an employee must present to the Human Resource Department an acceptable medical release or TWCC Work Status Report from his/her treating physician.

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 position with equivalent pay and benefits for which he/she is qualified to perform.

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 to determine if the employee is fully capable of performing his/her essential job functions, with or without accommodation. An employee who is found not to be able to perform his/her essential job functions, with or without accommodation or who poses a direct threat to health or safety that cannot be reduced or eliminated by reasonable accommodation will not be returned to duty.

An employee who is unable to return to work, and/or cannot perform the essential functions of his/her job with or without reasonable accommodations at the end of one year from the beginning of leave for the injury/illness will have his/her employment terminated.

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.

#### **9.10.6 SEPARATION OF EMPLOYMENT**

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 separated from employment based upon one or more of the following:

- A. Evidence that the employee will not be able to perform the essential functions of his/her job with or without reasonable accommodations within one year;
- B. An employee's refusal to participate in a rehabilitation program or failure to cooperate with rehabilitative efforts as directed by the treating physician;
- C. The conclusion of the one-year period as specified above;
- D. The employee's failure to follow established safety rules and regulations and/or City work rules and regulations;

- E. 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 per the timetable established in this policy, or upon request by the City;
- F. Falsification or misrepresentations made by the employee concerning his/her physical condition or capacity;
- G. The failure or refusal of the employee to return to regular duty on the date specified by the treating physician;
- H. The employee's failure to provide work status reports timely from the treating physician;
- I. 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 Department Director, after consultation with the Director of Human Resources and the City Attorney;
- J. The employee is found to be participating in any activity, including outside employment and/or self-employment that violates the medical restrictions; or
- K. The employee performs work for another employer or self-employment while on injury leave, disability leave or modified work assignment.

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## 9.11 FITNESS FOR DUTY EXAMS

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### 9.11.1 POLICY

The City endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, with or without reasonable accommodation.

### 9.11.2 MEDICAL EXAMS FOR CURRENT EMPLOYEES

The Director of Human Resources, or an employee's Department Director (with prior written approval of the Director of Human Resources) may require a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment, as may be necessary in order for the City to provide a reasonable accommodation; following an injury or accident; and as otherwise permitted in accordance with applicable laws.

Under certain circumstances (e.g. FMLA Certifications), Human Resources may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.

Civil Service employees are also covered by Civil Service law regarding fitness for duty.

### 9.11.3 RETURN TO WORK/FITNESS FOR DUTY

Before returning to work following a medical and/or psychological examination under this policy, the employee must coordinate his/her return through Human Resources. An employee who misses work due to medical reasons may be required to provide a fitness-for-duty certification before returning to work.

Time away from work undergoing a City mandated fitness for duty examination will normally be coded to paid administrative leave, but may be retroactively changed to sick leave, FMLA Leave and/or other leave as circumstances warrant.

## 10 WORK-LIFE CONCERNS

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### 10.1 SMOKING AND TOBACCO

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#### 10.1.1 POLICY

All City buildings, vehicles and work areas are tobacco-free environments. The use of tobacco products is prohibited inside any City building, vehicles or equipment being used for City purposes and in any public, work-related activity. Designated areas for the use of tobacco products outside of City facilities have been provided for employees.

The City maintains a smoke and tobacco-free workplace. No smoking or other use of tobacco or similar products, whether lit or not, (including, but not limited to, cigarettes, electronic cigarettes, pipes, cigars, snuff, dip, or chewing tobacco) is permitted at any point during a workday while in in any City facility or outdoor areas of the buildings, except as designated.

#### 10.1.2 DESIGNATED AREAS

During approved work breaks, employees may use the employee parking lot areas. Employees are not to leave cigarette butts or other traces of litter or tobacco use on the ground or anywhere else. Dispose of any litter properly in the receptacles provided for that purpose.

#### 10.1.3 INTERFERENCE WITH WORK

Employees shall not have the smell of tobacco smoke about their persons during work hours. In general, employees should not use or consume any substance, the effects or traces of which could interfere with the employee's presentation of a clean and professional appearance to the public.

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## 10.2 PERSONAL APPEARANCE/DRESS CODE

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#### 10.2.1 POLICY

All employees, regardless of work location and degree of public contact, are expected to dress appropriately and in good taste that is job appropriate. Hair should be clean, combed and neatly trimmed or arranged. All employees are expected to maintain a good general appearance at all times.

#### 10.2.2 APPLICATION

If an employee reports to work and is not dressed appropriately to perform the functions of the job, the immediate supervisor may send the employee home so they may dress in the appropriate attire for work. Non-exempt employees will not be paid for work time missed, and exempt employees will be required to make up the work time missed.

Employees who do not wear a uniform supplied by the City are expected to dress according to contemporary business standards.

The following are requirements of the City's dress code:

- A. Flip-flops (light sandal, typically of plastic or rubber, with a thong between the big and second toe) are not acceptable;

- B. Visible face piercing, other than ears, is not acceptable. Piercings may not be distracting or unsafe. Certain positions may prohibit wearing earrings, bracelet and necklaces due to safety concerns;
- C. Visible face tattoos are not acceptable. Any other visible tattoos must not display any picture or text that may be deemed offensive;
- D. T-shirts, unless approved for a City function or specifically approved by the appropriate Department Director as work assignments dictate, are not acceptable;
- E. Excessive perfume or cologne is not acceptable; and
- F. Police and Fire Departments may have additional requirements.

The City observes Casual Fridays where employees may dress in more casual attire while still observing all of the personal appearance/dress code requirements outlined above. Per each Department Director's approval, presentable jeans may be worn by non-uniform employees on Casual Fridays. The City Manager may also specifically designate other days that jeans may be worn by eligible employees on certain occasions during the year. Jeans should not include any kind of wording (other than the label), sparkles, rhinestones, holes, ragged bottoms, etc.

### **10.2.3 UNIFORMS**

The City provides Police, Fire, Public Works, Parks and other personnel with appropriate uniforms. Employees in jobs that require a uniform will be told how and where the uniforms may be worn and obtained. The City will provide replacement uniforms as necessary. Uniforms must be clean and neat. City-owned or authorized uniforms may not be used outside of work, for personal use or by any third party. City uniforms may not be worn for outside employment unless authorized by the Department Director.

When an employee terminates employment, uniforms and any other City equipment which the employee possesses must be returned in good condition before final pay will be authorized.

# 11 EMPLOYEE PERFORMANCE AND RECOGNITION

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## 11.1 DISCIPLINE SYSTEM

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### 11.1.1 POLICY

Disciplinary action will normally be the responsibility of the immediate supervisor and will be administered following review by the Department Director, the Director Human Resources and the City Manager. The objective of disciplinary action is not to inflict punishment but rather to improve behavior. An employee should be informed of the reason for discipline. When an offense takes place, records concerning the nature of the event, the participants and the circumstances will be established and maintained.

An employee of the City will be treated fairly, with respect and dignity at all times during the disciplinary process. Discipline, when necessary, will be administered consistently to the extent possible. However, each disciplinary action will be considered on a case-by-case basis considering the facts and circumstances surrounding the imposition of discipline and considering the employee's work performance and disciplinary history. Discipline, when necessary, will be imposed without regard to an employee's race, color, religion, national origin, sex, disability, or age.

An employee should be informed, not only of his/her position duties and responsibilities, but also the rules, regulations, procedures, etc. that he/she is to follow, what constitutes misconduct and the consequences of misconduct.

The timing of disciplinary action is important. It must be taken without undue delay, yet not until all relevant facts are gathered. In potentially serious incidents, suspension, which is not irrevocable, may be more advisable than discharge. At times a supervisor may use his/her authority to place an employee on administrative leave with pay or without pay pending an investigation or review of an infraction. Administrative leave is not considered a disciplinary action and is not appealable. Administrative leave with pay should normally not exceed thirty (30) days per investigation or inquiry.

Actions of an employee off the job should not be considered unless the action results in adverse performance by the employee or has a negative effect on the image of the City.

Disciplinary procedures for Civil Service employees will follow the procedures established by Chapter 143 of the Local Government Code.

### 11.1.2 DISCIPLINE PROCEDURE

The discipline procedure is not intended to create a contract, a property interest, or otherwise alter the City's status as an at-will employer. The procedures set forth below are guidelines and not intended to be mandatory. Each case will be decided on an individual basis taking into consideration relevant facts and situations.

### 11.1.3 SUPERVISOR/DEPARTMENT DIRECTOR DISCIPLINE PROCESS

- A. Investigate the alleged violations of City policies and/or misconduct on the part of the employee. Establish the relevant facts surrounding the incident(s) of misconduct including the "who, what, when, how and why" of each instance.
- B. Obtain the employee's account of the incident, including his prior knowledge of the rule, policy, etc. violated and his knowledge of the consequences of the violation.
- C. Interview other employees as necessary and obtain written statements as deemed appropriate.

- D. Analyze the data to determine what action should be taken. In this analysis, such factors should be considered as: the nature of the offense; whether the action was deliberate or accidental; the employee's past record and whether there were any extenuating circumstances.
- E. After consulting with the Department Director, and the Director of Human Resources, determine the degree of discipline to be administered. The City intends to address violations of the standards of conduct through progressive discipline. The City is not obligated to use all of the progressive disciplinary steps available to it, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following: oral warning, written reprimand, suspension (with or without pay), demotion or discharge.
- F. Progressive discipline means that, with respect to most disciplinary problems, an employee will normally be subject to a verbal warning, followed by a written warning, suspension, and then discharge from employment. Employees should recognize, however, that certain types of violations are serious enough to justify immediate suspension or even discharge of employment with no prior warning. By using progressive discipline, the City hopes that most employee problems can be corrected at an early stage benefiting both the employee and the City. The following steps may be taken:
  - a. A verbal reprimand will be given for infractions that if continued will result in further disciplinary action. A verbal reprimand will be in writing with the documentation included in the employee personnel file.
  - b. A written reprimand may be given when, in the supervisor's judgment, a written record of the offense is warranted. A written reprimand may be appropriate when an oral warning has had no effect and more severe action is required and also for first offenses of a more serious nature.
  - c. Suspension may be appropriate for a second offense or for a first offense of a serious nature (such as insubordination, dishonesty, or disruptive behavior) when the circumstances surrounding the incident do not justify discharge.
  - d. Disciplinary Demotion may be used in circumstances where it is determined that the employee can still make a positive contribution to the City, but not in the position currently held. A Disciplinary demotion requires the approval of the City Manager. An example would be where the behavior is caused by a lack of knowledge or skill.
  - e. Discharge is the final form of discipline. A discharge may be the direct result of a commission of a more serious offense or after an accumulation of multiple lesser offenses and failure of the employee to react positively to the corrective efforts of the supervisor. As stated in 11.1.3.(E), first offenses of a more serious nature will often lead to discharge.
- G. If the investigation reveals that the offense not only involves a breach of a rule or policy but also is a criminal offense, notify the Chief of Police immediately and proceed with normal disciplinary action.
- H. After appropriate disciplinary action has been determined, put the decision in writing, including: specifically, what the employee did, dates, places, the rules, regulations or orders that were violated, previous warnings given, the action being taken by the City, the effective dates, and the action that will be taken if the employee commits the offense again. Notify the employee of the action being taken and have the employee sign the document acknowledging that they have seen and understood it. Provide copies to the employee and the Human Resources Office.
- I. For cases other than discharge, inform the employee in writing of the grievance procedure that may be followed should they wish to protest the disciplinary action.
- J. In case of discharge an employee may appeal the decision within ten (10) working days by filing a written appeal to the City Manager. The City Manager shall meet with the employee and then render a final decision within ten (10) working days.

#### **11.1.4 EXAMPLES OF REASONS FOR DISCIPLINE**

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

- A. 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. Job abandonment (absence for three consecutive working days without providing notice);
  - g. Refusal or failure to respond to call back when an emergency has been declared; or
  - h. Other actions that constitute unsatisfactory attendance.
- B. Job Performance:
  - a. Neglect of duty;
  - b. Loafing;
  - c. Carelessness;
  - d. Lack of initiative;
  - e. Lack of cooperation;
  - f. Failure to remain at work station;
  - g. Sleeping or otherwise being inactive during working hours;
  - h. Inefficiency;
  - i. Performing or conducting personal business during working hours which interfere with job performance;
  - j. Abuse of eating and/or rest periods;
  - k. Interfering with work of others;
  - l. Discourteous treatment of the public or other employees; or
  - m. Other acts reflecting unsatisfactory job performance.
- C. Incompetence or Unsatisfactory Work Performance:
  - a. Inability to perform the duties of the job;
  - b. Inefficient or unproductive behavior;
  - c. Violation of departmental directives or 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;
  - k. Other acts reflecting incompetence or unsatisfactory work performance; or
  - l. Failure to maintain certification or license required by City job description and/or a governmental agency.
- D. Failing to Follow Instructions/ 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 internal investigations;
  - c. Acts of defiance towards a superior including, but not limited to, arguing about assignments, talking back, walking away from or ignoring superior while being addressed, or deliberate attempts to undermine or put the supervisor in a false light; or
  - d. Other acts that reflect the failure to follow instructions/insubordination.
- E. Violation of Safety Rules:
- a. Smoking in prohibited areas;
  - b. Unauthorized removal of safety guards, fire extinguishers, or other equipment designed to protect employees or equipment;
  - c. Failure to use safety equipment or to follow safety practices or rules;
  - d. Careless, neglectful, or improper use of tools or equipment;
  - e. Causing injury or damage to person or property through negligence or deliberate action;
  - f. Causing a chargeable accident or injury;
  - g. Failure to report maintenance deficiencies or properly maintain equipment;
  - h. Operating equipment in an unsafe manner;
  - i. Violation of traffic laws;
  - j. Violation of any of the policies and/or procedures of the City relating to on- the-job injuries or illness, regardless of the employee's eligibility for salary supplement including, but not limited to:
    - i. If an employee fails or refuses to comply with the instructions or advice of a treating physician to improve his/her condition;
    - ii. If an employee fails to keep the immediate supervisor informed on a weekly basis as to the status of the injury when off work; or
  - k. Other acts reflecting the violation of safety rules.
- F. Dishonesty:
- a. Stealing or taking City property or property of other employees without prior authorization;
  - b. Misuse of funds;
  - c. Misrepresentation or knowingly providing false information related to job duties;
  - 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 usurpation of authority, employee identification, or business card;
  - l. Duplication, removal, or destruction of documents or property without authorization;
  - m. Giving false or misleading statements and information on employment applications or in interviews; or
  - n. Other acts reflecting dishonesty.
- G. Conduct Prejudicial to Good Order:
- a. Fighting or 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 or lethal weapons on the job;



- f. Engaging in disruptive personal behavior;
  - g. Threatening another in a manner reasonably likely to cause the person to believe bodily injury will be inflicted on the person or a member of his family or friends or damage will be done to the person or person's family or friend's property;
  - h. Intentionally destroying or threatening destruction of City or another's property;
  - i. Making harassing or threatening phone calls to another;
  - j. Stalking or conducting unauthorized surveillance on another; or
  - k. Other acts reflecting conduct prejudicial to good order.
- H. Alcohol or Drugs:
- a. Violation of the City's Drug and Alcohol Free Workplace Policy including use of intoxicants or substances while on duty, or repeated off duty intoxication that affects at work performance.
- I. Unlawful Conduct:
- a. Commission of a Class A or B misdemeanor or a felony;
  - b. Engaging in any unlawful activity or actions showing lack of good moral character;
  - c. Indecent, provocative, or offensive behavior or any unlawful activities; or
  - d. Other acts of unlawful conduct.
- J. Conduct Inconsistent with Interests of the City of Athens:
- a. Any violation of the City Charter, Code of Ordinances, City and departmental policies and directives, Standards of Conduct, or other policies addressed in this manual;
  - b. Off duty violations of City codes and ordinances;
  - c. Actions which demonstrate disloyalty to the goals and objectives of the City;
  - d. Inciting or engaging in riots, strikes, job slowdowns, sick-outs, or other similar job actions; or
  - e. Other acts inconsistent with the interests of the City of Athens or that bring discredit on the City.
- K. Solicitation:
- a. Solicitation of funds or anything of value for personal profit from either employees or the public during work hours;
  - b. Solicitation of funds or anything of value from either employees or the public during work hours without prior authorization;
  - c. Solicitation of other employees for membership in employee organizations during work hours;
  - d. Using the City's name or position to promote personal business; or
  - e. Other acts of solicitation not consistent with the performance of work-related duties.
- L. Financial Obligations:
- a. Disruption in the workplace resulting from failure to pay just debts and obligations; or
  - b. Other types of neglect related to failure to pay financial obligations which disrupt the workplace.
- M. Personal Appearance:
- a. Failure to dress appropriately and in good taste in relation to assigned job duties; or
  - b. Failure or refusal to wear assigned uniforms in the manner prescribed.
- N. Acceptance of Gifts:
- a. Accepting significant gifts or gratuities from individuals or firms with which the City does business or an individual or firm seeking City business.
- O. Harassment:
- a. Violating the City's Harassment policy in any manner; or
  - b. Failure to cooperate in the conduct of an investigation of sexual harassment.
- P. Secondary Employment:

- a. Engaging in activities related to secondary employment during normal duty hours or perform secondary employment or activities related to secondary employment that would reflect unfavorably upon the City or impair performance of job duties;
  - b. Using City facilities, equipment, supplies, or time for engaging in secondary employment without written authorization from the City Manager; or
  - c. Using confidential or proprietary information gained during employment for personal profit or gain.
- Q. Dereliction of Duty:
- a. Failure to observe and comply with the policies of the organization;
  - b. Failure to report or document violations of policy or procedure; or
  - c. Other acts reflecting dereliction of duty.
- R. Electronic Surveillance, Eavesdropping and Unauthorized Tape Recording:
- a. Engaging in unauthorized electronic surveillance or eavesdropping, by use of an electronic recording device, of any communications between or among employees or elected representatives of the City of Athens; or
  - b. Other acts of unauthorized electronic surveillance or eavesdropping.

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## 11.2 PERFORMANCE EVALUATIONS

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### 11.2.1 POLICY

The City uses a thorough performance evaluation system for assisting supervisors in communicating job expectations, measuring the employee's level of past performance, recognizing employee achievements and exemplary performance, and strengthening the supervisor-employee relationship. The performance evaluation system provides necessary information for management decisions including career development and training, assignments, advancements, transfers, disciplinary actions, retention, compensation, etc. The purpose of the performance evaluation system as outlined herein is to achieve optimum employee performance resulting in outstanding citizen service.

### 11.2.2 SCHEDULE

Regular full and part-time employees hired are eligible for:

- A. A performance review before completing their orientation period; and
- B. Annual performance evaluation on their anniversary date.

Newly transferred and promoted employees who are serving their initial orientation period shall also receive a performance review prior to completing their orientation period. Anniversary dates will be adjusted to the date of transfer or promotion.

### 11.2.3 PROCEDURE

**Supervisory Responsibilities.** All performance evaluation information must be written where required and forwarded to the Director of Human Resources for retention in the employee's official personnel file. An evaluation is considered complete at the time the employee signs and dates the evaluation document or the supervisor and/or Department Director has a witness acknowledge the employee's refusal to sign the evaluation document.

Supervisors will strive to clearly communicate all elements of job performance, key result areas, performance standards, measures, goals, strengths and areas of development needed by completing all areas for comments. Each employee will sign and date a copy of the Performance Evaluation when it is reviewed, and the supervisor will forward a copy to the Director of Human Resources for filing in the employee's official personnel file and provide the employee a copy.

**Department Directors.** Department Directors are expected to ensure compliance with this policy and ensure that evaluating supervisors and managers under their direction are adequately trained in the performance evaluation process. Department Directors and/or mid-level managers are encouraged to review all Performance Evaluation documents for validity prior to the department supervisor conducting the performance evaluation with the affected employee, to correct any obvious errors or rating bias.

**Director of Human Resources Responsibilities.** The Director of Human Resources will review all evaluation documents for obvious errors and return them to the Department Directors for any clarifications or procedural corrections. The Director of Human Resources is responsible for maintaining original evaluation documents in official personnel files, and for timely processing of evaluations for any compensation due.

**Employee Responsibilities.** Employees are expected to be knowledgeable of their essential job functions and key result areas and maintain established performance standards and requirements as outlined. Employees are encouraged to address issues and concerns regarding their annual performance evaluation with their evaluating supervisor. If the employee is unable to resolve issues and concerns with the evaluating supervisor, the employee may address them with the Department Director

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## 11.3 EMPLOYEE RECOGNITION PROGRAMS

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### 11.3.1 SERVICE MILESTONES

The City will recognize employees who have reached a service milestone in their employment with the City on a quarterly basis providing recognition to those employees who have achieved service milestones of five year increments.

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## 11.4 GRIEVANCE PROCEDURE

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### 11.4.1 POLICY

The City's policies, rules and practices are designed to benefit both the employee and the organization. Supervisors and managers are responsible for applying and enforcing them consistently. An employee who believes he/she has been treated in a manner inconsistent with established policies, which has resulted in his/her personal harm, may question or challenge a decision or action through the City's grievance procedure. Items not subject to grievance include changes in administrative policy, rules or regulations, staffing levels, administrative job transfers or reassignments, changes in job duties or descriptions and involuntary termination. Complaints regarding employee classifications are appealable only through the employee's Department Director to the Director of Human Resources. Complaints regarding performance evaluation ratings are appealable only to the Department Director concerned. The grievance procedure is not intended to create a contract, a property interest, or otherwise alter the City's status as an at-will employer.

This grievance procedure applies to non-Civil Service employees. Civil Service employees are governed by procedures established by Chapter 143 of the Local Government Code.

## 11.4.2 PROCEDURES

The procedures set forth below are guidelines and not intended to be mandatory. Each case will be decided on an individual basis taking into consideration relevant facts and situations. A new employee not having completed the initial orientation period does not have access to the grievance procedure except in the case of a potential harassment or discrimination complaint. Employees may elect to provide representation if they so choose. The following is a suggested procedure:

- A. **Employee.** Present the grievance orally to your immediate supervisor and fully explain your complaint.
- B. **Supervisor.** Consider and investigate the grievance and provide a resolution to the grievance within two (2) working days.
- C. **Employee.** If the grievance is not resolved at the first step, submit a written grievance to the Department Director. For a grievance to be considered it must be filed within three (3) working days of receiving the supervisor's response.
- D. **Department Director.** Review the initial investigation of the supervisor and conduct additional investigation to determine the appropriate course of action. Respond to the grievance within (5) working days in writing.
- E. **Employee.** In the event the grievance is not settled in a satisfactory manner at the Department Director level, submit a copy of the grievance and the Department Director's reply to the Director of Human Resources, who will forward the written grievance to the City Manager. The employee must notify the Director of Human Resources within three (3) working days of receiving the response from the Department Director.
- F. **City Manager.** The City Manager will have ten (10) working days to review the grievance and previous responses. The decision of the City Manager will be final.

## 12 TECHNOLOGY

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### 12.1 TECHNOLOGY USE

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#### 12.1.1 POLICY

This directive is to ensure consistency in the use of technology resources throughout the City organization, as well as that all information technology systems and information is safe and secure and used in an efficient effective manner. Consistency and security in use will ensure the quality of electronic communications, enhance the efficiency of workflow, prevent copyright infringements, and support operational sustainability by reducing costs. This directive does not modify or replace any other laws, City policies, or directives related to Records Retention, HIPAA, PCI compliance, confidentiality, or privacy.

#### 12.1.2 DEFINITIONS

Technology: Any equipment, software, or access provided by the City of Athens for employee use including voice and data and related equipment and access.

#### 12.1.3 EMPLOYEE RESPONSIBILITIES

Technology provided by the City of Athens as a part of your employment must be used providing accountable and transparent stewardship of the resources entrusted to you as follows:

- A. Must not stream audio or video, install software, or download files except for City business use;
- B. Must not use in a manner that does not comply with City of Athens policies and directives;
- C. Must not be used for work outside of the City unless specifically authorized in writing. An example of authorized outside work is volunteer work for a professional organization which would be reviewed on a case by case basis;
- D. Use in any criminal activity is strictly prohibited;
- E. Must not attempt to circumvent auditing, security, or monitoring procedures and software, implemented by the City of Athens including technology service vendors or to access software or hardware that is not expressly granted;
- F. Must use a unique confidential password that meets current systems standards and not be shared with anyone. Employees are accountable for all activity that takes place under their individual login accounts.
- G. When possible, employees must use PIN or Password lock on all (personal and City provided) mobile devices used to access City of Athens network or email; and
- H. I. Must not purchase, install, or use technology for City business that has not been approved in advance by the City of Athens through established procedures and processes for procurement, use, and technology deployment.

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## 12.2 INTERNET AND EMAIL

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#### 12.2.1 POLICY

The purpose of this policy is to provide guidance to the employees regarding the use of the internet and e-mail. Access to electronic tools and communications are City resources, provided to enable employees to work more efficiently and effectively to conduct City business. Employees are to use email and the internet as they would any

other type of official communication or resource. As with all City resources, there is no expectation of privacy with regard to use or storage.

- A. All communications, electronic or otherwise, sent through, received or stored in the City's systems are the property of the City. Additionally, the City has the unilateral right to access all stored electronic communications. Access to the internet with the assistance of City owned equipment must be in compliance with this policy.
- B. The City retains the right to monitor all of its electronic communications systems at its discretion and as allowed by law. By using these systems, employees consent to monitoring by the City. Any information transmitted or stored on the City's equipment is public property and subject to disclosure and public access as provided by law.
- C. The City prohibits connections to sites that contain sexually explicit material or other material of an offensive nature unless it is directly related to job requirements.
- D. The City reserves the right to review or inspect City-owned computers, cell phones or other electronic devices, as indicated herein.
  - a. The content of files or data may be disclosed without the permission of the user. Users of City-owned equipment have no expectation of privacy with regard to use, email, or internet sites visited; and
  - b. Any and all internet traffic may be monitored and reviewed. Employees may not operate a business or conduct activity for personal gain on the Internet or on City equipment at any time.
- E. Employees shall not use equipment to attempt any unauthorized use, or interfere with other users' legitimate use of any internal or external computer.
- F. Employees are prohibited from creating, installing or distributing any type of computer virus of any kind.
- G. Specifically prohibited are the items identified below.
  - a. Sending messages containing offensive, abusive, threatening, or similar kinds of language inappropriate for the organization and/or inconsistent with City policies and procedures;
  - b. Using the system for illegal purposes or for using another person's e-mail account or identity without authorization;
  - c. Transmitting confidential information when not authorized to do so;
  - d. Obtaining unauthorized access to any technology system or device; and
  - e. Creating, sending or forwarding Internet or e-mail messages which are offensive, intimidating, harassing, disparaging or hostile on the basis of race, gender, color, religion, national origin, sexual orientation, disability, age, political beliefs, pregnancy or any legally protected status.

### **12.2.2 RETENTION OF E-MAIL**

Generally, e-mail messages are intended to be temporary communications that are non-vital and may be discarded routinely. However, depending on the content of the e-mail message, it may be considered a more formal record and should be retained pursuant to a department's record retention schedule. As such, these e-mails messages are similar to printed communication and should be written with the same care.

Employees should be aware that when they have deleted a message from their workstation mailbox, it might not have been deleted from the central e-mail system. The message may be stored on the computer's back-up system for an indefinite period. Note that e-mail has been classified as "public" documents, i.e. available to the media. Keep that in mind when you create or store e-mail.

### **12.2.3 APPLICABILITY TO EMPLOYEES, CONTRACTORS AND OTHER USES**

This e-mail policy applies to all employees, contractors, part-time employees, volunteers, and other individuals who are allowed access to the e-mail system. Supervisors or management may access an employee's e-mail if employees are on leave of absence, vacation, or are transferred from one department to another department and it is necessary for the City's business purpose.

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## 12.3 USE YOUR OWN DEVICES

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### 12.3.1 POLICY

The City recognizes that many employees bring mobile phones to work. Mobile phones may belong to the employee or be provided for the employee's use by the City. The use of these phones, including those with cameras and video, must not interfere with job duties or performance. As with desk phones, employees must not allow excessive or loud phone use to become disruptive or interfere with their own or someone else's ability to do their jobs.

To ensure network security and availability of adequate resources employees shall not use City provided devices to access social media web-sites. Use of an employee's own electronic device to access social media during working hours should be restricted to meal and rest breaks.

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## 12.4 WORK FROM HOME

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### 12.4.1 POLICY

It is the policy of the City of Athens that all positions require the employee to be in the workplace in order for the work to be performed efficiently and effectively. The City acknowledges that there are circumstances where it is in the best interest of the City to allow an employee to work from home. The Department Director must review and approve any requests to work from home, either by the City or the employee. Requests involving more than 1 day require the approval of the City Manager.

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## 12.5 CELL PHONES

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### 12.5.1 POLICY

The City of Athens provides certain employees with cell phone allowances or cell phones to improve customer service and to enhance business efficiencies. City supplied cell phones are the property of the City of Athens and are to be used for business purposes in serving the interests of the City, and of our customers and citizens in the course of normal operations. It is the responsibility of each cell phone user to know these guidelines, and to conduct their activities accordingly.

### 12.5.2 PURPOSE

The purpose of this policy is to provide guidelines for the issues relating to cell phone allowances and proper use of cellular telephones. These rules are in place to protect the employees and the City of Athens. Inappropriate use exposes the City of Athens to risks including legal issues.

### **12.5.3 SCOPE**

This policy applies to employees, contractors, consultants, temporaries and other workers at the City of Athens who are issued a City provided cell phone. This policy applies to all cell phone equipment that is owned or leased by the City of Athens.

### **12.5.4 GENERAL USE**

- A. Cellular phones are used to improve customer service and to enhance business efficiencies. Cell phones shall not be a primary mode of communication, unless they are the most cost-effective means to conduct City business.
- B. Employees shall exercise extreme caution when driving and talking on a cell phone. Unless utilizing a "hands-free" speakerphone option, employees should stop their vehicle as soon as safely possible, to use cell phones.
- C. All cell phone allowance and cell phone requests must be approved by the appropriate Department Director or next level Manager. No employee may approve his/her own cell phone service plan.
- D. Payment for all monthly cell phone statements are the responsibility of the cell phone owner unless it is a City provided cell phone.
- E. If the City provided cell phone contract is based on minutes used, a minimal plan shall be utilized. Written justification signed by the Department Director must accompany phone requests for any larger use plans. This will be monitored by the Finance Department for compliance once per year or more often as necessary. Monthly bills will be charged to department accounts. The smallest plan available that accommodates the business need shall be utilized.
- F. Employees are advised that records related to calls made on City owned cell phones are public information. Information related to telephone numbers called, time and date, and length of calls ordinarily may be obtained through the Open Records Act except in narrowly defined circumstances. Employees are advised, and should be aware of the fact that cellular calls are not secure and can be monitored. It is a crime for a third party to intentionally monitor cellular phone conversations without the consent of one of the parties to the conversation. A party to the conversation can legally monitor or record the conversation.

### **12.5.5 CELL PHONE ALLOWANCES**

A cell phone allowance must be approved by the City Manager. All phone use options provide a monthly allowance as set by the City Manager and is based on average minimum use plans currently offered by the vendor. The allowances will be reviewed annually and adjusted as necessary to reflect current plan rates.

If receiving a cell phone allowance, penalty for failure to keep his/her personal cell phone active will be determined by the Department Director.

Cell phone allowances are considered compensation and subject to payroll tax laws.

Employees are advised that records related to calls made on cell phones that are reimbursed by the City through a cell phone allowance are public information. Information related to telephone numbers called, time and date, and length of calls ordinarily may be obtained through the Open Records Act except in narrowly defined circumstances. Employees are advised, and should be aware of the fact that cellular calls are not secure and can be monitored. It is a crime for a third party to intentionally monitor cellular phone conversations without the consent of one of the parties to the conversation. A party to the conversation can legally monitor or record the conversation.



Cell Phone Allowance Program:

Plan Type	Description	Amount
<b>Tier 1 Low</b>	Basic Cellular Phone – Low Usage	\$15.00
<b>Tier 2 High</b>	Intermediate Cellular Phone – High Usage	\$30.00
<b>Tier 3 PDA/Data</b>	Advanced Cellular Phone – PDA/DATA	\$60.00

### **12.5.6 ENFORCEMENT**

Possessing a City provided cell phone is a privilege and all employees are expected to use it responsibly. The City will seek restitution for any inappropriate charges. Misuse of cell phones will result in revocation and possible disciplinary action up to and including discharge and/or criminal charges.

## 13 END OF EMPLOYMENT

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### 13.1 RESIGNATION

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#### 13.1.1 WRITTEN RESIGNATION

An employee who intends to resign shall notify their Department Director and/or the Human Resources Department in writing at least 2 weeks prior to the last day of work. Employees who fail to give and complete a two-week notice are typically not eligible for rehire.

#### 13.1.2 NOTIFICATION TO HUMAN RESOURCES DEPARTMENT

The supervisor is responsible for immediately notifying the Director of Human Resources.

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### 13.2 JOB ABANDONMENT

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#### 13.2.1 POLICY

When an employee fails to properly notify the City of an absence from work or if an employee is absent without authorization and/or notification for three or more consecutive days, the City will normally consider the employee to have abandoned employment, and the employee will be terminated.

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### 13.3 REDUCTION IN FORCE (RIF)

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#### 13.3.1 REDUCTIONS-IN FORCE/REORGANIZATION

An employee may be separated from City service when it is deemed necessary due to a shortage of funds or work, the abolition of the position, or other material change in the duties of the organization, or for other reasons which are outside the employee's control and which do not reflect discredit upon the service of the employee.

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### 13.4 EXIT PROCESSING

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#### 13.4.1 POLICY

The immediate supervisor and Department Director will complete the Personnel Data form and submit it to the Human Resources Department.

#### 13.4.2 EXIT INTERVIEW

For voluntary separations, the Human Resources Department may schedule and conduct an exit interview with the separating employee on the employee's last workday or other date as mutually agreed upon.

#### 13.4.3 FINAL PAY CHECK

The employee's supervisor shall inform the Human Resources Department that final paycheck may be released to terminating employee after all property such as uniforms, beepers, keys, identification cards, purchasing cards, etc.

have been returned to the City. If City equipment is not returned, a deduction will be made from the employee's final paycheck for the value of the property.

#### **13.4.4 EMPLOYEE BENEFITS AFFECTED BY SEPARATION**

- A. All vacation and compensatory time will be paid with the last pay check.
- B. Accrued sick leave is not compensable upon termination except as provided under Chapter 143 of the Local Government Code for civil service employees.
- C. Continuation of health care coverage is afforded the terminating employee and any spouse or dependents at that individual's expense.
- D. Certain insurance coverages are available for conversion at insured's expense.

#### **13.4.5 PARTIAL WORKWEEK**

Exempt employees who work less than 40 hours during their first or last week of employment will be paid a proportionate part of their full salary for the time actually worked.

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### **13.5 INVOLUNTARY SEPARATIONS**

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#### **13.5.1 POLICY**

The City may terminate an employee's employment as a result of unsatisfactory performance or conduct, violation of the City Charter, City policies or procedures, or failure to successfully complete the probation period. This list is not all inclusive and can include any legal reason for termination. City employees who are dismissed or terminated, or who resign in lieu of termination, due to unsatisfactory performance, pending results of an investigation, conduct or violation of City policies or procedures, are not eligible for rehire. Nothing in this paragraph should be considered an erosion of the City's At-Will policy.

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### **13.6 RETIREMENT**

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#### **13.6.1 POLICY**

The City defines a retiree as an employee who meets the criteria established by the Texas Municipal Retirement System. An employee who intends to retire is requested to notify the Department Director, supervisor and the Director of Human Resources 30 days prior to the date of retirement to ensure that all required paperwork is timely prepared and submitted to TMRS. The TMRS application for retirement must be in the TMRS office 30 days prior to the effective date of retirement.

#### **13.6.2 PAYMENT FOR LEAVE**

Retiring employees are eligible for payment of some or all accrued vacation and compensatory leave per the vacation and compensatory time policies.

#### **13.6.3 INSURANCE AT RETIREMENT**

Employees who retire on or after October 1, 2017, may make a one-time election to continue health insurance coverage, at group rates, at their expense, except for those retirees under Administrative Directive 8.8. Such coverage for health benefits will cease at age 65. Other coverages may be continued through COBRA.

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## 13.7 REFERENCES

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### 13.7.1 POLICY

The City's policy regarding references is for all requests for references be forwarded to the Human Resources Department. The City policy is to provide neutral references for former employees, regardless of the reason for his/her departure. Neutral references consist of confirmation of hiring date, termination date, position(s) held, and salary. Employees shall not respond to inquiries and/or references concerning another employee and/or a former employee.

Department Directors, or his/her designee who are statutorily required to respond to inquiries regarding former employees are authorized to fulfill those required responsibilities. In these instances, a signed authorization from the former employee should be obtained in advance.