



**NOTICE OF WORK SESSION AGENDA
LANCASTER CITY COUNCIL
JAMES R. WILLIAMS PUMP STATION
TRAINING ROOM, 1999 JEFFERSON, LANCASTER, TEXAS**



Monday, April 17, 2017 - 7:00 PM

CALL TO ORDER

Regular Items:

1. Discuss and receive a presentation regarding a citywide smoking ordinance.
2. Receive a presentation regarding the 2016 Racial Profiling Analysis Annual Report.
3. Discuss and consider amending Chapter 3 Article 3.800, "Fence Regulations" of the Lancaster Code of Ordinances to remove 8 ft. fences with the exception of the side or back of a property that faces a major thoroughfare or intense commercial use and amending Chapter 3.16 Fence and Site Elements of the Lancaster Historic Residential Design Guidelines requiring fences in the historic district to reflect the structures historic time period.
4. Discuss City Travel Policy and determine if the City Council shall adopt a policy and guidelines for Council travel.
5. Discuss whether or not the staff should bring a resolution to the City Council to direct the Planning and Zoning Commission to hold a public hearing and make a recommendation to City Council to amend Section 14.505 of the Lancaster Development Code (LDC) to permit tilt-up wall construction as a matter of right in an industrial zoned district.
6. Discuss and receive a presentation regarding the property located at 607 E. Main Street.
7. Receive a presentation and discuss the Quarterly Financial Report for the second quarter of FY 2016/2017 for the period ending March 31, 2017.
8. Discuss the Report of City Council Five Year Goals and Strategies established during the annual City Council Strategic Planning Session in June 2016 for the second quarter of FY 2016/2017.

ADJOURNMENT

EXECUTIVE SESSION: The City Council reserve the right to convene into executive session on any posted agenda item pursuant to Section 551.071(2) of the Texas Government Code to seek legal advice concerning such subject.

ACCESSIBILITY STATEMENT: Meetings of the City Council are held in municipal facilities are wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be made to assist your needs.

PURSUANT TO SECTION 30.06 PENAL CODE (TRESPASS BY HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.

CONFORME A LA SECCION 30.06 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO 411, CODIGO DEL GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO OCULTADA.

PURSUANT TO SECTION 30.07 PENAL CODE (TRESPASS BY HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY.

CONFORME A LA SECCION 30.07 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO AL AIRE LIBRE CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO H, CAPITULO 411, CODIGO DE GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO AL AIRE LIBRE.

Certificate

I hereby certify the above Notice of Meeting was posted at the Lancaster City Hall on April 13, 2017 @ 5:00 p.m. and copies thereof were provided to the Mayor, Mayor Pro-Tempore, Deputy Mayor Pro-Tempore and Council members.



Sorangel O. Arenas
City Secretary

LANCASTER CITY COUNCIL

City Council Work Session

1.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Healthy, Safe & Vibrant Community

Submitted by: Rona Stringfellow, Assistant City Manager

Agenda Caption:

Discuss and receive a presentation regarding a citywide smoking ordinance.

Background:

As prescribed in the City Council Rules and Procedures as amended in September 2016, Section D. City Council Agenda Process, Subsection 1.b. Mayor Marcus Knight, Deputy Mayor Pro Tem Stanley Jaglowski, and Councilmember Marco Mejia requested an item be included on the agenda for the purpose of reviewing and discussing the smoking regulations that exist in the Lancaster Code of Ordinances.

Currently, the Lancaster Code of Ordinances prohibits smoking in certain public areas. Listed below is the section relevant to smoking:

Sec. 14.05.003 Smoking prohibited in certain public areas

- (a) A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in any of the following indoor or enclosed areas:
- (1) A public primary or secondary school, other than in a lounge or restroom designated expressly for the use of teachers and/or school administrators;
 - (2) A public library or museum;
 - (3) Hearing rooms, conference rooms, meeting rooms or any public service area of any facility owned, operated or managed by the city in which public business is conducted, when the public business requires or provides an opportunity for direct participation or observation by the general public;
 - (4) Every publicly or privately owned theater, auditorium or other enclosed facility which is open to the public for the primary purpose of exhibiting any motion picture, stage drama, musical recital, athletic event or any other performance or event, in all areas except either in that area commonly known as the lobby, or in areas not open to the public;
 - (5) An elevator used by the public; or
 - (6) Any retail or service establishment serving the general public, including but not limited to any department store, grocery store or drugstore.
- (b) The owner or person in control of an establishment or area designated in subsection (a) of this section shall post a conspicuous sign at the main entrance to the establishment which shall contain the words "No Smoking, City of Lancaster Ordinance No. 15-88."
- (c) It shall be a defense to prosecution under this section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited and that an offense is punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this code.
- (d) It shall also be a defense to prosecution under this section that the facilities for the extinguishment

of smoking materials were not located within the conveyance or public place, or within twenty (20) feet of the entrance to the public place within which the offense takes place.

Operational Considerations:

Attached are ordinances from surrounding municipalities (DeSoto, Duncanville, Red Oak, Coppell and Waxahachie) for the City Council to review.

The City of Desoto adopted their ordinance in September 2015. It defined public places upon which smoking is not allowed as well as addressed e-cigarrete, e-cigar, e-pipe, e-hookah, or vape pen etc. This ordinance updated the use list of prohibited places both inside and outside; it defined where smoking is not regulated and lastly, it outlined enforcement. This ordinance followed the model ordinance provided by the Smoke Free Texas organization.

The City of Duncanville adopted their ordinance in January 2016. It defined public places upon which smoking is not allowed as well as addressed e-cigarrete, e-cigar, e-pipe, e-hookah, or vape pen etc. This ordinance updated the use list of prohibited places both inside and outside; it defined where smoking is not regulated and lastly, it outlined enforcement. The City worked with Smoke Free Texas to adopt the model ordinance that most Texas cities are following.

The City of Red Oak adopted their policy in December of 2015, following the same model ordinance.

The City of Coppell updated their ordinance in September of 2016 to define and include e-cigarrettes. It appears to follow the model ordinance from Smoke Free Texas.

The City of Waxahachie adopted their ordinance in September of 2014. They too followed the model ordinance from Smoke Free Texas.

City Council will receive a presentation from staff and a representative from Smoke Free Texas.

Recommendation:

There is no recommendation at this time. Staff is seeking direction on moving forward with a more comprehensive Smoking ordinance, should the City Council so choose.

Attachments

Lancaster-Smoking Ordinance
DeSoto-Smoke Free Ordinance
Duncanville-Smoke Free Ordinance
Red Oak-Smoke Free Ordinance
Coppell-Smoke Free Ordinance
Coppell-Smoke Free Memo
Waxahachie-Smoke Free Ordinance
Model Ordinance



Sec. 14.05.003 Smoking prohibited in certain public areas

(a) A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in any of the following indoor or enclosed areas:

- (1) A public primary or secondary school, other than in a lounge or restroom designated expressly for the use of teachers and/or school administrators;
- (2) A public library or museum;
- (3) Hearing rooms, conference rooms, meeting rooms or any public service area of any facility owned, operated or managed by the city in which public business is conducted, when the public business requires or provides an opportunity for direct participation or observation by the general public;
- (4) Every publicly or privately owned theater, auditorium or other enclosed facility which is open to the public for the primary purpose of exhibiting any motion picture, stage drama, musical recital, athletic event or any other performance or event, in all areas except either in that area commonly known as the lobby, or in areas not open to the public;
- (5) An elevator used by the public; or
- (6) Any retail or service establishment serving the general public, including but not limited to any department store, grocery store or drugstore.

(b) The owner or person in control of an establishment or area designated in subsection (a) of this section shall post a conspicuous sign at the main entrance to the establishment which shall contain the words "No Smoking, City of Lancaster Ordinance No. 15-88."

(c) It shall be a defense to prosecution under this section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited and that an offense is punishable by a fine in accordance with the general penalty provision found in [section 1.01.009](#) of this code.

(d) It shall also be a defense to prosecution under this section that the facilities for the extinguishment of smoking materials were not located within the conveyance or public place, or within twenty (20) feet of the entrance to the public place within which the offense takes place.

ORDINANCE

AN ORDINANCE OF THE CITY OF DESOTO, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 6 TITLED "HEALTH AND SANITATION" BY AMENDING ARTICLE 6.700 TITLED "SMOKING" SETTING FORTH REGULATIONS PROHIBITING SMOKING IN ALL WORKPLACES AND PUBLIC PLACES LOCATED WITHIN THE CITY; PROVIDING REGULATIONS FOR ELECTRONIC CIGARETTES AND LIQUID NICOTINE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE AND PROVIDING FOR AN EFFECTIVE DATE OF JANUARY 1, 2016.

WHEREAS, the 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry. According to the 2010 U.S. Surgeon General's Report, *How Tobacco Smoke Causes Disease*, even occasional exposure to secondhand smoke is harmful and low levels of exposure to secondhand tobacco smoke lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke. According to the 2014 U.S. Surgeon General's Report, *The Health Consequences of Smoking—50 Years of Progress*, secondhand smoke exposure causes stroke in nonsmokers. The report also found that since the 1964 Surgeon General's Report on Smoking and Health, 2.5 million nonsmokers have died from diseases caused by tobacco smoke; and

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually; and

WHEREAS, the Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen; and

WHEREAS, there is indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke; and

WHEREAS, in reviewing 11 studies concluding that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smokefree laws, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smokefree laws reduce heart attacks; and

WHEREAS, a significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function; and

WHEREAS, secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. The Americans with Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability; and

WHEREAS, the U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking; and

WHEREAS, given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety; and

WHEREAS, residual tobacco contamination, or "thirdhand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after

smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds. Tobacco residue is noticeably present in dust throughout places where smoking has occurred. Given the rapid sorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, this recently identified process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion. The dangers of residual tobacco contamination are present in hotels, even in nonsmoking rooms. Compared with hotels that are completely smokefree, surface nicotine and air 3EP are elevated in nonsmoking and smoking rooms of hotels that allow smoking. Air nicotine levels in smoking rooms are significantly higher than those in nonsmoking rooms of hotels that do and do not completely prohibit smoking. Hallway surfaces outside of smoking rooms also show higher levels of nicotine than those outside of nonsmoking rooms. Partial smoking restrictions in hotels do not protect non-smoking guests from exposure to tobacco smoke and tobacco-specific carcinogens; and

WHEREAS, unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or “e-cigarettes,” closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of electronic cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA’s testing also suggested that “quality control processes used to manufacture these products are inconsistent or non-existent.” According to a more recent study, electronic cigarette emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke. Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions. The World Health Organization (WHO) recommends that electronic smoking devices not be used indoors, especially in smokefree environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws; and

WHEREAS, the Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity; and

WHEREAS, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree.

Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety; and

WHEREAS, there is no legal or constitutional “right to smoke.” Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous; and

WHEREAS, smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses; and

WHEREAS, the smoking of tobacco, hookahs, or marijuana and the use of electronic cigarettes are forms of air pollution and constitute both a danger to health and a material public nuisance; and

WHEREAS, accordingly, the Desoto, Texas City Council finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESOTO, TEXAS:

SECTION 1. That the City of DeSoto Code of Ordinances is amended by amending Chapter 6 titled “Health and Sanitation” by amending Article 6.700 titled “Smoking”, to read as follows:

“CHAPTER 6

HEALTH AND SANITATION

...

ARTICLE 6.700 SMOKING

...

Sec. 6.701 Short Title

This article shall hereafter be known and cited as the “Smokefree Air Ordinance of 2015.”

Sec. 6.702 Definitions

For purposes of this article, the following words and phrases have the meanings ascribed to them in this article:

Bar. Means an establishment which has more than fifty-one (51) percent of its annual gross sales from alcoholic beverages and which is devoted to the serving of alcoholic beverages pursuant to the Texas Alcoholic Beverage Code for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages and where minors are not allowed admittance unless accompanied by a parent or legal guardian. Food establishments that contain a bar are not considered a "bar."

Business. Means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

Electronic or Digital Smoking Device. Means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

Employee. Means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

Employer. Means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed Area. Means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

Health Care Facility. Means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists

within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Place of Employment. Means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.

Playground. Means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on city grounds.

Private Club. Means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

Public Event. Means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers’ markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.

Public Place. Means an area to which the public is invited or in which the public is permitted, including but not limited to, bars, educational facilities, financial institutions, gaming facilities, health care facilities, hotels and motels, laundromats, parking structures, public transportation vehicles and facilities to include all ticketing, boarding, and waiting area, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

Recreational Area. Means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, fairgrounds, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.

Restaurant. Means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or

offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

Retail Electronic Smoking Device Store. Means a store used primarily for the sale of electronic or digital cigarettes or substances used in those or similar devices to produce inhalable vapors and in which the sale of other products is incidental and where 80% of quarterly sales are from the sale of these devices and/or substances.

Retail Tobacco Store or Tobacco Store. Means a retail store where 75% of quarterly sales are from tobacco products and accessories, to include electronic or digital cigarettes, and in which the sale of other products is merely incidental.

Service Line. Means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

Shopping Mall. Means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking. Means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Sports Arena. Means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

Sec. 6.703 Application of Article to City-Owned Facilities and Property

All enclosed areas, including buildings and vehicles owned, leased, or operated by the city, as well as all outdoor property adjacent to such buildings and under the control of the city, shall be subject to the provisions of this article.

Sec. 6.704 Prohibition of Smoking in Enclosed Public Places

(a) Smoking shall be prohibited in all enclosed public places within the city, including but not limited to, the following places:

- (1) galleries, libraries, and museums;

- (2) areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, financial institutions, laundromats, professional offices, and retail service establishments;
- (3) child care and adult day care facilities;
- (4) convention facilities and meeting areas;
- (5) educational facilities, both public and private;
- (6) elevators and escalators;
- (7) gaming facilities, including but not limited to bowling and billiard facilities;
- (8) health care facilities;
- (9) hotels and motels;
- (10) lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, nursing homes, assisted living and independent living facilities, and other multiple-unit residential facilities;
- (11) parking structures;
- (12) polling places;
- (13) private and semi-private rooms in nursing homes;
- (14) public transportation vehicles, including buses and taxicabs, under the authority of the city, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;
- (15) restaurants and bars;
- (16) restrooms, lobbies, reception areas, hallways, and other common-use areas;
- (17) retail stores, except as provided in Section 6.709(4);
- (18) rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the city;
- (19) service lines;

- (20) shopping malls;
- (21) sports arenas, including enclosed places in outdoor arenas; and
- (22) theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 6.705 Prohibition of Smoking in Enclosed Places of Employment

(a) Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

(b) This prohibition on smoking shall be communicated to all existing employees by the effective date of this article and to all prospective employees upon their application for employment.

Sec. 6.706 Prohibition of Smoking in Private Clubs

Smoking shall be prohibited in all private clubs.

Sec. 6.707 Prohibition of Smoking in Enclosed Residential Facilities

(a) Smoking shall be prohibited in the following enclosed residential facilities:

- (1) all private and semi-private rooms in nursing homes; and
- (2) all hotel and motel guest rooms.

Sec. 6.708 Prohibition of Smoking in Outdoor Public Places

(a) Smoking shall be prohibited in the following outdoor places:

- (1) within a reasonable distance of 50 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas;
- (2) on all outdoor property that is adjacent to buildings owned, leased, or operated by the city, and that is under the control of the city;
- (3) in, and within 50 feet of, outdoor seating or serving areas of restaurants and bars;
- (4) in outdoor shopping malls, including parking structures;

- (5) in all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 50 feet of, bleachers and grandstands for use by spectators at sporting and other public events.
- (6) in outdoor recreational areas, including parking lots;
- (7) in, and within 50 feet of, all outdoor playgrounds;
- (8) in, and within 50 feet of, all outdoor public events;
- (9) in, and within 50 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the city;
- (10) in all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 50 feet of the point of service; and
- (11) in outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 50 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

Sec. 6.709 Where Smoking Not Regulated

(a) Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from provisions of this article:

- (1) private residences, unless used as a childcare, adult day care, or health care facility;
- (2) private automobiles;
- (3) Cigar Lounge, as defined in the Comprehensive Zoning Ordinance; and
- (4) Retail Tobacco Stores and Retail Electronic Smoking Device Stores for sampling of the products sold in such stores, so long as such smoking does not cause smoke or aerosol/"vapor" to cross into other areas where smoking is not allowed.

Sec. 6.710 Declaration of Establishment or Outdoor Area as Nonsmoking

Notwithstanding any other provision of this article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 6.711 is posted.

Sec. 6.711 Posting of Signs and Removal of Ashtrays

(a) The owner, operator, manager, or other person in control of a place of employment, public place, private club, or residential facility where smoking is prohibited by this article shall:

- (1) clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place;
- (2) clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited or, in the case of outdoor places, clearly and conspicuously post "No Smoking" signs in appropriate locations as determined by the city health inspector or an authorized designee;
- (3) clearly and conspicuously post on every vehicle that constitutes a place of employment under this article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited;
- (4) remove all ashtrays from any area where smoking is prohibited by this article, except for ashtrays displayed for sale and not for use on the premises.

Sec. 6.712 Nonretaliation; Nonwaiver of Rights

(a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this article. Notwithstanding Section 6.716, violation of this subsection shall be a misdemeanor, punishable by a fine not to exceed \$2,000 for each violation.

(b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 6.713 Possession, Purchase, Consumption or Receipt of Electronic Cigarettes or E-Cigarettes and/or Liquid Nicotine by Minors Prohibited

(a) A person who is younger than eighteen (18) years of age commits an offense if the individual:

- (1) possesses, purchases, consumes or accepts an electronic cigarette, e-cigarette or liquid nicotine; or
- (2) falsely represents himself or herself to be eighteen (18) years of age or older by displaying proof of age that is false, fraudulent or not actually proof of the individual's own age in order to obtain possession of, purchase or receive an electronic cigarette, e-cigarette or liquid nicotine.

(b) It shall be a defense to prosecution for a violation of this Section if the individual younger than eighteen (18) years of age possessed the electronic cigarette, e-cigarette or liquid nicotine in the presence of:

- (1) an adult parent, a guardian or a spouse of the individual; or
- (2) an employer of the individual, if possession or receipt of the electronic cigarette, e-cigarette or liquid nicotine is required in the performance of the employee's duties as an employee.

(c) It shall also be a defense to prosecution for a violation of this section that the individual younger than eighteen (18) years of age is participating in an inspection or test of compliance in accordance with Section 161.088, Health and Safety Code.

Sec. 6.714 Sale of Electronic Cigarette or E-Cigarette or Liquid Nicotine to Persons Younger than Eighteen Years of Age Prohibited; Proof of Age Required

(a) A person or retailer commits an offense if the person or retailer with criminal negligence:

1. sells, gives or causes to be sold or given an electronic cigarette or e-cigarette or liquid nicotine to someone who is younger than eighteen (18) years of age; or
2. sells, gives or causes to be sold or given an electronic cigarette or e-cigarette or liquid nicotine to another person who intends to deliver it to someone who is younger than eighteen (18) years of age.

(b) If an offense under this section occurs in connection with a sale by an employee of the owner of a store in which electronic cigarettes, e-cigarettes and/or liquid nicotine

is/are sold at retail, the employee is criminally responsible for the offense and is subject to prosecution.

(c) It is a defense to prosecution under subsection (a)(1) that the person to whom the electronic cigarette, e-cigarette or liquid nicotine was sold or given presented to the defendant apparently valid proof of identification.

(d) A proof of identification satisfies the requirements of subsection if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is eighteen (18) years of age or older and was issued by a governmental agency. The proof of identification may include a driver's license issued by this state or another state, a passport or an identification card issued by a state or the federal government.

Sec. 6.715 Enforcement

(a) This article shall be enforced by the city health inspector or an authorized designee.

(b) Notice of the provisions of this article shall be given to all applicants for a certificate of occupancy in the city.

(c) Any citizen who desires to register a complaint under this article may initiate enforcement with the city health inspector or an authorized designee.

(d) The health department or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.

(e) An owner, manager, operator, or employee of an area regulated by this article shall direct a person who is smoking in violation of this article to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

(f) Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article.

(g) In addition to the remedies provided by the provisions of this section, the city health inspector or authorized designee or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Sec. 6.716 Violations and Penalties

- (a) A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not to exceed \$2,000 for each violation.
- (b) Except as otherwise provided in Section 6.705, a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by a fine not to exceed \$2,000 for each violation.
- (c) In addition to the fines established by this Section, violation of this article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation by the city health inspector, or an authorized designee, of any permit or license issued to the person for the premises on which the violation occurred.
- (d) Violation of this article is hereby declared to be a public nuisance, which may be abated by the city health inspector or authorized designee by restraining order, preliminary and permanent injunction, or other means provided for by law, and the city may take action to recover the costs of the nuisance abatement.
- (e) Each day on which a violation of this article occurs shall be considered a separate and distinct violation."

SECTION 2. That all provisions of the ordinances of the City of DeSoto in conflict with the provisions of this Ordinance be and the same are hereby, repealed, and all other provisions of the Ordinances of the City of DeSoto not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part thereof decided to be unconstitutional, illegal, or invalid.

SECTION 4. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Ordinances of the City of DeSoto, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction in the municipal court shall be punished by a fine not to exceed the sum of Two Thousand Dollars for each offense,

and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. This Ordinance shall take effect January 1, 2016.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DESOTO, TEXAS ON THIS THE 1ST DAY OF SEPTEMBER, 2015.

APPROVED:



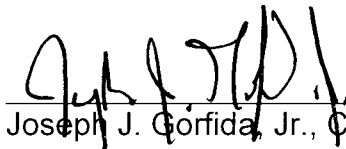
Carl O. Sherman, Mayor

ATTEST:



Kisha R. Morris, City Secretary

APPROVED AS TO FORM:



Joseph J. Gorfida, Jr., City Attorney



AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS

ORDINANCE NO. 2263

AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS AMENDING THE CODE OF ORDINANCES BY REPEALING ARTICLE I OF CHAPTER 16B IN ITS ENTIRETY AND REPLACING IT WITH A **NEW ARTICLE I, "SMOKING REGULATED"** BY PROVIDING FOR PROHIBITION OF SMOKING IN ENCLOSED BUILDINGS, PLACES OF EMPLOYMENT, PRIVATE CLUBS, RESTAURANTS; PROVIDING FOR PROHIBITION OF SMOKING IN CERTAIN OUTDOOR AREAS; PROVIDING AN EXEMPTION; PROVIDING FOR REGULATION OF POSSESSION, PURCHASE OR CONSUMPTION OF TOBACCO OR NICOTINE; PROVIDING FOR EXCEPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES FOR PERSONS SMOKING NOT TO EXCEED \$500.00; PROVIDING FOR PENALTIES FOR BUSINESS OR ESTABLISHMENTS NOT TO EXCEED \$2,000.00; BY PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of DUNCANVILLE does hereby find that secondhand smoke exposure causes disease and premature death in children and adults who do not smoke, and children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children;

WHEREAS, exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer;

WHEREAS, there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services.)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF DUNCANVILLE, DALLAS COUNTY, TEXAS, THAT:

SECTION 1. The Duncanville Code of Ordinances, Chapter 16B, "Smoking" Article I – III are hereby repealed in their entirety and are amended to add a new Article 16B, "Smoking", Article I, "Smoking Regulated" which shall read as follows:

**"CHAPTER 16B
SMOKING**

.....

ARTICLE I. - Smoking Regulated

Sec. 16B-1 Short Title

This article shall hereafter be known and cited as the "Smoke-free air ordinance of 2016."

Sec. 16B-2 Definitions

For purposes of this article, the following words and phrases have the meanings ascribed to them in this article:

Bar means an establishment which has more than fifty-one (51) percent of its annual gross sales from alcoholic beverages and which is devoted to the serving of alcoholic beverages pursuant to the Texas Alcoholic Beverage Code for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages and where minors are not allowed admittance unless accompanied by a parent or legal guardian. Food establishments that contain a bar are not considered a "bar."

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

Electronic or Digital Smoking Device means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity.

Employer means a person, business, partnership, association, corporation, including a municipal corporation, trust, or nonprofit entity that employs the services of one or more individual persons.

Enclosed Area means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

Health-Care Facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health-care facilities.

Place of Employment means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a "place of employment" unless it is used as a child-care, adult day care, or health-care facility.

Playground means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on city grounds.

Private Club means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

Public Event means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers' markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.

Public Place means an area to which the public is invited or in which the public is permitted, including but not limited to, bars, educational facilities, financial institutions, gaming facilities, health-care facilities, hotels and motels, laundromats, parking structures, public

transportation vehicles and facilities to include all ticketing, boarding, and waiting area, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child-care, adult day care, or health-care facility.

Recreational Area means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, fairgrounds, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.

Restaurant means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include a bar area within the restaurant.

Retail Electronic Smoking Device Store means a store used primarily for the sale of electronic or digital cigarettes or substances used in those or similar devices to produce inhalable vapors and in which the sale of other products is incidental and where 80% of quarterly sales are from the sale of these devices and/or substances.

Retail Tobacco Store or Tobacco Store means a retail store where 75% of quarterly sales are from tobacco products and accessories, to include electronic or digital cigarettes, and in which the sale of other products is merely incidental.

Service Line means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

Shopping Mall means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Sports Arena means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

Sec. 16B-3 Application of Article to City-Owned Facilities and Property

All enclosed areas, including buildings and vehicles owned, leased, or operated by the city, as well as all outdoor property adjacent to such buildings and under the control of the city, shall be subject to the provisions of this article.

Sec. 16B-4 Enclosed Public Places

Smoking shall be prohibited in all enclosed public places within the city, including but not limited to, the following places:

- (1) Galleries, libraries, and museums;
- (2) Areas available to the general public in businesses and nonprofit entities patronized by the public, including but not limited to, financial institutions, laundromats, professional offices, and retail service establishments;
- (3) Child-care and adult day-care facilities;
- (4) Convention facilities and meeting areas;
- (5) Educational facilities, both public and private;
- (6) Elevators and escalators;
- (7) Gaming facilities, including but not limited to bowling and billiard facilities;
- (8) Health-care facilities;
- (9) Hotels and motels;
- (10) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, nursing homes, assisted living and independent living facilities, and other multiple-unit residential facilities;
- (11) Parking structures;
- (12) Polling places;
- (13) Private and semi-private rooms in nursing homes;

- (14) Public transportation vehicles, including buses and taxicabs, under the authority of the city, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities;
- (15) Restaurants and bars;
- (16) Restrooms, lobbies, reception areas, hallways, and other common-use areas;
- (17) Retail stores, except as provided in Section 16B-9(3);
- (18) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the city;
- (19) Service lines;
- (20) Shopping malls;
- (21) Sports arenas, including enclosed places in outdoor arenas; and
- (22) Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 16B-5 Enclosed Places of Employment

- (a) Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- (b) This prohibition on smoking shall be communicated to all existing employees by the effective date of this article and to all prospective employees upon their application for employment.

Sec. 16B-6 Private Clubs

Smoking shall be prohibited in all private clubs, except as provided in Section 16B-9(4).

Sec. 16B-7 Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

- (1) All private and semi-private rooms in nursing homes; and
- (2) All hotel and motel guest rooms.

Sec. 16B-8 Outdoor Public Places

Smoking shall be prohibited in the following outdoor places:

- (1) Within a reasonable distance of 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas;
- (2) Within a reasonable distance of 15 feet outside entrances, operable windows, and ventilation systems of buildings owned, leased, or operated by the city, and that is under the control of the city;
- (3) In, and within 15 feet of, outdoor seating or serving areas of restaurants and bars;
- (4) In outdoor shopping malls, including parking structures;
- (5) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 15 feet of, bleachers and grandstands for use by spectators at sporting and other public events;
- (6) In, and within 15 feet of, all outdoor playgrounds;
- (7) In, and within 15 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the city;
- (8) In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 15 feet of the point of service; and
- (9) In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 15 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

Sec. 16B-9 Where Smoking Not Regulated

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from provisions of this article:

- (1) Private residences, unless used as a child-care, adult day-care, or health-care facility;
- (2) Private automobiles;
- (3) Retail tobacco stores, cigar stores, and retail electronic smoking device stores for sampling of the products sold in such stores, so long as such smoking does not cause smoke or "aerosol/vapor" to cross into other areas where smoking is not allowed.
- (4) Private Clubs dedicated to the service of veterans of the United States military and their families, incorporated as a non-profit corporation, located and established within the corporate limits of the City prior to January 1, 1975.

Sec. 16B-10 Declaration of Establishment or Outdoor Area as Nonsmoking

Notwithstanding any other provision of this article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 16B-11 is posted.

Sec. 16B-11 Posting of Signs and Removal of Ashtrays

The owner, operator, manager, or other person in control of a place of employment, public place, private club, or residential facility where smoking is prohibited by this article shall:

- (1) Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place;
- (2) Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited or, in the case of outdoor places, clearly and conspicuously post "no smoking" signs in appropriate locations as determined by the city health inspector or an authorized designee;
- (3) Clearly and conspicuously post on every vehicle that constitutes a place of employment under this article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited;
- (4) Remove all ashtrays from any area where smoking is prohibited by this article, except for ashtrays displayed for sale and not for use on the premises.

Sec. 16B-12 Nonretaliation; Nonwaiver of Rights

- (a) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this

article or reports or attempts to prosecute a violation of this article. Notwithstanding Section 16B-16, violation of this subsection shall be a misdemeanor, punishable by a fine not to exceed \$2,000.00 for each violation.

(b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 16B-13 Possession, Purchase, Consumption or Receipt of Electronic Cigarettes or E-Cigarettes and/or Liquid Nicotine by Minors Prohibited

(a) A person who is younger than eighteen (18) years of age commits an offense if the individual:

- (1) Possesses, purchases, consumes or accepts an electronic cigarette, e-cigarette or liquid nicotine; or
- (2) Falsely represents himself or herself to be eighteen (18) years of age or older by displaying proof of age that is false, fraudulent or not actually proof of the individual's own age in order to obtain possession of, purchase or receive an electronic cigarette, e-cigarette or liquid nicotine.

(b) It shall be a defense to prosecution for a violation of this section if the individual younger than eighteen (18) years of age possessed the electronic cigarette, e-cigarette or liquid nicotine in the presence of:

- (1) An adult parent, a guardian or a spouse of the individual; or
- (2) An employer of the individual, if possession or receipt of the electronic cigarette, e-cigarette or liquid nicotine is required in the performance of the employee's duties as an employee.

(c) It shall also be a defense to prosecution for a violation of this section that the individual younger than eighteen (18) years of age is participating in an inspection or test of compliance in accordance with section 161.088, Health and Safety Code.

Sec. 16B-14 Sale of Electronic Cigarette or E-Cigarette or Liquid Nicotine to Persons Younger than Eighteen Years of Age Prohibited; Proof of Age Required

(a) A person or retailer commits an offense if the person or retailer with criminal negligence:

- (1) Sells, gives or causes to be sold or given an electronic cigarette or e-cigarette or liquid nicotine to someone who is younger than eighteen (18) years of age; or

(2) Sells, gives or causes to be sold or given an electronic cigarette or e-cigarette or liquid nicotine to another person who intends to deliver it to someone who is younger than eighteen (18) years of age.

(b) If an offense under this section occurs in connection with a sale by an employee of the owner of a store in which electronic cigarettes, e-cigarettes and/or liquid nicotine is/are sold at retail, the employee is criminally responsible for the offense and is subject to prosecution.

(c) It is a defense to prosecution under subsection (a)(1) that the person to whom the electronic cigarette, e-cigarette or liquid nicotine was sold or given presented to the defendant apparently valid proof of identification.

(d) A proof of identification satisfies the requirements of subsection if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is eighteen (18) years of age or older and was issued by a governmental agency. The proof of identification may include a driver's license issued by this state or another state, a passport or an identification card issued by a state or the federal government.

Sec. 16B-15 Enforcement

(a) This article shall be enforced by the city health inspector, peace officer, or an authorized designee.

(b) Notice of the provisions of this article shall be given to all applicants for a certificate of occupancy in the city.

(c) Any citizen who desires to register a complaint under this article may initiate enforcement with the city health inspector, peace officer, or an authorized designee.

(d) The health department or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.

(e) An owner, manager, operator, or employee of an area regulated by this article shall direct a person who is smoking in violation of this article to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

(f) Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article.

(g) In addition to the remedies provided by the provisions of this section, the city health inspector or authorized designee or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with

the provisions of this article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Sec. 16B-16 Violations and Penalties

(a) A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of an infraction, punishable by:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
- (2) A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year;
- (3) A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

(b) Except as otherwise provided in Section 16B-5, a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by a fine not to exceed \$2,000.00 for each violation.

(c) In addition to the fines established by this section, violation of this article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation by the city health inspector, or an authorized designee, of any permit or license issued to the person for the premises on which the violation occurred.

(d) Violation of this article is hereby declared to be a public nuisance, which may be abated by the city health inspector, peace officer, or authorized designee by restraining order, preliminary and permanent injunction, or other means provided for by law, and the city may take action to recover the costs of the nuisance abatement.

(e) Each day on which a violation of this article occurs shall be considered a separate and distinct violation.

Sec. 16B-17 Effective Date

This ordinance shall be effective on May 1, 2016.

Sec. 16B-18 Severability

If any section or portion of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, that section or portion shall be deemed severable and shall not affect the validity of the remaining portions of the Ordinance.

DULY PASSED by the City Council of the City of Duncanville, Texas, this the 19th day of
January, 2016.

CITY OF DUNCANVILLE, TEXAS




DAVID L. GREEN, Mayor

ATTEST:



MARY E. JONES, City Secretary

APPROVED AS TO FORM:



ROBERT E. HAGER, City Attorney
(TM 75133/REH/ag/1/20/2016)

AN ORDINANCE OF THE CITY OF RED OAK, TEXAS

ORDINANCE NO. 15-095

AN ORDINANCE OF THE CITY OF RED OAK, TEXAS AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 6 "HEALTH AND SANITATION" BY ADDING A NEW ARTICLE 6.08 "SMOKING PROHIBITED" BY PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Red Oak does hereby find that secondhand smoke exposure causes disease and premature death in children and adults who do not smoke, and children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children;

WHEREAS, exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer;

WHEREAS, there is no risk-free level of exposure to secondhand smoke; and

WHEREAS establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services.)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF RED OAK, ELLIS COUNTY, TEXAS, THAT:

SECTION 1. The Red Oak Code of Ordinances, Chapter 6, "Health and Sanitation" is hereby amended to add a new Article 6.08 "Smoking Prohibited" which shall read as follows:

**"CHAPTER 6
HEALTH AND SANITATION**

.....

ARTICLE 6.08 SMOKING PROHIBITED

6.08.01. - Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

“Bar” means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

“Business” means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

“E-cigarettes” means any electronic oral device, such as one (1) composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.

“Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity.

“Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one (1) or more individual persons.

“Enclosed area” means all space between a floor and a ceiling that is bounded on all sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

“Health care facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

“Hookah lounge” means an establishment that derives more than ninety-five (95) percent of its quarterly gross revenue from the sale of shisha for consumption on the premises by customers

and the sale of accessories used for smoking shisha. A hookah lounge does not allow individuals under the age of eighteen (18) to enter the premises, and does not have a permit or license to sell alcoholic beverages, but may serve food and nonalcoholic beverages for consumption on the premises by customers.

“Place of employment” means an enclosed area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.

“Playground” means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on [city or county] grounds.

“Private club” means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

“Public place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

“Restaurant” means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include a bar area within the restaurant.

“Service line” means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

“Shopping mall” means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, hookah or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. “Smoking” also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

“Sports arena” means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

“Retail tobacco store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Sec. 6.08.02. - Application of article to City.

All enclosed areas, including buildings, structures, enclosures and vehicles owned, leased, or operated by the City of Red Oak, shall be subject to the provisions of this article.

Sec. 6.08.03. - Prohibition of smoking in enclosed public places.

Smoking shall be prohibited in all enclosed public places within the corporate limits of the City of Red Oak, including but not limited to, the following places:

- A. Aquariums, galleries, libraries, museums, zoo facilities and their grounds.
- B. Areas available to the general public in businesses and nonprofit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, retail service establishments and country clubs.
- C. Bars and night clubs.
- D. Bingo facilities.
- E. Child care and adult day care facilities.
- F. Convention facilities.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gaming facilities, including but not limited to bowling and billiard facilities.
- J. Health care facilities.
- K. Hotels and motels.
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- M. Polling places.
- N. Public transportation vehicles, including buses and taxicabs, under the authority of the city, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- O. Restaurants.
- P. Restrooms, lobbies, reception areas, hallways, and other common-use areas.

- Q. Retail stores.
- R. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the city or a political subdivision of the state, to the extent the place is subject to the jurisdiction of the city.
- S. Service lines.
- T. Shopping malls.
- U. Sports arenas, including enclosed places in outdoor arenas.
- V. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 6.08.04. - Prohibition of smoking in enclosed places of employment.

- A. Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this article and to all prospective employees upon their application for employment.

Sec. 6.08.05. - Prohibition of smoking in private clubs.

Smoking shall be prohibited in all private clubs.

Sec. 6.08.06. - Prohibition of smoking in enclosed public access institutional residential facilities.

Smoking shall be prohibited in the following enclosed residential facilities:

- A. All private and semi-private rooms in nursing homes.
- B. At least ninety (90) percent of hotel and motel rooms that are rented to guests.

Sec. 6.08.07. - Prohibition of smoking in outdoor areas.

Smoking shall be prohibited in the following outdoor places:

- A. Within a reasonable distance of fifteen (15) feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.
- B. In, and within fifteen (15) feet of, outdoor seating or serving areas of restaurants and bars.
- C. In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within fifteen (15) feet of, bleachers and grandstands for use by spectators at sporting and other public events.
- D. In, and within fifteen (15) feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the city.
- E. In all outdoor service lines, whether or not within the (15) feet from any outside entrances, operable windows or ventilation systems.
- F. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five (25) percent of the

total outdoor common area, which must be located at least fifteen (15) feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

- G. In, and within twenty-five (25) feet of, outdoor playgrounds.

Sec. 6.08.08. – Exemptions.

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from the provisions of section 6.08.07.:

- A. Private residences, unless used as a childcare, adult day care or health care facility licensed by the State of Texas, and except as provided in section 6.08.03.
- B. Not more than ten (10) percent of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous. Smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- C. Outdoor areas of places of employment except those covered by the provisions of section 6.08.07.
- D. Retail tobacco stores in freestanding physical facilities or isolated venting and air controls.
- E. Personal automobiles or motor vehicles.
- F. A hookah, cigar bar or e-cigarettes lounge that was in existence as of the effective date of this Ordinance (December 14, 2015) and are operating such a lounge, if all of the following requirements are met:
 - i. The lounge does not allow the smoking of any illegal products on the premises.
 - ii. Smoke from the lounge does not migrate into any area where smoking is prohibited under this chapter.
 - iii. The lounge does not expand in size or change its location after the effective date of this Ordinance.

Sec. 6.08.09. - Declaration of establishment as nonsmoking.

Notwithstanding any other provision of this article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of section 6.08.10 is posted.

Sec. 6.09.10. - Posting of signs and removal of ashtrays.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this article shall:

- A. Clearly and conspicuously post “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.

- C. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this article at least one (1) sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
- D. Remove all ashtrays from any area where smoking is prohibited by this article, except for ashtrays displayed for sale and not for use on the premises.

Sec. 6.08.11. - Nonretaliation; nonwaiver of rights.

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this article or reports or attempts to prosecute a violation of this article. Notwithstanding section 6.08.14, violation of this subsection shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 6.08.12. - Possession, purchase, consumption or receipt of electronic cigarettes or e-cigarettes and/or liquid nicotine by minors prohibited.

- A. A person who is younger than eighteen (18) years of age commits an offense if the individual:
 - (1) Possesses, purchases, consumes or accepts an electronic cigarette, e-cigarette or liquid nicotine; or
 - (2) Falsely represents himself or herself to be eighteen (18) years of age or older by displaying proof of age that is false, fraudulent or not actually proof of the individual's own age in order to obtain possession of, purchase or receive an electronic cigarette, e-cigarette or liquid nicotine.
- B. It shall be a defense to prosecution for a violation of this section if the individual younger than eighteen (18) years of age possessed the electronic cigarette, e-cigarette or liquid nicotine in the presence of:
 - (1) An adult parent, a guardian or a spouse of the individual; or
 - (2) An employer of the individual, if possession or receipt of the electronic cigarette, e-cigarette or liquid nicotine is required in the performance of the employee's duties as an employee.
- C. It shall also be a defense to prosecution for a violation of this section that the individual younger than eighteen (18) years of age is participating in an inspection or test of compliance in accordance with Section 161.088, Health and Safety Code.

Sec. 6.08.13. - Sale of electronic cigarette or e-cigarette or liquid nicotine to persons younger than eighteen years of age prohibited; proof of age required.

- A. A person or retailer commits an offense if the person or retailer with criminal negligence:

- (1) Sells, gives or causes to be sold or given an electronic cigarette, e-cigarette or liquid nicotine to someone who is younger than eighteen (18) years of age; or
 - (2) Sells, gives or causes to be sold or given an electronic cigarette or e-cigarette or liquid nicotine to another person who intends to deliver it to someone who is younger than eighteen (18) years of age.
- B. If an offense under this section occurs in connection with a sale by an employee of the owner of a store in which electronic cigarettes, e-cigarettes and/or liquid nicotine is/are sold at retail, the employee is criminally responsible for the offense and is subject to prosecution.
- C. It is a defense to prosecution under subsection (a)(1) that the person to whom the electronic cigarette, e-cigarette or liquid nicotine was sold, given or presented to the defendant apparently valid proof of identification.
- D. A proof of identification satisfies the requirements of subsection if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is eighteen (18) years of age or older and was issued by a governmental agency. The proof of identification may include a driver's license issued by this state or another state, a passport or an identification card issued by a state or the federal government.

Sec. 6.08.14. - Vendor assisted sales required; self-service merchandising prohibited.

- A. Except as provided by subsection (B), a retailer or other person may not:
 - (1) Offer electronic cigarettes, e-cigarettes or liquid nicotine for sale in a manner that permits a customer direct access to the electronic cigarettes, e-cigarettes or liquid nicotine;
 - (2) Offer for sale or display for sale electronic cigarettes, e-cigarettes or liquid nicotine by means of self-service merchandising; or
 - (3) Install or maintain an open display unit containing electronic cigarettes, e-cigarettes or liquid nicotine
- B. It is a defense to prosecution under subsection (A), if:
 - (1) A facility or business is not open to persons younger than eighteen (18) years of age at any time;
 - (2) A facility or business is a premises for which a person holds a package store permit issued under the Alcoholic Beverage Code; or
 - (3) An open display unit is located in an area that is inaccessible to customers.

Sec. 6.08.15. - Enforcement.

This section shall be enforced by the city's police department.

Sec. 6.08.16. - Enforcement.

- A. This article shall be enforced by Red Oak Police Department or a certified code official.
- B. Notice of the provisions of this article shall be given to all applicants for a business license in the City of Red Oak.
- C. Any citizen who desires to register a complaint under this article may initiate enforcement with the City of Red Oak Municipal Court.

- D. The health department, fire department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.
- E. An owner, manager, operator, or employee of an establishment regulated by this article shall direct a person who is smoking in violation of this article to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.
- F. Notwithstanding any other provision of this article, an employee or private citizen may bring legal action to enforce this article.
- G. In addition to the remedies provided by the provisions of this section, the Red Oak Police Department, a certified code official or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Sec. 6.08.17. – Violations and Penalties.

- A. A person who smokes in an area where smoking is prohibited by the provisions of this article shall be guilty of a Class C misdemeanor, punishable by a fine not exceeding Fifty and No/100 Dollars (\$50.00).
- B. Except as otherwise provided in section 6.08.18(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding One Hundred and No/100 Dollars (\$100.00) for a first violation.
 - 2. A fine not exceeding Two Hundred and No/100 Dollars (\$200.00) for a second violation within one (1) year.
 - 3. A fine not exceeding Five Hundred Dollars (\$500.00) for each additional violation within one (1) year.
- C. Except as otherwise provided in section 6.08.18(A) or 6.08.18(B), a person who violates a provision of this article is guilty of a misdemeanor punishable by a fine not exceeding Five Hundred and No/100 Dollars (\$500.00).
- D. In addition to the fines established by this section, violation of this article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- E. Each day on which a violation of this article occurs shall be considered a separate and distinct violation.

Sec. 6.08.18. - Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 6.08.19. - Liberal construction.

This article shall be liberally construed so as to further its purposes.”

DULY PASSED by the City Council of the City of Red Oak, Texas, this the 14th day of December, 2015.

CITY OF RED OAK, TEXAS



ALAN HUGLEY, Mayor

ATTEST:



DANA ARGUMANIZ, City Secretary

APPROVED AS TO FORM:



ROBERT E. HAGER, City Attorney
(TM 74407, 11/25/2015)



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF COPPELL, TEXAS AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 9 ‘GENERAL REGULATIONS’, ARTICLE 9-14 ‘NO SMOKING ORDINANCE’ IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 9, ARTICLE 9-14, “NO SMOKING” BY ELIMINATING SMOKING IN PUBLIC AREAS; PROVIDING FOR PROHIBITION OF SMOKING IN ENCLOSED BUILDINGS, PLACES OF EMPLOYMENT; PROVIDING LIMITED AREAS OF SMOKING IN RESTAURANTS; PROVIDING FOR PROHIBITION OF SMOKING IN CERTAIN OUTDOOR AREAS; PROVIDING AN EXEMPTION; PROVIDING FOR POSTING OF SIGNS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES OR PERSONS SMOKING NOT TO EXCEED \$500.00; PROVIDING FOR PENALTIES FOR BUSINESS OR ESTABLISHMENTS NOT TO EXCEED \$2,000.00; BY PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Coppel does hereby find that secondhand smoke exposure causes disease and premature death in children and adults who do not smoke, and children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children;

WHEREAS, exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer;

WHEREAS, there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services.)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF COPPELL, DALLAS COUNTY, TEXAS, THAT:

SECTION 1. The Coppel Code of Ordinances, Chapter 9, “General Regulations”, Article 9-14 “No Smoking Ordinance” is hereby repealed in its entirety and replaced with new Article 9-14, “No Smoking”, which shall hereinafter read as follows:

Chapter 9

.....

ARTICLE 9-14 “NO SMOKING

Section 9-14-1 - Purpose

The purpose of this chapter is to improve and protect the public’s health by eliminating smoking in public areas, and to guarantee the right of non-smokers to breathe smoke free air.

Section 9-14-2 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“*Administrative*” area means the area of an establishment not generally accessible to the public, including but not limited to individual offices, stockrooms, employee lounges, or meeting rooms.

“*Bar*” means establishment licensed by the State which has more than fifty-one percent (51%) of its annual gross sales from alcoholic beverages for on premises consumption. Calculation of gross sales shall be made from combined sale of food and beverages. Restaurants that contain a bar are not considered a “bar” for that purpose of this chapter.

“*City*” means the City of Coppel, Texas.

“*Director*” means the director of the department designated by the city manager to enforce and administer this article, or the director's designated representative.

“*Electronic Cigarette*” (E-cigarette) means any electronic or battery operated device that is designed to deliver nicotine or other chemicals or substances by creating a vapor or mist that is deliverable to the user through inhalation in the simulation of

smoking. This term shall include every version and type of such devices whether they are manufactured or marketed as electronic cigarettes, e-cigarettes, electronic cigars, e-cigars, electronic pipes, e-pipes, or under any other product name or description.

“Employee” means any person who works for hire, including an independent contractor and any person who is working as a volunteer for a nonprofit entity.

“Employer” means any person (partnership, corporation, association or other entity) employing one or more employees.

“Enclosed” means an area that: (A) is closed-in by an overhead roof or other covering of any material, whether permanent or temporary; and (B) has 40 percent or more of its perimeter closed in by walls or other coverings of any material, whether permanent or temporary

“Food Establishment” means an operation that stores, prepares, manufactures packages, serves, vends, or otherwise provides food for human consumption such as restaurants, mobile vendors, and concession stands.

“Health Care Facility” means any facility that provides health care, medical, surgical, psychological, psychiatric or personal care services including, but not limited to adult day-care facilities, assisted living facilities, community mental health centers, end stage renal disease facility, hospitals, nursing homes or special care facilities or special hospitals.

“Patio” means an improved and defined unenclosed outside area associated with a food service establishment or bar used for purposes of dining or entertainment, provided that walkways are not to be considered patios; and further provided such establishment has a defined entrance at least ten feet from the designated smoking area.

“Place of Employment” means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. An enclosed room with only one occupant is not considered place of employment and a private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility

“Physical Barrier” means a barrier that will form an effective membrane continuous from outside wall to outside wall, from a smoke barrier to a smoke barrier, from floor to floor, or roof above, or combination thereof, including continuity through all concealed spaces, such as above suspended ceiling, interstitial structural and mechanical spaces. Transfer grilles, louvers and similar openings shall not be used in these partitions. Self-closing, tight fitting doors are permitted in such barriers.

“Private Club” means an association of persons as members, whether incorporated or unincorporated under the laws of the state, for the promotion of some common object, and organized by a board of representatives, including but not limited to a fraternal organization, private social or dinner club. When used to describe a facility in this Chapter, Private club shall mean any enclosed area to which the public is not invited or in which the public is not permitted which is owned, leased or rented

by the Private club for its members and their guests. A privately-owned business, open to the public, is not a Private club.

"Private Function" means the rental of a ballroom, private club, or other facility for the sole purpose of entertaining, private parties, events or other social functions other than a city facility that the general public is not able to attend.

"Public place or common area" means any enclosed area to which the public is invited, permitted, or has access within any business, building, structure, or any other place of public accommodation, restaurant, retail or service establishment, including but not limited to, banks; educational facilities; health facilities; laundromats; public transportation facilities; reception areas; production and marketing establishments; retail service establishments; retail stores; theaters and waiting rooms. A public place does not include a private club as defined above.

"Retail and Service establishment" means any establishment that sells goods or services to the general public.

"Retail Tobacco Store" means a retail store which derives 70 percent or more of its gross revenue from the sale of tobacco products and accessories.

"Second-Hand Smoke" means ambient smoke resulting from the act of smoking.

"Service line" means any indoor or outdoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoke" or "smoking" means burning, inhaling or exhaling the fumes of any organic or synthetic material, including but not limited to plants, herbs, cigars, cigarette, pipe tobacco, tobacco or flavored tobacco, or possessing any product, device, or equipment producing smoke or vapors intended to be inhaled or exhaled.

"Smoke-free "entrance zone" means that area within 25 feet of any door, operable window/vent or other opening to a public building, place of employment or where smoking is prohibited

"Smoking Lounge" means a business establishment that is dedicated, in whole or part, to the selling or smoking of tobacco products, electronic cigarettes, or other substances, including but not limited to establishments known variously as cigar lounge, hookah lounge, or tobacco bars.

"Sports Arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

"Tobacco Product" means any tobacco, cigarette, cigar, pipe tobacco, water pipe, flavored tobacco, smokeless tobacco, snuff or any other form of tobacco, or any substance contained a detectable amount of nicotine which may be utilized for smoking, chewing, inhalation or other manner of ingestion or absorption.

Section 9-14-3 - Smoking prohibited in certain areas.

It shall be unlawful within the City of Coppell, except as otherwise permitted in this article, for any person to smoke in the following places:

- A. Health care facilities, elevators, restrooms, lobbies, hallways, and other common areas of any building, structure or business, apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple unit residential facilities.
- B. Any area of any building or grounds owned, operated or managed by the city, including, but not limited to parks, trails, farmers market, municipal swimming pools, recreation centers, senior center, criminal justice center, fire stations, police, utility location and fire training centers, municipal service center, city-owned theaters, city owned library, cultural facilities, and any seating area of an athletic facility (including an indoor or outdoor athletic facility).
- C. Every room, common area, chamber, place of meeting or public assembly, within any public or private buildings.
- D. Any retail business or establishment serving the general public, including, but not limited to, any department store, grocery store, or drug store, or shopping mall, retail store of any kind.
- E. Enclosed office or other facilities within place of employment to which the general public does not have access.
- F. Service line in a public or common area, regardless of whether the line is indoors or outdoors.
- G. Any area temporarily designated as nonsmoking by order of the city officials or by the owner or person in control of the facility.
- H. Any facility of a public primary or secondary school; or an enclosed theater, movie house, museum, or transit system vehicle.
- I. All areas available to and customarily used by the general public in all businesses, including, but not limited to, attorneys' offices and other offices, banks, laundromats and country clubs.
- J. Sport Arenas and Convention halls, including bowling and billiard facilities.
- K. Within 25 feet of any door, operable window/vent or other public access or any place where smoking is prohibited.

9-14-4- Smoking is not prohibited in the following areas.

Smoking is permitted and not otherwise unlawful in the following places:

- A. Private residences, including porch and yard areas, except when the residence is used as child care, adult day care, or health care facility.
- B. Personal automobiles.

- C. Outdoor places of employment except within 25 feet of any door, operable window/vent or other opening to an enclosed area to which the public has access.
- D. Parking lots within public parks, except within 25 feet of any door, operable window/vent or other opening to an indoor enclosed area or service line.
- E. Public sidewalks, except within 25 feet of any door, operable window/vent or other opening public building, place of employment or place where smoke is prohibited.
- F. Private clubs as defined in the above section.
- G. Hotel or motel rooms rented to guests if permitted by the hotel or motel. Not more than ten percent of hotel or motel rooms rented to guests and designated as rooms where smoking is allowed. All rooms where smoking is allowed must be on the same floor, contiguous, and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provision of this article.
- H. A bar as defined herein provided such establishment: (i) conspicuously posts a sign stating "This Is A Smoking Establishment" at all entrances to the establishment and in which the establishment has separate ventilation; (ii) and provides the city health authority, at the end of each calendar quarter, with a written report of the establishment's gross revenue of all food items and its gross revenue from the sale of alcoholic beverages; and (iii) provides an air filtration system that prevents the commingling of air with other businesses, common areas, hallways and other nonsmoking areas. For purposes of this section gross revenue shall be calculated using the normal selling price of all food items and all alcoholic beverages served in the establishment and shall reflect the price normally charged for such items in the particular establishment for which the establishment for which the gross revenue figure is calculated, whether such item is actually sold at normal selling price, below normal entrance fee or other consideration paid. Reduced prices charged during promotions, happy hours and other occasions when drinks are sold at reduced prices or served at no charge, shall not be considered "normal selling price" for calculation of the gross revenue.
- I. Smoking lounge that derives 70 percent or more of the establishment's gross revenue on a quarterly (three month basis) from the sale of tobacco products provided the establishment: (i) conspicuously posts a sign stating "This Is A Smoking Establishment" at all entrances to the establishment and in which the establishment has separate ventilation; (ii) and provides the city health authority, at the end of each calendar quarter, with a written report of the establishment's gross revenue of all food items and its gross revenue from the sale of alcoholic beverages; and (iii) provides an air filtration system that prevents the commingling of air with other businesses, common areas, hallways and other nonsmoking areas. For purposes of this section gross revenue shall be calculated using the normal selling price of all food items and all alcoholic beverages served in the establishment and shall reflect the price normally charged for such items in the particular establishment for which the establishment for which the gross revenue figure is calculated, whether such item is actually sold at normal selling price, below normal entrance fee or other consideration paid. Reduced prices charged

during promotions, happy hours and other occasions when drinks are sold at reduced prices or served at no charge, shall not be considered "normal selling price" for calculation of the gross revenue.

Section 9-14-5 - Smoking in food establishments.

- A. Smoking is permitted in a food establishment in designated indoor or enclosed dining areas, provided that the areas where smoking is permitted complies with the provision of this subsection.
- B. A designated smoking area must:
 - 1. Be separated from the non-smoking area by physical barrier which prohibits the smoke from leaving the smoking area.
 - 2. Provides an air filtration system that prevents the commingling of air with other businesses, common areas, hallways and other nonsmoking areas.
 - 3. All air filtration or ventilation systems in the designated smoking area shall provide a total air exchange every 15 minutes and shall exhaust that air to the exterior of the building
 - 4. A sign shall be posted on the premises in a conspicuous place to advise the public that smoking is permitted in the designated smoking area.
 - 5. Designated smoking areas shall not include restrooms, service lines, waiting areas, public telephone areas, and other areas commonly used by all patrons, including access thereto.

Section 9-14-6 - Duties of the owner, operator, or other person in charge.

- A. An owner operator or other person in control of any of the areas in section 9-14-3 shall prohibit smoking in nonsmoking areas.
- B. An owner, operator or other person in control of any of the areas in 9-14-4 shall provide adequate, receptacles for proper disposal of combustible material in smoking areas or at least 25 feet from entrances and exits.

Section 9-14-7 - Posting of signs

- A. The owner, manager or other person having control of such building or premises where smoking is prohibited by this article, may have a conspicuously posted sign clearly stating "Enjoy Our Smoking Free Environment" at each entrance, whether for the public, employees or deliveries, and at restroom entrances.
- B. "Enjoy Our Smoking Free Environment" and "This is a Smoking Establishment" signs shall have bold lettering of not less than one inch in height. The international "No Smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).
- C. Any owner, manager, or other person having control of any establishment regulated by this article shall be responsible for posting appropriate signage.

Section 9-14-8 - Enforcement

- A. Enforcement of this article shall be enforced by the health department or other official as designated by the city manager by issuance of a municipal court citation.
- B. Any person may register a complaint under this article to initiate enforcement by the Environmental health department.
- C. It is the duty of the owner, manager, operator or person in charge of any establishment regulated by this article
 - 1. To post signs in accordance with this ordinance
 - 2. To not provide ashtrays, matches, lighters or other smoking related paraphernalia in a premise where smoking is prohibited;
 - 3. To advise a person who violates this article that smoking is not allowed; and
 - 4. To request a person remove themselves from this location after that person has been advised that smoking is not allowed and that person willfully continues to smoke.

Section 9-14-9 -Offenses and penalties.

- A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this article to fail to comply this ordinance.
- B. Any person who violates any provision of Sections 9-14-3 shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00.
- C. Any person, firm, corporation, partnership or business entity who violates any provision of Section 9-14-5 through 9-14-7 shall be guilty of a misdemeanor punishable by a fine not to exceed \$2000.00.
- D. Each day on which a violation of this article occurs shall be a separate and distinct violation.”

SECTION 2. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 3. That all provisions of the ordinances of the City of Coppel, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction in the municipal court shall be punished by a fine not to exceed the sum of as set forth herein for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Coppell, Texas, this the _____ day of _____, 2016.

CITY OF COPPELL, TEXAS

Karen Selbo Hunt, Mayor

ATTEST:

Christel Pettinos, City Secretary

APPROVED AS TO FORM:

ROBERT E. HAGER, City Attorney



MEMORANDUM

To: Mayor and City Council

From: Kenneth M. Griffin, P.E., Director of Engineering/Public Works

Date: September 13, 2016

Reference: Smoking Ordinance

2030: Community Wellness & Enrichment

General Information:

- Amending Chapter 9 ‘General Regulations’, Article 9-14 ‘No Smoking Ordinance’ in its entirety and replacing it with a new Chapter 9, Article 9-14, “No Smoking” by eliminating smoking in common areas, at city-sponsored events and city-owned facilities.
- Provide limited areas of smoking in restaurants and on restaurant patios.
- The new ordinance will include regulation of electronic nicotine devices.
- This ordinance was created based on the Wellness Committee and business community recommendation.

Introduction:

This item is being presented to the Council to repeal Chapter 9 ‘General Regulations’, Article 9-14 ‘No Smoking Ordinance’ in its entirety and replacing it with a new Chapter 9, Article 9-14, “No Smoking”. The new ordinance will eliminate smoking in common areas, at city-sponsored events, city-owned facilities, places of employment and will allow limited areas of smoking in restaurants and certain outdoors areas. The intent of the ordinance is to reduce general public exposure to secondhand smoking and establish smoke free zones around city buildings and places of employment.

Analysis:

Staff considered Wellness Committee and business owner recommendations before writing this ordinance. The Wellness Committee requested that we redefine some terms such as smoking to include electronic nicotine devices, and to prohibit smoking at city-sponsored events and city-owned facilities. Business owners wanted to see an ordinance that is similar to surrounding cities and to provide them with the freedom to smoke on patios. Staff surveyed 13 surrounding cities and used their ordinances as a guide to create City of Coppell ordinance.

An 'e-cigarette' is a device used to simulate the experience of smoking. In our current ordinance there is no mention of *e-cigarette*, so this ordinance defines *e-cigarette* and the act of smoking to include any technology that simulates the experience of smoking.

Surveying surrounding cities ensures that our ordinance is consistent with their ordinances and makes it easier for our business owners to comply. This ordinance ensures that our residents are protected from the danger of secondhand smoke.

Legal Review:

Agenda item was reviewed by City Attorney on 8/18/2016.

Fiscal Impact:

n/a

Recommendation:

The Engineering Department will bring the Ordinance back for approval at a future Council meeting.

ORDINANCE NO. 2757

AN ORDINANCE PROHIBITING SMOKING IN WORK PLACES AND PUBLIC PLACES AND AS MORE FULLY DESCRIBED IN THE ORDINANCE AND SETTING AN EFFECTIVE DATE.

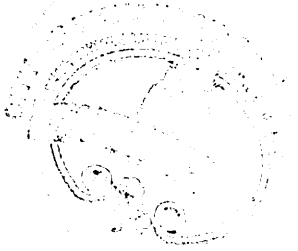
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

The following provisions, attached as Exhibit "A" and made a part hereof, are placed and adopted as the City's ordinance prohibiting smoking in work places or public places (see attached Exhibit "A" and made a part hereof).

NOW, THEREFORE,

This ordinance is to be effective on the 18th day of September, 2014.

PASSED, APPROVED AND ADOPTED on this 18th day of August, 2014.




MAYOR

ATTEST:


City Secretary

EXHIBIT "A"

ORDINANCE PROHIBITING SMOKING IN ALL WORKPLACES AND PUBLIC PLACES

Sec. 1000. Title

This Article shall be known as the Waxahachie Smoke-free Air Ordinance.

Sec. 1001. Findings and Intent

The City of Waxahachie does hereby find that:

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry. (U.S. Department of Health and Human Services.)

The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.) The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually. (National Cancer Institute (NCI), "Health effects of exposure to environmental tobacco smoke: the report of the California Environmental Protection Agency. Smoking and Tobacco Control Monograph 10," Bethesda, MD: National Institutes of Health, National Cancer Institute, August 1999.) A study of hospital admissions for acute myocardial infarction in Helena, Montana before, during, and after a local law eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smoke free workplaces and public places may be associated with a reduction in morbidity from heart disease. (Sargent, Richard P.; Shepard, Robert M.; Glantz, Stanton A., "Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study," *British Medical Journal* 328: 977-980, April 24, 2004.) Similar studies have been conducted in numerous places, including Bowling Green, Ohio; Monroe County, Indiana; Pueblo, Colorado; New York State; France; Greece; Italy; and Scotland. All of these studies have reached the conclusion that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smoke free laws. ([n.a.], "Bibliography of Secondhand Smoke Studies." American Nonsmokers' Rights Foundation, February 26, 2008.) In reviewing 11 such studies, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smoke-free laws reduce heart attacks. (Institute of Medicine (IOM) of the National Academies, Board on Population Health and Public Health Practice, Committee on Secondhand Smoke Exposure and Acute Coronary Events, "Secondhand smoke exposure and cardiovascular effects: making sense of the evidence," Washington, DC: National Academies Press, October 2009.)

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function. (Pitsavos, C.; Panagiotakos, D.B.; Chryschoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 1(3): 220-225, September 2002.) Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. (California Environmental Protection Agency (Cal EPA), "Health effects of exposure to environmental tobacco smoke," *Tobacco Control* 6(4): 346-353, Winter, 1997.) The Americans with Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability. (Daynard, R.A., "Environmental tobacco smoke and the Americans with Disabilities Act," *Nonsmokers' Voice* 15(1): 8-9.) The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking. (Pechacek, Terry F.; Babb, Stephen, "Commentary: How acute and reversible are the cardiovascular risks of secondhand smoke?" *British Medical Journal* 328: 980-983, April 24, 2004.) Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smoke-free environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smoke-free in their entirety. (Samet, J.; Bohanon, Jr., H.R.; Coultas, D.B.; Houston, T.P.; Persily, A.K.; Schoen, L.J.; Spengler, J.; Callaway, C.A., "ASHRAE position document on environmental tobacco smoke," *American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)*, 2005.)

Unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent." ([n.a.], "Summary of results: laboratory analysis of electronic cigarettes conducted by FDA," *Food and Drug Administration (FDA)*, July 22, 2009; <http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm> Accessed on: October 22, 2009.) E-cigarettes produce a vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses. ("The high price of cigarette smoking," *Business & Health* 15(8), Supplement A: 6-9, August 1997.)

Accordingly, the City of Waxahachie finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smoke-free air.

Sec. 1002. Definitions

The following words and phrases, whenever used in this Article, shall be construed as defined in this

Section:

- A. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- B. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- C. "E-cigarettes" means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
- D. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity.
- E. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
- F. "Enclosed Area" means all space between a floor and a ceiling that is bounded on all sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- G. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- H. "Hookah Lounge" means an establishment that derives more than 95% of its quarterly gross revenue from the sale of shisha for consumption on the premises by customers and the sale of accessories used for smoking shisha. A hookah lounge does not allow individuals under the age of 18 to enter the premises, and does not have a permit or license to sell alcoholic beverages, but may serve food and nonalcoholic beverages for consumption on the premises by customers.
- I. "Place of Employment" means an enclosed area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
- J. "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on [City or County] grounds.
- K. "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has

established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

- L. "Public Place" means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
- M. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
- N. "Service Line" means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
- O. "Shopping Mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- P. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, hookah or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.
- Q. "Sports Arena" means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.
- R. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Sec. 1003. Application of Article to City of Waxahachie Owned Facilities

All enclosed areas, including buildings, and vehicles owned, leased, or operated by the City of Waxahachie, shall be subject to the provisions of this Article.

Sec. 1004. Prohibition of Smoking in Enclosed Public Places

Smoking shall be prohibited in all enclosed public places within the City of Waxahachie, including but not limited to, the following places:

- A. Aquariums, galleries, libraries, museums, zoo facilities and their grounds.
- B. Areas available to the general public in businesses and nonprofit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, retail service establishments and country clubs.
- C. Bars and night clubs.
- D. Bingo facilities.
- E. Child care and adult day care facilities.
- F. Convention facilities.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gaming facilities, including but not limited to bowling and billiard facilities.
- J. Health care facilities.
- K. Hotels and motels.

- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- M. Polling places.
- N. Public transportation vehicles, including buses and taxicabs, under the authority of the City, and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- O. Restaurants.
- P. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- Q. Retail stores.
- R. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City.
- S. Service lines.
- T. Shopping malls.
- U. Sports arenas, including enclosed places in outdoor arenas.
- V. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 1005. Prohibition of Smoking in Enclosed Places of Employment

- A. Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Sec. 1006. Prohibition of Smoking in Private Clubs

Smoking shall be prohibited in all private clubs.

Sec. 1007. Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

- A. All private and semi-private rooms in nursing homes.
- B. At least 90% of hotel and motel rooms that are rented to guests.

Sec. 1008. Prohibition of Smoking in Outdoor Areas

Smoking shall be prohibited in the following outdoor places:

- A. Within a reasonable distance of 25 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.
- B. In, and within 25 feet of, outdoor seating or serving areas of restaurants and bars.
- C. In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited in, and within 25 feet of, bleachers and grandstands for use by spectators at sporting and other public events.
- D. In, and within 25 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City.
- E. In all outdoor service lines.
- F. In outdoor common areas of apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not

to exceed twenty-five percent (25%) of the total outdoor common area, which must be located at least 25 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

- G. In, and within 25 feet of, outdoor playgrounds.
- H. City's Public Parking Garage

Sec. 1009. Where Smoking is Not Regulated

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Sections 1004 and 1005:

- A. Private residences, unless used as a childcare, adult day care or health care facility, and except as provided in Section 1007.
- B. Not more than ten percent (10%) of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous. Smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- C. Outdoor areas of places of employment except those covered by the provisions of Section 1008.
- D. Retail tobacco stores in freestanding physical facilities or isolated venting and air controls.
- E. Personal automobiles.
- F. A Hookah Lounge that as of [date of amendment/date of enactment/effective date] was operating as a Hookah Lounge, if all of the following requirements are met:
 - i. The Hookah Lounge does not allow the smoking of any tobacco products, except [shisha], on the premises.
 - ii. Smoke from the Hookah Lounge does not migrate into any area where smoking is prohibited pursuant to this [Section].
 - iii. The Hookah Lounge is located in a freestanding structure that shares no common walls with other establishments and is occupied solely by the Hookah Lounge.
 - iv. The Hookah Lounge does not expand in size or change its location after [date of amendment/date of enactment/effective date].

Sec. 1010. Declaration of Establishment as Nonsmoking

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1011(A) is posted.

Sec. 1011. Posting of Signs and Removal of Ashtrays

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Article shall:

- A. Clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
- C. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.

- D. Remove all ashtrays from any area where smoking is prohibited by this Article, except for ashtrays displayed for sale and not for use on the premises.

Sec. 1012. Nonretaliation; Nonwaiver of Rights

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article. Notwithstanding Section 1014, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 1013. Possession, Purchase, Consumption or Receipt of Electronic Cigarettes or E-Cigarettes and/or Liquid Nicotine by Minors Prohibited

- A. A person who is younger than 18 years of age commits an offense if the individual:
 - (1) Possesses, purchases, consumes or accepts an electronic cigarette, e-cigarette or liquid nicotine; or
 - (2) Falsely represents himself or herself to be 18 years of age or older by displaying proof of age that is false, fraudulent or not actually proof of the individual's own age in order to obtain possession of, purchase or receive an electronic cigarette, e-cigarette or liquid nicotine.
- B. It shall be a defense to prosecution for a violation of this section if the individual younger than 18 years of age possessed the electronic cigarette, e-cigarette or liquid nicotine in the presence of:
 - (1) An adult parent, a guardian or a spouse of the individual; or
 - (2) An employer of the individual, if possession or receipt of the electronic cigarette, e-cigarette or liquid nicotine is required in the performance of the employee's duties as an employee.
- C. It shall also be a defense to prosecution for a violation of this section that the individual younger than 18 years of age is participating in an inspection or test of compliance in accordance with Section 161.088, Health and Safety Code.

Sec. 1014. Sale of Electronic Cigarette or E-Cigarette or Liquid Nicotine to Persons Younger than 18 years of Age Prohibited; Proof of Age Required

- A. A person or retailer commits an offense if the person or retailer with criminal negligence:
 - (1) Sells, gives or causes to be sold or given an electronic cigarette or e-cigarette or liquid nicotine to someone who is younger than 18 years of age; or
 - (2) Sells, gives or causes to be sold or given an electronic cigarette or e-cigarette or liquid nicotine to another person who intends to deliver it to someone who is younger than 18 years of age.
- B. If an offense under this section occurs in connection with a sale by an employee of the owner of a store in which electronic cigarettes, e-cigarettes and/or liquid nicotine is/are sold at retail, the employee is criminally responsible for the offense and is subject to prosecution.

- C. It is a defense to prosecution under subsection (a)(1) that the person to whom the electronic cigarette, e-cigarette or liquid nicotine was sold or given presented to the defendant apparently valid proof of identification.
- D. A proof of identification satisfies the requirements of subsection if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 18 years of age or older and was issued by a governmental agency. The proof of identification may include a driver's license issued by this state or another state, a passport or an identification card issued by a state or the federal government.

Sec. 1015. Vendor Assisted Sales Required; Self-Service Merchandising Prohibited.

- A. Except as provided by Subsection (b), a retailer or other person may not:
 - (1) Offer electronic cigarettes, e-cigarettes or liquid nicotine for sale in a manner that permits a customer direct access to the electronic cigarettes, e-cigarettes or liquid nicotine;
 - (2) Offer for sale or display for sale electronic cigarettes, e-cigarettes or liquid nicotine by means of self--service merchandising; or
 - (3) Install or maintain an open display unit containing electronic cigarettes, e-cigarettes or liquid nicotine
- B. It is a defense to prosecution under subsection (a) if:
 - (1) A facility or business is not open to persons younger than 18 years of age at any time;
 - (2) A facility or business is a premises for which a person holds a package store permit issued under the Alcoholic Beverage Code; or
 - (3) An open display unit is located in an area that is inaccessible to customers.

Sec. 1016. Enforcement.

This Section shall be enforced by the city's Police Department.

Sec. 1017. Enforcement.

- A. This Article shall be enforced by the Waxahachie [Department of Health, City Manager or his designee].
- B. Notice of the provisions of this Article shall be given to all applicants for a business license in the City of Waxahachie.
- C. Any citizen who desires to register a complaint under this Article may initiate enforcement with the Waxahachie [Department of Health or City Manager or County Administrator].
- D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.
- E. An owner, manager, operator, or employee of an establishment regulated by this Article shall direct a person who is smoking in violation of this Article to extinguish the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

- F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.
- G. In addition to the remedies provided by the provisions of this Section, the Waxahachie [Department of Health or City Manager or County Administrator] or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Sec. 1018. Violations and Penalties

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of a misdemeanor, punishable by a fine not exceeding fifty dollars (\$50).
- B. Except as otherwise provided in Section 1012(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding one hundred dollars (\$100) for a first violation.
 - 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
 - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- C. A person who violates Sections 1013 through 1016 is guilty of a misdemeanor punishable fine not to exceeding \$200.00.
- D. In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- E. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

Sec. 1019. Public Education

The City of Waxahachie will work with local health organizations and coalitions designated by the city to provide information to assist in meeting compliance with the ordinance.

Sec. 1020. Other Applicable Laws

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 1021. Liberal Construction

This Article shall be liberally construed so as to further its purposes.

Sec. 1022. Severability

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

SMOKE★FREE TEXAS

www.smokefreetexas.org

Model Ordinance Prohibiting Smoking in All Indoor Workplaces and Public Places (100% Smokefree)

Sec. 1000. Title

This Article shall be known as the _____ [name of City or County] Smoke-Free Air Ordinance of _____ [year].

Sec. 1001. Findings and Intent

The _____ [City or County Governing Body] does hereby find that:

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry.¹ According to the 2010 U.S. Surgeon General's Report, *How Tobacco Smoke Causes Disease*, even occasional exposure to secondhand smoke is harmful and low levels of exposure to secondhand tobacco smoke lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke.² According to the 2014 U.S. Surgeon General's Report, *The Health Consequences of Smoking—50 Years of Progress*, secondhand smoke exposure causes stroke in nonsmokers. The report also found that since the 1964 Surgeon General's Report on Smoking and Health, 2.5 million nonsmokers have died from diseases caused by tobacco smoke.³

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of approximately 53,000 Americans annually.⁴

The Public Health Service's National Toxicology Program (NTP) has listed secondhand smoke as a known carcinogen.⁵

Based on a finding by the California Environmental Protection Agency in 2005, the California Air Resources Board has determined that secondhand smoke is a toxic air contaminant, finding that exposure to secondhand smoke has serious health effects, including low birth-weight babies; sudden infant death syndrome (SIDS); increased respiratory infections in children; asthma in children and adults; lung cancer, sinus cancer, and breast cancer in younger, premenopausal women; heart disease; and death.⁶

There is indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to secondhand smoke.⁷

In reviewing 11 studies concluding that communities see an immediate reduction in heart attack admissions after the implementation of comprehensive smokefree laws, the Institute of Medicine of the National Academies concluded that data consistently demonstrate that secondhand smoke exposure increases the risk of coronary heart disease and heart attacks and that smokefree laws reduce heart attacks.⁸

A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.⁹

Studies measuring cotinine (metabolized nicotine) and NNAL (metabolized nitrosamine NNK, a tobacco-specific carcinogen linked to lung cancer) in hospitality workers find dramatic reductions in the levels of these biomarkers after a smokefree law takes effect. Average cotinine levels of New York City restaurant and bar workers decreased by 85% after the city's smokefree law went into effect.¹⁰ After the implementation of Ontario, Canada's Smokefree Indoor Air Law, levels of NNAL were reduced by 52% in nonsmoking casino employees and cotinine levels fell by 98%.¹¹

Smokefree indoor air laws result in a significant reduction in fine particulate matter and improved air quality. A Grand Rapids, Michigan study that monitored six restaurants before and after implementation of the state's smokefree air law found that PM_{2.5} fine particulate matter was reduced by 92 percent after the law went into effect, indicating that the vast majority of indoor air pollution in all six venues was due to secondhand smoke. The results in Grand Rapids were consistent with results in Wilmington, Delaware; Boston, Massachusetts; and Western New York.¹²

Following a Health Hazard Evaluation of Las Vegas casino employees' secondhand smoke exposure in the workplace, which included indoor air quality tests and biomarker assessments, the National Institute of Occupational Safety & Health (NIOSH) concluded that the casino employees are exposed to dangerous levels of secondhand smoke at work and that their bodies absorb high levels of tobacco-specific chemicals NNK and cotinine during work shifts. NIOSH also concluded that the "best means of eliminating workplace exposure to [secondhand smoke] is to ban all smoking in the casinos."¹³ A subsequent study in Nevada, whose Clean Indoor Air Act permits smoking in designated areas of casinos, bars, and taverns, indicates that strong 100% smokefree laws are the only effective way to protect indoor air quality. The study sampled the air quality in 15 casino gaming areas and corresponding nonsmoking areas, and the results indicated that the Clean Indoor Air Act failed to protect air quality in the nonsmoking areas, including children-friendly areas.¹⁴

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.¹⁵ The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.¹⁶

The U.S. Centers for Disease Control and Prevention has determined that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is non-linear at low doses, increasing rapidly with relatively small doses such as those received from secondhand smoke or actively smoking one or two cigarettes a day, and has warned that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking.¹⁷

Given the fact that there is no safe level of exposure to secondhand smoke, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smokefree environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure, and recommends that indoor environments be smokefree in their entirety.¹⁸

Residual tobacco contamination, or "thirdhand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings. This residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins. Sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings. Gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds.¹⁹ Tobacco residue is noticeably present in dust throughout places where smoking has occurred.²⁰ Given the rapid sorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, this recently identified process represents an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion.²¹ The dangers of residual tobacco contamination are present in hotels, even in nonsmoking rooms. Compared with hotels that are completely smokefree, surface nicotine and air 3EP are elevated in nonsmoking and smoking rooms of hotels that allow smoking. Air nicotine levels in smoking rooms are significantly higher than those in nonsmoking rooms of hotels that do and do not completely prohibit smoking. Hallway surfaces outside of smoking rooms also show higher levels of nicotine than those outside of nonsmoking rooms. Partial smoking restrictions in hotels do not protect non-smoking guests from exposure to tobacco smoke and tobacco-specific carcinogens.²²

Unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of electronic cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent."²³ According to a more recent study, electronic cigarette emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.²⁴ Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where

smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

The Society of Actuaries has determined that secondhand smoke costs the U.S. economy roughly \$10 billion a year: \$5 billion in estimated medical costs associated with secondhand smoke exposure and \$4.6 billion in lost productivity.²⁵

Numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is sound economic policy and provides the maximum level of employee health and safety.²⁶

There is no legal or constitutional "right to smoke."²⁷ Business owners have no legal or constitutional right to expose their employees and customers to the toxic chemicals in secondhand smoke. On the contrary, employers have a common law duty to provide their workers with a workplace that is not unreasonably dangerous.²⁸

Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on merchandise and fixtures causes economic damage to businesses.²⁹

The smoking of tobacco, hookahs, or marijuana and the use of electronic cigarettes are forms of air pollution and constitute both a danger to health and a material public nuisance.

Accordingly, the _____ [City or County Governing Body] finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air, and to recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

Sec. 1002. Definitions

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

- A. "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- B. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.
- C. "Electronic Smoking Device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

- D. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
- E. "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
- F. "Enclosed Area" means all space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.
- G. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- H. "Place of Employment" means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and temporary offices. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
- I. "Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on [City or County] grounds.
- J. "Private Club" means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.
- K. "Public Place" means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gambling facilities, health care facilities, hotels and motels, laundromats, parking structures, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.

- L. "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.
- M. "Service Line" means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.
- N. "Shopping Mall" means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.
- O. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. "Smoking" also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.
- P. "Sports Arena" means a place where people assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling alleys.

Sec. 1003. Application of Article to [City-Owned or County-Owned] Facilities and Property

All enclosed areas, including buildings and vehicles owned, leased, or operated by the _____ [City or County] of _____, as well as all outdoor property adjacent to such buildings and under the control of the _____ [City or County], shall be subject to the provisions of this Article.

Sec. 1004. Prohibition of Smoking in Enclosed Places of Employment

Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

This prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Sec. 1005. Prohibition of Smoking in Public Places

Smoking shall be prohibited in all public places within the _____ [City or County] of _____, including but not limited to, the following places:

- A. Aquariums, galleries, libraries, and museums.
- B. Areas available to the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments.
- C. Bars.
- D. Bingo facilities.
- E. Child care and adult day care facilities.
- F. Convention facilities.
- G. Educational facilities, both public and private.
- H. Elevators.
- I. Gambling facilities.
- J. Health care facilities.
- K. Hotels and motels.
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- M. Parking structures.
- N. Polling places.
- O. Public transportation vehicles, including buses and taxicabs, under the authority of the _____ [City or County], and ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and airport facilities.
- P. Restaurants.
- Q. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- R. Retail stores.
- S. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the _____ [City or County] or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the _____ [City or County].

T. Service lines.

U. Shopping malls.

V. Sports arenas, including enclosed places in outdoor arenas.

W. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Sec. 1006. Prohibition of Smoking in Private Clubs

Smoking shall be prohibited in all private clubs.

Sec. 1007. Prohibition of Smoking in Enclosed Residential Facilities

Smoking shall be prohibited in the following enclosed residential facilities:

A. All private and semi-private rooms in nursing homes.

B. All hotel and motel guest rooms.

Sec. 1008. Prohibition of Smoking in Outdoor Public Places

Smoking shall be prohibited in the following outdoor places:

A. Within a reasonable distance of _____ [*recommended 15-25*] feet outside the primary entrance, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas.

B. In, and within _____ [*recommended 15-25*] feet of, all outdoor playgrounds.

Sec. 1009. Where Smoking Not Regulated

Notwithstanding any other provision of this Article to the contrary, smoking shall not be prohibited in private residences, unless used as a childcare, adult day care, or health care facility.

Sec. 1010. Declaration of Establishment or Outdoor Area as Nonsmoking

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 1012(A) is posted.

Sec. 1011. Posting of Signs and Removal of Ashtrays

The owner, operator, manager, or other person in control of a place of employment, public place, private club, or residential facility where smoking is prohibited by this Article shall:

- A. Clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited or, in the case of outdoor places, clearly and conspicuously post "No Smoking" signs in appropriate locations as determined by the _____ [Department of Health or City Manager or County Administrator] or an authorized designee.
- C. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Article at least one sign, visible from the exterior of the vehicle, stating that smoking is prohibited.
- D. Remove all ashtrays from any area where smoking is prohibited by this Article, except for ashtrays displayed for sale and not for use on the premises.

Sec. 1012. Nonretaliation; Nonwaiver of Rights

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article. Notwithstanding Section 1015, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1000 for each violation.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 1013. Enforcement

- A. This Article shall be enforced by the _____ [Department of Health or City Manager or County Administrator] or an authorized designee.
- B. Notice of the provisions of this Article shall be given to all applicants for a business license in the _____ [City or County] of _____.
- C. Any citizen who desires to register a complaint under this Article may initiate enforcement with the _____ [Department of Health or City Manager or County Administrator].
- D. The Health Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.

- E. An owner, manager, operator, or employee of an area regulated by this Article shall direct a person who is smoking in violation of this Article to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.
- F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.
- G. In addition to the remedies provided by the provisions of this Section, the _____ [Department of Health or City Manager or County Administrator] or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Sec. 1014. Violations and Penalties

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. Except as otherwise provided in Section 1013(A), a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding one hundred dollars (\$100) for a first violation.
 - 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
 - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- C. In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- D. Violation of this Article is hereby declared to be a public nuisance, which may be abated by the _____ [Department of Health or City Manager or County Administrator] by restraining order, preliminary and permanent injunction, or other means provided for by law, and the _____ [City or County] may take action to recover the costs of the nuisance abatement.
- E. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

Sec. 1015. Public Education

The _____ [Department of Health or City Manager or County Administrator] shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Sec. 1016. Governmental Agency Cooperation

The _____ [City Manager or County Administrator] shall annually request other governmental and educational agencies having facilities within the _____ [City or County] to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, _____ [County or City], and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Sec. 1017. Other Applicable Laws

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 1018. Liberal Construction

This Article shall be liberally construed so as to further its purposes.

Sec. 1019. Severability

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Sec. 1020. Effective Date

This Article shall be effective thirty (30) days from and after the date of its adoption.

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LANCASTER CITY COUNCIL

City Council Work Session

2.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Healthy, Safe & Vibrant Community

Submitted by: Sam Urbanski, Police Chief

Agenda Caption:

Receive a presentation regarding the 2016 Racial Profiling Analysis Annual Report.

Background:

Effective September 1, 2001, the Texas Legislature enacted the Texas Racial Profiling Law (S.B. No. 1074). The Texas Code of Criminal Procedure requires that law enforcement agencies collect information relating to traffic stops in which a citation is issued and arrests resulting from those traffic stops. The Texas Code of Criminal Procedure further requires that law enforcement agencies compile and analyze this information and submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency.

Attached is the 2016 Lancaster Police Department Racial Profiling Analysis as prepared by representative experts from the University of North Texas. A printed copy will also be available at the work session. The Police Department had no sustained racial profiling complaints in 2016.

Beginning January 2011, the Texas Commission on Law Enforcement Standards and Education (TCOLE) posts a copy of each police department's racial profiling report on its website.

To further ensure transparency, the Lancaster Police Department will be adding information to the city website.

Operational Considerations:

The Lancaster Police Department has adopted a detailed, written policy on racial profiling and currently collects the required information on racial profiling as required by State Law. The Lancaster Police Department contracted with the University of North Texas for the examination of contact data.

Legal Considerations:

The Texas Code of Criminal Procedure requires that the Lancaster Police Department 2016 Racial Profiling Analysis Report be submitted to the City of Lancaster governing body.

Attachments

Racial Professional Analysis

LANCASTER POLICE DEPARTMENT

2016

RACIAL PROFILING ANALYSIS



PREPARED BY:

Eric J. Fritsch, Ph.D.
Chad R. Trulson, Ph.D.



University of North Texas

Executive Summary

Article 2.132 (7) of the Texas Code of Criminal Procedure requires the annual reporting to the local governing body of data collected on the race or ethnicity of individuals stopped and issued citations or arrested subsequent to traffic stops and whether or not those individuals were searched. Since the law provides no clear instruction to a governing body on how to review such data, the Lancaster Police Department requested this analysis and review to assist the City Council in reviewing the data.

The analysis of material and data from the Lancaster Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE LANCASTER POLICE DEPARTMENT'S BIASED BASED POLICING AND RACIAL PROFILING POLICY SHOWS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**
- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**
- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**
- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**
- **THE ANALYSIS OF STATISTICAL INFORMATION FROM LANCASTER POLICE DEPARTMENT REVEALS THAT THERE ARE NO METHODOLOGICALLY CONCLUSIVE INDICATIONS OF SYSTEMIC RACIAL PROFILING BY THE DEPARTMENT.**
- **THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE PROHIBITION OF RACIAL PROFILING.**
- **THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

Introduction

This report details an analysis of the Lancaster Police Department's policies, training, and statistical information on racial profiling for the year 2016. This report has been prepared to specifically comply with Article 2.132 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of racial profiling data. Specifically, the analysis will address Articles 2.131 – 2.135 of the CCP and make a determination of the level of compliance with those articles by the Lancaster Police Department in 2016. The full copies of the applicable laws and regulations pertaining to this report are contained in Appendix A.

This report is divided into six analytical sections: Lancaster Police Department's policy on racial profiling; Lancaster Police Department's training and education on racial profiling; Lancaster Police Department's complaint process and public education on racial profiling; analysis of statistical data on racial profiling; an analysis of Lancaster Police Department's compliance with applicable laws on racial profiling; and a final section which includes new data reporting requirements to TCOLE as required beginning in 2011.

For the purposes of this report and analysis, the following definition of racial profiling is used: racial profiling means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas CCP Article 3.05).

Lancaster Police Department Policy on Racial Profiling

A review of Lancaster Police Department's "Biased Based Policing and Racial Profiling" policy 2.01.1 revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP. There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in Lancaster's racial profiling policy. Lancaster Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling may be disciplined up to and including termination. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix B lists the applicable statute and corresponding Lancaster Police Department regulation.

A COMPREHENSIVE REVIEW OF LANCASTER POLICE DEPARTMENT'S BIASED BASED POLICING AND RACIAL PROFILING POLICY SHOWS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Lancaster Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Information provided by Lancaster Police Department reveals that racial profiling training and certification is current for all officers. Moreover, additional racial profiling training has been assigned through the Texas Municipal League and sent to all officers to complete. Racial profiling training is specifically covered in Lancaster's Biased Based Profiling policy Section 4F.

A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE LANCASTER POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.

Lancaster Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Lancaster Police Department's Biased Based Profiling policy Section 4D covers this requirement.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

Lancaster Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 requires that law enforcement agencies collect statistical information on traffic citations and detentions with specific information on the race of the person cited. In addition, information concerning searches of persons and whether or not the search was based on consent is also to be collected. Lancaster Police Department submitted statistical information on all traffic stops in 2016 and accompanying information on the race of the person stopped. Accompanying this data was the relevant information on searches.

ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

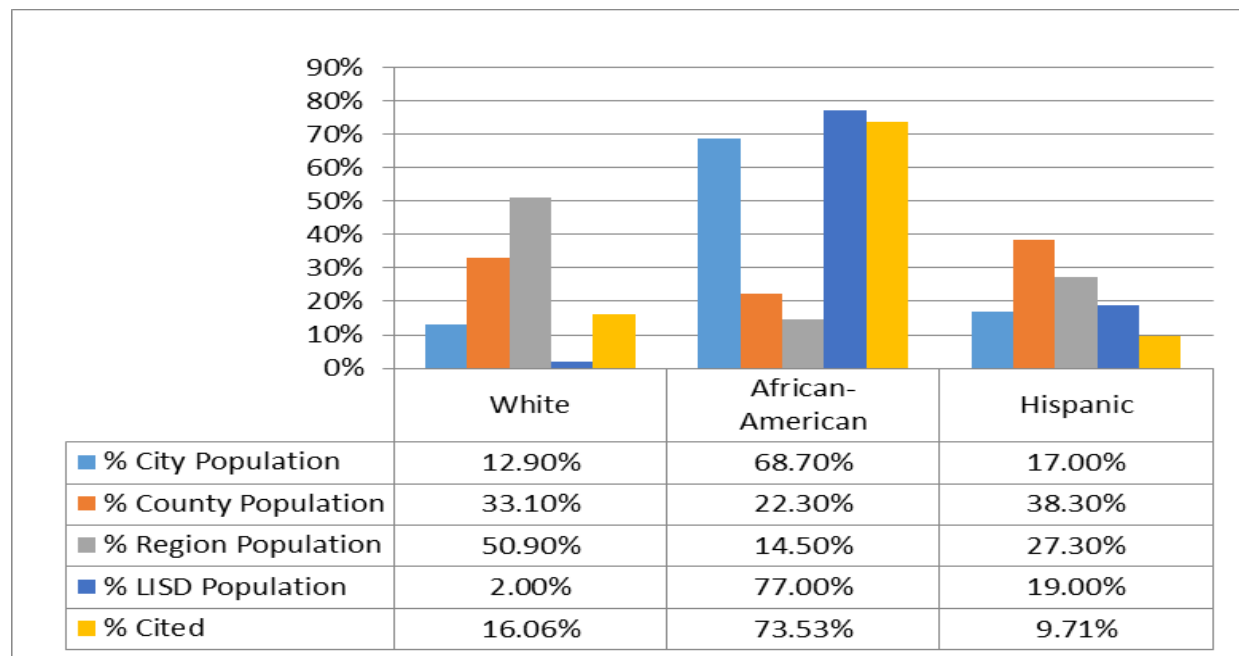
Analysis of the Data

The first chart depicts the percentages of the number of motor vehicle stops by racial group in 2016.¹ White drivers constituted 16.06 percent of all drivers stopped, whereas Whites constituted 12.90 percent of the city population, 33.10 percent of the county population, and 50.90 percent of the region population.² The chart shows that White drivers are stopped at a rate that is higher than the percentage of Whites in the city, but lower than the county and regional population. White drivers were stopped at a higher rate than the percentage of White students in the

¹ The total number of motor vehicle stops that resulted in an action (citation, arrest, or both) in 2016 equaled 4,154. See the TCOLE forms at the end of this report. However, not all stops resulted in arrest, citation, or both. In 2016, there were a total of 7,571 motor vehicle stops of citizens. The figure 7,571 is utilized in the tables and charts in the body of this report and the remainder of the report refers to "stops" rather than citations of drivers. The TCOLE forms at the end of this report examine stops that resulted in citation, arrest, or both.

²City, County, and Regional population figures are derived from the 2010 Census of the U.S. Census Bureau. "Regional" population figures are defined as the 16 county North Central Texas Council of Governments Region and is comprised of the following counties: Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

Lancaster Independent School District (2.00 percent).³ African-American drivers constituted 73.53 percent of all drivers stopped, whereas African-Americans constituted 68.70 percent of the city population, 22.30 percent of the county population, and 14.50 percent of the region population. African-American stop rates were slightly higher than the percentage of African-Americans in the city population, and also higher than the percentage of African-Americans in the county and regional populations. However, African-Americans were stopped at a rate that is slightly lower than the percentage of African-American students in the LISD population (77.00 percent). Hispanic drivers constituted 9.71 percent of all drivers stopped, whereas Hispanics constituted 17.00 percent of the city population, 38.30 percent of the county population, and 27.30 percent of the regional population. Hispanic drivers were stopped at a rate that is lower than the percentage of Hispanics in the city, county, regional, and LISD populations.



As the chart shows, easy determinations regarding whether or not Lancaster police officers have “racially profiled” a given motorist are impossible given the nature of the data that has been collected and presented for this report. The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are “racially profiling” motorists.

This methodological error, commonly referred to as the “ecological fallacy,” defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate incident level data. In short, one cannot “prove” that an *individual* officer has “racially profiled” any *individual* motorist based on the rate at which a department stops any given *group* of motorists.

³ Data on the racial make-up of LISD were obtained from the Lancaster ISD report “District Improvement Plan, 2016-2017. This report can be found at: http://www.lancasterisd.org/pdf/district/Improvement_Plan/2016_2017_District_Improvement_Plan.pdf.

Additional interpretation problems remain in regards to the specific measurement of “racial profiling” as defined by Texas state code. For example, officers are currently forced to make subjective determinations regarding an individual's race based on his or her personal observations because the Texas Department of Public Safety does not provide an objectively-based determination of an individual's race/ethnicity on the Texas driver's license. The absence of any verifiable race/ethnicity data on the driver's license is especially troubling given the racial diversity within the city of Lancaster and the North Texas region as a whole, and the large numbers of citizens who are of Hispanic and/or mixed racial descent. The validity of any racial/ethnic disparities discovered in the aggregate level data becomes threatened in direct proportion to the number of subjective “guesses” officers are forced to make when trying to determine an individual's racial/ethnic background.⁴

In addition, the data collected for the current report does not allow for an analysis that separates (or disaggregates) the discretionary decisions of officers to stop a motorist from those that are largely non-discretionary. For example, non-discretionary stops of motorists based on the discovery of outstanding warrants should not be analyzed in terms of whether or not “profiling” has occurred simply because the officer who has stopped a motorist as a result of the discovery of an outstanding warrant does not *independently* make the decision to stop, but rather, is required to stop that individual regardless of any determination of race. An officer cannot be determined to be “racially profiling” when organizational rules and state codes compel them to stop regardless of an individual's race/ethnicity. Straightforward aggregate comparisons of stop rates ignore these realities, and fail to distinguish between discretionary and non-discretionary law enforcement actions.

Finally, there has been considerable debate as to what the most appropriate population “base-rate” is in determining whether or not racial/ethnic disparities exist. As the current analysis shows in regards to the use of city, county, and regional population base-rates, the outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. In addition, population growth and the changing demographic character of the North Texas region and particularly the city of Lancaster has exacerbated problems associated with determining appropriate base-rates because measures derived exclusively from the U.S. Census can become quickly outdated since they are compiled only once per decade. For example, in the years preceding the 2000 Census, it was unclear as to how this growth impacted the overall demographic character of the city. However, the 2010 Census has revealed that Lancaster has not only experienced large-scale growth over the course of the last several years, but has also become much more diverse as indicated by the demographic statistics presented in this report.

Related, the determination of valid stop base-rates becomes multiplied if analyses fail to distinguish between residents and non-residents who are stopped, because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures.

In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are stopped in order to determine whether or not racial profiling exists within a given jurisdiction.

⁴ In 2016, the race of the motorist was reported as “known” prior to the stop in 149 or roughly 4 percent of instances where a stopped motorist received a citation/arrest/both (4,154). See the TCOLE forms at the end of this report.

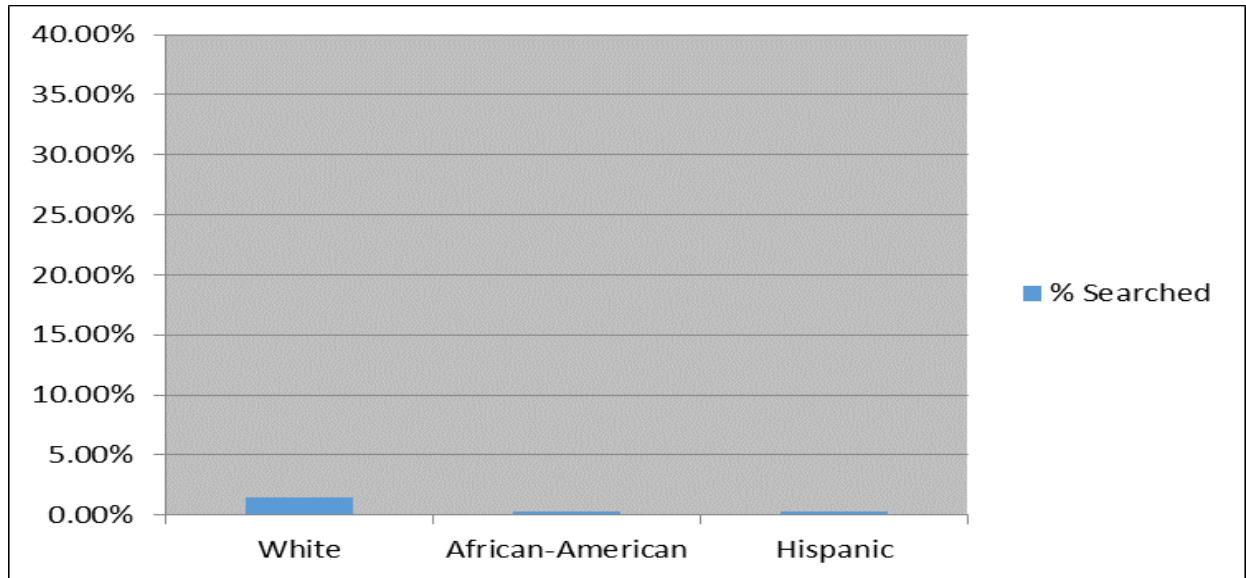
The table below reports the summaries for the total number of vehicle stops by the Lancaster Police Department for traffic offenses in 2016. In addition, the table shows the number of stopped individuals who granted consent to search and those stopped drivers who were arrested at the conclusion of the stop. The chart shows that roughly 14 percent of all drivers searched were White (168/1,193 total searches), roughly 11 percent (127) were Hispanic, and roughly 75 percent (898) were African-American. It is clear that the vast majority of the total number of drivers stopped (including White, African-American, and Hispanic groups) were not searched, as roughly 84 percent of all drivers who were stopped were not searched (1,193/7,571).

Action	White	African-American	Hispanic	Asian	Other	Total
Vehicle Stops	1,216	5,567	735	50	3	7,571
Searches	168	898	127	0	0	1,193
Consent Searches	18	19	2	1	0	40
Arrests	80	406	26	0	0	512

It should be noted that aggregate level comparisons regarding the rates at which drivers are searched by police are subject to some of the same methodological issues as those outlined above regarding analyses of aggregate level stop rates. Of particular concern is the absence of any analyses that separates discretionary searches from non-discretionary searches. For example, searches that are conducted incident to an arrest or as part of a vehicle tow inventory should not be included in analyses designed to examine whether or not racial profiling has occurred because these types of searches are non-discretionary in that the officer is compelled by law or departmental guidelines to conduct the search irrespective of the race of the stopped driver.

Less than 1 percent of the total number of stops resulted in a consensual search (40/7,571). So too, approximately 7 percent of drivers stopped were subject to an arrest. Of those arrested, roughly 16 percent (80/512 total arrests) were White, roughly 79 percent (406) were African-American, and roughly 5 percent (26) were Hispanic. Additional data regarding the reason for the arrest are necessary in order to further examine whether or not these data reflect individual officer decisions to arrest or non-discretionary actions based primarily on legal and/or organizational requirements (e.g., the existence of outstanding arrest warrants or on view criminal activity).

The bar chart below presents the percentage of drivers that were searched by consent within each racial category. The chart indicates that drivers who were stopped were rarely searched via consent across the racial categories. For example, roughly 1 percent of all White drivers who were stopped were also consent searched (18 consent searches of white drivers / 1,216 stops of white drivers), less than 1 percent of all African-American drivers who were stopped were consent searched, and less than 1 percent of all Hispanic drivers who were stopped were consent searched.



Analysis of Racial Profiling Compliance by Lancaster Police Department

The foregoing analysis shows that the Lancaster Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection of data in compliance with the law. Finally, internal records indicate that the department received no complaints in reference to racial profiling for the year 2016.

In addition to providing summary reports and analysis of the data collected by the Lancaster Police Department in 2016, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Lancaster Police Department as well as police agencies across Texas. The Lancaster Police Department should continue its educational and training efforts within the department on racial profiling. Finally, the department should conduct periodic evaluations to assess patterns of officer decision-making on traffic stops. The final section of this report includes newly required TCOLE reporting information by Texas law enforcement organizations.

LPD TCOLE Reporting Forms



Partial Exemption Racial Profiling Reporting
(Tier 1)

Department Name Lancaster Police Department
Agency Number TX0571700
Chief Administrator Name Samuel Urbanski
Reporting Name Samuel Urbanski
Contact Number 972-218-2729
E-mail Address Surbanski@lancaster-tx.com

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP):

Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
- (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
 - (A) the Commission on Law Enforcement Officer Standards and Education; and
 - (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These policies are in
effect


Chief Administrator

Date 2/14/17



**Partial Exemption Racial Profiling Reporting
(Tier 1)**

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):



all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR



In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption


Chief Administrator

Date 2/14/17

Tier 1 State Report

Date Range: 01/01/2016 00:00:00 - 12/31/2016 23:59:59

PARTIAL EXEMPTION RACIAL PROFILING REPORTING (TIER 1)**INSTRUCTIONS: Please fill out all boxes. If zero, use 0.**

- 1. Total on line 4, 11, 14 and 17 must be equal**
- 2. Total on line 20 must equal line 15**

AGENCY NAME: LANCASTER POLICE DEPARTMENT**Number of motor vehicle stops (mark only 1 category per vehicle stop):**

1. 3902 Citation Only
2. 248 Arrest Only
3. 4 Both
4. 4154 (Total of 1-3)

Race or Ethnicity (mark only 1 category per vehicle stop):

5. 2946 African
6. 29 Asian
7. 705 Caucasian
8. 471 Hispanic
9. 2 Middle Eastern
10. 1 Native American
11. 4154 (Total of 5-10, must be the same as #4)

Race or Ethnicity known prior to stop?

12. 149 Yes
13. 4005 No
14. 4154 (Total of 12-13, must be the same as #4 and #11)

Search Conducted?

15. 544 Yes
16. 3610 No
17. 4154 (Total of 15-16, must be the same as #4, #11, and #14 above)

Was search consented?

18. 11 Yes
19. 533 No
20. 544 (Total, must equal #15)



**Partial Exemption Racial Profiling Reporting
(Tier 1)**

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above
requirements


Chief Administrator

2/14/17
Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

Appendix A

Racial Profiling Statutes and Laws

Art. 3.05. RACIAL PROFILING.

In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 2, eff. Sept. 1, 2001.

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
 - (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
 - (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
 - (4) provide public education relating to the agency's complaint process;
 - (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
 - (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
 - (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
 - (A) the Commission on Law Enforcement Officer Standards and Education; and
 - (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.
- (c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.
- (d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle

stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 25, eff. September 1, 2011.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

(a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

- (2) the initial reason for the stop;
- (3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
- (4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
- (5) the reason for the search, including whether:
 - (A) any contraband or other evidence was in plain view;
 - (B) any probable cause or reasonable suspicion existed to perform the search; or
 - (C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
- (6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
- (7) the street address or approximate location of the stop; and
- (8) whether the officer issued a written warning or a citation as a result of the stop.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 26, eff. September 1, 2011.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

- (1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).
- (2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the

previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; and

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. [1172](#), Sec. 27, eff. September 1, 2011.

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT.

(a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 28, eff. September 1, 2011.

Art. 2.136. LIABILITY.

A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.138. RULES.

The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.1385. CIVIL PENALTY.

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

Added by Acts 2011, 81st Leg., R.S., Ch. 1172, Sec. 29, eff. September 1, 2011.

Appendix B

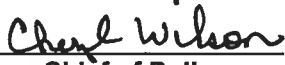
Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	LANCASTER POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	Section 3
2.132(b)2	Section 1-2
2.132(b)3	Section 4D
2.132(b)4	Section 4D
2.132(b)5	Section 4C
2.132(b)6	Section 4E
2.132(b)7	Section 4E

Appendix C

Lancaster Police Department Racial Profiling Policy

LANCASTER, POLICE DEPARTMENT GENERAL ORDERS MANUAL

<i>Effective Date</i> August 26, 2015		<i>Amended Date</i>		<i>Directive</i> 2.01.1	
<i>Subject</i> Biased Based Policing and Racial Profiling					
<i>Reference</i>			<i>Approved</i> <div style="text-align: center;"> Chief of Police</div>		
<i>Distribution</i> All Personnel City Manager City Attorney	<i>TPCA Best Practices Recognition Program Reference</i> 2.01	<i>Review Date</i>	<i>Pages</i> 8		

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to reaffirm the Lancaster Police Department's commitment to unbiased policing in all of its encounters between officers and any person; to reinforce procedurally just ways that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictate of departmental policy and the law.

SECTION 2 POLICY

- A. It is the policy of the department to protect the constitutional rights of all persons. Allegations of racial profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the communities they protect and serve because they strike at the basic foundation of public trust. This trust is essential to effective community-based policing. Racial profiling is considered misuse of valuable police resources; such improper methods violate the civil rights of members of the public and may lead to increased exposure to liability for the officer and the department. The department does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial profiling by its officers. While recognizing that most officers perform their duties in a professional, ethical, and impartial manner, the department is committed to identifying and eliminating any instances of racial profiling.
- B. It is the policy of the department to:
 - 1. provide all people within the community fair and impartial police services consistent with procedural justice, constitutional and statutory mandates;
 - 2. assure the highest standard of integrity and ethics among all our members;
 - 3. respect the diversity and the lawful cultural practices of all people;
 - 4. take positive steps to identify, prevent, and eliminate any instances of racial profiling by our members; and

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5. continue our commitment to community based policing and problem solving, including vigorous, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness.
- C. It is the policy of the department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner without regard to race, gender, ethnicity, or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians.
- D. Officers, when dealing with the community shall conduct themselves in procedurally just ways, procedurally just behavior is based on four central principles: (1) treating people with dignity and respect, (2) giving individuals "voices" during encounters, (3) being neutral and transparent in decision making and (4) conveying trustworthy motives. These principles lead to relationships in which the community trusts that officers are honest, unbiased, benevolent, and lawful. The community therefore feels obligated to follow the law and the dictates of legal authorities and is more willing to cooperate with and engage those authorities because it believes that it shares a common set of interest and values with the community.

SECTION 3 DEFINITIONS

- A. **Bias**: prejudice or partiality based on preconceived ideas, a person's upbringing, culture, experience, or education.
- B. **Biased Policing**: stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- C. **Ethnicity**: a cluster of characteristics that may include race but also cultural characteristics or traits that are shared by a group with a common experience or history.
- D. **Frisk**: a limited search or patting down of a suspect's outer clothing for the purpose of officer safety. A frisk must be based on reasonable suspicion that the suspect is armed with a deadly weapon, and that if he is not searched and disarmed, harm will come to the officer or another person. A limited search or frisk of an automobile after a valid stop is permissible if the officer has reasonable suspicion the suspect is dangerous and might gain immediate control of a weapon. The search is limited to the areas in which a weapon may be placed or hidden.
- E. **Gender**: unlike sex, a psychological classification based on cultural characteristics or traits.
- F. **Gender Profiling**: is defined as a law enforcement-initiated action based on an individual's gender rather than on the individual's behavior or involvement in criminal activity.
- G. **Procedural Justice**: the way officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public's trust of the police.
- H. **Probable Cause**: is defined as more than bare suspicion; it exists when the facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information are sufficient

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in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

- I. **Race:** a category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern, or Native American descent. As distinct from ethnicity, race refers only to physical characteristics sufficiently distinctive to group people under a classification.
- J. **Racial Profiling:** a law enforcement-initiated action based on an individual's race, ethnicity or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.
 1. Examples of racial profiling include, but are not limited to, the following:
 - a. Citing a driver because of the cited driver's race, ethnicity, or national origin; or
 - b. detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possesses that specific make or model of vehicle; or
 - c. detaining an individual based upon the determination that a person of that race, ethnicity, or national origin does not belong in a specific part of town or a specific place
- K. **Reasonable Suspicion** is defined as specific, articulable facts leading a reasonable police officer to believe that a person has committed, is committing, or may be about to commit a crime. Reasonable suspicion is less than probable cause, but more than a mere hunch. Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence.
- L. **Sex:** a biological classification, male or female, based on physical and genetic characteristics.
- M. **Search:** an examination or exploration of an individual's house, premises, vehicle or person to discover stolen property, contraband or other items that may be evidence of a crime.
- N. **Search incident to arrest:** a full search of an arrested person and of the vicinity around him or her. The search is conducted for officer safety and to prevent the destruction of evidence.
- O. **Consent search:** a search permitted by a person with apparent authority to allow the search. To be valid, consent must be voluntary and intelligent, based on a totality of circumstances. Voluntary means that the consent was not forced or coerced. Intelligent means the person giving consent must know what he or she is doing.
- P. **Inventory:** an administrative process by which items of property in an impounded vehicle are listed and secured. An inventory is not a search and should not be used as a substitute for a search. The specific objectives of an inventory are to protect the property of the defendant, to protect the police against any claim of lost property, and to protect police personnel and others from any dangerous instruments.

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- Q. **Pedestrian Stop:** an interaction between a peace officer and an individual traveling on foot who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.
- R. **Traffic Stop:** vehicle stops whereas a peace officer stops a motor vehicle for an alleged violation of law or ordinance regulating traffic.

SECTION 4 PROCEDURES

A. GENERAL RESPONSIBILITIES

1. Officers are prohibited from engaging in racial or bias-based profiling or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes.
2. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, pedestrian stops, arrests, nonconsensual searches, and property seizures. Except as provided in number three (3) below, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.
3. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion. Reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall be subjected to stops, seizures, or detentions only upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
4. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
 - a. As traffic stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a traffic stop may be crucial to a person's perception of fairness or discrimination.
 - b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.

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5. All personnel shall treat everyone with the same courtesy and respect that they would have others observe to department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
 - a. Personnel shall facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
 - b. All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by an individual against the department. Further, officers shall provide information on the complaint's process and shall give copies of "How to Make a Complaint" when appropriate.
6. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on the individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety.
7. When concluding an encounter, personnel shall thank him or her for cooperating.
8. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their departmental identification number, name of the immediate supervisor, or any other reasonable information.
9. All personnel are accountable for their actions. Personnel shall justify their actions when required.

B. SUPERVISORY RESPONSIBILITIES

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.
2. Supervisors shall use the disciplinary mechanisms of the department to ensure compliance with this order and the constitutional requirements of law enforcement.
3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
4. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the department to liability consequences.
5. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
6. Supervisors shall ensure that all enforcement actions are duly documented per departmental policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.

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7. Supervisors shall facilitate the filing of any complaints about law- enforcement service.

C. DISCIPLINARY CONSEQUENCES

1. Failure to report any observed or known violations of this policy by any police department employee shall result in corrective action being taken against the employee.
2. Officers found in violation of this policy or who have a sustained racial profiling complaint shall be subject to corrective action which may include, diversity, sensitivity, or other appropriate training, counseling, a written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police.

D. COMPLAINTS

1. Any person may file a complaint with the department if they believe they have been stopped or searched on the basis of their race, ethnicity, national origin, sexual orientation, religion, economic status, age cultural group, gender or any other identifiable group. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.
2. A complaint from a citizen regarding racial profiling may be made to any police department supervisor or, if available, to the Office of Professional Responsibility. A complaint from a citizen can be made by writing a letter, calling the police department and requesting a police supervisor to their location (inside the city limits) or by coming to the police station. If, after discussing the complaint with a supervisor the citizen wishes to file a formal complaint they must complete and sign a formal written complaint. All complaints received shall be forwarded in writing through the chain of command to the Chief of Police.
3. In addition to the formal written complaint, the supervisor receiving the complaint shall complete a Complainant Initial Contact (CIC) form and obtain the digital video from the officer's vehicle. The supervisor shall label the digital video, indicating the unit number and date and time the video was pulled from the unit. The video will be forwarded with the written formal complaint and the Complainant Initial Contact form through the chain of command to the Chief of Police by the end of the supervisor's tour of duty. All videos of incidents alleging racial or gender profiling shall be retained with the investigative file.
4. The Chief of Police will then assign the complaint to an appropriate department supervisor or the Office of Professional Responsibility to investigate the complaint.
5. The department shall provide education to the public concerning the complaint process. Written information regarding how a citizen may file a complaint or issue a commendation for an officer shall be made available to the public at a variety of locations, including public meetings, in the lobby of the public safety building and City Hall. This information shall also be available on the department's website (www.lancaster-tx.com).

E. CITATION, DATA COLLECTION AND REPORTING

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1. Each officer shall be required to collect information relating to all traffic or pedestrian stops by documenting the required information on a traffic citation or a written warning. All self-initiated traffic and pedestrian stops made whether or not a citation or written warning is issued, the officer shall complete a racial profiling incident report in the Racial Profiling Module. The racial profiling incident report can be completed through the use of the in car computer program Visual MCT, a computer at the Lancaster Police station with the computer program MOBLAN or RMS or at the jail through Visual MCT, MOBLAND or RMS.
2. The officer will document the following information in the Racial Profiling Module:
 - a. the date and time of the stop;
 - b. the duration of the stop;
 - c. whether the stop was video recorded;
 - d. the location of the stop;
 - e. the stopped subject's gender;
 - f. the stopped subject's race or ethnicity;
 - g. if the stopped subject's race or ethnicity was known prior to the stop;
 - h. the residency status of the stopped subject;
 - i. the type of stop;
 - j. the reason for the stop;
 - k. if a search was conducted, if so on who;
 - l. the authority of the search;
 - m. if any type of illegal contraband was located during the search;
 - n. the result of the stop; and
 - o. any charges filed
3. Once an officer has completed the racial profiling incident report it should be submitted into the Records Management System. Officers should complete and submit all required racial profiling incident report(s) by the end of their duty shift unless the officer receive permission to turn the report(s) in the following day from their direct supervisor. If permission is granted by the officer's direct supervisor, the officer should complete and submit the report(s) by the end of their next duty shift.

**LANCASTER POLICE DEPARTMENT
GENERAL ORDERS MANUAL**

<i>Effective Date</i> August 26, 2015	<i>Amended Date</i>	<i>Directive</i> 2.01.1
<i>Subject</i> Biased Based Policing and Racial Profiling		

4. By March of each year, the department shall submit a written report to the City Council that includes the information gathered from the traffic stops in the preceding calendar year. The report will include:
 - a. a breakdown of traffic stops by race and ethnicity;
 - b. the number of traffic stops that resulted in a search and the basis for the searches;
 - c. the number of searches that resulted in contraband being discovered and, if so, the type of contraband; and
 - d. the number of traffic stops that resulted in custodial arrests
5. The Operations Division Assistant Chief of Police shall be responsible for providing a report to the Chief of Police that contains this information.

F. RACIAL PROFILING TRAINING

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.
2. All officers shall complete Texas Commission on Law Enforcement training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701, Texas Occupation Code, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. At the discretion of the Chief of Police, additional diversity and sensitivity training may be required for officers with sustained racial profiling or other discrimination complaints filed against them.
3. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the Law Enforcement Management Institute of Texas program on racial profiling.
4. Supervisors shall conduct periodic roll call training regarding racial profiling issues, including implementation and enforcement of this policy.

G. SCOPE OF RESPONSIBILITY

1. All members of the department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.

LANCASTER CITY COUNCIL

City Council Work Session

3.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Healthy, Safe & Vibrant Community
Quality Development

Submitted by: Bester Maunyaradzi, Senior Planner

Agenda Caption:

Discuss and consider amending Chapter 3 Article 3.800, "Fence Regulations" of the Lancaster Code of Ordinances to remove 8 ft. fences with the exception of the side or back of a property that faces a major thoroughfare or intense commercial use and amending Chapter 3.16 Fence and Site Elements of the Lancaster Historic Residential Design Guidelines requiring fences in the historic district to reflect the structures historic time period.

Background:

As prescribed in the City Council rules and procedures as amended September 2016, Section D. City Council Agenda Process, Subsection 1.b., Mayor Pro Tem Carol Strain-Burk requested that an item be included on the agenda for the purpose of Council reviewing the fence regulations and considering amendments to removing 8 foot fences with exceptions for properties facing a major thoroughfare or intense commercial use and to remove 8 foot fences from the historic district residential guidelines.

Attachments

Fence Ordinance
Historic District Guidelines (Fence)

ORDINANCE NO. 2011-03-06

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE LANCASTER CODE OF ORDINANCES, CHAPTER 3, BY REPEALING ARTICLE 3.800, "FENCE REGULATIONS", IN ITS ENTIRETY AND REPLACING WITH A NEW ARTICLE 3.800, "FENCE REGULATIONS"; PROVIDING FOR DEFINITIONS; PROVIDING A PERMIT REQUIREMENT, APPLICATION AND FEE; PROVIDING FOR THE ENCROACHMENT OF PUBLIC PROPERTY; PROVIDING FOR CONSTRUCTION WITHIN EASEMENTS; PROVIDING FOR HEIGHT LIMITATIONS – REAR AND SIDE YARDS; PROVIDING FOR FENCES ON REVERSE FRONTAGE LOTS; PROVIDING FOR THE USE OF BARBED WIRE OR ELECTRONICALLY CHARGED FENCES; PROVIDING FOR FENCE CONSTRUCTION AND MATERIALS; PROVIDING FOR GATES; PROVIDING FOR INSPECTION; PROVIDING FOR MAINTENANCE AND STANDARD OF FENCE; PROVIDING FOR THE APPEAL OF SPECIFIC REQUIREMENTS; PROVIDING FOR THE APPEAL PROCESS; AND BY AMENDING CHAPTER 14, LANCASTER DEVELOPMENT CODE, BY REPEALING ARTICLE 14.500, SECTION 14.501, SUBSECTION (h), "FENCES", IN ITS ENTIRETY AND RESERVING THE SAME FOR FUTURE USE; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING FOR A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:

SECTION 1. That the Lancaster Code of Ordinances be, and the same is, hereby amended by Chapter 3, by repealing Article 3.800, "Fence Regulations", in its entirety and replacing with a new Article 3.800, "Fence Regulations", which shall read as follows:

"ARTICLE 3.800 FENCE REGULATIONS

Sec. 3.801 Definitions

For the purpose of this article, the following terms, phrases and words shall have meanings respectively ascribed to them by this section:

Code Official. The administrative official or the designated representative charged with the responsibility of enforcement of this article.

Approved. Approved by the code official or the city council of Lancaster, Texas.

Corner Lot. A lot situated at the intersection of two (2) streets, the interior angle of such intersection not to exceed one hundred thirty-five 135 degrees.

Fence. Any wall, berm or structure more than two and one-half (2 ½) feet in height erected or maintained for the purpose of enclosing, screening, restricting access to or decorating the surrounding lot, parcel, building or structure; located entirely on private property.

Front Yard. An open, unoccupied space on a lot facing a street and extending from the building or the required building line across the front of a lot.

Height (of fence). Measured from ground level at the base of fence to the uppermost part of the fence.

Interior Lot. A lot other than a corner lot.

Interior Lot Line. The side yard lot line that is adjacent to a corner lot or an interior lot's side yard line.

Rear Yard. A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal buildings.

Reverse Frontage Corner Lot. A corner lot where the rear lot line is adjacent to a side lot line of an adjoining lot or across an alley from such side lot line.

Side Yard. An open unoccupied space on the same lot with the building, extending from the building or the required building line and the same lot line.

Street. For the purpose of this article, street shall refer to public and private streets.

Through Lot (Double Frontage Lot). A building lot not a corner lot, where both the front and rear lot lines adjoin street lines. For the purpose of this section, both street lines shall be deemed front lot lines.

Vision Triangle. Vision triangle is that imaginary area created by measuring along two (2) intersecting property lines a distance as indicated below, then drawing a line diagonally. Fence or fences in these vision triangles shall not exceed two and one-half (2 ½) feet in height.

- 1) Street-Street Intersections. The vision is determined by measuring back from the intersecting point of the two (2) property lines parallel to the intersecting streets a distance of twenty-five (25) feet, and drawing an imaginary line across these two (2) points.

- 2) Alley Intersections. The vision triangle is determined by measuring back from the intersecting point of the two (2) property lines parallel to the intersecting alley a distance of ten (10) feet, and drawing an imaginary line across the two (2) points. (See Figure #5 at the end of this ordinance.)

Sec. 3.802 Permit to Erect Required

It shall be unlawful for any person, firm or corporation to erect or have erected, or to make substantial repairs, suffer or permit a fence or any part of a fence of permanent construction without first obtaining a fence permit from the office of the code official.

Sec. 3.803 Application for Permit

Any person making application for a fence permit shall sign an application which shall contain the following information:

- 1) Applicants name, address and if the applicant represents a corporation, the name and address of the registered agent of the corporation, and if the applicant represents an association, the name and address of the higher manager or agent of the association.
- 2) Name of the owner of the property.
- 3) Address where the fence is proposed to be erected.
- 4) Type of fence construction and buildings to be utilized.
- 5) Height of fence.
- 6) Site plan showing proposed location of the fence and listing relevant dimensions between the fence and other structures on the lot and the location of property lines, easements and public rights-of-way.

Sec. 3.804 Permit Fee

Upon approval of application and at the time of issuance of permit, the applicant shall pay a fee as set forth in the Master Fee Schedule. Any fence constructed without first being issued the required building permit the permit fee may be doubled.

Sec. 3.805 Encroachment of Public Property

No fence, guy wires, braces or any post of such fence constructed pursuant to this Article shall be constructed upon or caused to extend or otherwise encroach over public property that the city or the general public has dominion and control, owns or has a right of access over, under, around or through, except upon utility easements which are permitted to be fenced.

Sec. 3.806 Construction Within Easements

- a) Permission to build a fence upon a utility easement does not remove the obligation of the owner of said fence to remove the fence upon demand of the utility company. Removal of any fence and any rebuilding of any fence shall be the responsibility of the owner of said fence and at the owner's expense.
- b) Fences shall be designed, constructed and maintained so as not to interfere with utility lines.
- c) Fences shall be designed, constructed and maintained so as not to interfere with normal drainage.

Sec. 3.807 Height Limitation-Rear and Side Yards

It shall be unlawful to erect, maintain, suffer or permit a fence at a height exceeding (8) feet in any rear yard or along any rear yard lot line, or in any side yard or along any side yard line, except by appeal to the Zoning Board of Adjustment Board and by favorable vote from same.

Sec. 3.808 Height Limitation-Front Yards

- a) Front Yard Fences shall be constructed within the required front yard according to the following:
 - 1) The fence is forty-eight (48) inches or less in height, and the fence is fifty (50) percent visibility open (no solid fences). (See Figure #1.)
 - 2) In the case of a corner lot, the fence is forty-eight (48) inches or less in height, and the fence is fifty (50) percent visibility open (no solid fences). (See Figure #2.)
 - 3) Metal fabric material (chain link) fence materials are not allowed within the required front yard except for the repair or replacement of existing chain link fences to its original height.

Sec. 3.809 Fences on Reverse Frontage Lots

- a) On all reverse frontage lots located on property zoned for residential use, or used for residential use, it shall be unlawful to construct, maintain, suffer or permit a fence within the required side yard area that is adjacent to a front yard area at a distance closer than ten (10) feet of the side property line.
- b) It shall be an affirmation of defense to subsection (a) above that:
 - 1) The fence is four (4) feet or less in height and the fence allows at least fifty (50) percent through vision. (See Figure #3.)

Sec 3.810 Use of Barbed Wire or Electrically Charged Fences

- a) Only fences as part of an agricultural or farming or ranching related activities erected, maintained or permitted shall be electrically charged in any manner or form. The exclusion includes but is not limited to fences electrically charged by battery or those tied in with the regular electrical outlet.
- b) No fence erected, maintained or permitted shall be made with barbed wire unless as part of an agricultural or farming or ranching related activities.
- c) No fence erected, maintained or permitted shall be made with concertina wire, razor wire or anything capable of causing significant harm to the general public.
- d) Any barbed wire portion of a fence for a commercial application must be on that portion of the fence over six (6) feet in height. The barbed arms shall not extend over public rights-of-way or easements or over private property of another person. When adjoining property is zoned or used for residential purposes or public rights-of-way, barbed arms shall extend inward. (See Figure #4.)

Sec. 3.811 Fence Construction and Materials

- a) All fences, unless prohibited elsewhere in this Article, shall be constructed or maintained with wire or metal fabric material (chain link), wood, brick, stone, concrete, vinyl, ornamental iron or other approved materials as approved by the code official. Fence posts shall be constructed or made of metal, brick, stone, concrete, fiberglass or other material approved by the code official. All fence posts must be placed at a depth of at least twenty-four (24) inches into the ground filled and anchored with concrete footers or encasement.
- b) The Zoning Board of Adjustments of the City of Lancaster is hereby designated the appeal body to hear any appeals to decisions rendered from the strict application of this section. Any material proposed not outlined in the above ordinance is considered prohibited for use as fence construction materials.
- c) Fencing in Commercial and Industrial districts behind the front building line shall be constructed of the primary masonry materials of the building, wrought iron, chain link, living plant material or other material as approved by the code official.

Sec. 3.812 Gates

It shall be unlawful for any person to erect, construct or maintain any fence without providing a gate or other means of entrance and exit into and out of the area which the fence encloses; and it shall further be unlawful for any person to erect, construct or maintain any fence along or near a rear property line which adjoins an alley or easement without providing a reasonable means of access to such alley or easement. Gates must swing inward toward private property and are not allowed to swing outward across property lines into public rights-of-way.

Sec. 3.813 Inspection

Upon completion of the installation of a fence, the building inspection department shall be called upon for inspection. An acceptance tag will then be issued or a rejection tag indicating the defects in the same not in compliance with approved plans of city ordinances.

Sec. 3.814 Maintenance and Standard of Fence

All fences shall be maintained by the owners of the property so as to comply with the requirements of this article and shall also be maintained in good condition, such condition shall not deviate from the maintenance standards as follows:

- 1) The fence shall not be out of vertical alignment more than twenty (20) degrees.
- 2) Any and all broken damaged, removed or missing parts of said fence shall be replaced within ten (10) days of receiving notification by regular mail, or notice delivered in person by the code official or his authorized representative. The code official may, upon written notice from the owner that unusual circumstances prevent the timely repair of a fence, extend the replacement time as necessary. Replacement materials to be the same material, size, shape and quality of original fence to which the repair is being made except when a post is damaged, removed or missing. Replacement materials of fence posts shall conform to the standards established by Section 3.811 above. Such post shall be replaced with metal or steel (095 or schedule 40) or other material approved by the code official. Except in cases where a fence or fences are ordered to be constructed on property as a result of a specific order of the city council or through operation of the zoning ordinances of the city, the above requirements shall not be construed so as to not allow a fence or fences to be removed.

Sec. 3.815 Appeal of Specific Requirements

Upon denial of a fence permit application by the code official, an applicant may appeal in writing to Zoning Board of Adjustment Board for consideration of variances. Whenever the applicant can show that a strict application of the terms of this article will impose upon him unusual or practical difficulties, the Zoning Board of Adjustment may consider such variances when the board is satisfied that granting of such variation will not merely serve as a convenience but will alleviate some demonstrable and unusual hardship or difficulty to warrant a variance and at the same time, the surrounding property will be properly protected.

Areas that warrant a hearing before the Zoning Board of Adjustments would be fence materials, fence setbacks and overall height of the fence. These are the only areas that may be considered for considering a variance by the Zoning Board of Adjustments.

Sec. 3.816 Process of Appeal

- a) After denial of a fence permit, the applicant may file an application for appeal for a variance hearing with the Planning Department to be considered or scheduled for a hearing before the Zoning Board of Adjustments.
- b) An appeal fee as provided for in the Master Fee Schedule shall accompany such application.
- c) Site plan drawings and elevations of proposed fence shall accompany application.
- d) The Zoning Board of Adjustment shall hear the appeal from the applicant and render a decision.”

SECTION 2. That the Lancaster Development Code be, and the same is, hereby amended by repealing Article 14.500, Section 14.501, Subsection (h), “Fences”, in its entirety and reserving the same for future use, which shall read as follows:

**“ARTICLE 14.500. DISTRICT DEVELOPMENT REGULATIONS
AND STANDARDS**

.....

Sec. 14.501 General

.....

- (h) Reserved for future use
- (i) Chart of District Standards.”

SECTION 3. That all provisions of the Code of Ordinances and Lancaster Development Code in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Code of Ordinances and Lancaster Development Code not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances or Lancaster Development Code, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances or Lancaster Development Code, as amended hereby, which shall remain in full force and effect.

CHAPTER 3.16: FENCES AND SITE ELEMENTS

Introduction to Fences

As with other site elements, fences at historic properties vary in style and materials – from historic twisted wire fences, open wood fences, fences with masonry bases and wood pickets to newer wood privacy fences in rear yards.

3.16.1 Historic Fences

Historically fences served more uses than their modern counterparts. Historic fences separated the “living” areas of the yard from the “working” areas (rear yards) in developed as well as rural areas. Many residents in Lancaster kept chickens, horses and had gardens in their large back yards. Fences provided separation between these different uses in a yard and from adjacent properties. Fences between neighbors were typically open and low, and allowed visibility and access between adjacent properties.

Historic fences often express the style, craftsmanship and status of a house and are an important aspect of the landscape of a historic house.

Property owners are encouraged to replicate historic fences that no longer exist, or to replace with a fence that reflects the historic fences’ design or one that is simpler in design and constructed of similar materials. Photographs may be used to determine the historic fence design.

Recommendations:

- Original and historic wood or wire fences are important character-defining features of a historic house and should be preserved and maintained.
- Existing non-historic fences in a front yard should be replaced with a fence that reflects the design of the historic fence or one that is simpler in design.
- Additions to historic fences should be carefully designed to complement and not visually overwhelm the historic fence.

3.16.2 New Fences

In the 1950s the concept of privacy fences in residential neighborhoods began with the construction of 5’ and 6’ high wood fences. Such high, solid fences are now quite typical, even at historic properties and neighborhoods.

New fencing that is appropriate for the type and style of house and its status within the community is encouraged. For example,



Simple Wood Fence



Decorative Wood Fence



Elaborate Wood Fences should complement the Style of a Historic House

while it may be appropriate for a historic mansion to have a simple 6' wood privacy fence around their back yard, it would not be appropriate for a modest 1910s Arts and Craft Bungalow to have a 8' high fence with stone columns with decorative urns on top with infilled wrought iron fence with decorative fleur-de-lis metal caps. This fence would be more appropriate at the aforementioned historic mansion.

Recommendations

- The side of the fence facing a street or alley should be "finished."
- For properties located on a corner, corner side yard fences shall be located in the rear 50% of the side yard and shall not obscure projecting features of the historic house.
- A fence in a corner side yard located adjacent to a public right-of-way shall be located a minimum of 2' from the inner edge of a public sidewalk, or 6' from the curb or edge of street where there is no curb.
- Fences shall be constructed of wood, twisted wire, and metal or other appropriate materials; these materials are consistent with the historic fence materials in Lancaster.
- Stone shall only be used at fences or walls where stone is used elsewhere in the historic house or property. If used at a wall or fence, stone should be similar in size, pattern and color to that used elsewhere.
- Chain link fences shall have a bottom and top rail, and should be galvanized or clad in green or black vinyl.
- Tops of new fences shall be horizontal and stepped, scooped or arched as appropriate for the fence surfaces. Tops of fences should not be parallel to the grade where the grade is not level.
- New wood fences that are painted shall be painted in colors and finishes appropriate to the style and period of the historic house, or stained gray or brown.

Not recommended nor allowed

- Fences should not obscure views from the public right-of-way to a historic structure.
- Chain link fences may be used at side and rear yards and should not exceed 4' in height. Chain link fences shall not be used in the front yard.
- Decorative painting or murals applied to fence surfaces should not be visible from the public way.



Simple Metal Fence

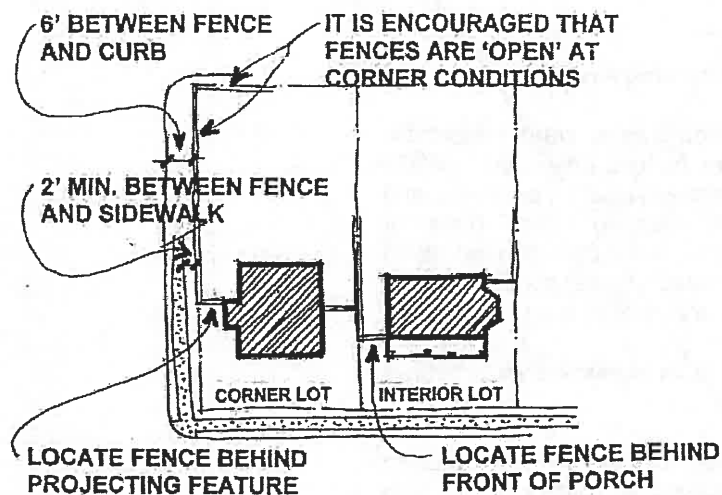


Simple Wood Fence Appropriate for Rear Yard

- Fences should not exceed 8' in height at the rear property line or alley except for chain link fences (see guidelines for chain link fences). Fences at side yards or front-facing portion of front yards (and behind the front façade of the historic house) should not exceed 6' in height except for chain link fences (see guidelines for chain link fences).

The following fence materials shall not be used:

- Chain link with slat inserts.
- Concrete masonry units.
- Fences should not obscure the views to and vistas from a historic structure within the district. In addition, these features should be typical for structures of this type, age and location.



Fence Locations

Plastic or vinyl fences are discouraged.

LANCASTER CITY COUNCIL

City Council Work Session

4.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Financially Sound Government

Submitted by: Opal Mauldin-Robertson, City Manager

Agenda Caption:

Discuss City Travel Policy and determine if the City Council shall adopt a policy and guidelines for Council travel.

Background:

As prescribed in the City Council rules and procedures as amended September 2016, Section D. City Council Agenda Process, Subsection 1.b. Councilmember Nina Morris requested that an item be included on the April 17, 2017 Work Session for the purpose of discussing the Expenses, Meeting & Travel Reimbursement Policy in Section E-9 of the City of Lancaster P.R.I.D.E. Playbook (Policy and Procedures Manual.)

As requested, staff has provided information regarding options for consideration. The cities of DeSoto, Duncanville, Forest Hills and Odessa, have separate policies for elected officials.

Attachments

Lancaster Travel Policy
Cedar Hill Travel Policy
Coppell Travel Policy
DeSoto Elected Official Travel Policy
DeSoto Employee Travel Policy
Duncanville Travel Policy
Ferris Travel Policy
Forest Hills Travel Policy
Grand Prairie Travel Policy
Keller Travel Policy
Mesquite Travel Policy
Odessa Council Travel Policy
Odessa Employee Travel Policy
Ovilla Travel Policy
Rockwall Travel Policy
Rowlett Travel Policy

City of Lancaster



Place accountability, authority, tools, and information into the hands of employees closest to the customer for superior results.

SUBJECT: Expenses, Meetings & Travel Reimbursement		POLICY NO.: E-9
APPROVED BY: Opal Mauldin Robertson	POLICY DATE: 03/15/2005	REVISED DATE: 01/01/2012, 10/23/14, 09/01/2016

This establishes a City policy regulating out-of-town travel, local meetings, entertainment, personal car mileage, and/or other expenses incurred by City employees who are authorized to officially represent the City at various conferences, meetings, conventions, seminars, and other functions.

This policy is established to provide uniform guidelines and procedures for submission and processing of allowable expenditure requests and to establish proper accounting for approved allowable expenses, including travel advances, City credit card charges, and cash expenditures made for the purposes herein defined on behalf of the City.

Failure to comply with all of the provisions of this policy may result in disciplinary action up to and including termination.

General. The City will reimburse employees for approved expenses incurred by the employee in the course of the employee's employment. Expenses which will be reimbursed or otherwise paid by the City are discussed below.

Accountable Plan. The City of Lancaster has an accountable plan, in which amounts paid under the plan are not wages and are not subject to income tax withholding and Social Security/Medicare payments. This plan requires that:

- An employee's expenses must have a business connection — that is, you must have paid or incurred deductible expenses while performing services as an employee of the City.
- An employee must adequately account to the City for these expenses within five days of returning to work.
- An employee must return any excess reimbursement or allowance within a reasonable period of time.

Responsibilities. The directors/division managers are responsible for communicating and administering the provisions of this policy to employees and approving expenses as legitimate business items.

The Finance Director is responsible for the overall administration and compliance of the provisions stated in this policy. The Finance Director and the directors/division managers, as well as any employee, shall have the responsibility to report any abuse and/or misuse of travel funds to appropriate management.

Out of State Travel: Every effort should be made to use local and regional sites for business training and conferences due to their corresponding lower cost impact on the City. Intrastate travel should be more closely scrutinized with the investment funds only being authorized for those training sessions that will best contribute to the efficient operations of the organization. Out-of-state travel represents the most significant cost to the City; therefore, the greatest care should be exercised when requesting travel to events outside of the State. The City Manager shall have the final authority for all out-of-state travel.

Expenses. The allowance for expenses shall consist of the actual costs that a reasonable and prudent person would incur related to travel and local meeting attendance. All expenses must be directly related to City business.

Employees are expected to be conservative in their expenditures as if they were paying such costs. Upgrades to any travel, including but not limited to; hotel room, air travel, rental cars, etc. will be at the employees expense. The employee should pay for such upgrades separately so they will not appear on a city credit card.

The expenses will be rejected if required documentation is not provided. Detailed receipts (itemized list of purchased goods or services) must be turned in on all reimbursable expenditures, with the exception of tips, per diem meals and incidentals. Acceptable documentation is a service-provided name or logo-printed receipt, where available. Expenses incurred, not in accordance with this policy, are the responsibility of the employee.

See meals section (f) of policy for reimbursement details.

Allowable Living Expenses. Actual living expenses, within the specified limits, may be claimed by all City employees when they are representing the City on official business away from Lancaster. Living expenses include such items as hotel rooms, meals, tips, parking, and ground transportation, as outlined:

- a) Hotels/Motels. The City will pay actual expenses for hotels, motels, or other lodging for the actual number of days of the conference or other meeting, plus allowance for travel time. The City will pay for charges at the hotel's single occupancy rate. Lodging per night will not exceed actual room cost

plus tax and tips. Lodging within a 50 mile radius is not covered by this policy and would be at the employee's expense.

- b) Parking. Employees may claim actual parking expenses.
- c) Ground Transportation. Employees may claim reasonable, actual ground transportation expenses, including shuttle services and taxis.
- d) Tips/Gratuities. Tips and gratuities are allowed and are considered reasonable when paid at the rate of approximately 15% (to allow for rounding) of meal cost or service and \$1.00 per piece of luggage. While on per diem, tips/gratuities for meals are considered in the per diem amount and will not be reimbursed separately.

Meals. Meals are only covered when it is necessary for an employee to stop for substantial sleep or rest to properly perform duties while traveling away from home on business.

- a) Overnight Travel. Per Diem rates must be used for meals and incidentals while on overnight travel. The per diem rates are found on US General Services Administration website. Per Diem rates are available for meals and incidentals for all locations.

In order to pro-rate the per diem to account for partial travel days or meals provided by the conference or training session, the following formula will be utilized: (Note: monetary amounts will vary based on per diem rates.)

- 20% Breakfast
- 30% Lunch
- 50% Supper

In all travel events, employees will not be reimbursed for meals that are included in conference registration costs or are otherwise provided at no cost to the employee. A copy of the event brochure/itinerary must be provided with the expense report.

- b) Day Travel. Meals are not reimbursed unless the travel requires an overnight stay. Per the IRS, if a City pays for a meal and the employee did not stay overnight, the meal becomes a taxable employee benefit.
- c) Business Meetings. Where certain business meetings are required, actual costs for meals/tips will be reimbursed rather than the employee using the per diem method. You must attach the detailed itemized receipt and an explanation of the circumstances, to your expense report. (Example: Traveling to Austin to discuss legislative matters with a member of the State Legislature over dinner. The employee may pay the actual cost of the meal and not be limited to the dinner per diem. The employee must obtain a

detailed itemized receipt to attach to the expense report.). The City Manager may approve reimbursement for a business related purpose as outlined in the IRS publication 463.

- d) Early and late departures from conferences. Leaving early or staying over at a conference is the employees' financial responsibility if time is taken for personal recreation. However, if it is necessary due to membership on a board or committee then documentation shall be provided with a travel expense report in order to be compliant with travel policy.
- e) Temporary work assignments. Employees reassigned to another location for a temporary work detail due to training, education, etc. are not eligible for meal reimbursements. Simply reporting to another work location does not constitute a meal reimbursement.
- f) Itemized receipts should be attached for all expenses incurred regardless of the amount and all advances. Employee reimbursements are limited to the lower of the per diem rate or actual cost of the meals. If the actual costs of the meals are less than the advance, the employee must reimburse the City for the difference.

Prohibited Expenses. The cost of alcoholic beverages, room snacks and drinks (whether in a refrigerator or displayed}, laundry/dry cleaning, in-room movies, fitness center fees, personal tours, personal entertainment, and spouse or other family expenses are specifically excluded from direct reimbursement due to their personal use.

Transportation. Employees will utilize the most economical form of transportation available. Employees will submit the completed comparison of the available modes of transportation for review by their department director/manager.

- a. Air Transportation. When requesting air transportation, the employee shall request the least expensive flight status. The employee may choose to travel first-class, but the City will pay only for coach or tourist class. Information and accommodations must be submitted in a timely manner to ensure coach or tourist class is available.
- b. Vehicle Transportation. When using a City vehicle, the employee should use the City credit card for gas and turn in detailed receipts. An employee who uses a personal car for City travel will receive mileage reimbursement and should not use the city credit card for gas. Employees are responsible for securing their own automotive insurance for personal vehicles.
- c. When more than one employee is traveling, carpooling is encouraged. Reimbursements will be limited to the number of vehicles actually required to transport the group.

- d. When an employee is assigned to a temporary work detail or another work location out of town, the difference in mileage between their home and normal work location are not included in the mileage reimbursement.
- e. Actual mileage is calculated in miles from the work site to the destination. Any other mileage is considered as part of the normal commute to work. The City will reimburse the lesser of (1) actual mileage to and from the destination multiplied by the current rate per mile as determined by the Internal Revenue Service; or (2) the round trip cost of the most reasonable alternative conveyance, e.g. airfare, that would be spent for each employee traveling to the destination in the vehicle.
- f. When completing an Expense Report Form requesting reimbursement for use of a personal vehicle for City business, the policy governing mileage reimbursement will be based on the most economical to the City. City vehicles may be used at the discretion of the Director when costs are not in excess of the costs of airfare and site transportation combined or when air transport is not available or is impractical. Direct expenses, such as gasoline and oil, associated with the use of a City vehicle will be reimbursed with receipts or may use city credit card. A printed map with mileage identified between destinations and an explanation of destinations must accompany the expense report. Non work related driving activities will not be reimbursed.

Travel Advances. When it becomes necessary that an employee travel in the interest of the City, the Director/division manager must approve a travel advance for the projected per diem based on the proposed schedule. This request may be made on the Expense Report Form and should contain the name of the prospective traveler, purpose of the trip, date(s), times of travel, and other pertinent information. A copy of the conference brochure detailing meals, beginning date, ending date, location and topics is required. This request should be prepared and submitted at the earliest practical time, but preferably no later than fourteen (14) full working days prior to departure.

Filing Expense Reports.

1. Complete Expense Report Promptly. Upon return from travel, the employee shall promptly fill out an Expense Report for approval by the director/division manager or designee and shall submit the complete Expense Report to the Finance Department within five (5) working days. Employees shall include all prepaid expenses (registration, airfare, etc.) related to travel on the Expense Report.
2. Submit to director/division manager for approval. The director/division manager or designee shall review, sign, and submit the Expense Report to the Finance Department. When payment or documentation is not received within the required time, the Finance Department will discontinue any advances to that employee. The director/division manager is also responsible

for ensuring that all Expense Reports are completed in accordance with this policy.

3. Return of Unused Funds. In instances where an advance of City funds was in excess of the per diem or if the trip was not taken, the employee shall return the unused funds to the Finance Department for credit to the proper fund. The manager shall ensure that the returned monies are credited to the same division and line item account from which they were originally drawn. Returned funds are due to the City by the due date of the Expense Report.
4. Finance Department Review. The Finance Department shall review the items submitted and determine their mathematical accuracy and the allowable expenses under this policy.

Car Allowance. City employees receiving a monthly car allowance shall receive reimbursement only on continuous travel starting at fifty (50) miles from the employees work address to the arriving destination address. For return trips, the mileage reimbursement will be for trips starting from the departing destination address and ending at 50 miles from the employees work address. Continuous travel less than 50 miles from the Lancaster city limits to the arriving destination is considered to be included with the monthly car allowance provided. Roundtrip mileage may not be considered for the purposes of this policy. Each departing and returning trip is considered as a separate event.

6.09 Travel

Effective Date: 03/01/04
Revision Date: 09/01/09
Revision Date: 09/01/13
Revision Date: 10/1/14
Revision Date: 01/01/15
Revision Date: 04/01/16
Revision Date: 08/01/16

PURPOSE:

To outline the procedures for City-approved travel and reimbursement for travel expenses and set guidelines for reasonable use of public funds.

The City of Cedar Hill has an accountable plan that requires adequate accounting for all travel expenses within a specified period of time. Under the accountable plan exception – no tax reporting is necessary under IRS guidelines.

POLICY:

It is the policy of the City of Cedar Hill that employees acting on the City's behalf will be allowed to travel to conferences, seminars, and for other purposes if such travel is determined to be in the best interest of the City or for job-related purposes, with an approved *Travel Request Form* (**Appendix F, Form 16**). Travel time for the purpose of this section is defined as the actual time spent in traveling from the City to the alternate location. Any other mileage is considered as part of the normal commute to work.

A. Responsibilities

The department directors are responsible for communicating and administering the provisions of this policy to employees and approving expenses as legitimate business items.

The Finance Director is responsible for the overall administration and compliance of the provisions stated in this policy.

All employees shall have the responsibility to report any abuse and or misuse of travel funds to appropriate management. Employees traveling on City business are representatives of the City and are expected to maintain a high level of professionalism and to follow all City policies.

B. Allowable Expenses

Reasonable travel expenses incurred by employees and elected officials will be reimbursed by the City or paid direct, subject to the following guidelines:

1. Meals

a. Per Diem

A per diem is a daily allowance for meals and incidentals while traveling overnight on behalf of the City. Meal expenses for employees will be paid up to \$45.00 a day. For partial days the following amounts will be paid: Breakfast \$9.00, Lunch \$11.00, and Dinner \$25.00. The daily allowance for each meal includes the tip. Meals that are provided as a part of a conference, training, etc. do not qualify for per diem and must be subtracted from any per diem cash advance request. All travel and cash advances must be approved in advance by the employee's Department Head (or designee), unless otherwise stated in this policy. A cash advance for Per Diem is limited to those employees without a City-issued Purchase-Card.

Per Diem may be requested in **advance** by completing an *Estimated Expense Report (Appendix F, Form 17)* **no more than 2 weeks prior to travel**. No receipt is required for per diem.

b. Other Meals

Meal reimbursement in connection with 'day travel' may be subject to IRS income tax withholding regulations and therefore receipts must be maintained by the employee. The reimbursement request and receipt for meals associated with 'day travel' must be submitted to payroll, along with the *Employee Meal Reimbursement – Taxable Income Form (Appendix F, Form 32)*.

In order for meal reimbursements to be excluded from taxes, travel must be away from home and involve an overnight stay; or be for a business related purpose.

If meal reimbursement is requested **after the fact**, rather than per diem, an *Employee Expense Report (Appendix F, Form 18)* and the receipt must be submitted to Finance. The meal amount substantiated on the receipt will be paid up to the maximum amounts: Breakfast \$9.00, Lunch \$11.00, and Dinner \$25.00.

If a meal reimbursement includes the employee and other(s), the reason for the meal and the names of the attendees must be provided on the back of the receipt.

As an alternative, Department Director level and above may elect to be reimbursed on actual expenses instead of per diem, if substantiated by receipts along with an *Employee Expense Report (Appendix F, Form 18)*.

2. Transportation

- a. The City expects that the most economical method of travel will be utilized. The City will pay for mileage, round trip air fare, train fare, taxi fare, tips, tolls, and car rental, when required. All approved transportation must be procured via CCH AP check, ACH, EFT or Procurement Card. Likewise all refunds for transportation must be issued directly to the City. Employees are strongly encouraged not to use personal funds to secure transportation. However, Department Directors have discretion permit the use of personal funds to secure transportation, if necessary. Round trip air fare for coach class will be paid with arrangements made in advance. First or Business Class will only be acceptable when coach class is not available.
- b. Mileage reimbursement will only be paid when an employee uses his/her personal vehicle and it is pre-approved by the Department Director. The rate of reimbursement shall be the standard IRS mileage rate which is updated annually. Miles will be calculated based on actual miles driven to and from the approved destination. All mileage reimbursement requests must be accompanied by either a personal mileage log or an internet mileage calculator showing the round trip mileage actuals or estimates. The City will accept a print out from an online mileage calculator to substantiate miles traveled.
- c. Employees who receive a monthly car allowance shall be eligible for mileage reimbursement if they travel more than 60 miles one way, calculated from their work location to the destination. Those employees who receive a vehicle allowance for use of their private vehicle are not eligible for reimbursement for the first 60 miles each way for each out of the City business travel.

3. Lodging: Lodging expenses shall be arranged in advance, using the single rate. Lodging expenses will be paid for the actual number of meeting days with allowance for travel time. The City will reimburse lodging only for travel outside the Dallas/Fort Worth area. The City will reimburse lodging expenses only if travel goes beyond the counties of Dallas, Tarrant, Ellis, Denton, Collin, Kaufman, Rockwall, or Johnson, unless there is a bona-fide business activity that is expected to extend beyond 7:00 p.m. (i.e. conference networking event, or similar activity). Employees are expected to commute to locations within the Dallas/Fort Worth area. Extra charges for room service are not reimbursable or paid by the City. An itemized lodging receipt must be provided, including an itemization for any room charges to

be paid or reimbursed by the City. Department Directors have discretion to waive the mile restriction for lodging reimbursement under special circumstances. Directors should note on the expense report that the restriction is waived.

4. Registration Fees: Registration fees will be paid directly by the City via check, ACH or Procurement Card. Likewise all refunds for registration fees must be issued directly to the City.
5. Tips: Tips for baggage carriers, taxi fare, and parking fees are allowable expenses and must be substantiated on the expense report (approximately 15%). Note: per diem thresholds must include the tip, reimbursements for tips that are outside of per diems must be shown on a receipt/invoice.
6. Unplanned Expenses: Reasonable, unplanned, out of pocket expenses will be reimbursed provided receipts are presented and substantiated.
7. Prohibited Expenses: Expenses for entertainment, alcoholic beverages, fitness center fees, and in-room movies are not authorized and will not be reimbursed.
8. Spouses: The City will not pay or reimburse registration fees, meals, and travel expenses of spouses who accompany employees to conferences or other business related events.

C. Expense Reports

For all employees who are not P-Card holders or do not elect to use per diem, an *Employee Expense Report (Appendix F, Form 18)* must be completed within seven (7) working days after returning from a trip. This report will itemize all expenses incurred during the trip. Receipts are required for hotel, air fare, train fare, meals, registration fees, and any other expenses over \$5.00, with the exception of tolls. Include a copy of the conference brochure detailing meals, beginning and ending dates, location and topics.

For employees who use their personal vehicle for approved travel, an *Employee Expense Report (Appendix F, Form 18)* must be filled out for reimbursement. Actual mileage will be computed and listed at the standard IRS mileage rate. All mileage reimbursement requests must be accompanied by either a personal mileage log or an internet mileage calculator showing the round trip mileage.

For employees who have daily expenses and turn in a report monthly, an *Employee Expense Report (Appendix F, Form 18)* must be turned in within seven (7) working days following the end of the month.

Any questions regarding expense reports shall be addressed to the Finance Department.

D. Miscellaneous Expenses Reimbursement

Miscellaneous expenses less than \$50.00 may be reimbursed through the petty cash system without completing an expense or estimated expense report. All other travel and meal expenses/advances must be reported through the expense report procedure.

E. Compliance

Out-of-town travel by non-exempt employees is covered under the following FLSA rules:

1. All travel time for a one-day work assignment in another city, which does not require an overnight stay, is considered "hours worked" in the determination of overtime. Travel between the employee's home and the airport or other public transportation terminal is normal home-to-work travel and is not hours worked.

F. Travel and Procurement Cards

Procurement cards are available to make purchases of goods and services in the most cost effective manner.

1. All charges associated with approved travel should be purchased via the City's two purchasing means as much as possible (P-Card or AP Check) this ensures that the city gets the best rates and has access to merchant information for financial reporting purposes.
2. All P-Card holders are expected to use their P-Card for approved travel.
3. Travel approval forms must accompany the P-Card expense statement for an expense cycle in which travel related expenses are posted.

Abuse of this policy, including falsifying expense reports or submitting false claims, will result in disciplinary action, up to and including termination of employment and may also result in criminal charges.

CITY OF COPPELL POLICIES AND PROCEDURES HANDBOOK

TRAVEL Policy No. 1163

Rev. 1\9\2013

It is the City's policy to pay for, or reimburse, all reasonable and necessary expenses incurred by an employee when the employee travels on City-related business in accordance with this policy.

Transportation. The most efficient and economical mode of travel must be used. Air travel arrangements are to be made by each department. Air travel must be booked at the most discounted fare basis whenever possible. In instances of approved private vehicle use, reimbursement will be for mileage at the current IRS maximum rate, plus toll and parking fees. Receipts are required for toll and parking fees, as well as for taxi cabs, limos, and other modes of transportation. The City will pay for rental vehicles upon written approval of the Department Director (or designee).

Travel Approval and Cash Advances. All travel and cash advances must be approved in advance by the employee's Department Director (or designee), unless otherwise stated in this policy. **Employees who have procurement cards will not be issued travel advances, except for the \$10 per day miscellaneous allowance.** In addition, any travel out of state must be approved by the Department Director as set out below.

Lodging. Expenses for lodging are to be at the single room rate, unless approved for double occupancy. An itemized hotel receipt must be provided, including an itemization for any room service (meals) charges to be paid/ reimbursed by the City.

Meal and Miscellaneous Allowance. The meal allowance for travel outside the Metroplex area, but within the State of Texas, should not exceed an average of \$40.00 excluding tips, per day with itemized receipts. The meal allowance for travel outside of the State of Texas, but within the Continental United States, should not exceed an average of \$60 excluding tips, per day with itemized receipts; excess amounts will not be reimbursed without the written approval of the City Manager (or designee). Tips will be paid at the accepted practice rate not to exceed 20%.

The meal allowance for travel inside the Metroplex will be paid according to the itemized receipt provided by the employee, not to exceed \$15 per day for lunch and \$20 per day for dinner after 5:00 p.m. excluding tips. The meal allowance is not intended nor authorized for police and fire academy recruits attending academies paid for by the City.

An allowance of \$10 per day, without requirement for receipts, or itemized account, will be allowed to cover vending machine purchases, bellhop tips, and other miscellaneous costs for travel outside the Metroplex. Employees with procurement cards may request the \$10 miscellaneous allowance in advance of travel.

Non-Allowable Expenses. Expenses or charges for the following will normally not be reimbursed and must be paid for by the employee:

- A) In-hotel pay television and movies;
- B) Dry cleaning and laundry;
- C) Health club and spas;
- D) Expenses of a spouse; and
- E) Alcoholic beverages.

Request for Reimbursement and Return of Unexpended Funds. Upon return to the City, a complete accounting of all expenditures of City funds is to be filed within 10 business days on the City's Travel Advance Summary form. Receipts for all expenses, including hotel bills and registration fees, must be attached to the statement. All unexpended advance funds must be returned with the statement. Authorized expenses in excess of advance funds received will be reimbursed with proper approval.

Out of State Travel. Directors and certain supervisors are normally allowed out of state conventions or training schools as approved in the budget. All requests for out of state travel must be approved by the Department Director (or designee) in advance of any travel. All other employees are allowed travel only within the State of Texas unless the travel has been budgeted, and the Department Director (or designee) approves the trip in advance.

Travel to Training. The mileage reimbursement will be paid to employees who must use their personal vehicle to travel to a training destination. The mileage reimbursement will typically be based on the net additional miles driven to the training destination compared to the employee's normal commute to their work location at the City of Coppell. However, if the travel for training is on an employee's non-work day or the travel is from the employee's normal work location, the mileage reimbursement will be calculated based on the entire miles driven to the training destination. Actual mileage readings or an electronic map service printout indicating the mileage from and to must be submitted for reimbursement.

Expenses Not Covered in Policy. The City Manager's approval must be obtained for the reimbursement or expenditure of funds for items or charges which are not specifically addressed in the travel policy.

Compliance. Abuse of this policy, including falsifying expense reports or submitting false claims, will result in disciplinary action, up to and including termination of employment.

City of eSoto

TRAVEL POLICY FOR ELECTED AND APPOINTED OFFICIALS

I. STATEMENT OF PURPOSE

To establish City policy and prescribe guidelines applicable to official travel by DeSoto City Councilmembers, members of the City of DeSoto's Boards and Commissions and other Council Appointees.

II. APPLICABILITY

This policy statement and travel guidelines apply to the Mayor, to Members of the City Council, to members of Boards and Commissions and to other Council Appointees (hereinafter referred to as Elected and/or Appointed City Officials). Questions and concerns should be directed to the City Secretary as appropriate.

Travel by City Officials other than those specified under this Policy Statement shall be administered and regulated by the City Manager pursuant to the City's Human Resource Policies and/or the Employee Travel Policy, as applicable.

III. GENERAL POLICIES

A. Travel on City Business

Travel by Elected and Appointed City Officials is an appropriate activity and expense when performed for a public purpose. Travel shall be limited to events from which the City derives specific benefits through attendance of a City representative(s), and shall be supported, if needed, by travel brochures, official notifications or other documentation.

B. Expense Reimbursement

Elected and Appointed City Officials may be authorized to undertake official travel and be reimbursed by the City for all reasonable and necessary expenses incurred while traveling on City business, subject to the provisions and guidelines prescribed in this Policy Statement. For the Mayor and Council Members, *Article II, Section 1* of the City Charter authorizes expenditure reimbursement for performance of their duties or functions of office.

C. Summary of Approval Requirements for Official Travel

Any official travel requires no approval, as long as funds are available in the Mayor's, Council Members' or Appointees' budget. Every effort should be made to choose the lowest cost for all modes of transportation, lodging and parking.

D. Entertainment and Alcohol

The City will not reimburse Elected and Appointed City Officials for entertainment expenses unless specifically related to the purpose of the trip (i.e.: Welcome Reception for conference). Reimbursement requests must contain a detailed explanation of the expense, business issues discussed, names of those in attendance and how the City benefits. Such entertainment of business associates at the City's expense must be pre-approved by the Mayor. *Under no conditions will reimbursement be made for purchases of alcoholic beverages.*

E. Liability Coverage

Elected and Appointed City Officials traveling on City business will be covered by the City's insurance. However, for auto rentals, Elected and Appointed Officials must request supplemental insurance coverage from the rental car agency, unless the City's credit card is used for rental car expenses. See *Section IV.C.4.—Rental Car*, for further details regarding auto rentals.

IV. REIMBURSEMENTS

All reimbursements must be requested on a Travel Expense Report (TER) form in accordance with this policy (See *Subsection J, Submitting Expense Reports*). The following guidelines will govern reimbursement for travel arrangements.

A. Allowable Reimbursable Expenses

Elected and Appointed City Officials will be reimbursed for **actual** expenses incurred while traveling on official City of DeSoto business, providing they keep invoices, receipts, and all other documentation supporting the actual expenditures. The following are types of expenses eligible for reimbursement:

- Airline tickets and baggage fees
- Rental Car, taxi, Shuttle and other reasonable ground transportation fees
- Parking, garage charges, and tips
- Lodging
- Meals not provided by the conference, seminar or other eligible event
- Conference registration fees
- Mileage for personal automobile usage at the allowable IRS rate.
- Telephone Expense per Subsection G

In the event a receipt for an eligible expense is lost or unavailable, the Elected and Appointed Officials must fill out and sign a Lost/Unavailable Receipt (LR) form to be submitted with the TER form.

B. Registration Fees

The City will reimburse all tuition charges for seminars, conferences or schools that Elected and Appointed City Officials attend on City business. Informational brochures and agendas on the seminar, training or convention should be retained and attached to the expense report whenever possible.

C. Approved Modes of Transportation

1. Commercial Airlines

Air travel arrangements should be charged to a City credit card whenever possible. Air travel arrangements will be reimbursed at economy/coach air fare. However, tickets may be upgraded to first class at the Elected or Appointed City Official's personal expense.

2. Ground Transportation

The City will reimburse Elected and Appointed City Officials for the use of a taxi, bus, or similar ground transportation fares for required transportation.

3. Personal Vehicles and Mileage

Elected and Appointed City Officials may use their personal vehicles for out-of-town travel for official City business. The City will reimburse the lessor of (1) actual mileage to and from the destination multiplied by the current rate per mile as dictated by the IRS or (2) the round trip cost of the most reasonable alternative conveyance, (e.g., airfare) that would be spent for each Elected or Appointed City Official traveling to the destination in the vehicle. The City will also reimburse for any required mileage at the destination.

4. Rental Car

When it is necessary, an Elected or Appointed City Official will be reimbursed for the cost of renting a vehicle, including motor fuel. The City will pay for rental cars if the rental cost is less than the cost of taking a taxi, shuttle bus or similar ground transportation. Approved rental car expenses should be charged to a City credit card whenever possible. *When this expense is incurred and not charged to the City credit card or paid via a personal payment method, additional insurance coverage is required from the rental car agency and will be reimbursed by the City.*

D. Parking

The City will reimburse any parking fees required while an Elected or Appointed City Official is out of town and/or conducting City business. At the destination, the City will also reimburse required parking fees for personal cars, or rental cars. A receipt must be obtained for these expenses. **Disclaimer:** (Parking reimbursements do not include airport parking valet services.)

E. Accommodations/Lodging

The City will reimburse actual expenses for hotels, motels, or other lodging for the actual number of days of the conference or other meeting, plus allowance for travel time while on official City business. A detailed hotel statement should be received upon checkout and be submitted as a receipt in order to be reimbursed. The City is exempt from Sales and Use Tax, but not Hotel Occupancy Taxes. Review the hotel statement before leaving final check out to request removal of any taxes charged that the City is not responsible for. In the event the lodging location cannot be determined prior to traveling, then a request for an advance should be submitted in accordance with Section V, Advances and Reimbursements.

Lodging can be authorized to be charged on the City's Department's Credit Card in advance by requesting and completing the hotel's Credit Card Authorization Form. Each hotel may have a different form and procedure. Please check with the hotel prior to traveling if unable to take the City Credit Card on your trip.

Example of items which may be reimbursed on the hotel statement are:

- Daily room charges
- Necessary Hotel tax
- Business telephone calls
- One personal telephone call per day
- Hotel parking fees
- Meals charged to the room
- Tips and gratuities

Example of items which WILL NOT be reimbursed on the hotel statement are:

- Personal expenses(such as cleaning or laundry)
- Hotel club charges
- Recreation facilities use charge
- Room service charges for incidentals
- Movies and personal phone calls
- Sales and use taxes

F. Business Meals

Meals reimbursements will be provided when they are not included in the cost of the seminar or conference registration. Meals include, but are not limited to box lunches, business luncheons, and award banquets.

The maximum reimbursable amount for meals is \$50.00 per day. To receive a meal expense reimbursement above the maximum amount per day, written notations must be provided with the receipts indicating the place, purpose and people receiving the meal. In the event a credit card is used to pay for meals, the detailed bill and/or receipt, and the names of Elected or Appointed City Official or clients should be noted and submitted with the expense report.

G. Meals for Others

Elected or Appointed City Officials may find it necessary to pay for the meals of business associates from time to time. If necessary, the business purpose of the meal should be stated on the request for reimbursement, along with the individual for whom the meal was purchased.

H. Telephone Expenses

The City will reimburse the cost of one personal call (maximum duration 10 minutes) per day. The City will reimburse Elected or Appointed City Officials for all City business calls.

I. Incidental Expenses

The City will not reimburse for dry cleaning, shoe shines, haircuts, magazines or books, tickets to the theater, sports events, health clubs, pay television, or other such incidental expenses. *The City will reimburse for reasonable tips paid for porters, baggage handling, etc., when required.*

J. Submitting Expense Reports

All Elected and Appointed City Officials who use City funds for authorized trips must submit an approved Travel Expense Report (TER) to the City Secretary's Office within ten (10) business days of completing the trip.

All amounts expended should be listed on the TER, whether paid for by the Elected or Appointed City Official through an advance request, a City credit card, or by City check. *(See Section V for Travel Advance Request guidelines).*

The Elected or Appointed City Official must attach all required original receipts to the Travel Expense Report. Airline confirmation and conference registration details must be included even though already paid by the City. Reasonable tips may be reimbursed without a receipt, but other out-of-pocket expenses must be accompanied by original receipts. A credit card receipt alone is not sufficient to document allowable charges. In the event an advance was obtained, see *Section V* for handling any unspent advance.

V. ADVANCES AND REIMBURSEMENTS

A. Travel Expense Advances

Travel advance requests may be considered on a case-by-case basis and must be submitted to the Mayor or City Manager for prior approval on a Travel Advance Request (TAR) form. Advance requests must be submitted in accordance with payment authorization deadlines, i.e., requests submitted on Thursday by 5 p.m. will be available by the following Friday after 3 p.m. or no earlier than five (5) business days prior to traveling.

Conference/seminar schedules and maps showing mileage must also be submitted with the TAR form.

Advances are intended to cover the cost of meals at the City's allowable rate, estimated mileage, taxis and any out-of-pocket expenses, but generally not airfare, conference fees, or lodging. Airfare, conference fees and lodging generally should be paid directly to the travel vendor or conference sponsor as coordinated by the City Secretary's Office.

The Elected or Appointed City Official may receive an advance when all of the following conditions are met:

1. The Elected or Appointed City Official is traveling overnight on City business; and
2. The cost of the meal(s) is (are) not included in the price of a seminar or conference registration; and
3. The cost of the meal(s) is (are) directly attributable to the conduct of City business. If meals are included in the cost of the seminar or conference, the travel advance will be decreased by the amount per the allowance rate schedule allowed for that/those particular meal(s), and
4. The request for advance is requested no later than five (5) business days prior to departure.
5. The advance request is approved by the Mayor or City Manager.

Upon approval, advances for meals will be allowed at the following rates:

❖ Breakfast	\$10.00
❖ Lunch	\$15.00
❖ Dinner	\$25.00

Mileage will be advanced at the current allowable IRS mileage rate. Current IRS mileage rates can be found on the IRS.gov website, the City's intranet, or can be obtained by calling the Accounting Division at extension 9633. Following a trip, Elected and Appointed City Officials must account for and reconcile their travel advances and

expenses within ten (10) business days of the trip by submitting a Travel Expense Report. The Accounting Division will keep a log of outstanding travel advances.

Any unspent cash must be turned in with a *copy* of the TER to the City Secretary's Office. It is recommended that the City Councilmember pay by check, which will be proof of payment. The receipt from the City Cashier along with the original Travel Expense Report should be forwarded to the Accounting Division to clear any outstanding advance.

B. Travel Advance Pick-ups

Travel advances may be picked up or available via direct deposit no earlier than five (5) business days before scheduled departure.

VI. PROCEDURES FOR CHANGING OR CANCELING TRIPS

A. Changing and Re-booking Trips

If changes in a trip occur and a travel advance has been issued, notification should be sent via memorandum to the City Secretary's Office who will forward to the Accounting Division detailing the changed dates. This will allow Accounts Payable to change the due date of the Travel Advance Request form, if applicable. If an additional advance is required, an additional Travel Advance Request form that has been approved by the Mayor or City Manager must be submitted. Any checks issued or funds direct deposited for the original trip and not utilized must be returned to the Accounting Division for proper processing. Refunds from travel vendors should be pursued and credited as appropriate.

If canceling a trip that cannot be re-booked by the same traveler, request the cost for the change fee. If the expense is reasonable, include expense and approved memorandum with expense report. If re-booking or transferring the travel plan is not available, include approved memorandum with expense report.

B. Canceling Trips

If a trip must be canceled, any checks issued or funds direct deposited for the original trip and not utilized must be returned via the City Secretary's Office for proper processing. When checks have been cashed or the City credit card has been charged and refunds can be obtained, the refunds must be deposited with the City Cashier and credited to the original expenditure lines charged for the travel expenses.

A copy of the deposit receipt from the return of a travel advance must be forwarded (via the City Secretary's Office) to the Accounting Division along with the Travel Expense Report, so that the advance can be properly cleared. Elected and Appointed City Officials will be held responsible for checks or cash outstanding for canceled trips until such checks or receipts are returned to the City.

City of eSoto

EMPLOYEE TRAVEL POLICY

I. STATEMENT OF PURPOSE

Because City of DeSoto employees are frequently required to travel, attend local meetings, or otherwise incur expenses in the conduct of City business, the following policies and procedures have been written to provide guidance to employees on “reimbursable” versus “non-reimbursable” expenses and provide consistent procedures for the processing and accounting of travel expense and advance reimbursements.

II. APPLICABILITY

This policy statement is effective for all City employees. Questions and concerns should be directed to the Financial Services Department or Human Resources Department as appropriate.

Federal tax laws govern reimbursements of expenditures related to business travel expenses. Employees must fully document the business nature and purpose of each expenditure on an appropriate expense report. Informational brochures and agendas on the seminar or convention should be retained and attached to the expense report whenever possible.

III. GENERAL POLICIES

A. Travel on City Business

The City will pay expenses for travel required to conduct City business (i.e.: such as conferences, business meetings, luncheons and seminars). City employees must be traveling at the direction of the appropriate Department Director or with the approval of the City Manager. Council-appointed employees must have the approval of the Mayor. The City will not be liable for any employee travel expenses that do not have prior approval.

B. First Class Airline Accommodations Prohibited

Employees may choose to travel first class, but the City will pay only for Economy/Coach class. Accommodations must be booked in a timely manner to ensure Economy/Coach Class is available. Whenever possible, employees are encouraged to take advantage of discounts; however, they are not required to fly at unusual times solely to qualify for discounts.

C. Entertainment and Alcohol

The City will not reimburse employees for entertainment expenses unless specifically related to the purpose of the trip (i.e.: Welcome Reception for conference). Reimbursement requests must contain a detailed explanation of the expense, business issues discussed, names of those in attendance and how the City benefits. Such entertainment of business associates at the City's expense must be pre-approved by the City Manager. *Under no conditions will reimbursement be made for purchases of alcoholic beverages.*

D. Liability Coverage

City employees traveling on City business will be covered by the City's insurance to the same extent they are covered during their regular work hours. However, for auto rentals, employees must request supplemental insurance coverage from the rental car agency, unless the City's credit card is used for rental car expenses.

E. Expenses for Non-City Employees

The City will not reimburse for any travel expenses of non-City or contract employees. Family members traveling with an employee will not be reimbursed. Notification of a family member traveling with an employee on a trip should be communicated to the Department Director, City Manager, or his designee.

IV. REIMBURSEMENTS

All reimbursements must be requested on a Travel Expense Report (TER) form in accordance with this policy. (See Subsection I, Submitting Expense Reports) The following guidelines will govern reimbursement for travel arrangements.

A. Allowable Reimbursable Expenses

The traveling employee will be reimbursed for **actual** expenses incurred while traveling, providing the employee keeps invoices, receipts, and all other documentation supporting the actual expenditures. The following are types of expenses eligible for reimbursement:

- Airline tickets and baggage fees
- Rental Car, taxi, Shuttle and other reasonable ground transportation fees
- Parking, garage charges, and tips
- Lodging
- Meals not provided by the conference, seminar or other eligible event
- Conference registration fees
- Mileage for personal automobile usage at the allowable IRS rate.
- Telephone Expense per Subsection G

In the event a receipt for an eligible expense is lost or unavailable, the employee must fill out and sign a Lost/Unavailable Receipt (LR) form to be submitted with the TER form.

B. Registration Fees

The City will reimburse all tuition charges for seminars, conferences or schools that employees attend on City business. Informational brochures and agendas on the seminar, training or convention should be retained and attached to the expense report whenever possible. Employees are required to attend the registered sessions unless excused from any session by the Department Director or City Manager.

C. Approved Modes of Transportation

1. Ground Transportation

The City will reimburse employees for the use of a taxi, bus, or similar ground transportation fares for required transportation.

2. City Vehicles

City vehicles may be used at the discretion of the Managing Director when costs are not in excess of the cost of airfare and site transportation combined, or when air transport is not available or is impractical. Direct expenses, such as gasoline and oil associated with the use of City vehicles, will be reimbursed.

3. Personal Vehicles and Mileage

With the approval of the Managing Director or City Manager, City employees may use their personal vehicles for out-of-town travel. The City will reimburse the lessor of (1) actual mileage to and from the destination multiplied by the current rate per mile as dictated by the IRS or (2) the round trip cost of the most reasonable alternative conveyance, (e.g., airfare) that would be spent for each employee traveling to the destination in the vehicle. This policy also applies to employees who receive a car allowance and who are traveling beyond a 75-mile radius of the City.

Any travel time that is greater than the time required to travel by scheduled airlines will be considered vacation time if the travel is during normal business hours. Normal travel will not exceed one day. The City will also reimburse for any required mileage at the destination.

Employees required to provide on-call or stand-by services (after normal business or scheduled hours) will be reimbursed for mileage a maximum of 30 miles one-way. The request for mileage reimbursement must be accompanied with documentation indicating date(s) and time(s) of service(s), and mileage. Please utilize the Employee Mileage Report (EMR) form and secure proper approvals.

4. Commercial Airlines

Air travel arrangements should be charged to a City credit card whenever possible. Air travel arrangements will be reimbursed at economy/coach air fare.

However, tickets may be upgraded to first class at the employee's personal expense.

5. Rental Car

When it is necessary, the employee will be reimbursed for the cost of renting a vehicle, including motor fuel. The City will pay for rental cars if the rental is cheaper than taking a taxi, shuttle bus or similar ground transportation. Approved rental car expenses should be charged to a City credit card whenever possible. *When this expense is incurred and not charged to the City credit card, additional insurance coverage is required from the rental car agency and will be reimbursed by the City.*

D. Parking

The City will reimburse any parking fees required while an employee is out of town and/or conducting City business. At the destination, the City will also reimburse required parking fees for personal cars, or rental cars. A receipt must be obtained for these expenses. **Disclaimer:** (Parking reimbursements do not include airport parking valet services.)

E. Accommodations/Lodging

The City will reimburse actual expenses for hotels, motels, or other lodging for the actual number of days of the conference or other meeting, plus allowance for travel time while on official City business. A detailed hotel statement should be received upon checkout and be submitted as a receipt in order to be reimbursed. The City is exempt from Sales and Use Tax, but not Hotel Occupancy Taxes. Review the hotel statement before leaving final check out to request removal of any taxes charged that the City is not responsible for. In the event the lodging location cannot be determined prior to traveling, then a request for an advance should be submitted in accordance with Section V, Advances and Reimbursements.

Lodging can be authorized to be charged on the City's Department's Credit Card in advance by requesting and completing the hotel's Credit Card Authorization Form. Each hotel may have a different form and procedure. Please check with the hotel prior to traveling if unable to take the City Credit Card on your trip.

Example of items which may be reimbursed on the hotel statement are:

- Daily room charges
- Necessary Hotel tax
- Business telephone calls
- One personal telephone call per day
- Hotel parking fees
- Meals charged to the room
- Tips and gratuities

Example of items which WILL NOT be reimbursed on the hotel statement are:

- Personal expenses (such as cleaning or laundry)
- Hotel club charges
- Recreation facilities use charge
- Room service charges for incidentals
- Movies and personal phone calls
- Sales and use taxes

F. Business Meals

Meals reimbursements will be provided when they are not included in the cost of the seminar or conference registration. Meals include but are not limited to box lunches, business luncheons, and award banquets.

The maximum reimbursable amount for meals is \$70.00 per day. To receive a meal expense reimbursement above the maximum amount per day, written notations must be provided with the receipts indicating the place, purpose and people receiving the meal. In the event a credit card is used to pay for meals, the detailed bill and/or receipt, and the names of employees or clients should be noted and submitted with the expense report.

1. Meals for Others

Employees may find it necessary to pay for the meals of business associates, including fellow City employees from time to time. If necessary, the business purpose of the meal should be stated on the request for reimbursement, along with the individual for whom the meal was purchased.

2. Meals in the Metroplex (50-Mile Radius)

The City will not reimburse for meals bought while employees are attending scheduled seminars, training sessions, and other meetings conducted within a 50 mile radius or where the meal is provided during the scheduled session(s).

G. Telephone Expenses

The City will reimburse the cost of one personal call (maximum duration 10 minutes) per day. The City will reimburse employees for all City business calls.

H. Incidental Expenses

The City will not reimburse for dry cleaning, shoe shines, haircuts, magazines or books, tickets to the theater, sports events, health clubs, pay television, or other such incidental expenses. *The City will reimburse for reasonable tips paid for porters, baggage handling, etc., when required.*

I. Submitting Expense Reports

All employees who use City funds for authorized trips must submit an approved Travel Expense Report (TER) to the Accounting Division in the Financial Services Department within ten (10) business days of completing the trip.

All amounts expended should be listed on the TER, whether paid for by the employee, through an advance request, a City credit card, or by City check. (*See Section V for Travel Advance Request guidelines*).

The employee must attach all required original receipts to the Travel Expense Report. Airline confirmation and conference registration details must be included even though already paid by the City. Reasonable tips may be reimbursed without a receipt, but other out-of-pocket expenses must be accompanied by original receipts. A credit card receipt alone is not sufficient to document allowable charges. In the event an advance was obtained, see Section V for handling any unspent advance.

V. ADVANCES AND REIMBURSEMENTS

A. Travel Expense Advances

Travel advance requests may be considered on a case-by-case basis and must be submitted to the City Manager for prior approval on a Travel Advance Request (TAR) form. Advance requests must be submitted in accordance with payment authorization deadlines, i.e., requests submitted on Thursday by 5 p.m. will be available by the following Friday after 3 p.m. or no earlier than five (5) business days prior to traveling.

Conference/seminar schedules and maps showing mileage must also be submitted with the TAR form.

Advances are intended to cover the cost of meals at the City's allowable rate, estimated mileage, taxis and any out-of-pocket expenses, but generally not airfare, conference fees, or lodging. Airfare, conference fees and lodging generally should be paid directly to the travel vendor or conference sponsor as coordinated by the employee or department coordinator.

The employee may receive an advance when all of the following conditions are met:

1. The employee is traveling overnight on City business; and
2. The cost of the meal(s) is (are) not included in the price of a seminar or conference registration; and
3. The cost of the meal(s) is (are) directly attributable to the conduct of City business. If meals are included in the cost of the seminar or conference, the travel advance will be decreased by the amount per the allowance rate schedule allowed for that/those particular meal(s), and
4. The request for advance is requested no later than five (5) business days prior to departure.
5. The advance request is approved by the City Manager.

Upon approval by City Manager, advances for meals will be allowed at the following rates:

❖ Breakfast	\$15.00
❖ Lunch	\$25.00
❖ Dinner	\$30.00

Mileage will be advanced at the current allowable IRS mileage rate. Current IRS mileage rates can be found on the IRS.gov website. Following a trip, employees must account for and reconcile their travel advances and expenses within ten (10) business days of the trip by submitting a Travel Expense Report. The Accounting Division will keep a log of outstanding travel advances.

Any unspent cash must be turned in with a *copy* of the TER to the City Cashier. It is recommended that the employee pay by check, which will be proof of payment. The receipt from the City Cashier along with the original Travel Expense Report should be forwarded to the Accounting Division to clear any outstanding advance.

B. Travel Advance Pick-ups

Travel advances may be picked up or available via direct deposit no earlier than five (5) business days before scheduled departure.

VI. PROCEDURES FOR CHANGING OR CANCELING TRIPS

A. Changing and Re-booking Trips

If changes in a trip occur and a travel advance has been issued, notification should be sent via memorandum with proper director approvals to Accounting Division detailing the changed dates. This will allow Accounts Payable to change the due date of the Travel Advance Request form, if applicable. If an additional advance is required, an additional Travel Advance Request form that has been approved by the City Manager must be

submitted. Any checks issued or funds direct deposited for the original trip and not utilized must be returned to the Accounting Division for proper processing. Refunds from travel vendors should be pursued and credited as appropriate.

If canceling a trip that cannot be re-booked by the same traveler, request the cost for the change fee. If expense is reasonable, include expense and approved memorandum with expense report. If re-booking or transferring the travel plan is not available, include approved memorandum with expense report.

B. Canceling Trips

If a trip must be canceled, any checks issued or funds direct deposited for the original trip and not utilized must be returned to the Accounting Division for proper processing. When checks have been cashed or the City credit card has been charged and refunds can be obtained, the refunds must be deposited with the City Cashier and credited to the original expenditure lines charged for the travel expenses.

A copy of the deposit receipt from the return of a travel advance must be forwarded to the Accounting Division along with the Travel Expense Report, so that the advance can be properly cleared. City employees will be held responsible for checks or cash outstanding for canceled trips until such checks or receipts are returned to the Accounting Division.

CITY OF DUNCANVILLE
EMPLOYEE TRAVEL POLICY
(EFFECTIVE JANUARY 1, 2017)

I. Transportation and Mileage Reimbursement

- A. Mileage will be reimbursed at the current standard rate recommended by the Internal Revenue Service at the new rate of \$0.535 cents per mile as of January 1, 2017 through December 31, 2017 and will be adjusted periodically based on Internal Revenue Service guidelines.
- B. Reimbursable mileage is the *shortest* round trip distance of :
 - 1. Normal work location to travel destination or
 - 2. Home to travel destination.
- C. Travel arrangements including airfare, hotel, etc. should be coordinated through the appropriate City staff and travel agency.
- D. For transportation expenses, the *lesser* expense of airfare plus ground transportation (i.e. taxi, shuttle service) or actual mileage will be reimbursed.

II. Meals and Receipts

- A. Total reimbursable expense for meals is limited to **\$40.00 per day times the number of travel days** without prior approval of the City Manager as of October 1, 2007.
- B. **Meal expenses will only be reimbursed if travel requires an overnight stay or is outside the local 6 county area (Dallas, Tarrant, Denton, Collin, Ellis and Johnson counties).** Meals while training at NCTCOG or at any location within the 6 county area will no longer be reimbursed as of June 1, 2010.
- C. The employee should attach all receipts to the Expense Report. All expenses *must* have an **itemized receipt** attached or they will *not* be reimbursed (except mileage costs). Detailed receipts are required to verify that all individual items purchased are reimbursable. Total only receipts are not acceptable.
- D. **Only** the employee's meal cost will be reimbursed. Employees who travel with other non-employees can not include their meal cost for reimbursement even if under the daily limit.

III. Prohibited Items

- A. Items *not* reimbursed include, but are not limited to, the following:
 - 1. Alcoholic beverages
 - 2. Break item snacks such as soft drinks, candy, etc.
 - 3. In-hotel pay television or videos
 - 4. Movies
 - 5. Golf
 - 6. Sporting events
 - 7. Calls to 900 numbers

III. Prohibited Items (continued)

8. Dry cleaning or laundry (unless an extended stay over 7 days with approval of the Department Director)

IV. Miscellaneous

- A. One long distance personal telephone call per day of approximately ten (10) minutes duration will be reimbursed.
- B. In the case of travel reimbursement by another agency, expenditures and reimbursements will be governed by the policy of that agency.

V. Travel Advances

- A. Travel advances will only be granted via Department Director approval and submission of signed (approved) travel advance form.
- B. Travel advances will only be granted for estimated out-of-pocket expenses equal to or greater than \$75.
- C. Whenever possible, hotel accommodations should either be pre-paid via direct billing to the City or via Department Directors Travel Cards.

VI. Expense Reports

- A. All employees who use City funds for authorized trips shall submit an individual Travel Expense Report to the Finance Department within 30 days of completing the trip. No employee with an outstanding travel advance will be issued another travel advance without approval of the City Manager. Combined expense reports (with other employees) are acceptable only with advance approval of the Director of Finance. Duplicates will be placed in each individual file.
- B. All amounts expended should be listed on the Expense Report, whether paid for by the employee, through an employee advance, on a City credit card, or by the City. The employee should list all prepaid transportation, prepaid lodging, prepaid registration, City credit card charges, employee advance received, and personal expenses and then subtract these amounts from the "Total Expenses" to arrive at the "Amount Due Employee" or "Amount Due City". [If using the Travel Expense Report form in Excel, these amounts will be calculated for you automatically.
- C. The employee should attach all receipts to the Expense Report. All expenses **must** have a **detailed** receipt attached or they will not be reimbursed (other than mileage costs). Airlines ticket stubs and detailed hotel receipts **must** be included even if prepaid by the City.
- D. The Expense Report should be reviewed and approved by the employee's immediate supervisor and/or Director. The approving **Director is responsible** for ensuring that all Expense Reports are in accordance with the City's Travel Policy. The City Manager or Assistant City Manager approves directors' expense reports.
- E. After Director approval, the Expense Report should be forwarded to the Finance Department. The Finance Department checks that all itemized receipts are attached, verifies all math calculations, and prepares receipt for returned money, if any. The Director of Finance reviews all the documentation for completeness and final approval.

RESOLUTION NO. 2016-11155D

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, ADOPTING THE CITY OF DUNCANVILLE CITY COUNCIL TRAVEL POLICY, ATTACHED HERETO AS EXHIBIT "A", DEFINING NECESSARY EXPENSES INCURRED BY A CITY COUNCILMEMBER AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Charter of the City of Duncanville, Article II, Section 2.03 (Compensation) states, in part, City Councilmembers "shall be entitled to reimbursement of necessary expenses incurred in the performance of their official duties when approved by Council", and

WHEREAS, the City Council wishes to adopt a formal travel policy defining the process of reimbursement for necessary expenses incurred while traveling during their official duties, and

WHEREAS, the City Council finds that in many cases, City Councilmembers are accompanied by a guest when attending local events and functions, the whole of City Council typically attends in an official capacity, and

WHEREAS, the City Council finds these local events typically charge for admission and the cost of a meal, in conjunction with the event, and

WHEREAS, the City Council finds the cost of admission and the accompanying meal served in conjunction with a local event, for a guest of a City Councilmember attending the event with the City Councilmember, is a necessary expense incurred in the performance of their official duties.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS:

Section 1: That the City of Duncanville City Council formally adopts the City of Duncanville, City Council Travel Policy, attached hereto as Exhibit "A", which outlines the process of reimbursement for necessary expenses incurred while traveling during their official duties.

Section 2: That the City of Duncanville City Council finds the cost of admission and an accompanying meal, for a guest of the City Councilmember while attending the event with the City Councilmember, a necessary expenses subject to reimbursement or prepayment by the City.

Section 3: That the City of Duncanville City Council permits reimbursement for only those necessary expenses incurred by a City Councilmember, for a guest, attending a local event, as defined within the policy.

Section 4: This Resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 15th day of November, 2016.

CITY OF DUNCANVILLE, TEXAS

APPROVED:



David L. Green, Mayor

ATTEST:



Mary E. Jones, City Secretary

APPROVED AS TO FORM:



Robert E. Hager, City Attorney

CITY OF DUNCANVILLE CITY COUNCIL TRAVEL POLICY

I. Transportation and Mileage Reimbursement

- A. Mileage will be reimbursed at the current standard rate recommended by the Internal Revenue Service as of January 1st and will be adjusted periodically based on Internal Revenue Service guidelines.
- B. Reimbursable mileage is the shortest round trip distance of :
 - 1. Normal work location to travel destination or
 - 2. Home to travel destination.
- C. Travel arrangements including airfare, hotel, etc. should be coordinated through the City Secretary.
- D. For transportation expenses, the lesser expense of airfare plus ground transportation (i.e. taxi, shuttle service) or actual mileage will be reimbursed.

II. Meals and Receipts

- A. Meal expenses shall only be reimbursed if travel requires an overnight stay or is outside the 6 county area (Dallas, Tarrant, Denton, Collin, Ellis or Johnson counties).
- B. The City Council member should attach all receipts to the Expense Report. All expenses must have an itemized receipt attached or they may not be reimbursed (except mileage costs). Detailed receipts are required to verify that all individual items purchased are reimbursable. Total only receipts do not provide sufficient transparency.
- C. Only the City Council member's meal cost will be reimbursed. City Council members, who travel with others, cannot include another's meal cost for reimbursement, except as permitted in Section IV, "Necessary Expenses for Guests of City Council Members."

III. Prohibited Items

- A. Items not reimbursed include, but are not limited to, the following:
 - 1. Alcoholic beverages
 - 2. Break item snacks such as soft drinks, candy, etc.
 - 3. In-hotel pay television or videos
 - 4. Movies
 - 5. Golf
 - 6. Sporting events

IV. Expense Reports

- A. City Council members who use City funds for authorized trips should submit an individual Travel Expense Report to the City Secretary within 30 days of completing the trip.
- B. All amounts expended should be listed on the Expense Report, whether paid for by the City Council member, through a travel advance, on a City credit card, or by the City. The City Council member should list all prepaid transportation, prepaid lodging, prepaid registration, City credit card charges, travel advance received and personal expenses, and then subtract these amounts from the "Total Expenses" to arrive at the "Amount Due Employee" or "Amount Due City". If using the Travel Expense Report form in Excel, these amounts will be calculated for you automatically.
- C. The City Council member should attach all receipts to the Expense Report. All expenses should have a detailed receipt attached or they may not be reimbursed (other than mileage costs). Airline receipts and detailed hotel receipts should be included, even if prepaid by the City.
- D. The Expense Report shall be assembled by the City Secretary, signed by the City Council member and forwarded to the City Manager or Assistant City Manager for final review.
- E. After the final review by the City Manager or Assistant City Manager, the Expense Report shall be forwarded to the Finance Department. The Finance Department shall verify all itemized receipts are attached, verify all math calculations, and prepare a receipt for returned money, if any. The Director of Finance shall review all the documentation for completeness.

V. Necessary Expenses for Guests of City Council Members

- A. Necessary expenses incurred by a City Council member for a guest, who attends a local event with the City Council member, will be reimbursed.
 - 1. A local event is defined as one that City Council normally participates in as a whole, and held within Dallas, Tarrant, Denton, Collin, Ellis or Johnson Counties.
 - 2. A guest is defined as an individual whom the City Council member invites to the event.
- B. Necessary expenses defined under this section are admission and meal costs, if any, incurred by a City Council member for a guest attending a local event, with the City Council member.
- C. If the admission and meal costs are prepaid by the City of Duncanville, no additional reimbursement is permitted.

CITY OF DUNCANVILLE

MAYOR & COUNCIL MEMBERS TRAVEL EXPENSE REPORT

Please Complete all applicable highlighted areas:

Council Member

Today's Date 16-Mar-17

Department

Travel Dates

Destination/Purpose of Trip

Mode of Transportation:	<i>Please Place an X in the appropriate box:</i>			
City Vehicle?		Gas Reimbursement?		
Own Vehicle?		Mileage Reimbursement?		

	SUN	MON	TUES	WED	THURS	FRI	SAT		TOTAL
DATE									
Registration:									
Prepaid? Y or N									
Lodging:									
Prepaid? Y or N									
Transportation:									
Prepaid? Y or N									
Breakfast									
Lunch									
Dinner									
Gasoline									
Parking									
Rental Car/Taxi									
Telephone									
Miscellaneous									
Total Expenses Before Mileage									
Mileage (from Below)									
Total Expenses									

Mileage Calculation:		Mileage Record:		Subtract:	PREPAID REGISTRATION	
Total Miles Driven		From:		Subtract:	PREPAID LODGING	
x Rate	0.535	To:		Subtract:	PREPAID TRANSPORTATION	
Mileage Total				Subtract:	CITY CREDIT CARD CHARGES	
<i>I hereby certify the above expenditures represent money spent for legitimate city business and items of a personal nature have been deducted appropriately.</i>				Subtract:	ADVANCE CHECK	
				Subtract:	PERSONAL EXPENSES	
				Add:	PERSONAL EXPENSES REIMBURSED	
Council Member's Signature				Equals	Amount Due Council Member	
City Manager Signature				Equals	Amount Due City	
Director of Finance Signature				Account Number		
				Finance Dept Verification		

CITY OF FERRIS

ORDINANCE NO. O-12-726

AN ORDINANCE OF THE CITY OF FERRIS, TEXAS AMENDING THE CITY OF FERRIS CODE OF ORDINANCES, BY REPEALING ORDINANCE NO. O-11-712 IN ITS ENTIRETY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Ferris, Texas, has determined that the Personnel Policies and Procedures Manual, January 2011 is in need of revision; and

WHEREAS, The City has determined it is in the best interest of the Employees and the City of Ferris to repeal Ordinance No. O-11-712. Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERRIS, TEXAS:

Section 1. That Ordinance No. O-11-712 Personnel Policies and Procedures Manual , January 2011, is hereby repealed in its entirety. That Ordinance O-12-726 Personnel Policies and Procedures Manual, February 2012 is hereby adopted and made a part of the City of Ferris Code of Ordinances.

Section 2. All provisions of the ordinances of the City of Ferris in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Ferris not in conflict with the provisions of this ordinance shall remain in full force and affect.

Section 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 4. An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances as amended, in

effect when the offense was committed and the former law is continued in effect for this purpose.

Section 5. That this ordinance shall take effect immediately from and after its passage and publication of the caption of said ordinance as the law in such case provides.

DULY PASSED AND APPROVED by the City Council of the City of Ferris, Texas this 6th day of February, 2012.



APPROVED:

Richard M. Barrett
Richard M. Barrett., Mayor

ATTEST:

Pat Bradley
Pat Bradley, City Secretary

APPROVED AS TO FORM:

Mark Goldstucker, City Attorney

CITY OF FERRIS

Personnel Policies and Procedures Manual

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CITY OF FERRIS, TEXAS

PERSONNEL POLICIES AND PROCEDURES MANUAL

SECTION 1 – AUTHORITY AND ADMINISTRATIVE RESPONSIBILITY

- 1.01 **SCOPE.** The Personnel Policy applies to and governs all employees of the City of Ferris except where there are explicit provisions to the contrary in state laws. It is not applicable to elected officials, members of boards and commissions, persons employed by contract to render consultative, technical or professional services, or volunteers (other than volunteer firefighters and police reserves to whom portions of this policy are applicable.)
- 1.02 **AUTHORITY FOR CREATION OF JOBS.** With the exception of those positions, or offices established by statutory provisions, all positions, or offices in the municipal organization are created and authorized either directly or indirectly by action of the City Council.
- 1.03 **ADMINISTRATIVE AND APPOINTIVE AUTHORITY.** With the exception of matters and appointments reserved to the City Council by statutory provisions, and appointive and dismissal matters dealing with Department Heads general authority and responsibility for the conduct and administration of municipal affairs is vested in the City Manager, including appointments to positions and the establishment and maintenance of satisfactory standards of efficiency, welfare and morale of City employees and the exercise of general control and supervision over all departments, officials, and positions created, and approved by the City Council. Final authority, in the form of review and approval, is reserved by the City Manager with regard to all matters, and subjects covered by these regulations, and which are not specifically delegated by him/her to various Department Heads and/or other subordinates. This delegation may be either written or oral. During periods when the City is without a City Manager, the Mayor or Mayor Pro Tem will have all authority given to the City Manager under the Personnel Policies and Procedures Manual.
- 1.04 **DUTIES AND FUNCTIONS OF THE CITY MANAGER.** The City Manager is responsible for the routine administration of all phases of these rules and policies. This includes establishment and maintenance of position classification, wage and salary plans, and other operational and procedural rules.
- A. The City Manager is responsible for reviewing and assuring that personnel actions are in compliance with requirements and policies established by the official salary plan and job classification plans as well as in conformity with established policies, and rules governing vacation, sick leave, leave without pay, merit increases, etc.
- 1.05 **DEPARTMENTAL ADMINISTRATION OF THESE RULES.** Department Heads are responsible for the proper and effective administration of personnel rules and policies within their departments. Routine matters and duties in connection therewith, such as the proper preparation and handling of required personnel records, reports, payrolls, etc., may be assigned to a subordinate employee. Questions regarding these policies should be referred to the City Manager for resolution.

- A. Department Heads are responsible for authenticating all personnel actions initiated within their Departments. Those actions include but are not limited to: employee selection, pay adjustments, promotions, transfers, separations, etc. These certifications are made by signature on the "Personnel Appointment or Change of Status Form" (PACS Form) or other appropriate documents.
- B. Department Heads have overall responsibility for the administration of discipline within their departments. Such discipline includes but is not limited to: employee counseling, reprimand, suspension, and dismissal. This in no way diminishes the authority or responsibility of individual supervisors to maintain order and discipline or to take disciplinary action against employees under their supervisions. (See Section 5.02)
- C. The City Manager will develop, implement and monitor time and attendance tracking and pay authorization procedures. Department Heads will be responsible for assisting the City Manager in implementation of the approved system within their departments. Time and attendance records will be signed by the Department Heads or by a subordinate employee appointed for this task in the event the Department Head is absent when time and attendance forms must be submitted to payroll. Time and attendance records are the audit trail, which establishes the City's conformance to laws related to pay. In addition, Department Heads must closely monitor attendance records and payrolls to assure salary and wage expenditures stay within budgetary limits. Time and attendance records must be neat, legible, complete and accurate. Employees turning in messy, non legible time or expense reports should be made to redo. Inaccurate records, or the misrepresentation of the amount of actual time worked, may be a violation of the law, and may result in disciplinary action.

1.06 **AMENDMENTS.** The City Manager may recommend changes or amendments to these rules within statutory limitations to the extent necessary to more effectively and efficiently promote the interests of the City. All changes and/or amendments must be approved by the City Council.

SECTION 2 – EMPLOYMENT INFORMATION AND REQUIREMENTS

2.01 **BASIS OF EMPLOYMENT.** All authorized City positions not directly appointed by the City Council pursuant to Statutory or Ordinance provisions are created by presentations of proposed budgets by the City Manager to the City Council in the budget process. The City of Ferris is an “at-will” employer meaning that all employees who do not have a written employment contract with the City are employed at the will of the employer and may be terminated at any time, with or without notice, for any reason and with or without cause. Similarly, the employee is free to resign from employment at any time and for any reason. Nothing in this manual creates an expressed or implied contract of employment for a definite period or a contract concerning terms or conditions of employment. Any position, which is not contained in the personnel schedule for the annual budget, must be specifically approved by the City Council and specifically approved by the City Manager or his/or her designated representative before a requisition will be accepted. In accordance with Title VII of the Civil Rights Acts of 1964, applicants for city employment shall be given equal opportunity without regard to race, color, sex, religion, national origin, age, or non-disqualifying condition of handicap. Both initial employment and subsequent compensation, terms, conditions, or privileges of employment are based on merit, and, where appropriate, moral and physical fitness, as evidenced by:

- A. Training, education, and experience as reflected on the application for employment and other appropriate documentation such as: transcripts, certifications, registrations, licenses, etc.
- B. Performance and responsibility level in previous employment.
- C. Mental examination and/or performance/agility test if required.
- D. Any required physical examination.
- E. Inquiry of former employers, supervisors, or other persons, or agencies having access to information about prior employment history.
- F. Inquiry into criminal history for applicants who work in positions for which criminal background is relevant to their prospective jobs, and or credit history in the case of applicants who will be responsible for handling cash.

2.02 **REQUESTS FOR PERSONNEL AND ADVERTISEMENT OF VACANT POSITIONS.** All Departments will submit requests to fill vacancies to the City Manager. These requests are made on Personnel Requisition forms, and include the title of the position to be filled, contemplated initial salary or wages; desired training and/or experience, any special qualifications required, and such other pertinent information as may be needed to help find the best-qualified person available. This also includes requests or personnel through any special employment programs. Notice of vacant positions will be posted in a public area for most positions and advertised as appropriate. Vacant positions will be posted for the amount of time required to fill the position.

2.03 **RECRUITMENT AND SELECTION.** The recruitment function is performed by the City Manager and Department Heads. The City Manager/Department Head will maintain application files, contact possible sources of applicants, maintain liaison with appropriate

agencies and use such advertising as may be necessary. All interested applicants will be advised to contact the City Manager or Department Head concerning any vacancy for which they may qualify. The City Manager, or those designated by him/her, will conduct initial recruiting and screening. Normally, the hiring supervisor will conduct pre-employment interviewing, assisted by the City Manager or Department Head when required. The hiring Department Head is responsible for reference checks and may seek Personnel Division assistance to accomplish this necessary pre-employment function. The City will conduct its employee selection procedures in such a way as to achieve the best possible match of job applicants with available positions and strive to hire the best-qualified applicant. No employee, manager, or officer will exert any personal or professional influence or prejudice for or against an applicant because of the applicant's race, color, sex, religion, age, national origin, or non-disqualifying condition of handicap. Nor will any special consideration be given because of political or religious affiliations or relationships.

2.04 NEPOTISM (Employment of Relatives).

- A. No person related within the second degree of affinity (marriage) or within the third degree by consanguinity (blood) to the Mayor, a Councilperson, or the City Manager shall be an employee of the City. A person already employed by the City for at least one (1) year at the time of election of a related elected official or the appointment of a related City Manager may continue their employment. However, in such cases, the elected or appointed official should make every effort to refrain from making specific decisions concerning that employee's pay, position, and performance in the City.
- B. In addition to the above stipulations, it is hereby provided that relatives and members of the immediate family of City employees related in the second degree of affinity and third degree of consanguinity will not be appointed to work for the City unless specific approval is obtained from the City Manager. Department Heads who believe such appointments are justified should present their reasons to the City Manager and the needs, which form the basis for requesting such appointments. The City Manager may approve the employment of persons related in the degree above if their normal day-to-day work process does not interact with each other, nor are they the supervisor of a relative of the above degree who are already employed in the same Department become married, the Department Head will submit a recommendation for continued employment. This will not be approved if either spouse is supervisor over the other.

2.05 POLITICAL AND RELIGIOUS AFFILIATIONS/POLITICAL ACTIVITY.

- A. No political, fraternal, or religious connections or affiliations shall be required or considered as a condition of employment by the City of Ferris, nor shall such matters be permitted to influence any action or recommendation relating to present employees.
- B. Except as may be otherwise provided by law, the following restrictions on political activity shall apply to City employees:
 - 1. While in City uniform, or on duty, a City employee may not take an active part in any political campaign, demonstration, or rally for an elective position of the municipality.

2. For the purpose of this section, a person takes an active part in a political campaign if the person:
 - Makes a political speech;
 - Distributes a card or other political literature;
 - Writes a letter;
 - Signs a petition;
 - Actively and openly solicits or recommends votes; or
 - Makes a public derogatory remark about a candidate for an elective position of the municipality.
3. A City employee may not be required to contribute to a political fund or to render a political service to a person or party.

2.06 **APPLICATIONS FOR EMPLOYMENT.** All persons seeking consideration for employment must complete, sign, and submit an approved application to City Hall.

2.07 **PHYSICAL STANDARDS.**

- A. **Pre-Employment Physical Requirements.** All prospective employees (both full-time and part-time) regardless of job classification must successfully complete a pre-employment physical examination by an officially designated medical authority which includes substance abuse testing and physical examination sufficient to determine the applicant's fitness to perform the duties of the position for which the applicant is being considered. No applicant will be placed on the job until the City Manager and Department Head have received and approved results of the physical examination. Job classifications requiring heavy lifting and/or physical stamina will also include examination for fitness for these requirements. Such examinations are to be given before the effective date of employment. The Department Head will make necessary appointments and arrangements for the examinations.
- B. **Employment of Physically Handicapped.** In accordance with the Americans with Disabilities Act of 1990 (ADA), handicapped persons will be considered along with all other applicants for employment in positions for which they are physically qualified or in which a reasonable accommodation can be made that does not represent an undue hardship for the organization.
- C. **Exceptions.** Physical standards and requirements may vary in accordance with the duties and working conditions set forth in the job requirements for various positions. The Department Head will advise the examining medical officer of any special or unusual requirements for the performance of the job. The opinion and recommendation of the examining medical official govern and determine the medical acceptability of any person for employment.

Particular attention will be given to any impairment, degenerative disease, or abnormality, which would adversely affect either the present or the future capacity of a prospective employee to perform the required duties of the position. The examining medical official will complete and forward to the Department Head a complete report on the prescribed form indicating a specific recommendation as to the suitability of the person for employment in the position.

- D. **Waiving Examinations.** In the absence of any information or visible evidence to the contrary, physical examinations may be waived by the City Manager with regard to the re-employment of persons who satisfactorily passed an examination within not more than three (3) months prior to the date of re-employment. In addition, a private physical examination done within three (3) months of employment may be accepted for a low-level physical requirement position if given to the City and shown to be testing the necessary areas needed. Such physical exam must be signed by the physician and it will not set aside the requirement for a drug test by the City.
- E. **Responsibility for maintenance of physical standards.** Employees are responsible for maintaining the standard of physical fitness required for performance of the duties of the position they hold.

2.08 **CONTROLLED SUBSTANCE, ALCOHOL AND INHALANT ABUSE.** In order to comply with the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991 the following policy and guidelines are implemented to foster and promote a drug and alcohol free work place in the City of Ferris

The policy applies to all employees in safety-sensitive positions and applicants for those positions with the City of Ferris. In the event that this policy is found, in any particular manner, to be inconsistent with or to contravene either now or in the future, any existing or any subsequent municipal, state, or federal law, the policy shall be modified to comport with such law.

Use or consumption of controlled substances, alcohol, or inhalants on the job or being under the influence of controlled substances, alcohol, or inhalants on the job creates a serious risk of bodily harm for the involved employee, fellow employees the City of Ferris, and the general public. This policy is designed to assist in the elimination of drug and alcohol abuse in the work place.

The City of Ferris acknowledges that its success now, as well as in the future, is dependent upon the physical and psychological well being of its employees. Accordingly, it is the City of Ferris' intent to maintain a safe working environment for all of its employees, to protect the City's property, equipment, and operations, and to fulfill its obligations to the general public.

RESPONSIBILITIES

1. **City Manager.** The City Manager or other authorized personnel will coordinate the implementation of this policy.
2. **Department Heads.** It is the responsibility of all Department Heads to act in accordance with and to enforce this Policy.
3. **Employees.** It is the responsibility of all City of Ferris employees to conduct themselves in a manner consistent with the letter and spirit of this Policy.

POLICY

- A. The City of Ferris will not hire for employment any applicant found to be engaging in the use or consumption of controlled substances, unless such controlled substance is prescribed for the user by a physician, and then only if such controlled substance is being used/consumed for the purpose intended. Verification from the prescribing physician will be required.
- B. Entering the City of Ferris property or reporting to work in an impaired condition because of the use or consumption of controlled substances, alcohol, or inhalants is strictly prohibited. Any employee acting contrary to this prohibition will be subject to disciplinary action up to and including discharge.
- C. The use, consumption, possession, purchase, distribution, or sale of controlled substances, alcohol, or inhalants while engaged in work for the City of Ferris or on City of Ferris property, except as noted elsewhere in this Policy, will subject the employee to discharge. There shall be no exceptions to the prohibition of being on City of Ferris property or performing City of Ferris work in an impaired condition.
- D. The City complies with DOT requirements for affected positions.
- E. City employees are subject to a “one strike” policy for alcohol and illegal use of prescription drugs: the first positive test will result in termination.
- F. An employee’s self-referral to an alcohol, inhalant or controlled substance program does not prevent the Department from taking appropriate disciplinary action for the employee’s performance and/or conduct.
- G. If a substance, which appears to be an illegal drug, is found within an area under the effective control of an employee, an investigation will be conducted by appropriate law enforcement agencies. If warranted, appropriate disciplinary action will be taken.
- H. The employee may also be subject to criminal charges.
- I. City employees are subject to a “Zero-tolerance” or “1 strike” policy for use or possession of illegal or controlled substances.
- J. Employees must notify their supervisors in writing when they are taking a controlled prescription medication.

POLICY GUIDELINES

A. APPLICANTS

1. Applicant for Employment.

- a. All applicants for employment shall be required to submit to and pass a controlled substance screening and physical as a pre-requisite to employment.

2. **Failure of Pre-Employment Testing.**

- a. Applicants for employment who do not pass all of the required examinations will not be hired.
- b. Further, such applicants for employment will not be reconsidered for employment for a period of one (1) year following failure of pre-employment testing.

3. **Confidentiality of Results.** All pre-employment controlled substance screening results shall be the private and confidential property of the City of Ferris and will not be shared with anyone except the applicant or as required by a court order, to legally protect the City of Ferris and the privacy of the applicant/employee.

B. **EMPLOYEES**

1. **TESTING.** Employees may be tested for controlled substance, alcohol, or inhalants under the following circumstances:

- a. **POST ACCIDENT** – In the event they are involved in an accident involving bodily injury or damage to property of the City of Ferris and/or the general public.
- b. **FOR CAUSE SCREENING** – When an employee's behavior or work performance on the job provides reasonable suspicion, a fellow employee must witness this behavior and report the affected employee to the Department Head. The Department Head must contact the City Manager by written report. Sub-section (b.) FOR CAUSE SCREENING will only be authorized by the City Manager upon recommendations from Department Heads.

When or if it is determined that an employee is to be tested for substance abuse under 2.08, B, 1-a or b, the supervisor will take the employee to the occupational health clinic rather than allowing the employee to transport himself or herself.

- c. **RANDOM SCREENING** – All employees in safety-sensitive positions of the City of Ferris will be subject to random testing at least four (4) times per year for controlled substances, alcohol, or inhalants. Testing will be on a quarterly basis with no less than twenty-five percent (25%) of the employees being tested during each quarter.
- d. **COMPLIANCE** – Employees will be tested in order to comply with local, state, or federal government laws, ordinances, or regulations.
- e. **REFUSAL TO TEST** – An employee who refuses to consent to an alcohol, controlled substance or inhalant test will be subject to discharge. Refusal to test includes:
 - (1) Fails to provide adequate breath for alcohol testing without a valid medical explanation.

- (2) Fails to provide adequate urine for testing without a valid medical explanation.
 - (3) Engages in conduct that “clearly obstructs” a testing procedure.
 - (4) After an accident, which mandates post-accident testing, the driver or operator fails to make themselves available for a test within the time frame specified.
- 2. **POSITIVE RESULTS** - Any controlled substance, alcohol, or inhalant test having positive results will be sent for retest and reviewed by the clinic’s medical review officer. The employee will be suspended until the results of the review have been conducted and conveyed to the City Manager. If the positive results are found to be for a medical necessity, then the employee will be reinstated and paid for time of suspension.
- 3. **FAILURE** – An employee who fails a required controlled substance, alcohol, or inhalant screen in accordance with this policy will be subject to discharge.
- 4. **TERMINATION** – An employee who fails a required controlled substance, alcohol, or inhalant screen and is discharged is not eligible for re-employment.
- 5. **SEARCHES** – The City of Ferris reserves the right to conduct searches anywhere on City of Ferris property, including, but not limited to, lockers, desks, file cabinets and employees’ personal property or personal vehicles parked on City of Ferris parking lots. All such searches must be authorized and conducted under the direction of the City of Ferris City Manager or his or her designee. Employees who refuse to cooperate during such unannounced searches shall be subject to disciplinary action, up to and including discharge.
- 6. **REFERENCES** – All medical information including drug screen and/or physical examinations are protected by law and are not subject to public information disclosure, except by court order. Reference information regarding any employee past or present of the City of Ferris will be referred to the City Manager.
- 7. **CHANGE OF STATUS AND TRANSFERS** – Employees that are transferred to a different division, change from part-time to full-time status, or change from seasonal to regular status will be subject to drug, alcohol, and inhalant screenings.

TRAINING AND EDUCATION

Training and education will be provided to the City Manager, Department Heads, Superintendents, Crew Leaders, and/or designated management on the recognition and signs of alcohol misuse and drug abuse every two (2) years. This is a mandatory training for all supervisors to be arranged for and provided by the City Manager.

- 2.09 **SMOKING IN THE WORK PLACE**. To protect the health of all employees, the City will strictly enforce a prohibition against smoking in City offices, facilities, and equipment except in areas(s) which may be designated by the City Manager as an approved smoking area.

Failure by an employee to abide by this prohibition may result in disciplinary action.

- 2.10 **AGE REQUIREMENTS.** In accordance with the Fair Labor Standards Act (FLSA), an applicant must be over eighteen years of age to work in a regular full-time hazardous job position, and minors must be above sixteen years of age to work in part-time or seasonal job classifications. There is no mandatory retirement age. Rather, employees may continue to work as long as their health permits and they maintain productivity. In accordance with the "Age Discrimination in Employment Act of 1967" (ADEA), no applicant or employee will be discriminated against on the basis of age in employment decisions such as hiring, firing, terms or conditions of employment.
- 2.11 **IN-PROCESSING AND ORIENTATION.** All new employees and former employees who are being re-employed will report to the City Manger (preferably within the first day of employment) for necessary processing, orientation, and instructions. This processing includes completion of personnel information and records, enrollment in group hospitalization and/or life insurance, and an orientation to the rights and responsibilities of employment with the City. The new employee's supervisor is responsible for necessary orientation of the new employee and should include the job description for the new employee's position, the relationship of the Department to the rest of the City operation, introduction of the other members of the Department, where items are located that the employee will require for work, the work schedule, the importance of good attendance and who to report absences to, safe working practices, care of equipment, etc.
- 2.12 **TYPES OF POSITIONS**
- A. **REGULAR FULL-TIME** - These are positions in which the required workweek equals or exceeds the established full-time workweek. These positions generally provide opportunity for continued employment with the City.
 - B. **PART-TIME** - These are either regular or temporary jobs in which the required workweek is normally less than 40-hours.
 - C. **TEMPORARY (INCLUDING SEASONAL)** - These positions (whether part-time, full-time, or hourly paid) are anticipated to be of comparatively short, or of a definitely limited duration, for example, seasonal positions.
 - D. **VOLUNTEER** - These positions would be the volunteer Police reserves or the volunteer firemen.
- 2.13 **OUTSIDE EMPLOYMENT.** The City Administration discourages regular, full-time employees from engaging in outside work for pay if the secondary employment interferes with the work schedule or performance of the employee's full-time, regular duties assigned by the City. For example, an employee working full-time for the City, while receiving compensation for a volunteer Fire Department, may find conflict with his/her regular work schedule if called out on an emergency during regular work hours. Such outside employment conflicts will be addressed with the employee to resolve the scheduling and/or performance issues.
- 2.14 **RE-EMPLOYMENT.** Former employees who have resigned in good standing (good standing includes the provision by the employee of more two-week's notice of resignation) will not be eligible for re-employment for one (1) year following their resignation. The City Manager may

waive this requirement if it is deemed to be in the best interest of the City to allow the re-employment. Persons who were dismissed for cause from City employment will not be considered for re-employment.

2.15 **PROMOTION**. Reasonable efforts will be made to fill available vacancies by the promotion of qualified employees in lower classification within the City. For any position to be filled, Department Heads may elect to fill such vacancies from the following methods: personnel requisition open to the general public; promotional opportunities within the City; or a combination of these. Emphasis is placed on employees having an opportunity to apply for promotion by being made aware of available vacancies.

A. In order to control position management, personnel requisitions for all vacant positions will be submitted to the City Manager.

B. For vacancies filled through internal promotion, a position availability notice issued by the City Manager will be posted in a conspicuous place available for view by all employees.

1. Notices will indicate job title, wage or salary offered, job description, minimum required education and experience, availability of additional information, and application procedures. Notices shall normally remain posted for a minimum of five (5) working days, and announced positions shall normally remain open for a minimum of five (5) working days.

2. The decision to promote should be based on an employee's demonstrated performance, time and attendance records, qualifying education, record of progression, completion of training or development assignments; awards and letters of recommendations; details of leadership experiences where appropriate, etc. As a matter of policy, where two employees appear equally qualified for a position, the one with more seniority will be selected.

3. Employees both within and outside a Department who apply for a promotional opportunity will be notified of the filling of the vacancy.

4. No specific period of employment is required before being eligible for promotion. (See Section 3.08 for procedures related to wage change and promotion.)

2.16 **DEMOTION**

VOLUNTARY – An employee may be demoted voluntarily to a lower level position for which the employee is qualified at the employee's request and with the approval of the City Manager.

INVOLUNTARY – An employee may be involuntarily demoted when such action is deemed to be in the best interest of the City as a consequence of disciplinary action or as the result of demonstrated performance deficiency. (See Section 3.09 for procedures related to wage change and demotion.)

2.17 TRANSFERS AND TEMPORARY ASSIGNMENT

Transfer is possible through voluntary or involuntary transfer to a vacant position that does not represent a promotion or by lateral transfer to another Department. No specific period of employment is required before being eligible for transfer. The City Manager may authorize the temporary assignment of an employee to a higher classification that is vacant. Temporary assignments normally will be for no longer than (30 thirty-days, but may be extended with authorization from the City Manager. This does not imply that a supervisor may not temporarily assign a limited number of the duties of a vacant position to an employee on a temporary basis without additional compensation for the employee who assumes some, but not all, of the duties of the vacant position. (See Section 3.10 for procedures related to wage change and transfer or temporary assignment.)

2.18 REDUCTION IN FORCE OR LAY-OFF

- A. When the need for a reduction in force or lay off arises, the City Manager or his/her designated representative informs the Department Heads concerned of the number of jobs to be vacated.
- B. The Department Head will recommend to the City Manager the employees to be separated, transferred, or assigned to a lower grade position because of the reduction in force. The decision as to which employees will be affected to the greatest extent possible will be based on job performance. In cases in which performance of two or more employees is relatively equal, retention of the employee with more seniority is generally appropriate. Notification will be provided to the affected employee(s) in accordance with the Worker Adjustment and Retraining Notification Act, which requires sixty-day advance notification.

2.19 EMPLOYMENT TERMINATION RULES AND REQUIREMENTS

- A. In order to resign in good standing, employees in regular, full-time positions must give at least two (2) weeks written notice of their intention to resign.
- B. All terminating employees must return all records and/or property of the City of Ferris, which may be in their possession or custody. Department Heads should make every effort to release final pay after all City property is returned but are prohibited from refusing to release final pay until property is returned.
- C. In all cases in which a Department Head has advance knowledge that one of his or her employees is terminating employment with the City, the Department Head is responsible for ensuring that the employee receives timely termination pay. The supervisor should inform the terminating employee that they may contact the City Manager to arrange for an appointment to conduct an exit interview if the employee desires or to arrange for the disposition of benefits such as retirement plans. Terminal pay for employees will consist of earned, but unused vacation leave, not to exceed:
 - For employees with less than ten (10) years of service – one hundred twenty (120) hours. (Police – one hundred twenty six (126) hours),

- For employees with more than ten (10) but less than fifteen (15) years of service – one hundred eighty (180) hours. (Police – one hundred eighty nine (189) hours),
- For employees with more than fifteen (15) years of service – two hundred forty (240) hours. (Police – two hundred fifty two (252) hours).

(See also Section 6.03 (a) 3 and 4.)

D. Termination of employment requirements for employees occupying positions involving access to mission-critical information systems can be found in Section 7.00.

2.20 **DOCUMENTATION OF PERSONNEL ACTIONS.** The “Personnel Transaction” form (PACS form) is the primary record of most personnel actions as well as the authorization for the payroll department to take the action to change an employee’s pay or status. A properly completed PACS form or other approved documentation must be submitted by the supervisor initiating the action to the City Manager for all personnel actions. These include but are not limited to appointment, promotion, demotion, reclassification, etc. In some cases, an alternative form to record personnel action may be used (for example, a computer printout maybe designated to document annual pay adjustment.)

2.21 **DRESS STANDARDS, UNIFORMS, OFFICIAL BADGES, PROTECTIVE CLOTHING, OR EQUIPMENT.** Employees occupying positions in offices are expected to dress in appropriate business attire, which may include the issuance, in some divisions, of division uniform elements, such as a blazer, shirt, or blouse, identifying the wearer as part of the Department. Employees in other Departments will be issued uniforms consisting of trousers and shirt. These will be issued after three weeks of employment. In those Departments in which uniforms are issued, employees are expected to wear the uniform or uniform elements while on duty and to refrain from wearing the uniform or uniform elements when off duty. No official or employee whose duties involve the use of a badge, identification card, or insignia on clothing will permit the badge, card, or insignia to be used or worn by another person, nor permit the badge, etc. to be out of the employee’s possession without good cause. The badge, identification card, or insignia will only be used as appropriate in the conduct of the employee’s assigned duties.

In addition, employees are prohibited from wearing uniform elements identifying the employee as a City employee at events such as political rallies where the appearance might be interpreted that employees of the City of Ferris support one or another political candidate or party.

UNIFORMED EMPLOYEES – All employees provided uniforms identifying themselves as City employees will comply with the following standards: Uniforms must be properly worn and buttoned. Employees are not permitted to work without shirts. No slogan t-shirts, belt buckles or cap logos depicting illegal or contraband substances, lewdness or vulgarity will be permitted. In Departments where a Department baseball cap is issued, it will be worn at all times while on duty but not while off duty, unless wearing of the cap would be hazardous. Appropriate footwear is the responsibility of the employee.

Canvas shoes are not permitted for any laboring or maintenance personnel. In some Departments, employees are issued protective items of clothing or equipment such as shin guards, hardhat, protective goggles, gloves, footwear, etc. When these items have been issued, employees are required to wear the protective clothing or equipment at all times when

performing the task for which they were issued. Failure to comply could result in disciplinary action up to and including dismissal. Torn or patched jeans or work trousers are not permitted. Uniforms provided by the City must be returned on or before the employee's last day of employment.

2.22 PROBATIONARY STATUS

PROBATIONARY PERIOD – Every person initially appointed to, or promoted to a full or part-time position in the City government will be required to successfully complete a probationary period. The probationary period for regularly appointed and promoted personnel is (6) six months.

PURPOSE OF PROBATIONARY PERIOD – Department Heads and Supervisors will use the probationary period to closely observe and evaluate the probationary employee's work and provide on-the-job training and coaching and encouragement.

FAILURE OF THE EMPLOYEE TO ADEQUATELY PERFORM DURING THE PROBATIONARY PERIOD – An employee will be considered to have failed to satisfactorily complete the probationary period when, in the judgment of the supervisor, the employee's work is not acceptable. Failure may occur at any time during the probationary period, and will not be treated in a disciplinary fashion. Termination for failure to successfully complete probation may not be appealed beyond the Department Head Level.

A promoted employee is automatically in a probationary period of six (6) months starting at the time the employee is promoted into the new position, and may be returned to their former position, or a comparable position of one exists if the promoted employee fails to successfully complete the probationary period. This will not make the employee ineligible for consideration for future advancement possibilities. Department Heads will notify the City Manager in advance of terminating a probationary employee and provide the City Manager with any documentation or other information requested to support the termination.

EXTENSION OF PROBATIONARY PERIOD – If, under unusual circumstances, such as extended illness during the probationary period, a supervisor considers the employee's performance record is insufficient to make a determination concerning satisfactory completion of probation, the Department Head may request from the City Manager, an extension of the probationary period for a specific period of time not to exceed two (2) months.

PROBATION FOR REGULAR FULL-TIME EMPLOYEE FOR UNSATISFACTORY PERFORMANCE – An employee whose performance evaluation report is unsatisfactory in one or more areas of the evaluation considered by the supervisor to be critical to the employee's total job performance, may be terminated or, if warranted, may be placed on probationary status for a period of six (6) months. If, during the probationary period, the employee is unable to bring their performance to a satisfactory level, he or she may be terminated or demoted to a position that matches the employee's skill level, if available.

Promotion of an employee who is in probationary status to a higher position may be possible based on the employee's performance during probation and with the approval of the City Manager.

2.23 **INCLEMENT WEATHER POLICY** Generally, all employees are expected to report to their duty stations or work sites in compliance with their usual established reporting time. City offices are normally expected to be staffed and open during periods of inclement weather. However, in the event of extreme weather events that may threaten the safety of employees attempting to travel to work, the Mayor or City Manager may close various city departments or delay their opening. If, during periods of inclement weather, an employee is late or unable to report as required, the Division Head or Department Director may allow the employee to assign the lost time to leave hours other than sick leave (for example annual vacation, compensatory time, official leave, etc.) Employees who have no accumulated and available leave hours may be allowed by the Department Head to schedule make-up time for the time lost.

2.24 **SAFETY.** The success of the City of Ferris depends upon our efficient use of resources to produce a high quality product for the citizens of our community. Our most important resource is our employees. To protect this resource, we are committed to providing a safe and healthful work place for all employees by establishing and maintaining an effective safety and health program. We consider safety and health to be a fundamental part of our organization's operations.

The responsibility for safety resides within each of us. We are each challenged to stay informed and to take responsibility for our own safety and the safety of our co-workers. To ensure the success of our safety and health process, we must all give our full participation and support to the safety policies and procedures that have been developed to protect us. Working safely and in accordance with established safety policies is an absolute requirement for all employees, supervisors and managers.

SAFETY RESPONSIBILITIES

MANAGEMENT SAFETY RESPONSIBILITIES. Management is responsible for providing a place of employment that is free from recognized hazards that could result in injuries or accidents. Since it is impossible for managers to personally observe all employee activities, management must assure that all supervisors are trained and are aware of their safety responsibilities. Other safety responsibilities for management include:

1. Provide leadership and direction concerning safety activities.
2. Participate actively in the continuous evaluation of the safety program.
3. Set goals concerning safety performance within your Division.
4. Review losses for potential trends on a regular basis.
5. Enforce all safety rules.
6. Participate in facility and work site audits.
7. Participate and support all accident investigation activities.
8. Review accident reports and recommend corrective actions.

SUPERVISOR SAFETY RESPONSIBILITIES. Safety is as much a part of the supervisor's responsibility as is getting the job done efficiently. Among the important safety responsibilities of each and every supervisor are:

1. Familiarize oneself with and enforce the safety rules and regulations that have been established by applicable local, state, and federal organizations. These regulations are intended to set minimum standards for safety and the content of the regulations should be enforced as minimum safety requirements for all activities on our work sites or in our facilities.
2. Correct or have corrected all reported hazards. Operating under known hazardous conditions will not be tolerated.
3. Do not permit new or inexperienced employees under your supervision to work with power tools, machinery, or complex equipment without proper instruction and training.
4. Give adequate instruction. Do not assume that an employee knows how to do a job unless you personally have knowledge that the person can perform the task correctly.
5. Ensure tools, equipment and machinery being used in the workplace is in proper working condition.
6. Ensure that proper personal protective equipment is available and used by employees when necessary or required.
7. Always set a good example in safety, such as wearing the proper safety equipment (safety glasses, hard hats, etc.) following policies/procedures, using seat belts, etc.
8. Do not allow the use of unsafe tools or equipment.
9. Consistently enforce the requirements of the organization's safety program and any associated rules or policies.
10. Ensure that all employees have access to a copy of the organization's safety program.
11. Encourage safety suggestions from employees under your supervision.
12. Obtain prompt first aid for injured employees.
13. Participate in accident or incident investigations involving your employees.
14. Conduct audits of work areas and facilities on a regular basis in an effort to improve housekeeping, eliminate unsafe conditions, and encourage safe work practices.

EMPLOYEE SAFETY RESPONSIBILITIES. All employees bear a certain amount of responsibility in any safety program. You must be aware that your actions, mental state, physical condition, and attitude directly affect the safety of yourself and your fellow employees. All employees will:

1. Know your job, follow instructions, and think before you act.

2. Use your protective equipment (eye protection, hard hats, gloves, etc.), as the job requires.
3. Work according to good safety practices as posted, instructed, and/or discussed.
4. Refrain from any unsafe act that might endanger yourself or your fellow workers.
5. Use all safety devices provided for your protection.
6. Report any unsafe situations or act to your supervisor immediately.
7. Assume responsibility for thoughtless or deliberate acts that may cause injury to yourself or your fellow workers.
8. Abide by all policies, procedures, rules, etc. associated with the City of Ferris' Safety Program. A copy of this program is available at any time upon request.
9. Never operate equipment that you are unfamiliar with or not trained to use. Also, equipment that is defective or in need of repair shall not be used and must be reported to your supervisor.
10. Report all accident/incidents to your supervisor as soon as they occur.

ACCIDENT/INCIDENT ANALYSIS POLICY. Once a year, Department Heads will review all injuries and accident investigation reports, that have occurred or been completed during the past year to determine if injury or hazard trends are developing. Should there be an increase in accidents/incidents over historical levels this review should be conducted more frequently. Where potential trends are identified, the cause(s) will be determined to assist in the implementation of corrective actions for the trend(s). The Department Heads will recommend corrective actions as needed to eliminate or reduce hazardous exposures to employees. The Department Heads will follow-up on the effectiveness of the corrective actions to assure the situations have been abated or is in the process of being corrected.

An "Accident/Incident Analysis" form shall be used to document this accident/incident analysis. If there were no reported injuries or incidents during the analysis period, the form should still be completed as documentation of the activity. Items to be addressed during the analysis may include progress on previous corrective actions, trends, safety meeting and inspection reports, etc. This documentation will be kept on file in the City Managers office for a period of at least five (5) years.

RECORDKEEPING POLICY. It is the policy of Ferris to maintain records of all safety and health documents for a minimum of five (5) years (longer if required by law.) The City Secretary will ensure that records maintained by the City of Ferris will include, but are not limited to:

1. **INJURY LOSS RECORDS.** A copy of each Texas Worker's Compensation Form DWC-01 (Employer's First Report of Injury) shall be on file in City Hall.

A copy of Texas Worker's Compensation Form DWC-06 (Supplemental Report of Occupational Injury or Illness) shall also be kept in the above-mentioned location.

Claim/loss information forms shall be maintained in files at City Hall. This information can be used for various means of trend analysis.

2. **ACCIDENT INVESTIGATION REPORTS.** The responsible supervisor will ensure that an accident/injury report is completed and forwarded to the City Manager within twenty-four (24) hours of the accident or injury for each reported accident or injury. A copy of all completed accident reports will be maintained at City Hall. Only City of Ferris approved accident report forms will be used to report an accident or injury.
3. **INSPECTION REPORTS.** A file will be maintained in each Department for all inspection reports required in the Safety Program (work Site Inspection Reports, Vehicle Inspection Reports, etc.) The responsible Department Head will ensure that all required inspection reports are completed in a timely manner. The work site inspection reports and the vehicle inspection reports will be completed by the Department employees or supervisors. Only City of Ferris approved inspection forms will be used. Corrective action will be documented for any deficiencies noted on the inspection reports.
4. **SAFETY MEETINGS/TRAINING RECORDS.** Documentation of monthly safety meetings and other training records will be maintained at City Hall. Only City of Ferris approved safety-meeting forms shall be used to document these activities. When safety meetings are used as training activities, it should be duly noted on the form.

The Department Head conducting the safety/training meeting is responsible for providing a copy of the safety meeting form to the City Secretary. The Department Head will be responsible for ensuring that safety meetings are held on at least a quarterly basis for personnel in his/her department.
5. **ACCIDENT/INCIDENT ANALYSIS.** A file containing Accident/Incident Analysis reports, using the City of Ferris approved form will be maintained in City Hall.

SAFETY EDUCATION & TRAINING POLICY

SAFETY MEETINGS/TRAINING. Safety meeting are an effective way to encourage, educate and train employees on safe work practices and will be held on at least a quarterly basis. The Department Heads will provide information to be used in the meetings and will attend and participate in the meetings. Quarterly safety meetings will normally be conducted by the Department Head. Department Heads should encourage participation of employees in conducting safety meetings. All safety meetings will be documented as to the date, attendance, and topic discussed by means of an agenda and minutes. Discussions of safety rules, possible hazards to be encountered in future job duties or changes in procedures or equipment are some topics that should be covered on a regular basis. Subjects to be addressed during the safety meetings will include, but not limited to, the following:

- Hazards associated with the work place
- Hazards of particular jobs or tasks
- Emergency Procedures
- Hazard Communication
- Specific Equipment Operating Training
- Employee Reporting Requirements

- Office Safety
- Driving Safety
- Machinery Safety
- Contractor Safety Requirements
- Back Injury Prevention
- Housekeeping

DOCUMENTATION OF SAFETY MEETING/TRAINING. Documentation from any safety meeting/training courses attended by employees, supervisors or managers will also be kept for record keeping purposes. Documentation associated with safety meetings and training will be kept in City Hall. Attendance at safety meeting is mandatory and employees who do not attend regularly scheduled safety meetings or training activities will be identified and scheduled to attend makeup training. Continued absence from safety meetings will be grounds for disciplinary action. Documentation will be available for employees that attend makeup training.

ONGOING TRAINING. The Department Heads will provide ongoing safety training in the following areas as the need arises:

- New equipment purchases.
- New or changes in operations.
- Identified areas of increased accidents.
- Newly identified areas of exposure.

NEW EMPLOYEE SAFETY ORIENTATION. The Department Head and the new employee's supervisor will share responsibility for providing an orientation to all new employees to address the hazards of their position. This will include a review of all safety rules, policies, procedures, equipment, etc. that are applicable to the new employee's area of assignment. The new employees will be given an opportunity to ask any relevant questions that may pertain to their assigned duties.

REPORTING UNSAFE ACTS/UNSAFE CONDITIONS. All employees are encouraged and required to report any unsafe acts or unsafe conditions. If an employee is unable or unwilling to report the unsafe act or condition to his or her immediate supervisor, the employee should bring the matter to the attention of the next higher level of supervision. If the employee believes that an order or directive from his or her supervisor would result in danger to the employee if carried out, he or she should first discuss the order with the immediate supervisor, and, if not satisfied with the response of the supervisor, may refuse to carry out the order, without fear of reprisal for insubordination. The refusal to carry out the order will be reported up the organizational chain of command so that a Department Head may review the facts of the case and determine whether or not the order was appropriate. If it is found to be inappropriate, then the order will be modified. If the order is found to be appropriate and

does not contain a significant hazard, then the order may be repeated and refusal by the employee to carry out the order, following the review, may be grounds for discipline.

SAFETY AUDIT/INSPECTION POLICY. A documented, monthly, self-inspection of facilities and job sites will be conducted by each supervisor in an effort to detect unsafe acts or unsafe conditions and initiate corrective action(s) as soon as possible. A copy of the "General Safety Inspection" form will be completed for each work site and the completed forms will be maintained at the work site. This form is available from City Hall or the Department Head.

Individual employees are responsible for inspecting their work areas for possible hazards on a continual basis. Any potential hazards will be reported to supervisory personnel immediately.

Employees assigned to operate City vehicles or equipment will complete a visual vehicle inspection on a daily basis. In the event that a safety issue exists upon visual inspection, the employee will notify his or her supervisor so corrective action can be taken before the vehicle or equipment is operated.

ACCIDENT/INCIDENT INVESTIGATION POLICY. It is the policy of the City of Ferris to investigate all work-related accidents or incidents that result in or could potentially have resulted in injury or property damage. As nearly all accidents and incidents have their own unique characteristics, only general rules and procedures can be outlined here.

The standard Accident/Incident Investigation Report will be used for both initial and final investigations. (The bottom of the report shall be marked to indicate whether it is an initial or final report.)

RESPONSIBILITIES

1. Employees must immediately report to their supervisor any on-the-job injury or illness they sustain, or suspect they have sustained, no matter how minor. They must also report any incidents that had the potential for injury to employees or third parties and any instances where property damage occurred.
2. Supervisors shall first respond to the immediate medical needs of any injured persons. Then, the supervisor should begin reporting and investigative activities as described in this policy.
3. Witnesses to the event that resulted in the accident or incident will provide statements about what they observed. The witnesses may also be asked to participate in the initial and/or final investigations.
4. The City Manager is responsible for receiving the initial reports of injury or property damage and forwarding them to the appropriate insurance representatives in a timely manner, and for reviewing the initial accident/incident report, and then setting the time and place for the final investigation.

PROCEDURES

Initial Notification. Employees are responsible for reporting all injuries, illnesses, or incidents as described earlier in this policy.

Failure to report any injury or incident may be cause for disciplinary action. (In the event of a serious or disabling injury, fellow employees must assume this reporting responsibility.

Initial Treatment. Any injury shall be treated by the supervisor or other available personnel in accordance with their individual abilities and the severity of the injury. During and after normal working hours, an injured employee will be taken to the occupational health clinic (or its emergency room) with whom the City has a current contract.

Medical treatment is mandatory for any of the following:

- Severe Chest Pains
- Traumatic Injuries
- Loss of Consciousness or Severe Dizziness

Any incident involving possible exposures to blood borne pathogens, communicable diseases, or any other contagious substance shall be handled in accordance with established policies or procedures regarding that particular type of incident.

Injured employees are to be transported for medical treatment either by ambulance or by another person depending on the severity of the injury. Injured employees should never be allowed to transport themselves for initial treatment, but they may transport themselves for follow-up visits if the injury does not impair their driving abilities.

If an employee refuses medical treatment for an on-the-job injury, the investigation report should be completed and the employee's signature used to document the event.

Initial Investigation. The supervisor shall immediately protect all other persons from the hazards that caused the initial problem, and also preserve the area where the incident occurred for investigation. After the injured persons have been attended to, and the site is secure, the supervisor should begin the initial investigation. The initial investigation should include:

- (1) Statement from the injured employee
- (2) Statement(s) from witness
- (3) Photographs or sketches of area if deemed necessary
- (4) Completion of the accident/incident report in its entirety
- (5) Immediate corrective actions to prevent reoccurrence

Initial Report. An initial report will be completed for all accidents and incidents within twenty-four (24) hours of occurrence. The immediate supervisor of the employee will complete the initial investigation and report as soon as possible after the occurrence. The initial report will be turned in to the City Manager in a timely manner.

Final Investigation. Within seventy-two (72) hours of the original accident or incident, a final investigation will take place. Attendance at the investigation meeting will include, as a minimum, the

following personnel: injured employee, injured employee's supervisor, witnesses, and the safety officer.

The final investigation will include:

- (1) Description of the event by the involved persons
- (2) Accounts of the witnesses
- (3) Input from supervisor
- (4) Listing of causes
- (5) Development of correction actions.

Basically, the investigation must answer the following questions:

- Who was injured or what was damaged?
- When did the accident/incident occur?
- Where did the accident/incident occur?
- Why did the accident/incident occur?
- What caused the accident/incident to occur?
- How can it be prevented from occurring again?

The City Manager will take responsibility for issuing the final report. The final investigation report will reflect all changes from the initial report, and also must include:

- (1) Finalized corrective actions.
- (2) Assigned completion dates for all corrective actions.
- (3) Assigned persons to complete the corrective actions. The persons assigned the corrective actions shall also be required to sign-off on the final report when the corrective actions have been completed.

2.25 **ABSENCE CONTROL.** With the exception of an employee who is on leave for active military service, any employee who is absent from and/or unable to work for more than twelve (12) weeks may be terminated. This policy applies to all employees, regardless of the reason(s) for the absence or inability to work. No leave of absence may exceed twelve (12) weeks. Any employee on leave of absence in excess of twelve (12) weeks, regardless of the reason for the leave of absence, unless they are on leave for active military service, may be terminated. If an employee is covered by the Americans with disabilities Act (ADA) and requires, as a reasonable accommodation, a leave period of longer than twelve weeks, a decision regarding the length of that employee's leave will be made on a case-by-case basis. See also Section 6.06 for information on leave of absence.

2.26 **PERFORMANCE EVALUATION.** Employee performance will be formally appraised at annual intervals to identify quality of performance.

The work performance of each regular employee will be evaluated in accordance with procedures developed by the City Manager and approved by the City Council. Evaluations will be conducted prior to the end of the full-time new hire's end of probationary period and thereafter annually for all full-time employees. The Personnel Director will maintain a schedule of performance evaluations. The City Manager will send to each Department Head an evaluation packet (30) thirty-days prior the evaluation date. It is the responsibility of the Department Head to ensure that all portions of the evaluation are conducted properly and completed in a timely manner. Completed evaluation packets are due in the City Manager's office ~~within~~ thirty (30) days of receipt.

Note that supervisors should evaluate performance of the probationary employee on or before the employee's six (6) month end of probation. It is not necessary for the supervisor to complete an annual evaluation packet in order to complete the evaluation of the probationary employee's performance. Supervisors who are conducting the probationary evaluation should use the annual evaluation as a model for the six (6) month evaluation or can seek assistance from the Department Head to assist them in developing an evaluation format designed to fit the unique requirements of this type of evaluation.

COUNSELING AS PART OF PERFORMANCE EVALUATION REPORTS. Employees shall be provided copies of their performance evaluation reports. Evaluators shall individually discuss the reports with employees and shall counsel them regarding their performance accomplishments and with respect to improvements in performance which appear desirable or necessary.

APPEAL PROCEDURES OF PERFORMANCE EVALUATIONS. Any employee who has a significant disagreement with the evaluation rating may appeal such rating as a complaint through the grievance procedure as outlined in the Personnel Policy Manual. However, individual marks or ratings will not be a grievance matter and the judgment of the rating supervisor shall be accepted in most cases.

SECTION 3 – WAGE AND SALARY ADMINISTRATION, INCLUDING POSITION CLASSIFICATION

3.01 **SALARY ADMINISTRATION PROGRAM GOALS.** The City's administration program is aimed at accomplishing these goals:

- A. Provide equitable compensation for each employee based on the individual's position and performance and in accordance with the Equal Pay Act of 1963, which prohibits discrimination in establishing rates of pay that are based on gender.
- B. Appraise each position in a fair and consistent manner, and evaluate its importance to the organization and assign an appropriate classification and salary grade to the position in keeping with the assessed value of the position to the organization's mission.
- C. Establish an hourly wage for each position which is comparable to the wage or salary for similar jobs within the local economy or applicable labor market and within the requirements of the Fair Labor Standards Act (FLSA) which requires that the lowest wage paid will be no lower than the established minimum wage.
- D. Establish salary grades with minimums and maximums, which will be used to provide adequate reward for employee's productivity and performance within each employee's current position.

3.02 **AUTHORITY FOR PAY PLAN.** The City Manager or his designated representative shall develop rates of compensation called a pay plan, and develop and maintain a job classification plan. The pay plan is based upon recommendations made to the City Council and approved during the budget process. The City Manager is authorized to make changes to the plan as needed with City Council approval. The City Manager may delegate the authority necessary to develop and maintain a classification system and to carry out salary administration on a day-to-day basis.

3.03 **AUTHORITY FOR SALARY ADMINISTRATION.** The City Manager will develop and implement (with the assistance of Department Head) a system of time recording/time keeping for hours worked and leave hours for employees. Department Heads are responsible for maintaining complete and accurate records relative to all forms of leave and attendance of their employees and for properly indicating whether an absence is with or without pay. Proper indications are made on Departmental payroll forms (time card or time sheet) by the use of appropriate symbols. Each Department Head who does not exercise this responsibility directly must designate one or more employees who, as part of their regular duties, keep time and attendance records for Departmental employees. The Department Head must certify the accuracy of each employee's reported hours as evidenced by the Department Head's signature (or that of his or her designee.) Such records constitute the basis for preparations of Departmental payrolls and will be preserved by Department(s) for future auditing purposes as needed or required.

- A. The City Manager has shared responsibility with all Department Heads for insuring compliance with the requirements and policies established by the official pay plan and

job classification plan as well as conformity with the established policies and rules governing vacation, sick leave, etc.

- B. The Finance section is responsible for computation of paycheck amounts and will instruct and assist Department Heads in details of payroll preparation as needed.

3.04 **HOURS OF WORK, WORK WEEK, AND PAY DAY.** The normal workweek will be as defined and established by each Department and approved by the City Manager. The same will be true of lunch periods, dinner hours, and break or rest periods. Lunch periods will not exceed one hour unless approved by the City Manager. The City will normally allow two fifteen minute rest periods to be taken one in the morning and one in the afternoon. Rest periods will be taken at convenient times without leaving an employee's duties or telephone unattended for extended periods of time. Rest periods are to be considered a right rather than a privilege. Rest periods or breaks and meal periods may be temporarily discontinued or delayed if required production or services cannot be maintained. Rest periods will not be accumulated if not taken for later use or take precedence over work requirements. Payday for all employees is Friday every two weeks or may be earlier when Friday is a holiday. The pay period begins on Monday and ends on the following Sunday two weeks later.

3.05 **OVERTIME WORK AND PAY.** Employees are expected to work overtime when necessary to meet essential operating requirements (as determined by the Department Head) Supervisors are required to notify employees as far in advance as possible when overtime work will be required. Overtime must be approved before it is worked. Similarly, employees must honor their pre-arranged commitment to work assigned overtime or provide an acceptable excuse. Continuous unwillingness to work pre-assigned overtime may result in disciplinary action.

- A. In compliance with the Fair Labor Standards Act (FLSA), overtime pay at the rate of time and one-half will be paid to non-exempt employees in regular full- or part-time positions for which overtime is authorized in the budget who perform actual work in excess of forty-hours in the week where the overtime was earned.
- B. Exempt employees (supervisors and management) are expected to work the number of hours necessary to properly perform assigned duties. Their salaries and benefits are determined and established in accordance with this assumption. (Compensating time off for these employees may be approved by the City Manager.)
- C. Overtime pay for temporary or part-time employees must be specifically approved by the City Manager either in the budget process or by specific written approval.
- D. The City Manager is responsible for the identification of exempt versus non-exempt employees in accordance with the requirements of the Fair Labor Standards Act.
- E. In accordance with the requested work schedule of the police department of the City of Ferris, the City Council adopted Resolution No. 07/06/04, which in accordance with the provisions of several State and Federal laws allows for the adoption of a fourteen day work cycle for full-time police personnel, the policy of Section 553.230, Paragraph (b).

With this adoption the police personnel, defined as both uniform police officers and dispatchers performing direct support to the on duty police officers, and working the

same schedule, (four 12-hour days on, four days off, three 12-hour days on, four days off, repeat cycle) are entitled to overtime for hours actually worked (Sweat Hours) during a fourteen day cycle that are in excess of 86-hours, as prescribed in the above section of the Fair Labor Standards Act. All hours worked at 86-hours or less shall be paid at the regular hourly rate assigned to that employee. All hours actually worked (Sweat Hours) that exceed 86-hours per work period shall be paid at a rate equal to one and one-half times that employee's assigned rate.

Dispatch and other emergency support personnel that are key to the 24/7 operation of an emergency department can work the same shifts as noted above. If they do then the rule would apply. Currently, dispatch personnel work 8-hour shifts and are thus subject to the normal 40-hour work week determination of overtime and the rule does not apply under the current policy to those personnel.

- F. Police officers who are required, as a result of the performance of their duties, to appear in court for cases they have brought or for testimony will be paid for their time in court. Whether or not that time is at a compounded rate (time and a half) depends upon whether or not the individual has met and exceeded his or her overtime threshold for actual hours worked during the pay period.

The overtime threshold for uniform police officers working the shift system currently approved is 86-hours per work cycle. Any hours actually worked which are greater than that number within a work cycle will be compensated at overtime. Non work hours may not be used to meet the threshold for overtime compensation. In other words, a vacation day or sick day in which the officer is compensated at regular time but did not actually work cannot be added to the total to meet the threshold.

- G. If an employee is called in to work during non-regular work hours, they will be paid for either the amount of time worked or two hours, whichever is greater. This only applies if they are called in after hours, not if they are required to stay immediately after a shift or arrive immediately before a previously scheduled shift.

- 3.06 **HIRING RATES.** In-hiring rates are the minimum of the appropriate salary grade. Hiring rates may be established above the minimum but not exceed the maximum (when justified by the applicant's advanced qualifications for the position) with the approval of the City Manager, in coordination with the appropriate Department Head

- 3.07 **RECLASSIFICATION.** It is the responsibility of the City Manager to develop procedures, which allow for the consideration of requests for reclassification. Reclassification requests are normally only justified if an employee's job duties have changed significantly over time. If a position is reclassified to a lower grade, the employee whose position is reclassified will be placed at a pay level which is as near to their current pay and is equal to or greater than the minimum of the new salary grade but not exceeding the maximum of the new salary grade. If the reclassification places the employee in a higher classification, pay will be adjusted to the minimum of the new grade if the new salary grade minimum exceeds the current wage or at a pay in the new salary grade, which is equal to their pay, but does not exceed the maximum of the new salary grade.

Reclassification Procedures

The City Manager will be notified of a Department Head's request for a reclassification study by sending a memo to the City Manager requesting the reclassification study and outlining the change in job duties, which justifies or prompts the request.

The City Manager will determine (by use of a questionnaire that is completed by the holder of the position and the incumbent's supervisor) the extent to which the incumbent's duties have changed or have been added to over time, as compared to the existing job description for the position. If necessary, an on-site interview with the employee and supervisor will be conducted by the City Manager.

The City Manager will draft a new job description based on the analysis of the information in step one. The new job description will be approved by the Department Director or Division Head.

A point factor comparison will be conducted by the City Manager comparing the position to other similar City positions to determine the pay grade to be assigned to the reclassified position.

The City Manager will prepare any necessary forms for pay adjustment based on his/her decision regarding the recommendation made by the Department Head. Pay changes will be effective the first day of the next following pay period.

- 3.08 **PROMOTION – SALARY INCREASES.** An employee who is promoted to a higher salary grade will be granted a promotional increase at the time the promotion becomes effective. If the minimum of the new salary grade provides a 5% increase or to a point in the new salary grade that does not exceed the maximums but provides a 5% increase if possible.

The promoted employee's merit increase review date will remain unchanged– See also 2.15.

- 3.09 **DEMOTION – SALARY CHANGES.** An employee who is demoted for cause from one position to another position in a lower salary grade will have his/her pay reduced to the minimum in the new grade and will retain their existing review date.

An employee reduced in grade through no fault of his/her own (reorganization, reduction in force, re-evaluation or reclassification, etc.) will be placed at a point in the new salary grade which results in the least loss of pay but does not exceed the maximums of the new salary grade and will retain his/her existing review date. See also 2.16.

- 3.10 **TRANSFER AND TEMPORARY ASSIGNMENT – SALARY CHANGES.** An employee transferred from one position to another position in the same salary grade will remain at the same pay and retain the existing review date. If the transfer is to a lower or higher salary grade, the transferred employee's wage will be adjusted to a point in the new salary grade that is equal to or greater than the employee's pre-transfer wage minimum of the new salary grade, but does not exceed either the maximum of the new grade or result in an increase in pay. The same procedure will apply to temporary assignments. See also 2.17.

SECTION 4 – PRIVACY GUIDELINES

- 4.01 **EMPLOYEE PRIVACY.** The City has a firm policy of respecting the dignity and worth of each individual employee while expecting that each employee will offer his or her loyalty, respect, and best efforts in return.

The City will demonstrate its concern for individual dignity by minimizing its intrusion into the employee's off-the-job conduct. However, the City will retain its duties and privileges as an employer consistent with good business practices. This includes collection, retention, use, disclosure, and confidentiality of employee information. In view of our special status as a public employer, high standards are expected to be maintained.

- 4.02 **COLLECTION, RETENTION, AND USE OF PERSONAL INFORMATION.** The City will use only legal and ethical methods to collect information about or from a job applicant or employee. The City reserves the right to use polygraph or other verification equipment under legally permissible circumstances.

The City will follow applicable requirements of equal employment opportunity laws with regard to collection of information about race, color, national origin, sex, religion, age, and handicapped status. With these laws in mind, the City will gather such information about job applicants or employees as determined by the City Manager to be necessary. The following basic principles apply to collection and retention of personnel information.

- A. The City Manager will maintain a complete file of each employee. This file will contain pertinent employment information as deemed necessary and will be considered the "Master Personnel File."
- B. Each Division Head may maintain a limited "Departmental Personnel File" on employees in his/her charge. Information in this file will be such as is considered necessary to properly administer and supervise employees within their work unit. This information may include, but is not limited to performance evaluations, attendance records, notes, memos, letters, information concerning recent disciplinary actions (within the past two years), and other information relating to the employee's job training and personal performance.
- C. Personal payroll data is kept separate from the personnel file and Departmental file, although each may contain information about an employee's attendance and salary record.
- D. First level supervisors may keep separate files on their subordinates. Only information regarding employee conduct, performance, or attendance may be kept in these files.

- 4.03 **EMPLOYEE ACCESS TO PERSONNEL RECORDS AND MANAGEMENT FILES.** Under normal circumstances, the employee has the right to access at reasonable times and places to his/her master and Departmental personnel files. Specific guidelines for employee access are as follows:

- A. Employees have the right of access to their personal information in City records and files.
- B. The City will strictly limit the internal availability of personal information to those officials with a clear “need to know.”
- C. The City will refuse, except for legal subpoenas, or records requested under the Open Records Act, and in other specific circumstances permitted by law to release any information to outside sources without the employee’s written approval. Exceptions are limited to simple employment verification or credit application verifications.
- D. The City requires each employee to adhere strictly to these policies and practices. Violations are subject to appropriate disciplinary action.
- E. An employee who wishes to see his/her personal records should notify his/her immediate supervisor. The supervisor will then refer the employee to the City Manager’s office, where a representative will assist the employee. If the employee wishes to see a Departmental personnel file, the Department Head will arrange a time convenient for the review.

An employee may inspect his/her files privately and may take notes or make single copies of any page in the file. No employee is allowed to remove any documentation from any personnel file. In such cases, an employee maybe dismissed for removing City property.

An employee has the right to correct or request deletion of inaccurate information approval for correction or deletion of any material rests with the City Manager and such requests must be submitted in writing. In case of a disagreement, the employee may add a statement of disagreement in the file.

4.04 **MASTER PERSONNEL FILE.** The City maintains only one master personnel file, which contains only appropriate information. Appropriate information categories for this file are as determined by the City Manager within strict limits. These include but are not limited to:

- A. Employment application information, including application form, reference checklists, and forms, supplementary materials submitted with the job application (resumes, licenses, certificates, etc.), interviewer’s reports, and test records.
- B. Employment related documents such as Personnel Appointment or Change of Status (PACS) forms, retirement forms, etc.
- C. Four year’s performance evaluation records. (Outdated records will be removed from file and returned to employees as time permits.)

4.05 **INAPPROPRIATE PERSONAL INFORMATION.** The City will not collect or retain the following information in personnel files except as may be needed for insurance or retirement matters:

- A. Names and birth dates of employee’s family members.

- B. Lists of hobbies and outside activities.
- C. Marriage certificates, birth certificates, or other personal documents for which the City has no business need to know.
- D. Information on an employee's credit worthiness, financial standing or like information.

4.06 **REVIEW AND DELETION OF INFORMATION IN PERSONNEL FILES.** The City Manager will conduct periodic reviews of employee personnel files and the information contained in them. Inappropriate or outdated material will be destroyed or returned to the employee as deemed appropriate by the Personnel Director.

Supervisors and Department Heads will review Departmental employee files before each performance evaluation and destroy outdated or inappropriate information.

All deletion of information must be in compliance with our Records Retention policy. Consult this policy before deleting any information.

4.07 **CITY MANAGEMENT'S ACCESS TO EMPLOYEE RECORDS.** Access to employee personal information is prohibited to other employees with the following exceptions:

- A. Payroll Department representative who the Finance Director authorizes access to files in conduct of their normal duties that have a business need to know before reviewing any employee file.
- B. An employee's immediate supervisor.
- C. Direct superiors of an employee's immediate supervisor with a legitimate need to know.
- D. Supervisors involved in considering an employee for a promotional opportunity.
- E. City Attorney in the event the City Manager determines the attorney has a business need to know in the interest of legal matters pertaining to the City.
- F. The City Manager.
- G. The City Secretary.

4.08 **DISCLOSURE OF EMPLOYEE INFORMATION.** All requests for information about job applicants and current, retired, or terminated employees will be referred to the City Manager. In most cases, written approval of the individual is required before personal data may be disclosed to an outside source (other than routine employment verification.)

Exceptions to this rule include:

- A. Requests from prospective employers concerning dates of employment, title or position and job location.

- B. Duly authorized requests from law enforcement officers, including investigations, summons, subpoena, and judicial orders. The City Manager will consult with the City Attorney in these cases.

Inquiries received by supervisors or Department Heads of prior employees will be referred to the City Manager for response.

4.09 **COMMUNICATION OF PRIVACY POLICIES.** The City will publicize its privacy policies and practices to employees. This will include, but is not limited to:

- A. Publication of basic policy in appropriate employee information brochures (Employee Handbook, etc.)
- B. Discussion during new employee orientation.

4.10 **PROTECTION OF CONFIDENTIALITY.** The City Manager, Department Heads, Finance Director, and other appropriate officials will take necessary actions to protect the privacy of personnel data both in City maintained personnel file and the payroll data system.

The MIS Personnel has special responsibility to control access and make personnel/payroll systems as secure as possible. The City Manager has a special responsibility to develop a Departmental structure, which strictly limits access to employees' personnel files. Use of records for improper or unauthorized purposes may result in disciplinary action. The Finance Director has responsibility for ensuring that payroll and financial records containing personnel information are as secure as possible.

SECTION 5 – DISCIPLINARY POLICIES, STANDARDS OF CONDUCT AND GRIEVANCE PROCEDURES.

5.01 **PHILOSOPHY AND PURPOSE.** It is the intent of the City of Ferris to compensate its employees fairly; to make all reasonable provisions for their safety and health; to provide adequate instruction and direction, necessary tools and equipment (except those customarily furnished by the employee), and to treat all employees with justice, dignity and respect. All employees are expected to work diligently and conscientiously for the benefit of the City as directed by their supervisors and maintain a high level of conduct both on and off the job.

5.02 **SUPERVISION.** Supervisors are charged with the responsibility for enforcing, documenting, and maintaining proper standards of discipline and personal conduct among their employees, and are vested with discretionary authority to utilize the following steps and sequence of progressive discipline to enforce accepted standards of conduct and to improve unsatisfactory performance. Discipline should follow a progressive pattern as outlined below except in unusual circumstances in which the violation is so outrageous that it endangers others, threatens the loss of property, or works to completely disrupt the organizational and management structure of the division or department. In such cases, steps may be skipped until a disciplinary response is found that is appropriate as a response to the infraction. The progressive discipline steps are:

- A. Counseling
- B. Verbal Reprimand
- C. Written Reprimand
- D. Suspension with or without pay. (Suspension with pay is only used in the event not all facts are available and the employee must be removed or should be removed from the job until an investigation is completed. Such suspension will not normally exceed three workdays. Any leave with pay for more than three workdays must be approved, in writing, by the City Manager.)
- F. Dismissal

Supervisors should normally progress through the steps in sequence so that the employee is adequately informed about their substandard performance. In some instances, however, the supervisor may impose a suspension without preceding the action with counseling or reprimands, for example, if an employee provokes a fistfight with another employee. In instances such as this, the supervisor should inform the employee that he or she is to leave the work site and that they will be on unpaid leave status until an investigation is completed and disciplinary action is taken. The supervisor must next inform the City Manager of the action that has been taken.

5.03 **GROUND FOR DISMISSAL.** The following offenses apply to all employees and are grounds for the imposition of one or more of the steps in the chain of progressive discipline up to and including dismissal.

- A. **Unsatisfactory Attendance.** Excessive or unauthorized absences and/or tardiness. See also Section 5.03 (m) for job abandonment and Section 2.25 for absence control.
- B. **Unsatisfactory Performance.** Inability or unwillingness to satisfactorily perform assigned work, or demonstrated poor performance of assigned duties.
- C. **Indifference Toward Work.** Inefficiency, loafing, carelessness, failure to remain at work, performing personal business during working hour, abuse of eating and/or rest periods, sleeping or otherwise being inattentive during working hours, interfering with the work of others, mistreatment of the public or other employees, leaving work without permission.
- D. **Insubordination.** Willful failure or refusal to perform assigned work or to fully comply with instructions or orders from a supervisor or other appropriate manager.

NOTE:

- 1. If an employee believes the instruction or order is improper, he/she should obey the order or instruction and question the order later. This practice does not apply to imminently dangerous situations.
 - 2. If an employee believes an instruction or order, if followed would result in personal injury or damage to City equipment, he/she should request approval by the next higher level of supervision before performing the work.
- E. **Violation of Safety Rules.** Smoking in prohibited areas, improper removal of safety guards, fire extinguishers, or other equipment designed to protect employees; failure to use safety equipment or to follow safety practice rules, failure to report an on-the-job injury, vehicle accident, or an unsafe condition.
 - F. **Dishonesty.** Stealing City property or taking the property of other employees without proper authorization, misuse of City or employee funds, cheating, forging, or willfully falsifying official city reports, records, or documents, misuse of paid leave of absence or any other falsifying action detrimental to the City or fellow employees.
 - G. **Disturbance.** Fighting, using profane, abusive or threatening language, horseplay, rowdiness, causing injury to a fellow employee through deliberate action or gross negligence, spreading false reports or otherwise disrupting harmonious relationships among employees.
 - H. **Abuse of Drugs or Alcohol.** Reporting to work in an unfit condition by being under the influence of or taking intoxicants or (unprescribed) controlled substances such as marijuana, narcotics, inhalants, or drugs of any kind, possessing intoxicants, or (unprescribed) controlled substances such as marijuana, narcotics, or dangerous drugs on City property or in City vehicles.
 - I. **Misuse of City Equipment or Services.** Using or providing any City equipment, credentials, or services for other than official City business or without proper authority. (For example, using a City vehicle or City equipment for personal use without written permission.)

- J. **Sabotage.** Deliberate damage or destruction of City equipment or property, altering, removing, or destroying City records, advocacy of, or participation in, unlawful trespass or seizure of City property. Encouraging or engaging in slow downs, sit-ins, strikes or any other concerted effort to limit or restrict City employees from working.
- K. **Misconduct.** Any criminal offense or other misconduct including lewd and immoral conduct during or after working hours, which could have an adverse effect on the City or the confidence of the public in the integrity of the City government, or on the relationship of the employee and other employees, or repeated convictions for misdemeanor charges such as speeding, reckless driving, or accidents involving injuries to persons or damage to property or equipment. Included is misconduct which serves to sexually harass another employee.
- L. **Conflict of Interest.** Engaging in an activity that conflicts with the interests of the City of Ferris.
- M. **Job Abandonment.** Being absent from work for three consecutive working days without properly notifying the supervisor and obtaining his/her approval or consent.
- N. **Conduct.** Actions or behavior detrimental to the preservation of good order and discipline. Included are acts of violence or threats of violence as well as other aggressive, threatening, or dangerous conduct such as horseplay, profane or abusive language, intimidation, harassment, teasing, or ridiculing another employee or citizen. Employees who are the victims of such conduct should report the conduct to their supervisor or the City Manager if the supervisor is the perpetrator of the conduct.
- O. **Possession of Firearms or Weapons.** Possession of firearms or weapons by an employee at his/her work site or in City vehicles or equipment.
- P. **Negligence.** If, after a thorough investigation, it is determined that City property was lost or damaged through an employee's negligence, the employee may be disciplined and may be required to make restitution to the City for the cost of replacement or repair of the equipment.

5.04 **STANDARDS OF CONDUCT.** Employees in the municipal organization are "Good Will Ambassadors" of the City of Ferris. This status involves a degree of duty and obligation regarding public and private conduct not found in other areas of employment. The attitude and deportment of City employees must be such as to promote good will and a favorable attitude by the public toward the City Administration, its programs, and policies. These standards include:

- A. No employee shall accept any gift or favor from any citizen, person, firm, group, corporation, or another employee that might reasonably be expected to influence him/her in the discharge of his/her official duties, or grant any improper favor, service, or thing of value in the discharge of his/her official duties.
- B. No employee shall use his/her official position to secure benefits, privileges, or exemptions for himself/herself or others.

- C. No employee shall grant any special consideration, treatment, or advantage to any citizen, person, firm, group, or organization beyond that which is normally available to every citizen, person, firm, group, or organization.
- D. No employee shall disclose information that could adversely affect the property, government, or affairs of the City, nor directly or indirectly, use any information gained by reason of his/her official position, or employment, for his/her own personal gain or benefit, or for the private interest of others. Department Heads will be responsible for all public announcements concerning the Department unless this duty has been specifically delegated to a subordinate. Employees must obtain permission from the City Manager before submitting an article for publication or making a public address or news release, which contains information involving the City or its interests.
- E. No employee shall transact any business on behalf of the City in his/her official capacity with any business entity with which he/she is an officer, agent, or member, or in which he/she directly or indirectly owns a substantial interest. In the event that such a circumstance should arise, then he/she shall make known his/her interest, turn the matter over to his/her superior for reassignment, state the reasons for doing so, and have nothing further to do with the matter involved.
- F. No employee shall engage in any outside activities that may conflict with, or be incompatible with, the duties assigned to him/her as an employee of the City, or reflect discredit upon the City, or in which his/her employment with the City gives him/her an advantage over others engaged in a similar business, vocation, or activity.
- G. No employee shall accept other employment or engage in outside activities incompatible with the full and proper discharge of his/her duties and responsibilities with the City, or which might impair his/her independent judgment in the performance of his/her public duty.
- H. No employee shall receive any fee or compensation for his/her services as an officer or employee of the City from any source other than the City, except as may be otherwise provided by law. This shall not prohibit his/her performing the same type or other services for a private organization that he/she performs for the City if there is not conflict with his/her City duties and responsibilities.
- I. No employee shall represent, directly or indirectly, or appear on behalf of private interests of others before any agency of the City or any City board or commission, nor shall he/she represent any private interest of others in any action or proceeding involving the City, nor participate on behalf of others in any litigation to which the City might be party, nor will he/she ever accept any retainer or compensation that is contingent upon a specific action taken by the City or any of its agencies.
- J. No employee shall use the prestige of his/her position on behalf of any political party, but he/she will at all times maintain the non-partisan policy of the City of Ferris, provided that all officials and employees are encouraged to register and vote as they may choose in all local, State and National elections. Direct involvement by an employee for or on behalf of any office seeker during working hours or in any type uniform identifying him/her as a City employee is specifically prohibited.

- K. No employee shall solicit membership in clubs, unions, or private organizations on City property or sell merchandise on such property.
- L. Employees (except Police Officers) are prohibited from possessing firearms or weapons at their worksite or in City vehicles or equipment. Additionally, acts of violence, or threats of violence by employees will not be tolerated, and such acts or threats will be investigated, and appropriate disciplinary action imposed on perpetrators.

5.05 **SEXUAL HARASSMENT POLICY.** All City employees have a right to work in a discrimination-free environment. This encompasses freedom from sexual harassment. Each City employee shares the responsibility with other employees to maintain high standards of conduct and ethics. As part of the City of Ferris' continuing affirmative action effort and pursuant to Equal Employment Opportunity Commission Guidelines, the City of Ferris endorses the following policy:

- A. It is illegal and against City policy for any employee, male or female, to sexually harass another employee. Sexual harassment is defined as any unsolicited offensive behavior that inappropriately places sexuality as a condition of employment or such conduct, which has the effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- B. An employee who believes he or she has been the subject of sexual harassment should immediately report the alleged act to their supervisor or to the City Manager. An investigation will be undertaken immediately. Any employee found, after appropriate investigation, to have sexually harassed another employee, will be subject to prompt disciplinary action. This disciplinary action will be appropriate to the egregiousness of the offense and may include termination.

The City recognizes that investigations of allegations of sexual harassment require a determination that is based on all available facts. Given the nature of this type of discrimination, the City also recognizes that false accusations of sexual harassment can have serious effects on innocent women and men.

The City trusts that all employees of the City of Ferris will continue to act responsibly to establish and maintain a pleasant working environment, free of unlawful discrimination. Toward that purpose, the City Manager will coordinate the provision of training for all employees, which assists the employees to recognize and prevent sexual harassment.

5.06 **GRIEVANCE PROCEDURE.** The purpose of the grievance procedure is to provide a means for employees to seek resolution of matters personal to those individuals and to pursue higher-level administrative review of disciplinary matter. Items of City policy, matters, which are subject to review in the budget process, performance evaluation (except in cases of significant misuse of the evaluation system), or decisions delegated by the City Council to the City Manager, or other senior management persons are not appropriate for grievance.

Any employee who believes he/she has been treated unfairly, who wishes to correct a misunderstanding, who desires information concerning work, or is dissatisfied with some phase of his/her job, should first discuss the matter with his/her supervisor within five work days of the occurrence of the problem. It is the policy of the City that such matters should be given prompt attention and should be resolved at the lowest level possible in the organization. If the

employee and the immediate supervisor are unable to resolve the problem at a joint meeting conducted within three workdays of the receipt of the complaint, then the employee generally has the right, with or without representation, to discuss the matter with higher levels of supervision through the formal grievance procedure, which is as follows:

Step 1 - A grievance not satisfactorily resolved in the informal discussion outlined above may be presented in writing to the next higher level of supervision within three workdays of a joint meeting. The appropriate supervisor should conduct a joint meeting with the employee within five days of receipt of the written grievance unless extended by mutual agreement and will render a written decision by three workdays after such meeting. This same procedure will be followed for all levels of supervision, up to the level of City Manager.

Step 2 - A grievance not satisfactorily resolved by lower levels of management may be appealed in writing jointly to the appropriate Department Head and the City Manager within three workdays of the last previous decision. The Department Head and the City Manager should conduct a joint hearing within five workdays, unless the time for such hearing is extended by mutual agreement of all parties. A joint decision will be rendered in writing within three workdays after termination of the final hearing. This decision is final and is binding on all parties.

Step 3 - If a grievance is not satisfactorily resolved in Step 2, a final appeal may be made in writing to the City Manager within five workdays of receipt of the decision in Step 2. The City Manager may conduct a final hearing on the matter and shall render a decision in writing within five workdays after termination of the final hearing, with the exception of the termination of a Department Head which must be ratified by the City Council. This decision is final and binding on all parties.

If, for any reason, an employee is unable to attend a scheduled hearing, he/she will contact the person(s) scheduled to hear the matter within three workdays to reschedule the meeting. If reasonable cause exists for missing the hearing, the meeting will be rescheduled for a mutually agreeable date. Failure by the employee to make such contact will terminate any further action on this matter under discussion. The employee may choose to be represented by an attorney or the representative of their choice at any step of the procedure outlined above, but must advise the person holding the hearing of this so that arrangements can be made to have the City's attorney present also.

5.07 **EMPLOYEE'S RIGHT TO MEMBERSHIP IN LABOR ORGANIZATIONS.** Any employee of the City may join, organize, or maintain membership in a labor organization if he/she so desires. The City of Ferris neither encourages nor discourages such activities. However, governmental employees of the City of Ferris have no legal right to bargain collectively, except as provided under the Local Government code, Chapter 617. State law denies City officials the authority to enter into a collective bargaining agreement or an unconditional promise with any employee group or employee organization. Further, striking, work stoppages, and picketing by public employees are prohibited by Texas law and such actions may result in immediate dismissal.

5.08 **USE OF CITY FACILITIES FOR LABOR ORGANIZATIONS.** Employees of the City of Ferris who participate in organizing other labor union activities are required to conduct such

activities on their own time and off City property. This restriction concerning the use of City facilities includes activities such as union solicitation, labor union meetings, the distribution of union literature, or the use of official bulletin boards for labor union purposes.

- 5.09 **RESTRICTION OF SUPERVISORS FROM MEMBERSHIP IN LABOR ORGANIZATIONS.** Supervisory employees carry responsibilities and duties in the management of the City's business, which may be incompatible with labor organization membership. Supervisory employees, therefore, shall abstain from active participation or membership in any formally recognized labor organization in which the employees supervised by them are also members.

SECTION 6 – EMPLOYEE BENEFITS AND SERVICES

- 6.01 **EMPLOYEE HEALTH, WELFARE, AND DEVELOPMENT.** The City of Ferris provides a variety of fringe benefits, services, and programs to meet employee's basic financial security needs; to provide for the employees' general health and welfare; and to provide employee development through training and instruction. Some programs are provided according to law; others are provided at the option of the City. Eligibility for these programs may depend upon the type of position occupied and is indicated in individual program descriptions, which follow.

The City Manager is responsible for administering most of the programs contained in this section. It is the responsibility of all Department Heads to recommend additions, deletions, or modifications to benefit programs to the City Manager for review and approval by City Council.

- 6.02 **COMMUNICATION OF BENEFITS.** City of Ferris employees should become thoroughly familiar with all aspects of their benefits. The City Manager and Department Heads are responsible for informing new employees of available benefits through the orientation program and during initial employment processing. The City Manager may also provide added benefit information to employees in the Employee's Handbook, and in various other plan description booklets.

Each Department's supervisory personnel should become familiar with fundamental aspects of the benefits programs in order to answer routine questions. The City Manager is available to answer questions of a difficult or technical nature or to provide individual counseling.

Changes or modifications to benefit programs will be communicated to supervisory/management personnel by the City Manager's Office. Department Heads, and supervisors may also be asked to communicate changes to their employees.

- 6.03 **PAID LEAVE – GENERAL.** Paid leave includes vacation, holiday, sick, emergency, jury, certain military and F.M.L.A. leaves. The use of any paid leave must be approved in advance by using the approved "Leave Request Form," which is available from the Department Head or City Hall. In most instances, this form is completed in advance of use of the leave hours being requested. In unusual circumstances such as sudden illness or a death in the family, it may be necessary to complete the "Leave Request Form" when the employee returns to work. However, the employee is responsible for notifying his or her supervisor of his or her intent to use paid leave in advance of the usage. For example, an employee who is too ill to report for work must personally notify his or her supervisor prior to the time the employee is scheduled to report for work. Failure to do so may result in disciplinary action. Messages left with other employees or on message machines are not "personal notification." Similarly, calls from relatives do not constitute "personal notification." In the case of sick leave usage, the employee is expected to personally notify (as described above) his or her supervisor each subsequent day the employee will be off work because of illness.

Paid vacation leave is accrued only by regular full-time employees based on years of service. "Service" in this context means actively working for the City of Ferris or receiving compensation. An employee accrues paid vacation leave during any month in which he/she actively works at least one-half of the regularly scheduled days or shifts of work in a month.

An employee also accrues paid leave during any month in which he/she draws compensation

for leave for at least one-half of the regularly scheduled days or shifts of work in a month. Leave is not accrued if these conditions are not met.

A. **Vacation.**

1. **Accrual of Leave**

- a. Full Time City Employees (Except Police Officers) With Less than Ten (10) Years of Service.

Full time City employees (except police officers) with less than ten (10) years of service shall be authorized to receive eighty (80) vacation hours per year. The earning of those vacation hours shall begin with the first day of employment and may not be taken until the probation period is completed. Vacation hours for this category of employee will be earned at a rate of 3.07692 hours per pay period (2 weeks) of work accomplished. At the close of each calendar year (midnight December 31st), the total earned, but unused, vacation time will be calculated and any number of hours greater than one hundred and twenty (120) hours will be forfeited. Employees in this category may accumulate, without additional consent or authority, up to one hundred and twenty (120) hours of vacation time earned, but unused, over a multiple of years of employment. This calculation of accumulation will be done per calendar year and will not be considerate of work beginning date or anniversary date.

- b. Full Time Police Officers with Less than Ten (10) of Years Service.

Full time City police officers with less than ten (10) years of service shall be authorized to receive eighty four (84) vacation hours per year. The earning of those vacation hours shall begin with the first day of employment and may not be taken until the first year of employment is completed. Vacation hours for this category of employee will be earned at a rate of 3.23077 hours per pay period (2 weeks) of work accomplished. At the close of each calendar year (midnight December 31st), the total earned, but unused, vacation time will be calculated and any number of hours greater than one hundred and twenty six (126) hours will be forfeited. Employees in this category may accumulate, without additional consent or authority, up to one hundred and twenty six (126) hours of vacation time earned, but unused, over a multiple of years of employment. This calculation of accumulation will be done per calendar year and will not be considerate of work beginning date or anniversary date.

- c. Full Time City Employees (Except Police Officers) With More than Ten (10) Years of Service but Less Than Fifteen (15) Years of Service.

Full time City employees (except police officers) with more than ten (10) years of service but less than fifteen (15) years of service shall be authorized to receive 120 vacation hours per year. Vacation hours for

this category of employee will be earned at a rate of 4.61538 hours per pay period (2 weeks) of work accomplished. At the close of each calendar year (midnight December 31st), the total earned but unused vacation time will be calculated and any number of hours greater than one hundred and eighty (180) hours will be forfeited. Employees in this category may accumulate, without additional consent or authority, up to one hundred and eighty (180) hours of vacation time earned, but unused, over a multiple of years of employment. This calculation of accumulation will be done per calendar year and will not be considerate of work beginning date or anniversary date.

- d. Full Time Police Officers with More than Ten (10) Years of Service but Less than Fifteen (15) Years of Service.

Full time City police officers with more than ten (10) years of service but less than fifteen (15) years of service shall be authorized to receive one hundred and twenty six (126) vacation hours per year. Vacation hours for this category of employee will be earned at a rate of 4.84615 hours per pay period (2 weeks) of work accomplished. At the close of each calendar year (midnight December 31st), the total earned, but unused, vacation time will be calculated and any number of hours greater than one hundred and eighty nine (189) hours will be forfeited. Employees in this category may accumulate, without additional consent or authority, up to one hundred and eighty nine (189) hours of vacation time earned, but unused, over a multiple of years of employment. This calculation of accumulation will be done per calendar year and will not be considerate of work beginning date or anniversary date.

- e. Full Time City Employees (Except Police Officers) With More than Fifteen (15) of Years Service.

Full time City employees (except police officers) with more than fifteen (15) years of service shall be authorized to receive 160 vacation hours per year. Vacation hours for this category of employee will be earned at a rate of 6.15385 hours per pay period (2 weeks) of work accomplished. At the close of each calendar year (midnight December 31st), the total earned, but unused, vacation time will be calculated and any number of hours greater than two hundred and forty (240) hours will be forfeited. Employees in this category may accumulate, without additional consent or authority, up to two hundred and forty (240) hours of vacation time earned, but unused, over a multiple of years of employment. This calculation of accumulation will be done per calendar year and will not be considerate of work beginning date or anniversary date.

- f. Full Time Police Officers with More than Fifteen (15) Years of Service

Full time City police officers with more than fifteen (15) years of service shall be authorized to receive one hundred and sixty eight (168) vacation hours per year. Vacation hours for this category of employee will be

earned at a rate of 6.46154 hours per pay period (2 weeks) of work accomplished. At the close of each calendar year (midnight December 31st), the total earned, but unused, vacation time will be calculated and any number of hours greater than two hundred and fifty two (252) hours will be forfeited. Employees in this category may accumulate, without additional consent or authority, up to two hundred and fifty two (252) hours of vacation time earned, but unused, over a multiple of years of employment. This calculation of accumulation will be done per calendar year and will not be considerate of work beginning date or anniversary date.

g. Vacation Leave shall be Administered According to the Following Rules:

- (1) Vacation days must be approved in advance by the employee's department supervisor or the City Manager.
- (2) Vacation time may not be used, under any circumstances, until it has been earned.
- (3) It is in the best interest of the employee and the City of Ferris that the employee takes a scheduled vacation each year. In some cases, the employee may be asked to reschedule or take less vacation than scheduled because of workload and/or circumstances beyond the supervisor's control. If the remainder of the vacation cannot be rescheduled before the end of a calendar year, the employee may carry over earned, but unused, vacation hours up to the carry over limits established above. To avoid forfeiture of earned, but unused, vacation hours, the employee should schedule, with the agreement of his or her department head, use of said vacation hours, prior to the end of a calendar year in amounts significant enough to keep the total below those carry over limits established above. An employee will not be allowed to exceed the carry over limits established above because of failure to request a scheduled vacation during the year. However, there are occasions when due to circumstances beyond the employees control they find themselves in this situation. When this happens with the recommendation of the City Manager and approval of the City Council excess carryover may be allowed into the first quarter of the following year during which time it must be taken or lost.
- (4) When a scheduled holiday occurs during the period of an employee's vacation, the holiday shall not be charged as vacation used.
- (5) In the event an employee resigns or is terminated from employment by the City, the City shall pay for the earned, but unused, vacation time accrued. In no case shall such payment exceed the carry over limits established above.

- (6) Vacation hours shall be earned for any work period in which the employee was paid; regardless of whether that pay period was made up of actual hours worked, vacation hours, or sick time. Vacation hours shall not be earned from non-paid leave such as maternity, absences under investigation, or any other unpaid leave periods for which the employee does not receive pay but retains employment.
- (7) The use of the term "Police Officer" as used in Section 1 para. B, D, F, above, shall describe police officers who are regularly scheduled to work a 12-hour rotating shift with eighty-four (84) hours scheduled over a two (2) week period. It does not apply to licensed police officers who regularly work a 40-hour week (eighty (80) hours over a two (2) week period), regardless of the effect of overtime. Examples of such positions are, but are not limited to, Police Chief, Police Captain, Police Lieutenant, and Detectives or Investigators. It may even include Police Sergeants or lower ranking officers who move from a rotating 12-hour shift to an 8-hour work period assignment.

Vacation leave will not be earned for any month during which an employee is on leave status for more than half the number of paid workdays for that month.

2. **Approval of Leave**

Department Heads shall schedule and approve leave for employees under their supervision. Forms used to authorize the use of paid leave are available in City Hall. The "Leave Request Forms" are to be used as described in the General Paid leave section, above. In approving and scheduling leave, supervisors should take into consideration of the needs of the City as well as the desires of the employee.

Vacation leave of one week or more for Department Heads must be approved by the City Manager at least (1) one week in advance.

3. **Use of Accrued Leave**

Employees may not use accrued leave until they have completed their required probation period.

No more than (10) ten working days of vacation may be taken consecutively unless approved by the City Manager.

4. **Other Vacation Leave Provisions.**

Employees will be paid for accumulated vacation leave upon termination or retirement. The designated beneficiary will receive payment for all unused vacation leave upon the death of the employee. New hire probationary employees will not be paid for any vacation leave earned if the employee

terminates employment voluntarily or involuntarily, during the probationary period.

Vacation leave will be charged only for time during which the employee would ordinarily have worked, but not for scheduled days off or paid holidays.

Employees being laterally transferred, promoted, or demoted shall retain accrued vacation leave.

Vacation leave will not be advanced to employees.

Vacation leave credits are not transferable between employees.

Earned vacation time shall be used in a minimum of one-half day at a time.

No cash payment for unused vacation leave will be made except upon termination, retirement, death of an employee, or unusual situations beyond employee control (job requirements, etc). Cash payments in lieu of vacation to persons currently employed are rare events and must be recommended by City Manager and approved by City Council.

- B. **Holidays.** The City designates the following as holidays (actual dates will vary) to be observed with pay by all City employees occupying regular full-time positions subject to the following provisions and limitations:

New Year's Day
Martin Luther King Day
President's Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day After Thanksgiving Day
Christmas Day

**Amended November 2, 2015 to add: Good Friday*

When any designated holiday falls on Sunday, the following Monday is observed. When a designated holiday falls on Saturday, the preceding Friday is observed. Designation of the above or any other dates as holidays is not construed as conferring on any employee the right to observe the holiday or to be absent from his/her assigned duties if required to work on these dates.

1. Department Heads specifically authorize observance of any designated holiday and may revoke or restrict the observance of the holiday in order to provide necessary City functions and services provided by their Department. As many employees as possible will be allowed holiday leave, consistent with the maintenance of essential City functions. Department Heads will ensure that employees working shifts or other unusual schedules receive the full number of holidays. Employees may be granted leave without pay or allowed to use

available leave hours to attend other religious holidays they may wish to observe.

2. If an employee, due to their normal duty schedule, is required to work on a designated holiday they will be paid for their work in addition to the holiday pay they are receiving for that day. As an example, an employee who works a twelve hour shift on a holiday will be paid their regular rate of pay, but shall also be paid for 8 hours of holiday pay for that day.
3. If an emergency service employee (police or fire) is scheduled to work a holiday, they must use approved vacation time in order to be off on that day.

6.04 **OTHER PAID LEAVE**

A. **Emergency Leave With Pay (ALSO CALLED BEREAVEMENT LEAVE).**

Department Heads may grant emergency leave with pay for not more than three (3) working days per occurrence and not more than six (6) days in one calendar year to employees in case of death of a member of the employee's family. This includes:

Spouse or child, parent, stepparent, parent-in-law, brother, sister, stepchild, stepbrother, stepsister, brother-in-law, sister-in-law, grandparent, grandparent-in-law, uncle, aunt, nephew, niece, grandchild and any relative or significant other living in the same household as the employee.

Documentation may be required in the form of a copy of a death certificate or obituary to verify the death.

B. **Official/Training Leave.**

On recommendation of a Department Heads or on his/her own initiative, the City Manager may grant leaves with pay, together with necessary travel and expense allowances if deemed proper, in order to permit employees holding regular full-time positions to attend conferences, schools, and similar events designed to improve their efficiency and considered as being beneficial to the interests of the City. In addition, the City Manager may allow an employee official leave when the employee is ordered not to report to work during inclement weather. Official leave may also be granted to allow employees to vote, to take promotional qualifying tests, interview for a promotional opportunity, and for other unique situations as recommended by the Department Head or Division Director and approved by the City Manager.

C. **Jury and Court Service.**

An employee who is legally summoned to serve on a jury or appear as a witness on behalf of the City may be permitted to be absent from work with pay by his/her Department Head for the time actually required by such duty or appearance. If excused, or released from such service, one-hour or more prior to the end of his/her regular work shift, the employee should report promptly to his/her usual place of work. If excused,

or released from such service less than one-hour to the end of his/her regular work shift, such employee should report to work at the beginning of his/her next regular work shift. In the event of any abuse of or failure to observe this rule, Department Heads may disapprove pay for the entire period of an employee's absence for the above purpose.

The employee may retain fee paid by the court for jury service. This provision does not apply to court appearances in a matter personal to the individual (divorce, liability suit, etc.) as a defendant, plaintiff, or witness (unless appearing on behalf of the City.)

However, summons or subpoena to appear as a witness in a criminal matter or like circumstances in which the employee is not part to the litigation may also be considered to fall under these provisions.

Shift employees may be given time off from duty, if in the judgment of their supervisor, the period of time spent on jury duty or a witness on behalf of the City may impact job safety or the employee's health.

6.05 PAID LEAVE – ILLNESS/INJURY

Sick Leave

A. Accrual of Leave.

1. Full-time employees accrue sick hours at a rate of 1.85 hour per pay period to equal 6 working days per year. Sick leave may be accumulated up to a maximum of 90 days or 720 hours.
2. Sick leave will not be earned for any month during which an employee is in leave status for more than half the number of paid workdays for that month.

B. Approval of Leave.

1. An employee shall inform his/her supervisor as soon as possible before the start of their shift or tour of duty that he/she is ill and will not be reporting for work that day. The employee will inform the supervisor as described above before the start of each subsequent day of absence. Failure to notify the City will constitute absence without leave.
2. The City may require medical reports concerning the employee's status and availability for duty prior to an employee receiving sick leave compensation.

C. Use of Accrued Leave.

1. Sick leave may be taken because of personal illness, injury, legal quarantine, or routine health care appointments, which cannot reasonably be scheduled outside of the employee's working hours.
2. Sick leave may be used in event of serious injury or contagious disease in the employee's immediate family or childbirth to the employee's spouse. For purposes of definition of family members, refer to 6.04(a).

3. Employees will be entitled to use sick leave benefits after being employed for six (6) months.

D. **Other Sick Leave Provisions.**

1. Sick leave will be charged only for time during which the employee would ordinarily have worked, but not for scheduled days off or paid holidays.
2. Employees being laterally transferred, promoted, or demoted shall retain accrued sick leave.
3. Sick leave will not be advanced to employees.
4. Sick leave credits are not normally transferable between employees. However, in extreme hardship situations the City Manager may approve transfer of sick leave credits to effected employee.
5. Employees not utilizing all of the 48 hours sick leave earned per year shall rollover the balance of those hours up to a maximum of 90 days or 720 hours. After the maximum has been reached, no more hours may be accumulated.
6. After an employee's accumulated sick leave has been exhausted, unused vacation leave may be used as sick leave when requested.
7. Employees who become ill during the period of their vacation may request that vacation time is temporarily terminated and time be charged to sick time with approval of the employee's supervisor and the presentation of some evidence that would verify that such an event occurred.
8. The maximum amount of sick leave that an employee will have available at any given time is the unused balance at the end of the pay period.
9. The minimum amount of sick leave that may be used at any one time is (2) two hours.
10. No cash payment for unused sick leave shall be made upon termination, retirement, or death of an employee. Accrued sick leave will be used to insure a continuation of pay during a serious illness.

E. **Maternity – Based Sick Leave.** Female employees in regular full-time positions will be eligible to take maternity leave (sick leave) on the same basis as any other employee who has a temporary medical disability.

1. The point at which maternity leave commences is a matter for the employee and her physician to determine. Notification of the commencement of maternity leave will be made by the employee to her supervisor and will be accompanied by an appropriate note from her physician.

2. The time of return to work after childbirth is a matter for the employee's physician to determine. It should be as soon as her physician is of the opinion that she is able to perform the requirements of her job. Upon returning to work, the employee will be requested to furnish her physician's statement as to her ability to return to work.
3. Accumulated sick leave and vacation will be paid while the employee is on maternity leave to the extent that these benefits are available just as in any other case of temporary disability.

6.06 **LEAVES OF ABSENCE.**

- A. **Leave Without Pay.** Under justifiable circumstances, Department Heads may grant leave without pay for periods not exceeding (2) two-weeks, subject to the approval of the City Manager. Leaves for longer periods require approval by the City manager. However, no leave will be granted under this rule for the purpose of enabling employees to accept temporary outside employment. Benefits will not accrue while an employee is on leave without pay when unpaid leave hours exceed hours worked in any month. Employee returning to work from leave without pay status at the maximum allowed level (twelve weeks) will be given a new anniversary date adjusted by the length of time of the leave without pay. Employees on leave without pay (for whom no or an insufficient amount of compensation is available for payroll to take the necessary deductions) are responsible for the payment of their insurance premiums.

Supervisors should inform the employee of the need to make the necessary payments to payroll to ensure that their account does not fall into arrears.

- B. **Maternity – Based Leave of Absence.** Female employees in regular full-time positions will be allowed a leave of absence for maternity-based disability just as other employees are allowed leave of absence for a temporary disability. The limit of time allowed follows other leave of absence rules and restrictions found elsewhere in the policies and procedures manual, at Section 2.25, Absence Control.
- C. **Insurance Premium Payments During Leave.** Scheduled insurance premiums for employees are paid by the City only during any pay period in which the employee actually works or receives compensation for one-half of the regularly scheduled days or shifts of work. Payroll deductions for premiums paid by the employee continue so long as his/her City of Ferris paycheck is sufficient to cover the necessary deductions (including any deductions required by law.)

Employees not meeting the conditions listed above may continue insurance coverage through the provisions of the Consolidated Budget Reconciliation Act (COBRA) by paying the premiums due to the City of Ferris Finance Division. Supervisors are responsible for notifying their employees whenever direct insurance payments are required. Payment for each pay period's coverage is due by the end of that pay period unless special arrangements are made through the Payroll Department. Non-payment of premiums or recurring late payments may result in cancellation of the insurance.

6.07 **GROUP MEDICAL INSURANCE.** The City of Ferris currently provides at no cost to the employee, a major medical insurance plan for all regular full-time employees. Coverage for

newly hired employees is effective upon completion of the established waiting period of the particular policy in force at the time.

Employees may elect to have medical coverage from the City's group medical insurance carrier for their dependents at their own expense. The premium for dependent coverage with the City's carrier shall be paid through a payroll deduction.

6.08 **GROUP DENTAL INSURANCE.** The City currently provides a group dental care program, enrollment in which is currently provided at no cost to the employee. Coverage is effective based upon the terms set out in the current carrier's policy. Employees may add their dependents to the plan at their own expense through payroll deduction.

6.09 **GROUP LIFE INSURANCE.** Group term life insurance coverage, including accidental death and dismemberment coverage is currently provided at no cost to regular full-time employees. Optional amounts for the employee (determined by the employee's salary) as well as dependent coverage are available through payroll deduction at the employee's expense. Life insurance becomes effective upon the terms set out in the current effective policy held by the City.

Other Insurance Programs. The City has authorized some additional insurance coverage that is voluntary and is paid by the employee if they choose to do so. Employees who are interested should contact the City Manager for information on these programs.

6.10 **WORKER'S COMPENSATION.** The City of Ferris provides Worker's Compensation benefits as required by law. The City Manager is responsible for administration of this program. All injuries, regardless of how minor, must be reported as soon as the injury occurs by the injured employee to the injured employee's supervisor. An accident or injury report must be completed by the employee with the assistance of the employee's supervisor and forwarded to the City Manager within twenty-four hours of the injury or accident.

If an employee is injured on the job, and unable to work and thereby receive regular compensation, the employee may elect to receive accumulated and available sick leave, vacation or other paid leave (this must be recorded on the employee's time card or time sheet) in order to provide for the continuation of salary before worker's compensation payments begin, or may elect to be placed on worker's compensation leave. Regardless of which option the employee elects, the supervisor must submit a PACS form for the employee indicating this election, and the PACS form must be submitted so that it reaches payroll in a timely manner to effect this action. Note that if the employee elects to be placed on worker's compensation, this would result in the employee's salary not being continued prior to worker's compensation payments commencing but would preserve the employee's accumulated sick, vacation or other paid leave balance. Employees who are still in probationary status and have less than thirty days employment with the City do not have access to sick leave and will be placed on worker's compensation leave at the onset of lost time (Code 20 on the PACS form which must be submitted to payroll in a timely manner to effect this change of status.) At the fourteenth day of lost time, the employee's supervisor will submit a PACS form to payroll, which takes the employee off sick leave status (if applicable) and places the employee on worker's compensation leave status (code 20.) The employee will remain in this status, receiving worker's compensation payments only and no sick leave or other salary continuation until their return to work. When the employee returns to work, a PACS form should be submitted to payroll in a timely manner, so that the employee's full salary can be reinstated (Code 10 – Return from worker's compensation on the PACS form.)

6.11 **UNEMPLOYMENT COMPENSATION.** The City of Ferris provides unemployment benefits as required by law. The City Manager is responsible for administration of this program. The City pays an unemployment tax to finance this benefit. Unemployment compensation claims for employees who have resigned will be contested. Unemployment compensation claims for employees who have been terminated for other reasons will not be contested.

6.12 **RETIREMENT PLANS.** The City of Ferris currently provides retirement plans as detailed below:

A. **City Contributory Plans**

1. **Texas Municipal Retirement System**

- a. By action of the City Council effective in October 1985 became a member of the Texas Municipal Retirement System (TMRS), a cooperative organization of Texas Cities and Towns formed and operating under the provisions of H. B. 166, Acts of the 51st Texas Legislature (1949.) The purpose of TMRS is to provide an adequate and dependable plan for the retirement of Texas Municipalities. The City of Ferris's plan requires a contribution (made by means of weekly payroll deductions) equal to five percent (5%) of the salary of each regular full-time City employee. The City matches employee contributions on a one and a half to one basis (1.5:1) basis.

TMRS invests these funds under rigid legal restrictions and they eventually provide the financial basis for monthly benefits for employees retired under the System. In the event a member of TMRS leaves the employment of the City of Ferris, he/she may exercise one or more of the following options:

- Leave the funds on deposit with the System for any period of not more than five (5) years, during which the money will continue to earn interest.
- If the member, either immediately or during the five-year period referred to under the above option is employed by another Texas City which is a member of Texas Municipal Retirement System and has not received a refund of deposits, then his or her accumulated service will be combined with any later service and applied toward ultimate retirement. TMRS service may also be combined with service in any of the "statewide retirement systems."
- Upon termination of employment from the City of Ferris, a TMRS member may file application (on forms furnished by City Hall) for a full refund of his/her deposits and accrued interest. Under these conditions, the member's account is closed and the member forfeits further benefits under the plan.

- In the event of the death of an employee before retirement, all accumulated deposits, plus interest will be paid to his/her designated beneficiary or legal heirs.
 - b. Monthly retirement benefits are computed on an actuarial basis and vary with age, length of service, amount of salary or wages and type or plan of annuity selected by the retiring employee. The plan provides for retirement on the following basis:
 - Completion of twenty (20) years of service, regardless of age.
 - Or, upon attaining age sixty (60) with at least five (5) years of service.
 - c. Vesting is provided upon the completion of five (5) years of service.
 - d. Disability retirement benefits are also provided under the following conditions:
 - Total physical or mental disability resulting from injuries sustained in the line of duty after one year of service with the City, or
 - Non-duty related disability if the employee has more than ten (10) years of service with the City.
 - e. Membership in the retirement system is compulsory for all employees in permanent full-time positions and for employees who are authorized in the budget to work one thousand hours or more, and for part-time employees who work more than thirty-two hours per week.
2. **Social Security.** All regular full-time, part-time, and temporary employees are covered under Social Security. This coverage includes Retirement and Survivors, and Disability Insurance benefits as provided by law.
3. **Deferred Compensation (457 Plans).** The City of Ferris' Deferred Compensation Plan is administered according to provisions of applicable Internal Revenue Service Regulations.

The purpose of the plan is to allow an employee to set aside a portion of his/her salary and receive its value at retirement. The amount of deferred earnings (plus investment earnings) is not considered as income for federal tax purposes until its value is paid as provide in the plan.

Participation is on a voluntary basis and is available to regular full-time employees and to others as specified in the plan. Withdrawals are permitted only upon terms and conditions specified in the adopted plan and may be subject to penalty by the servicing contractors as well as IRS.

Information booklets are available through the Finance Division and the servicing contractors. Plan prospectus is available from the servicing contractors.

6.13 **EMPLOYEE AWARDS, RECOGNITION AND INCENTIVE PROGRAMS**

STABILITY PAY. (UPON ADOPTION BY THE COUNCIL) Stability pay is paid to all regular full-time employees. The stability payment is made the first week in December of each year for regular full-time employees who are in active paid status on December 1.

- A. **Amount of Stability pay.** Stability pay is calculated at the rate of \$2.00 per month of service, using the employee's full-time hire date as the base for the calculation (periods of part-time employment are not included in the calculation) with a minimum paid amount of \$24.00 in the event an employee has been employed for less than a year to a maximum amount of \$1,000.
- B. **General Provisions.**
 - Sick leave provisions of our pay plan apply to stability pay, in that, if a person is on sick leave at the time stability payment is made the longevity will be paid.
 - An employee who is on leave without pay from the City at the time stability pay checks are handed out will not receive his/her paycheck until he/she returns to permanent employment. Periods of leave of absence will not be applied towards total longevity service time.

6.14 **EMPLOYEE TRAINING AND DEVELOPMENT**

- A. **In-Service Training and Development.** Department Heads and supervisory personnel are responsible for providing or securing in-service training and instruction for positions under their supervision. The City Manager is available to coordinate and/or offer courses or seminars applicable to personnel throughout the organization, such as management and supervisory seminars, clerical skills training, time management, etc. The City Manager also provides in-house training to supervisors and managers in areas relating to personnel management.
- B. **Self Development.** Employees, who desire additional education or training in order to better perform their duties, or to equip themselves for possible promotion and advancement, will be reasonably accommodated in pursuing these aims. Employees are encouraged to consider general and specialized training such as that offered by extension and correspondence courses; classes provided by educational institutions, etc. in meeting self and career development goals.
- C. **Professional Memberships and Subscriptions.** The City may participate in the cost of professional memberships and subscriptions for employees, which are applicable to their positions, provided the necessary funds are budgeted and available. Request for memberships and subscriptions must be approved by the City Manager.

D. **College Tuition and Books Support.** (UPON ADOPTION BY THE COUNCIL)

An employee of the City with more than two (2) years of continuous service with the City and a proven record of performance that indicates a potential for advancement and greater responsibility within the City organization if they become formally trained at the college level, may apply through his/her Department Head for the City's College Tuition and Books Support Program. To be successfully considered for this program, an employee must have demonstrated an excellent work record and a readiness to accept greater responsibility and perform in that capacity at an exemplary level. However, the employee must be without a college degree at either the Associate's or Bachelor level (support for graduate degrees will never be considered). A plan must be submitted for consideration that demonstrates what educational goal is planned for accomplishment and how the attaining of a specific degree and/or educational courses will directly benefit the City. If the plan is proven to be valid, then the City Manager may approve the program for that individual employee subject to funding in the annual City budget by the City Council. Once approved, the employee will enroll in a state institution of higher learning and will purchase the books necessary for the semester – keeping all receipts associated with those two purchases. Upon the completion of the semester and evidence that the employee has successfully passed the course with a grade of C or better, or the equivalent that produces grade points, and if that proof is given to the City, then the City will reimburse 50% of the cost of the tuition for the semester for the coursework only and 50% of the cost of the books for those courses that were successfully completed as described above. The cycle will repeat itself so long as the employee stays within the program guidelines and successfully completes the coursework until graduation at the level originally envisioned when the program was brought before the City Council.

6.15 **INFECTIOUS DISEASE.** The City of Ferris is committed to a policy of non-discrimination with respect to the handicapped. The City will not discriminate against the handicapped with respect to discharge, compensation, terms, conditions, or privileges of employment.

A current employee's health condition is, and shall remain, personal and confidential. However, an employee who has been absent because of illness may be required to submit to a physical examination by a physician selected by the City in order to determine the employee's fitness to return to work. The employee may return to work upon approval of the examining physician.

Employees who are diagnosed as having an infectious disease will be allowed to work so long as they are able to maintain a satisfactory performance level and their condition is not a threat to themselves or others, and their condition would not be aggravated by a return to work. All current employees continue to have the same paid leave and leave without pay entitlements, regardless of their medical condition.

Protective Measures. Because of the need to protect City employees from all infectious diseases, immunization may be provided for diseases such as Influenza and Rubella, as well as for exposure to pathogens. Department Heads are responsible for arranging for these immunizations when a communicable disease threat is suspected and monitor the affected employee's progress in their immunization or treatment program if applicable.

Any employee working in an area where they are exposed to blood or body fluids must be issued and must use provided protective gear as required. Failure to provide or to use provided protective gear or equipment may result in disciplinary action.

Measures should be taken to protect workers in high-risk departments from exposure to infectious disease carried by citizens including the offer of vaccination of employees in high-risk groups for Hepatitis B, Hepatitis C, and Tetanus. In addition, employees should be offered H.I.V. tests where injuries involve suspected or confirmed AIDS. Latex rubber gloves must be worn when working in blood-covered areas, such as a crime scenes or accidents, and disposable C.P.R. pocket masks should be used to protect the rescuer performing C.P.R. as well as gloves for custodial workers.

Employees must strictly adhere to standard disinfecting and cleaning of all emergency equipment. Employees will be provided training concerning infectious diseases as they relate to the workplace.

- 6.16 **CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA).** The City of Ferris complies with COBRA legislation which requires that employers sponsoring group health plans offer covered employees and their covered family members the opportunity for a temporary extension of health coverage at group rate. The employee may exercise the right to COBRA coverage when coverage under the plan would otherwise end because of a qualifying event such as employment termination.
- 6.17 **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).** The City of Ferris complies with the requirements of HIPAA. If an employee or dependent loses coverage under the group health plan or under COBRA, the employee or dependent will receive a certificate describing the length of prior coverage. This certificate will be provided by the insurer.
- 6.18 **FAMILY AND MEDICAL LEAVE ACT (FMLA).** The City of Ferris complies with FMLA by providing eligible employees with up to twelve weeks of unpaid leave in any twelve months period for applicable family or medical reasons. The twelve-week period is a rolling period measured backward from the date the employee uses FMLA leave.

SECTION 7 – EMPLOYEE USE OF AUTOMATED INFORMATION SYSTEMS INCLUDING THE INTERNET, E-MAIL, FINANCIAL, ACCOUNTING, PAYROLL AND PERSONNEL INFORMATION SYSTEMS AND TELEPHONE.

- 7.01 **INTERNET, E-MAIL, AND FAX USE.** Certain employees may be provided with access to the Internet to assist them in performing their jobs. The internet can be a valuable source of information and research. In addition, e-mail can provide excellent means of communicating with other employees, citizens, vendors, etc. Use of both the Internet and e-mail must be tempered with common sense and good judgment. If an employee abuses their privilege of access to the Internet or e-mail, that access may be removed and the employee may be subject to disciplinary action up to and including termination, civil, and criminal liability.

The City of Ferris is not responsible for material viewed or downloaded by users from the Internet or through e-mail. Users are cautioned that many Internet pages include and some e-mail may contain offensive, sexually explicit, and inappropriate material, and users do so at their own risk.

Employees must not deliberately waste computer resources or unfairly monopolize resources to the exclusion of others. These acts include, but are not limited to, mass mailings or chain letters, spending excessive amounts of time on the internet, playing games, engaging in on-line chat groups, printing multiple copies of documents, or otherwise creating unnecessary network traffic. Because audio, video, and picture files require significant storage space, files of this or any other sort may not be downloaded unless they are business-related.

The computers and computer accounts given to employees are to assist them in performance of their jobs. Employees should not have an expectation of privacy in anything they create, store, send, or receive on the computer system. The computer system belongs to the City of Ferris and may be used for business purposes only.

The City has the right, but not the duty, to monitor any and all of the aspects of its computer systems, including, but not limited to, monitoring sites visited by employees on the internet, monitoring chat groups, and news groups, reviewing material downloaded or uploaded users of the internet and received by users.

The City may use software to identify inappropriate or sexually explicit Internet sites. Such sites may be blocked from access by City networks. In the event a user encounters such material inadvertently, immediately disconnect from the site, regardless of whether the site is subject to blocking software. Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful, inappropriate, offensive (including offensive material concerning sex, race, color, national origin, age, disability or other characteristic protected by law), or violates the City's equal employment opportunity policy and its policies against sexual or other harassment may not be downloaded from the internet or displayed or stored in City computers. Employees encountering or receiving this kind of material should immediately report the incident to their supervisor, Department Head or City Manager. The City's equal employment opportunity policy and its policies against sexual or other harassment apply fully to the use of the Internet and any violation of those policies is grounds for discipline up to and including termination.

Employees may not use the City's internet connection to download games or other entertainment software or to play games over the Internet.

Employees may not illegally copy material protected under copyright law or make the material available to others for copying. The employee is responsible for complying with copyright law and applicable licenses that may apply to software, files, graphics, documents, messages, and other material downloaded or copied. The employee may not agree to a license or download any material for which registration fee is charged without first obtaining the express written permission of the City Manager

To ensure security and to avoid the spread of viruses, employees accessing the Internet through a computer attached to the City's network must do so through an approved Internet firewall. Accessing the Internet directly by modem is strictly prohibited unless the computer being used is not connected to the City's network.

Files obtained from sources outside the City, including disks brought from home, files downloaded from the internet, newsgroups, bulletin boards, or other online services; files attached to e-mail; and files provided by customers or vendors may contain dangerous computer viruses that may damage the City's computer network. Employees should never download files from the internet, accept e-mail attachments from outsiders, or use disks from non-City sources, without first scanning the material with City-approved virus checking software. If an employee suspects that a virus has been introduced into the City's network, the employee should notify the MIS Department immediately Department Head or City Manager.

7.02 ACCESS TO AND TERMINATION FROM DATA SYSTEMS AND NETWORKS.

Employees who have a need to access the systems listed above will be provided a password(s). Employees are expected to comply with procedures developed by the City Manager with respect to password security. For example, employees should not share their password with other employees.

When an employee, who has access to mission critical information systems is terminated, the following will occur:

- A. The employee is notified of termination away from the work area and the terminated employee is not allowed subsequent access to City information systems.
- B. The employee's password is removed from the system.
- C. The employee turns in identification codes, any keys or magnetic cards, or other information system devices.
- D. The employee is observed as personal items are collected and removed by the employee.

7.03 TELEPHONE USAGE. If an employee has been issued a telephone, including cellular, to facilitate their work, the use of the instrument is restricted to essential business use only. Employees may place or receive personal calls with the approval of their supervisor. Personal calls will be local and limited in duration and frequency and must not interfere with City business. In the event of an emergency requiring a long-distance call of a personal nature, the

employee making the call is required to pay the charge for the call by payment to the Finance Division. If the employee terminates employment with the telephone charges pending, the Finance Division will take action to collect the amount of the pending charges. Department Heads are responsible for ensuring that employees issued such equipment turn the equipment in on or before termination of employment. Telephones will be answered promptly and courteously.

SECTION 8 – TRAVEL POLICY

- 8.01 **APPLICABILITY.** This policy is applicable to all City employees and applies to all travel on City business and all travel reimbursements subject to budget limitations and authenticated expenses. Responsibility for the day-to-day administration of the elements of the travel policy belongs to the Finance Division.
- 8.02 **AUTHORIZATION REQUIRED.** The City Manager may authorize travel leave and expenses for City business. All travel requests must be approved by the Department Head and the City Manager prior to the travel. Any employee traveling on official business will inform their supervisor where they can be reached while out of the City. All travel requests must be submitted on forms provided for that purpose as required by the City Manager's Internal Policies Manual.
- 8.03 **TRANSPORTATION.** Normally, when travel is required for City business, a City vehicle or personal vehicle may be used when the travel distance is within a distance of two-hundred and fifty miles. For travel beyond a distance of two-hundred and fifty miles, air transportation at the lowest available airfare may be approved by the City Manager. Approved transportation expenses will be reimbursed as follows:
- A. When employees use their personal vehicles, all travel mileage will be paid at the IRS rate plus any parking fees. Mileage will be calculated from the place of employment or the employee's residence, whichever is less. The City Manager may from time to time recommend an adjustment to the rate of reimbursement with approval of the City Council.
 - B. When City vehicles are used for out of town transportation, all expenses incident to the use of the vehicle (parking, gasoline, repairs, etc.) will be reimbursed. Receipts for these costs must be obtained by the employee and submitted appropriately.
 - C. When air travel is permitted, the cost of the airfare will be reimbursed. Additionally, reimbursement will be made for the use of rental vehicles, taxicabs and bus fare, provided the expenses are necessary and reasonable. Receipts for these costs must be obtained by the employee and submitted appropriately.
 - D. Alternate routes, which are desirable because of personal affairs of the traveler, may be used. The traveling employee will bear any additional cost for the additional routing and will not be allowed to claim regular pay for the additional time or mileage required for the alternative routing. The additional hours spent must be charged to a form of leave hours available to the employee. Mileage and expenses incurred on alternate routes must be shown on the travel expense report that is turned in for reimbursement or on the request for advance travel funds form.
 - E. Hotel stays may be authorized by the department head or city manager for training that will occur on multiple days if the training occurs more than 60 miles from the normal place of work or the employees home, whichever is a shorter distance.

SECTION 9 – EMPLOYEE USE OF VEHICLES, EQUIPMENT, AND FACILITIES

- 9.01 **PURPOSE OF VEHICLE POLICY.** The purpose of the vehicle and equipment policy is to provide for the safe, efficient, and effective use of City vehicles, and equipment through rules, regulations, and procedures. This includes procedures for how and where to obtain service for City vehicles.
- 9.02 **APPLICABILITY.** The policy will apply to all City owned vehicles and equipment and all persons assigned a vehicle or piece of equipment and persons who operate a vehicle and passengers in the vehicle.
- 9.03 **USE OF CITY VEHICLES, EQUIPMENT AND FACILITIES.** All City equipment and vehicles are intended for City business use only. The City Manager may extend use of vehicles or equipment, according to need and circumstances, to another public agency. Use of City equipment and facilities for private use is prohibited without prior approval of the City Manager. Under no circumstances shall City equipment or facilities be loaned or rented without this approval.
- 9.04 **VEHICLE OPERATION AND PASSENGERS.** Except for maintenance, service, and repair, only City officials and employees are allowed to operate a City vehicle. Passengers should be limited to employees or persons on official City business. Because of the nature of certain employees being required to be on call and take a vehicle home, the City Manager may exercise limited discretion in situations wherein the passenger policy might cause transportation difficulties to an employee required to be on stand-by and use a City vehicle.
- 9.05 **SAFETY, MAINTENANCE, AND CARE OF EQUIPMENT.** Personnel assigned use of a vehicle or piece of equipment will be responsible for ensuring that required maintenance is performed and will be responsible for the general care for the vehicle or equipment. Damage arising from misuse or neglect attributable to the employee assigned the vehicle or equipment is subject to review by the City Manager and the employee may be held responsible for subsequent repair costs. No one will operate a City vehicle or piece of equipment that is unsafe and the operator will be responsible for exercising good judgment and performing a visual inspection of the vehicle prior to operating it to determine the vehicle's safety status-No one shall operate a City vehicle or piece of City equipment while under the influence of alcohol, drugs, or medications, which alter judgment, or reflex. . And no person with corrective devices (prescription eyeglasses/lens) or appliances (e.g. prosthetic device) may operate a City vehicle or piece of City equipment without the corrective devices or appliances being in place and in good condition. Any person who is injured or becomes ill should alert their supervisor by radio or phone rather than attempting to continue to operate the vehicle or equipment.
- 9.06 **VEHICLE USE LOGS.** It is the responsibility of each operator of a City vehicle or piece of equipment to properly complete any paperwork associated with the use, mileage, gas or lubricants or any other documentation required.
- 9.07 **MOTOR VEHICLE POLICY.** The City recognizes that there are circumstances in which the assignment of a City vehicle to a Staff member for home storage can be of benefit to the City. It is the City's intention by this policy to set guidelines, rules, and regulations for the assignment of vehicle under these circumstances. The primary reason for assigning a vehicle in most cases will be according to the benefit to the City. The following rules and regulations will govern home storage of vehicles:

- A. The use of a home storage vehicle, except in cases that may be authorized later, is not a form of compensation - but is to be considered a benefit to the City.
- B. No person assigned a vehicle will take the vehicle more than thirty minutes driving time from the City of Ferris. To aid in this, a map with a fifteen-mile radius should be consulted. It has been determined that adhering to this limitation will provide thirty-minute response time during ordinary weather conditions.
- C. City vehicle will be used only for City business. This does not mean that it shall not be used to facilitate the employee's benefit, but must primarily benefit the City. An example of a mutually beneficial use would be an employee attending a baseball game while on call, which is nearby. If paged, the employee could respond from the ball game, making it appropriate to have taken the vehicle. If, however, the employee must return home prior to responding, then the vehicle should not be taken and left at the employee's residence.
- D. Except as authorized elsewhere in this section of the City Policy Manual, the vehicle will not be used to transport family members.
- E. If there is a choice in which vehicle to assign as a home storage vehicle, the more economical vehicle will be selected for this purpose. Vehicles designed for crew transport and special use will not be selected.
- F. If the operator assigned a home storage vehicle will not be available because of vacation or another reason and cannot respond the operator should make arrangements to temporarily store the vehicle at the appropriate parking facility during this time.
- G. Home storage vehicles will not be considered a personal vehicle and the home storage assignment may be rescinded at the City's pleasure. Justification must be provided to the City Manager when a Department Head is requesting the assignment of a home storage vehicle for an employee.
- H. Home storage vehicles shall not be parked on the street.

SECTION 10 – MISCELLANEOUS PROVISIONS

10.01 **ACTIVITY REPORTS.** All Department Heads will submit reports concerning the activities of their Departments to the City Manager in the format prescribed by the City Manager in the City Manager's Internal Policies Book.

10.02 **PROPERTY CONTROL.**

- A. Department Heads will ensure that the property under their control is properly safeguarded, accounted for, and administered. The City Manager will maintain or delegate the maintenance of an up-to-date inventory of all City property. Department Heads will report all acquisitions, disposals, or transfers of property to the City Manager or his designee.
- B. Postage, stationary, office supplies, tools, vehicles, equipment purchased and owned by the City are to be used only in the conduct of City business. No City employee will use these items in the conduct of personal business or affairs without approval from the City Manager.
- C. Employees will only use City copy reproduction equipment for City business, and will be required to reimburse the City for any other use.

10.03 **UTILITIES.** Departmental requests for new City electric, gas, and telephone utility installations, or additional service must be approved in advance by the City Manager.

10.04 **PURCHASES.** Employees will make no purchases in the name of the City except by following the procedures outlined in the City purchasing system rules, and regulations, or as approved by the City Manager.

10.05 **HOUSEKEEPING RESPONSIBILITY.** Department Heads will be responsible for maintaining neat, sanitary, and orderly office spaces, working areas, yards, and grounds.

10.06 **EMPLOYEE IDEAS AND SUGGESTIONS.** Employees are a primary source of ideas and suggestion for the improvement of service, production, and management practices, and are encouraged to provide ideas and suggestions to their supervisors. Also, better employee relations exist in an atmosphere in which employee ideas, and suggestions are encouraged, and in which they receive a definite, prompt response to the idea, or suggestion. It is the responsibility of each supervisor to:

- A. Encourage and assist employees to develop and submit suggestions preferably in writing.
- B. Acknowledge all suggestions promptly. Most should be responded to in writing and provide a disposition.
- C. Bring worthwhile ideas and suggestions to the attention of the next higher level of management.

- D. Keep the employee informed of the status of his or her idea or suggestion.
- E. Ensure that the employee who submitted the adopted idea or suggestion receives recognition.



THE CITY OF FOREST HILL

OFFICE OF THE CITY
MANAGER

MEMO

To: Opal Mouldin-Robertson, City Manager, City of Lancaster

From: Sheyi Ipaye, City Manager

Subject: Travel Policy

Date: April 3, 2017

Attached is the information you requested.

- Is not immediately available by phone to City management during the employee's normal work hours.
- The employee elects to use his or her own physician instead of the City's designated physician and medical facility.

Use of Accrued Leave to Supplement With Compensation Benefits - Employees who do not qualify for salary continuation benefits or who do not wish to be bound by the restrictions imposed for salary continuation benefits may use any available paid leave time to supplement their workers' compensation salary benefits. Paid accrued leave time will be applied in the following order; sick leave, comp time, or vacation.

Maximum Paid Benefits - Under no circumstances will an employee on workers' compensation leave receive more in paid benefits than he or she would have received in base salary/wages (excluding overtime, shift differential, or any other type of extra compensation) if the employee was not injured and was able to return to work.

Report of Accidents and injuries - All employees must comply with the reporting requirements set forth in the City's Safety policy.

Filing Claims - All workers' compensation claims must be filed with the Benefit Coordinator through appropriate supervisory channels.

TMRS - Employee contributions to TMRS made on the basis of temporary income benefits received through workers' compensation may be made on a voluntary basis through a special arrangement with the City.

ADDITIONAL BENEFITS

The City provides other benefits from time to time for regular full-time employees. These benefits are subject to change, and are discussed in greater detail in separate publications provided by the City. For general purposes, the following benefits are in effect:

RETIREMENT

All regular employees working forty (40) hours per week or more must join the Texas Municipal Retirement System. This is a condition of employment.

TRAVEL

If an employee must travel on City business or to a City-authorized meeting, the City will reimburse travel expenses. Expenses will be reimbursed based on an itemized travel expense form which must be submitted not more than one week after completion of the trip. Expense receipts must be kept and attached to the travel expense form. Only the actual cost of reasonable and necessary business related expenses incurred by the employee on behalf of the City will be reimbursed.

If it is necessary or requested that an employee travel for the City, the appropriate form must be completed by the employee and submitted for approval to the Department Director, Department Directors must obtain approval for their own travel from the City Manager. The travel request must be submitted as soon as the need to travel is known. All travel on behalf of the City must be approved prior to any expenses being incurred.

Any employee requesting an advance of funds must, except for under extenuating circumstances, complete and submit a written request for an advance of funds at least ten business days before the advance is needed.

Reimbursable expenses include:

1. The actual costs for round trip coach class air fare or the current IRS automobile rate per mile, whichever is the lesser amount; and
2. A \$50.00 per diem plus lodging and related expenses, with the provision that lodging within the Metroplex will not be reimbursed except as approved specifically in advance by the City Manager. The per diem will be reduced by 1/3 for each pre-paid meal included in a conference registration fee.

The City has the option of requiring that travel be made in a City-owned vehicle. When this is the case, the employee may be issued a gas credit card for use for the trip only.

Expenses for alcoholic beverages are not reimbursable.

Travel outside the continental limits of the United States must receive the prior approval of the City Manager and will not be reimbursed without that approval.

Abuse of this policy, including falsifying expense reports or submitting false claims, will result in disciplinary action up to and including termination of employment.

MEMBERSHIP FEES

Upon prior written approval, the City will pay professional organization membership fees for all employees when that membership is beneficial to achieving the City's service objectives. Membership fees must be included in and approved as part of the Annual Budget. All employees must obtain written approval from the Department Director or City Manager before serving as an officer in a professional organization.

DEFERRED COMPENSATION

The City currently offers a Deferred Compensation Program established by U.S. Conference of Mayors through PEPSCO. This benefit program allows regular full-time employees to defer income and the payment of taxes on the deferred salary amounts. The City places the deferred income amount selected by the employee in a tax-deferred investment on his or her behalf, under conditions associated with the Plan. Further information about this program may be obtained from Personnel.



TRAVEL EXPENSE FORM

Traveler's Name _____

Address: 3219 E. CALIFORNIA PARKWAY
FOREST HILL, TX 76119

Destination(s) _____

Purpose of Travel _____

Departure Date: _____

Return Date: _____

Travel Advances Received

Airfare	
Conf/Reg	
Hotel	
Per Diem	
Parking	
Transportation	
Other	
Total	

Description of Expense	Date	Date	Date	Date	Date	Date	Date	TOTAL EXPENSE	COMMENTS
Airfare*	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Private Car @ current IRS rate \$0.575	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Total Miles									
Rental Car	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Other Transportation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Other Transportation	\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	\$ -	
Parking/Tolls	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Conference Registration	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Lodging (room only)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Meals & Incidentals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Miscellaneous (Explain)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTALS:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	

I certify that the above is a true statement, that the expenses claimed were incurred by me while on official City business on the dates shown, and I have attached original receipts as necessary.

Amount owed to (Employee)/City	\$0.00
---------------------------------------	---------------

Traveler's Signature

Date

Authorized By (Dept Head/City Manager)

City of Grand Prairie
CITY COUNCIL ADMINISTRATIVE DIRECTIVE
AMENDMENT

SUBJECT: Business Expense, Travel, And Meal Policies for Elected Officials	A.D. No.	<u>1.0</u>
	Effective Date	August 13, 1991
	Revisions	November 16, 1993
		February 22, 1999
		July 15, 2014

PURPOSE

To ensure appropriate use of travel/training and business related appropriations.

POLICY

The City will reimburse or provide payment to Elected Officials for out-of-town travel and/or training when the trip is budgeted and when the trip will enhance the knowledge of the individual, in turn benefiting City operations. Such travel is an important part of an Elected Official's responsibility, is in the public interest, and should not require a personal financial sacrifice. Reasonable expense associated with such City travel and business will be borne by the City. Each Elected Official will be limited to 20% of the total City Council budget allocated for travel for each fiscal year.

A. ELIGIBLE TRAVEL

The annual City Council budget, to the extent practical, shall include appropriations sufficient to cover expected Council travel requirements. At a minimum, the budget will include funds to support participation and attendance at:

- National League of Cities (NLC) semi-annual conferences
- Texas Municipal League (TML) semi-annual conferences
- TML Institute for Mayors, Council members, and Commissioners (AMCC)
- U.S. Conference of Mayors
- TML Regional Meetings
- NLC/TML Policy and Policy Steering Committee Meetings
- Representation of the City's interest before the legislative bodies and administrative agencies of the United States and State of Texas
- Trips incident to securing and maintaining financial condition and a beneficial credit rating

B. PAYMENT

When budgeted through the annual City Council budget, two forms of business related payment will be available to the Elected Officials:

- Travel and training for expenses incurred under "Eligible Travel" as defined above or locally as outlined in "Eligible Expenses" as defined in subsequent sections of this

directive. Both require receipts as documentation for reimbursement or application of the IRS approved per diem allowance.

- A monthly stipend issued to consenting Elected Officials to cover the following related City business expenses incurred locally. No receipt or similar documentation required.
 - Mileage for local travel on City business
 - Postage and materials for City business
 - Telephone calls for City purposes
 - Meals not coordinated through City staff

C. ELIGIBLE EXPENSES

Expenses will be paid directly or reimbursed by the City as described below:

- **MEALS WHILE TRAVELING** - The City will pay the actual amount of meals and tips (provided receipts are maintained), or the IRS approved per diem allowance (Exhibit 1). On Exhibit 1, the meals rate is the rate in the column headed "M&IE" for "meals and incidental expenses." The per diem rate will be adjusted as the IRS amends its rates periodically. The rate includes breakfast, lunch, dinner, tax and tips. Without receipts, meal expenses should generally be allocated as follows for partials days:

Per Diem

- 20% Breakfast
 - 30% Lunch
 - 50% Dinner
- **LOCAL MEALS** - Expenses associated with attendance at local events, including but not limited to Chamber of Commerce monthly luncheons; Annual Chamber of Commerce and Hispanic Chamber of Commerce Banquets, TML Regional dinners, non-profit banquets, dinners, and fund raisers, etc. where attendance is coordinated through City staff will be paid by the City.
- **BUSINESS MEALS** - An Elected Official may find it necessary to periodically pay for the meals of business associates, including other Elected Officials, while discussing City business or while attending professional association meetings. Payments must be approved by the City Manager and reimbursement may be made through petty cash or payment documents. Elected Officials receiving monthly stipend will apply stipend funds toward these types of expenses.
- **MILEAGE** - The City will pay the IRS allowable rate for travel incurred by Elected Officials utilizing his/her personal vehicle on City business. Elected Officials receiving a monthly stipend will apply stipend funds toward local mileage expenses.
- **TRANSPORTATION** - The City will pay for mileage, round trip airfare (coach class), train fare, taxi fare, tips, tolls, auto rental (when required), and parking. When a personal vehicle is used (instead of a public carrier), expenses for mileage shall not exceed the cost as well as an evaluation of the lost time due to driving versus flying. The City will not pay local (30 miles or less one way) mileage for use of a personal vehicle for those Elected Officials who receive a monthly stipend, but will pay for mileage for such Elected

Officials using personal vehicles for travel of longer distances as described under Section A, "Eligible Travel."

- **SPECIAL AIRFARE** - Elected Officials who must remain at their travel destination to qualify for reduced airfares may be reimbursed for their additional meals, lodging, rental cars, parking, etc. if the combined cost of the additional expenses and the discount airfare is less than or equal to the average coach airfare between the Metroplex and the travel destination.
- **LODGING** - Lodging expenses will be reimbursed for the actual number of days of the conference or other meeting, plus allowance for travel time. Lodging per night will not exceed actual room cost plus taxes and tips.
- **REGISTRATION** - Registration fees will be paid directly by the City through the vendor accounts payable system. It should not be necessary for Elected Officials to obtain a cash advance or write a personal check for registration. If necessary, on-site registration at conferences or business meetings may be billed to the City.
- **EXPENSES NOT REIMBURSED** - Expenses excluded from city reimbursement are health clubs, pay television, bar bills other than part of meal expenses, and other entertainment expenses unless venues are a component of a conference program. Also excluded is any travel expense by an Elected Official challenged and denied by a majority of the City Council.
- **AIRLINE CREDIT** - Airline mileage credits earned for City paid travel may be used for personal or City travel.
- **TRAVEL TIME** - Travel times should not exceed one day prior to and one day following business meetings or conferences. Exceptions will be made through the City Manager's Office.
- **CONSTITUENCY ASSOCIATIONS** - The City will fund to the extent practical, the annual dues of Elected Officials for membership in TML or NLC constituency organization, i.e. NBC/LEO, WIMG, HELO, etc.
- **EXPENSES FOR SPOUSE/GUEST** - Airfare for a spouse/guest to accompany an Elected Official will be borne by the city. Meals of a spouse/guest, locally or traveling will be eligible to be borne by the City if incurred while accompanying the Elected Official.

D. PROCEDURES

- **TRAVEL ARRANGEMENTS** - Travel arrangements for Elected Officials will be made by the appropriate City Department as directed by the City Manager's Office or by the individual Elected Official, if desired.
- **PRE-PAID EXPENSES** - When possible, all major expenses items will be pre-paid, i.e. transportation, registration, lodging, etc.
- **CASH ADVANCES** - Cash advances may be obtained by completion of an *Estimated Expense Report* (see Exhibit 2) by the City Manager's Office or their designee in accordance with established Finance Administration guidelines.
- **MILEAGE REPORT** - A separate form is used to request reimbursement for mileage when traveling locally. This form will be provided to Elected Officials not receiving a monthly stipend upon request to the City Manager's Office and will be reimbursed in accordance with Finance Administration guidelines. When mileage is incurred while traveling out-of-town, *Actual Expense Reports* may be used to request mileage reimbursement. When they are used in the manner, reimbursement will be made

through Accounts Payable instead of Payroll. The City will pay the allowable rate for travel incurred by an Elected Official eligible for reimbursement according to the policy.

- **FILING REQUIREMENTS** - Within 20 working days after the return trip, the Elected Official shall submit documentation to the City Manager's Office or their designee from which an *Actual Expense Report* can be completed, signed and delivered to the Accounting Division with the required receipts attached. Adequacy of documentation should be examined and ensured at the coordinating Department level; the City Manager's or Mayor's approval must be evidenced on the *Actual Expense Report*.
- **BACK-TO-BACK TRIPS** - Two or more multiple trips made within the same 20 calendar day period will be treated as one trip for the purposes of determining *Actual Expense Report* due dates. The *Actual Expense Report's* due date will be 20 working days after the Elected Official returns from the last trip. Trips will be considered to have been made within the same 20 calendar day period if any part of the trips occurred during the 20 calendar day period.
- **MISCELLANEOUS EXPENSES** - Miscellaneous expenses less than \$50, including business meals but excluding mileage, may be reimbursed through the petty cash system without completing an *Actual Expense Report*; Elected Officials receiving a monthly stipend will apply stipend funds toward these types of expenses. All other business travel, including out-of-town mileage reimbursements and business related expenses, must be reimbursed through use of an *Actual Expense Report*.
- **FUNDS OWED TO THE CITY** - If an Elected Official has received an advance in excess of actual expenses or a spouse/guest airfare was initially billed to the City and a reimbursement to the City is required, this obligation shall be fulfilled at the time the *Actual Expense Report* is to be filed with the Accounting Division, payment should be made through the Revenue Management Division and receipt attached to the *Actual Expense Report* when delivered to the Accounting Division.
- **FUNDS OWED TO AN ELECTED OFFICIAL** - If an Elected Official's actual expenses exceed the advance, or if no advance was received the Elected Official will be reimbursed by the City. This reimbursement will be made within five working days after the Accounting Division receives the final completed *Actual Expense Report*.
- **SUBSEQUENT TRAVEL EXPENSES** - If expenses are not substantiated to the City within 60 calendar days after the expense has been incurred, and any excess returned to the City within 120 calendar days after the expense is incurred, the entire amount of the advance will become taxable income and subject to withholding taxes in accordance with IRS requirements.
- **OUTSTANDING EXPENSE REPORTS** - No additional or follow-on airline tickets will be purchased for or cash advances made to an Elected Official if *Actual Expense Reports* from previous travel have not been finalized and reconciled in accordance with directive guidelines.
- **EXCEPTIONS** - Exceptions to this directive can be made but require documentation with signed approval by the City Manager or Mayor.

Passed by City Council July 15, 2014

CITY OF KELLER	POLICY NAME: Travel Time
PAGE: 1 of 1	POLICY NUMBER: 4.02.12

4.00 BENEFITS/COMPENSATION 4.02 COMPENSATION	REVISION DATES:
APPROVED AND DISTRIBUTED: 07/01/03	REVIEWED DATES: 11/09/10
APPROVED BY ADMINISTRATION: Dan O'Leary	DATE:

Policy: Home-to-work travel is not compensable work time. Travel of this nature is considered a normal incident of employment. Generally, an employee is not at work until he or she reaches the work site. However, if an employee has gone home after completing a day's work and is subsequently called back to return to the worksite or to perform work, all travel time involved in the call-back to work is considered work time.

If non-exempt employees are required to travel out-of-town, the travel time outside of regular working hours is not considered work time. Employees and supervisors are encouraged to contact Human Resources for clarification of this policy.

CITY OF KELLER	POLICY NAME: Travel Policy
PAGE: 1 of 5	POLICY NUMBER: 1.18

Effective 10-01-10

1.00 ADMINISTRATION	REVISION DATES: 04/27/10
APPROVED AND DISTRIBUTED: 07/01/03	REVIEWED DATES: 04/27 /10
APPROVED BY ADMINISTRATION: Dan O'Leary	DATE:

Policy:

The job duties and responsibilities of City representatives (employees) occasionally require attendance at various conferences, seminars, classes, meetings, workshops, or other events and may require travel to other areas of the metroplex, state, or country. The purpose of this policy is to establish and maintain prudent stewardship of public funds and ensure that City representatives attend conferences, etc., that are necessary, relevant, and important to the future of the City.

The following travel guidelines are set forth to serve as a policy statement for business travel by all representatives of the City of Keller per Resolution No. 1152, as from time to time amended. The term "City representatives" includes the Mayor, City Council Members, appointed Board and Commission Committee Members, Volunteers, and City employees.

I. Assessing Value of Attendance

The Mayor, City Council, or City staff should review the details of the seminar, conference, event, etc. to ensure that attendance would be beneficial in performance of their duties as representatives of the City and that funds have been budgeted therefore.

II. Authorization Procedure

Mayor and City Council Members - Upon request of City council members, the City Secretary's office will coordinate registration, reservations, travel accommodations, etc., for all City council members.

City Employees - City employees must prepare a Travel Authorization Form for department head approval. For Department Heads and/or if the travel is out of state, approval must be granted by the City Manager or designee.

Board and Commission Committee Members and Volunteers - Appointed board and commission committee members and volunteers must follow the same guidelines for City Employees. The appropriate City staff must approve the Travel Authorization Form.

III. Travel Advances

Purchasing cards are available to certain employees, and their use is encouraged in order to minimize the amount of cash advances. For employees who do or do not have a purchasing card, they may receive a travel advance. The City will issue a travel advance upon completion of the Travel Authorization Form, accompanying a Payment Authorization memo, and submitted to the Finance Department for a cash advance check.

Processing the Travel Authorization Form

Under IRS regulations, advances cannot be made more than 30 days prior to a trip. Advances must be settled within 30 days of completion of the trip. Advances not cleared within 60 days after they are paid or the expense is reimbursed will be processed through payroll and subject to withholding taxes. Further advances will not be processed until the employees have settled any outstanding expense report or overdue advance.

CITY OF KELLER	POLICY NAME: Travel Policy
PAGE: 2 of 5	POLICY NUMBER: 1.18

All approved Travel Authorization Forms shall be sent to the Finance Department for processing no later than 10 days before funds are needed. The completed Travel Authorization Form must be **approved by the employee's Department Head and** submitted with **a copy** of the documentation (program registration) for the event. **For Department Heads, the travel advance must be approved by the City Manager or his designee and submitted with a copy of the documentation (program registration) for the event.**

IV. Event/Travel Procedures

The following guidelines and standards shall be utilized when traveling on City business.

A. Registration

The City will be responsible for eligible, approved, conference or association meeting registration fees. This excludes guest registration fees for a spouse or personal guest, as well as any optional/recreational activities associated with the Conference for the employee or any guest. Exceptions may be approved by the City Manager or designee.

1. Direct payment to the sponsor of the event is preferable.
2. In the event direct payment to the sponsor is impossible, an individual attendee will be reimbursed for the actual cost of the registration and/or event costs.
3. Full advantage should be taken of any pre-registration discounts when possible.
4. Vouchers, invoices, advance registration forms, and/or receipts must be submitted as payment or reimbursement justification.

B. Transportation

Transportation arrangements are based on what is the most economical advantage to the City of Keller.

Airfare - Airfare will be paid directly to the carrier, travel agency (or reimbursed), based on coach fare, utilizing all prepaid, special or discount fares as may be available. **Coach accommodations should be used unless upgrades result in cost savings. The employee should take advantage of any special conference rates or discounts whenever possible.**

Public Carrier Fares and Car Rental - **The employee should take advantage of any special conference rates or discounts whenever possible. Discounts may be obtained by utilizing the City's approved inter-local agreements for services. Please contact Purchasing for information.**

1. Public carrier fares will be reimbursed based on receipts or prevailing fares based on the geographic area. In case of ticketless mass transit systems, a pamphlet of published rates will substitute for a receipt.
2. Car rental reimbursement will be reviewed upon submission and/or receipt and prevailing rental rates paid **with Department Head approval**. If necessary, other circumstances will be evaluated in determining additional reimbursement for the rental.
3. **For car rental the employee should secure economy/mid-size vehicle at the best rate possible, unless upgrades result in cost savings. The City will pay for gas, but not for mileage reimbursement.**
4. **Insurance Requirements:**
 - a) **In the event an employee is in a vehicle accident while on business and it is the employees fault, the employee would be covered by the City's auto liability insurance.**
 - b) **In the event an employee is in a vehicle accident while on business and it is not the employees fault, a claim would be filed by the City with the other party's insurance. If the employee were injured, workers' compensation would cover the employee & the City's auto liability insurance would pursue subrogation against the other party.**

CITY OF KELLER	POLICY NAME: Travel Policy
PAGE: 3 of 5	POLICY NUMBER: 1.18

- c) In either incident, the City would pay the employee's insurance deductible providing the employee was not negligent in his/her driving, i.e. ticketed for violating the law.
- 5. The City will NOT reimburse the employee for violations such as parking tickets, fines for moving or non-moving violations, and vehicle towing charges.

Taxi/Airport Shuttle Service – The City will reimburse the employee during authorized business trips. Use of complimentary airport shuttle is recommended; however, the city may reimburse the employee for the cost of taxi service from and to the airport if the airport shuttle is not readily available.

Parking and Tolls – The City will reimburse for long-term or temporary parking and tolls, during authorized business trips.

Baggage Fees – The City will reimburse for baggage fees during authorized business trips, with receipts.

Personal Vehicle

1. Employees attending events, seminars, classes, workshops, etc., in the metroplex no matter what the duration of the class **may** be provided a City vehicle to attend, if available.
2. If no vehicle is available, employees using their own vehicle will be eligible to receive a mileage allowance at a rate in accordance with the Internal Revenue Service allowance. Reimbursement will be based upon actual mileage from the employee's regular place of work to their destination, or from home to destination whichever is less. If an employee is required to attend training for an extended period of time (longer than one work week), the place of training will become the employees regularly assigned workplace until such training is completed. An employee will not be eligible for mileage reimbursement in such an instance.
3. To receive mileage reimbursement, the event, seminar, class, etc. must be required by the City or approved as personal development related to the job of the employee.
4. Mileage reimbursement will be based upon Internet resources such as Mapquest. Please visit www.Mapquest.com for assistance with mileage calculations and documentation. Employees receiving a car allowance will not be eligible for mileage reimbursement unless the conference is outside the Metroplex.
6. Insurance Requirements:
 - a) In the event an employee is in a vehicle accident while on business and it is the employee's fault, the employee would file an insurance claim with his/her own insurance company. The City's auto liability insurance would pay whatever is above & beyond what the employee's insurance pays.
 - b) In the event an employee is in a vehicle accident while on business and it is not the employee's fault, a claim would be filed by the City with the other party's insurance. If the employee were injured, Workers' Compensation would cover the employee and the City's auto liability insurance would pursue subrogation against the other party.
 - c) In either incident, the City would pay the employee's insurance deductible providing the employee was not negligent in his/her driving, i.e. ticketed for violating the law.

C. Overnight Accommodations

Room accommodations should be appropriate for the occasion and not luxurious. The employee is expected to secure single room accommodations at a reasonable rate and should take advantage of special conference rates whenever possible. Use of conference hotel rate is appropriate.

1. Room rental will be based on the actual cost of the room, plus tax and parking. Direct payment or billing from the hotel is preferred.
2. The City will NOT pay for personal expenses such as guests, movies, and health club/spa charges. Any charge above the single-room rate will be reimbursed to the City by the employee.
3. Receipts are required for all reimbursements.

CITY OF KELLER	POLICY NAME: Travel Policy
PAGE: 4 of 5	POLICY NUMBER: 1.18

D. Meals and **Miscellaneous** Expenses

1. Meals **shall** be reimbursed when travel **requires an overnight stay**. If the travel does not require an overnight stay, **meals will not be reimbursed**.
2. Meals and incidental expenses may be paid for in the following manner:
 - a. Per diem in an amount **to be in accordance with IRS Publication 1542 – Per Diem Rates**, to **defray all meals, tips and miscellaneous expenses** will be provided prior to travel upon submittal and approval of a Travel Authorization Form OR
 - b. Per diem may be requested after the travel has occurred.
 - c. In either case, employees should not utilize the City purchasing card for these expenses and **receipts will not be required**.
 - d. Tips may be included in the services rendered and are considered a part of the per diem allowance.
3. **Miscellaneous expenses shall be reimbursed if they are business-related expenses. Eligible expenses include but not limited to: roaming and long-distance business charges, business faxes, in-room Internet access, use of hotel office services, tips, tolls, baggage fees, and airline schedule changes due to conference cancellations.**

E. **Unallowable Travel Expenses**

Unallowable travel expenses include, but are not limited to: additional insurance, lost or stolen property, fines (parking/traffic violation), personal entertainment, in-room movies use/recreational facilities, and golf/recreational outings, guest related costs, alcoholic beverages, maintenance/repair of personal automobile, babysitting, pet care fees, toiletries/pharmaceutical items, haircuts/beauty salon services, limousines for personal use, personal gifts, fees/expenses involved with pre-conference or post-conference personal vacation.

F. **Guest Expenses**

The City will not be responsible for any expenses of guests who accompany employees on City business. Any additional charges/fees incurred on behalf of the guest will be the responsibility of the employee. Purchasing cards can be used only for the employee's portion of the expense. Guest charges shall not be charged on the purchasing card. In the event the guest charges must be paid at time of registration and the employee is registering by purchasing card the employee must submit reimbursement to the City immediately and approved by Department Director. Discrepancies found may result in disciplinary action against both the employee and the individual approving the travel report.

V. Submittal of Completed Travel Authorization Form

The completed Travel Authorization Form must be submitted to the Finance Department within **30** working days following the completion of a trip. The summary will be reviewed for accuracy. All receipts and/or credit card copies must accompany and match the report. Any unused travel advance must accompany the report unless per diem based.

If an employee has not submitted a Travel Authorization Form within ~~10~~ **30** working days, the appropriate department head will be consulted to determine if travel expenses will be paid.

- VI. **Events and conditions could arise that preclude persons from complying with the above policies. The City Manager may approve deviations from this policy if the City Manager determines that it is in the best interest of the City of Keller. City Manager approval of deviations from this policy may be obtained before or after a travel event.**

CITY OF KELLER	POLICY NAME: Travel Policy
PAGE: 5 of 5	POLICY NUMBER: 1.18

- VII. For additional clarification of the City's travel policy please refer to the Travel Expense Instructions located on the City's share drive (k):Finance Forms/Travel Expense Form and Instructions.xls.

CITY OF KELLER	POLICY NAME: Attendance at Training Sessions and Other Meetings
PAGE: 1 of 1	POLICY NUMBER: 4.02.13

4.00 BENEFITS/COMPENSATION 4.02 COMPENSATION	REVISION DATES: 10/12/10
APPROVED AND DISTRIBUTED: 07/01/03	REVIEWED DATES: 10/12/10
APPROVED BY ADMINISTRATION: Dan O'Leary	DATE:

Policy: In general, training is time worked if:

- a. Approved by Supervisor;
- b. It is directly related to the employee's current job;
- c. It is designed to enhance the employee's performance of his/her current job;
- d. Attendance is mandatory. Attendance is mandatory if an employee is led to believe that working conditions or chance of continued employment in the employee's current job status would be adversely affected by non-attendance.

Training time is generally not time worked if:

- a. The program is designed to facilitate an employee's advancement to a higher position and does not necessarily improve the employee's ability to perform his/her current job;
- b. Attendance is outside regular working hours;
- c. The employee performs no productive work in connection with the program;
- d. Certification training is of general applicability and is not tailored to meet the particular needs of the City of Keller;
- e. Attendance is voluntary. Attendance is voluntary only if the employee is not led to believe that his/her working conditions or chance of continued employment in his/her current job status would be adversely affected by nonattendance.

CITY OF MESQUITE, TEXAS

ADMINISTRATIVE DIRECTIVES

DIRECTIVE NO. 26	EFFECTIVE DATE: October 23, 2000	PAGE 1 OF 5
SUBJECT: Travel Policy		

1.00 Purpose

The City will reimburse or provide payment for employees' travel to attend training seminars and meetings, both out of town and local, as well as travel required to conduct activities on behalf of the City. The following policies and procedures have been instituted to provide guidance to employees on "reimbursable" versus "non-reimbursable" travel expenses and provide consistent procedures for the processing and accounting of travel requests and expense reimbursement.

2.00 Applicability

This policy is effective for all City employees.

3.00 Approval of Travel

A detail of planned travel is approved each year as part of the annual budget process. Only those trips identified in the annual budget are approved for funding, however, substitutions may be allowed with advance approval from the Department Director with concurrence of the City Manager or his designee. Any travel outside the State of Texas, to attend training seminars and meetings, must have approval of the City Manager or his designee.

4.00 Definition of Allowable and Non-Allowable Expenses

The City will pay all reasonable expenses for employee travel, food, lodging, conference registration, tips, parking, taxis and other associated necessities providing the employee submits appropriate documentation. **ALL EXPENSES OVER \$25.00 MUST BE ACCOMPANIED BY RECEIPTS (except per diem and mileage costs). Receipts for all expenses, no matter how small, are greatly encouraged.**

4.01 Meals The City will pay the actual amount of meals and tips (provided receipts are maintained) or the IRS approved per diem allowance as listed in Exhibit 1. The per diem rate will be adjusted as the IRS amends its rates from time to time. The rate includes breakfast, lunch, dinner, tax and tips.

Without receipts, meal expenses should generally be allocated as follows for partial days:

Breakfast	20%
Lunch	30%
Dinner	50%
Total	100%

No per diem should be claimed if meals are:

- 1) paid by others
- 2) included in conference registration fees, or
- 3) ticketed separately as a conference event.

Receipts should be used instead of the per diem rate whenever possible.

4.02 Business Meals A City employee may find it necessary to pay for the meals of business associates, including fellow City employees, from time to time, while discussing City business, or while attending professional association meetings. Payments must be authorized by the Departmental Director with concurrence of the City Manager or his designee.

4.03 Transportation The employee is expected to select the mode of transportation that will be most economical to the City considering cost and time consumed.

4.03a City vehicles will be utilized whenever possible. Those employees that are not assigned a City vehicle may request a vehicle from the Transportation Pool. The employee will also need to request one or more gasoline company credit cards for use on the trip. Credit card receipts must be returned to the Service Center upon completion of the trip.

4.03b Personal vehicles may be used by an employee *when a City vehicle is not available with approval of the Department Director or his/her designee*. Employees using their personal vehicles will be reimbursed at the current mileage rate as designated by the City Manager.

4.03c When public transportation is necessary, the City will pay for round trip airfare (coach class), train fare, taxi fare, tips, tolls, auto rental (when required) and parking. Receipts for airport parking shall be submitted. Long-term parking should be used whenever possible.

4.03d When a private vehicle is used (instead of public carrier), expenses shall not exceed the cost of the round trip public carrier fare. This cost comparison may include parking, rental car and/or taxi costs as well as an evaluation of the lost employee productive work time due to driving versus flying. Consideration may also be given for the convenience of flight schedules and ground transportation connections.

4.03e Rental of a compact or intermediate size car is only allowable when taxi or shuttle transportation is inconvenient due to time constraints, travel distance or number of local trips to be taken.

4.03f Employees who must remain at their travel destination to qualify for reduced airfares may be reimbursed for their additional meals, lodging, rental cars, parking, etc. if the combined cost of the additional expense is less than the cost of a non-discounted airfare and it is in the City's interest to allow the employee to be absent for the additional time.

4.03g Travel time should not exceed one-half day prior to and one-half day following business meetings unless approved by the Department Director. Excess time will be charged as vacation time.

4.04 Lodging Lodging expenses will be reimbursed for the actual number of days of the conference or meeting, plus allowance for travel time. Lodging per night will not exceed actual room cost per night plus tax and tips.

4.05 Registration Registration fees will be paid directly by the City through the accounts payable vendor payment process.

4.06 Personal Telephone Calls An individual will be reimbursed for *reasonable* personal long distance telephone calls while out of town. Personal long distance calls considered excessive by the Departmental Director will not be reimbursed. Business calls to City offices are not restricted and should be made as necessary.

4.07 Non-Allowable Expenses Expenses excluded from City reimbursement are health club, pay television, dry cleaning or laundry, bar bills and entertainment expenses unrelated to City business and any expense that is deemed unreasonable by the City Manager or Department Director.

4.08 Spouse/Family Travel When accompanied by a family member, an employee shall pay all incremental costs related to having the member along on the trip. Examples of incremental costs include the difference in lodging cost between single and double occupancy, and all meal and incidental costs of the family member. Spouses may accompany a City employee on official business with such expenses reimbursed by the City only when the spouse has specific duties to perform for the benefit of the City and such expenses are approved in advance by the City Manager or his designee.

5.00 Travel Advance

Funds will be advanced to the employee prior to departing on a trip if desired. To obtain an advance, a Travel Request and Expense Refund Form is to be completed by the employee as follows:

- 1) Section A
 - a) Line 1—employee name
 - b) Line 2—destination
 - c) Line 3—purpose of the trip
 - d) Line 4—date of departure and date of return
- 2) Section B
 - a) Line 5—advance request for travel (amount requested)
- 3) Section C
 - a) Line 6—indicate whether the trip was budgeted or is being substituted for a budgeted trip
 - b) Line 7—date needed, by, approval (department director)
- 4) Lower Section
 - a) indicate index code, object code and dollar amount.

The form must be submitted to the Finance Department at least five business days prior to departure. The Finance Department will process the form and return the check and two copies of the form to the employee.

Within five business days after completion of the trip, the white copy of the form must be completed and submitted to the Finance Department. Section B must be completed indicating actual expenses incurred with receipt copies attached. Appropriate departmental authorizations must be obtained as required in Section C, Line 8.

If the final accounting for the travel expense indicates that the amount advanced exceeded the cost of the trip, the balance refundable to the City shall be deposited with the Cashier. The white copy of the Cashier Referral shall be attached to the form when it is submitted to the Finance Department. In cases where approved expenditures exceeded the advance, a reimbursement check will be processed with the next accounts payable.

EMPLOYEES WILL NOT BE ISSUED NEW TRAVEL ADVANCES UNTIL EXPENSE REPORTS HAVE BEEN SUBMITTED FOR ALL PRIOR TRIPS AND ANY "AMOUNTS DUE THE CITY" HAVE BEEN CLEARED.

6.00 Travel Expense Reimbursement

Rather than obtaining a travel advance, an employee may choose to pay travel expenses for an approved trip and obtain reimbursement upon his/her return. In such case, the Travel Request and Expense Refund Form shall be completed within five business days after completion of the trip as described in Section A above except for Section B, Line 5 and Section C, Line 7. After final approval for payment, a reimbursement check will be processed with the next accounts payable.

7.00 Local Expenses

7.00a Mileage Mileage reimbursement is available for local events related to City business, from the employee's workstation to the event and back. *Approval for use of a personal vehicle for attendance at the event must be obtained from the Department Director or his/her designee.* If the employee goes directly to the event from home, mileage will be reimbursed from the employee's normal workstation to the event *or from the employee's home to the event whichever is the shorter distance.*

7.00b Meals Lunch expenses incurred while attending local seminars or events will be reimbursed by the City provided the lunch is an integral part of the seminar or event and is billed accordingly. Other food expenses for working lunches, work place meetings or other business purposes is reimbursable according to departmental policy with concurrence of the City Manager or his designee.

Dinner expenses incurred while attending local seminars or events will be reimbursed by the City in full providing the dinner is an integral part of the event and ticketed as such.

7.00c Miscellaneous The City will reimburse the employee for expenses incurred for parking, tolls and calls to his/her office while on local City business.

7.00d Obtaining Reimbursement An employee shall submit a properly completed Travel Request and Expense Refund Form for local travel expenses when the amount of the expense exceeds \$25.00. For amount less than \$25.00, reimbursement can be obtained from Petty Cash through submission of a Petty Cash Voucher. The Petty Cash Voucher must include proper Department Director authorization along with a copy of appropriate expense documentation.

8.00 Accountability for Travel Expenses

Department Directors are responsible for assuring that travel/training costs are evaluated as practical and economical for each situation and that expenses submitted for reimbursement are reasonable. The Finance Department will review each Travel Request and Expense Refund Form to insure that expenditures are in compliance with this policy and that proper documentation is provided.

RESOLUTION NO. 96R-165

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ODESSA, TEXAS, APPROVING
A TRAVEL AUTHORIZATION AND
REIMBURSEMENT PROCEDURE FOR THE
MAYOR AND CITY COUNCIL MEMBERS;
AND DECLARING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ODESSA,
TEXAS:**

Section 1. That the Travel Authorization and Reimbursement Procedure, a copy of
which is attached hereto as Exhibit "A", is approved.

Section 2. That this resolution shall become effective at the time of its adoption.

The foregoing resolution was read and adopted on the 12th day of November, A.D.,
1996, by the following vote:

Jo Ann Davenport	AYE
Kirk Edwards	AYE
Frank Deaderick	AYE
Bob Slider	AYE
Javier Joven	AYE

Approved the 12th day of November, A.D., 1996.


Mike Atkins, Mayor

ATTEST:


Jerri Fielding Sullivan, City Secretary

APPROVED AS TO FORM:


Joel V. Roberts, City Attorney



CITY COUNCIL
ADMINISTRATIVE PROCEDURE

Subject TRAVEL AUTHORIZATION AND REIMBURSEMENT	A.P. No. CC-96-01	
	Effective Date 12/01/96	
<p>1. <u>PURPOSE</u></p> <p>To facilitate the transaction of City business, the Mayor and City Council members of the City of Odessa, hereinafter referred to as "Officials", are occasionally required to engage in meetings outside the City with officials from other public or private agencies. Officials may also be required to attend out-of-town conventions, conferences and workshops for educational purposes. A well-defined City travel policy and procedure for payments or reimbursement will enable all Officials to receive proper, complete and timely payment or reimbursement for expenses incurred while on travel status as well as providing the necessary fiscal control.</p> <p>2. <u>OBJECTIVES</u></p> <p>A) To outline a travel policy for all the Mayor and City Council members, "Officials."</p> <p>B) To describe procedures for Officials to obtain travel advances and reimbursement for expenses while on official City business.</p> <p>3. <u>SCOPE</u></p> <p>This procedure is applicable to all Officials regardless of the source of funding.</p> <p>4. <u>RESPONSIBILITIES</u></p> <p>A) The Finance Committee shall approve in advance all business-related travel by Officials for out-of-town conventions, conferences and workshops for educational purposes.</p> <p>B) The Finance Director shall issue car rental credit cards to Officials for official travel and shall review and verify all travel reimbursement requests.</p> <p>C) All Officials are stewards of public funds. Officials should plan all travel and feel confident that the benefits gained justify the costs.</p>		
Approved	Date Approved	Page 1 of 6

5. GENERAL GUIDELINES

A) **TRANSPORTATION**

- 1) **Private automobile** - The City will pay the IRS approved mileage rate for official out-of-town travel requiring the use of a private automobile. This rate will cover necessary travel at the destination as well as to and from the destination. To receive reimbursement, odometer readings must be kept for each trip and submitted with the reimbursement request. The cost of travel by car should be evaluated in comparison to other modes of travel, their related costs and the additional time required to utilize this mode of travel.
- 2) **City automobile** - The City will reimburse the official for purchase of gas (regular unleaded) oil and minor emergency repairs (if required) upon presentation of proper receipts. Use of a City automobile must also be approved in advance by the City Manager's office, for out-of-town conventions, conferences and workshops for educational purposes.
- 3) **Air travel** - Air travel will be at coach rates. Officials must submit their tickets with their payment or reimbursement requests. The Official is responsible for making reservations far enough in advance to secure the most reasonable fare available when possible. Two for one flying specials are generally more expensive than single discounted fares.

B) **HOTEL ACCOMMODATIONS**

The City will pay a reasonable amount for hotel accommodations. Each official who authorizes travel payment or reimbursement shall evaluate the cost of a hotel room to insure that it is reasonable considering proximity to conference and other pertinent factors. All Officials must submit copies of hotel bills with their payment or reimbursement requests.

C) **MEALS**

Meals will be paid at actual cost based upon receipts provided with the expense report. The designated official or officials who authorize travel payments or reimbursements shall review the cost of meals claimed to insure that daily meal expense is reasonable and prudent. However, in no case shall meal expense exceed fifty dollars (\$50.00) per day on the average.

D) **REGISTRATION**

Registration fees at conventions, conferences, and workshops will be paid at actual cost. A receipt for the fee must be presented with the payment or reimbursement request. The request for travel should be presented early enough in advance of session to take advantage of early registration discounts. For payment of registration for multi participants, all names should be included.

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TRAVEL AUTHORIZATION AND REIMBURSEMENT

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E) MISCELLANEOUS

- 1) **Tips** - Tips shall be reasonable. A brief explanation should be attached to the Travel Expense Report if not included on another receipt.
- 2) **Taxicab** - Taxicab expenses will be paid based on actual cost. Taxi receipts should be presented with the payment or reimbursement requests.
- 3) **Car Rental** - Car rental expense at the destination may be paid if the cost to the City would be less than that incurred by the Official using taxicabs, or other modes of transportation. Car rental expense must be pre-authorized by the designated official or officials. Car rental credit cards are available from the Finance Director. The receipts should be submitted with the payment or reimbursement request.
- 4) **Telephone** - All business-related telephone expenses will be paid at actual cost. An explanation of all long distance calls placed while on travel status must be submitted with the reimbursement request. One call per day home of reasonable duration is reimbursable.
- 5) **Personal Entertainment** - Entertainment other than that included in the registration will not be reimbursed by the City.
- 6) **Non City Employee Expenses** - Expenses for meals for business associates and/or meetings are allowed only if reasonable and necessary.
- 7) **Alcohol** - No reimbursement for alcohol is allowed.

6. RESTRICTIONS**A) COMBINATION TRIPS**

No meals or lodging will be paid for excess travel days unless a significant savings is realized on air travel and the excess is approved by the Finance Committee. "Excess travel days" include all days out of the City beyond the duration of official business and any travel days to and from such business which exceed the days required for round-trip air travel by the most direct route.

B) TRAVEL WITH SPOUSE OR FAMILY

An Official may be accompanied by his/her spouse or family while on travel status. However, the Official will be expected to pay all expenses incurred by the spouse or family, including the incremental difference charged for a hotel accommodation for two or more persons and a hotel accommodation for only one person.

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7. **PROCEDURE**

A) **TRAVEL AUTHORIZATION**

- 1) All travel by Official to attend workshops, conventions, conferences, or any type of meeting must be approved in advance by the Finance Committee. A copy of the program or other supporting data should be attached to this request.
- 2) To request travel and expense report, an Official shall submit a Travel Authorization to the Finance Committee which states the reason for the trip, the destination, the dates of the trip, the Officials making the trip, the benefits to be gained by the City, the estimated cost of the trip, times of departure and return, and any advance requested.
- 3) Upon approval by the Finance Committee, the form will be forwarded to the Finance Department.

B) **TRAVEL ADVANCE**

Travel advances will be granted to officials who have received travel approval. The travel advance will not exceed the estimated amount on the approved Travel Authorization Form. The Finance Director will review the request for a travel advance, verify that funds are available, and authorize the issuance of a travel advance check to the official. To ensure timely receipt of travel advance, requests should be submitted at least (7) days prior to departure except when emergency exists.

1) **Travel Advance Drawn**

a) **Actual Expenses are less than Travel Advance**

When a travel advance has been made and the actual cost of the trip is less than the amount of the advance, the official shall return the balance to the City within five (5) working days of return.

b) **Actual Expenses are Equal to the Travel Advance**

When a travel advance has been made and the actual cost of the trip is equal to the amount of the advance, the Travel Expense Report with accompanying documentation shall be submitted and received as outlined below.

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TRAVEL AUTHORIZATION AND REIMBURSEMENT

A.P. No. **CC-96-01**

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B) TRAVEL ADVANCE (cont'd)**1) Travel Advance Drawn (cont'd)****c) Actual Expenditures are More than Travel Advance**

When travel advance has been made and the actual cost of the trip is more than the amount of the advance and upon approval of the Travel Expense Report by the Finance Director, a check shall be issued to the Official for the expenses in excess of the advance.

2) No Travel Advance Drawn

When no travel advance has been made, and upon verification of the Travel Expense Report and supporting documentation the Finance Director shall process the check request for reimbursement, charging the actual expenditures to the proper budget line item. A check shall then be issued to the Official in the amount of the actual expenditure.

C) TRAVEL EXPENSE REPORT**1) Processing of Statement of Expenditures**

- a) Within ten (10) working days after the completion of authorized travel (5 if the official must return unused advance), the official shall complete the Travel Expense Report, attaching to it all necessary supporting receipts.
- b) Any expenditure in excess of those which would normally be incurred by a prudent person should be explained fully in a written statement.

2) Official Processing of the Statement of Expenditures

The Finance Committee, or their designee, shall closely review the official's Travel Expense Report for proper accounting and documentation of the expenses incurred. They should insure that all necessary supporting documents and/or statements of explanation are attached before signing the Travel Expense Report. Any reimbursement from the official should be attached to the Travel Expense Report.

3) Finance Department Audit and Payment

Upon receipt of the approved Travel Expense Report, the Finance Director shall examine the report and supporting documentation to insure accuracy and availability of budgeted funds. The Finance Director is authorized to request and to receive additional information on any and all expenses.

Subject

TRAVEL AUTHORIZATION AND REIMBURSEMENT

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8. LOCAL EXPENSES

At times, an Official may be required to attend a conference or workshop or to conduct certain non-routine City business locally (150 miles 1-way). In such cases, with prior approval by the appropriate official, registration fees, meals and tips will be paid in advance or reimbursed at actual cost. The use of private automobile will be paid in advance or reimbursed at the IRS approved rate per mile. This mileage will be calculated from the official's work station to the conference, workshop or business location and return to the work station. Documentation for payment or reimbursement of local travel expenses will be the same as outlined for out-of-town travel.

Subject

TRAVEL AUTHORIZATION AND REIMBURSEMENT

A.P. No. CC-96-01

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CITY OF ODESSA
SUMMARY OF TRAVEL AUTHORIZATION AND REIMBURSEMENT

Purpose

To facilitate the transaction of City business, employees of the City of Odessa are occasionally required to engage in meetings outside the City with officials from other public or private agencies.

Responsibilities of Designated Official or Officials

1. Approve at least two weeks in advance all budgeted business-related travel requests by other officials.
2. Approve expense portion of report after travel has occurred.
3. Prior approval on expenses for meals of business associates at meetings.

Responsibilities of Traveler

All Officials are stewards of public funds. Officials should plan all travel and feel that the benefits gained justify the cost.

Required Documentation

1. Required Receipts
 - a. tickets for air travel
 - b. car rental
 - c. taxicab
 - d. hotel accommodation
 - e. long distance telephone calls
 - f. meals
 - g. tips
 - h. purchase of gas, oil, and minor emergency repairs
 - I. registration
 - j. copy of program for workshops, conventions, and conferences
 - k. copy of Cashier's receipt for amount of advance returned to the City
2. Required Explanations
 - a. odometer readings for private automobile for each trip.
 - b. tips if not indicated on another receipt.
 - c. all long distance calls placed while on travel status

Restrictions

1. Air travel will be at coach rates. Officials are responsible for making reservations far enough in advance to secure the most reasonable fare available when possible. Two for one flying specials are generally more expensive than single discounted fares.

2. No meals or lodgings will be paid for excess travel days unless a significant savings is realized on air travel and the excess is approved by the Finance Committee.
3. An Official may be accompanied by his/her spouse or family while on travel status. However, the employee will be expected to pay all expenses incurred by the spouse or family including the incremental difference charged for a hotel accommodation for two or more persons versus a hotel accommodation for only one person.
4. Meals will be paid at actual cost based upon receipts provided with the expense report. However, in no case shall meal expense exceed \$50 per day on the average.
5. Personal entertainment other than that included in the basic will not be reimbursed by the City.
6. No reimbursement for alcohol is allowed.

Time Requirements

1. The Finance Committee is authorized to deny any travel advance request not received at least seven days prior to the time of the employee's scheduled departure, unless an emergency exists.
2. When a travel advance has been made and the actual cost of the trip is less than the amount of the advance, the official shall return the balance to the City within five working days of return.
3. Within ten working days after the completion of authorized travel, the official shall complete the travel expense section of the report, attaching to it all necessary supporting receipts and explanations.

Local Expenses

At times, Officials may be required to attend a conference or workshop or to conduct non-routine City business locally (150 miles one-way). In such cases, with prior approval by the Finance Committee, registration fees, meals, and tips will be paid in advance or reimbursed at actual cost. The use of a private automobile will be paid in advance or reimbursed at the IRS approved rate per mile. This mileage will be calculated from the official's work station to the conference, workshop or business location, and return to the work station. Documentation for payment or reimbursement of local travel expenses will be the same as outlined for out-of-town travel.

This information is only a summary of the Travel Authorization and Reimbursement Procedure. For the complete procedure, see Administrative Procedure CC-96-01.

CITY OF ODESSA

TRAVEL AUTHORIZATION AND EXPENSE REPORT

Responsible Traveler: _____ (1)

Vendor #: _____ (2) Date: _____ (3)

Account Charged: _____ - (4) - -

Additional Person(s) Traveling: _____ (5)

City Manager's Office Approval Required for use of:	
(12) Car Rental using City's Credit Card	Estimated Cost: _____ (13)
(14)	
City Manager's Office Approval	

Reason for Trip and Benefit to be Gained: _____ (6)

(7) Destination	(8) Leave Date/Time	(9) Return Date/Time	(10) Miles @ (11) Estimated Personal Car Mileage
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Estimated Cost of Trip

Cost Elements:

Registration	_____ (15)
Hotel Accommodations	_____ (16)
Meals	_____ (17)
Transportation	_____ (18)
Air Travel	_____ (19)
Personal Car Mileage	_____ (20)
Other (21)	_____ (21)
(21)	_____ (21)
Total Expenses	_____ (22)

Less Prepaid/Charged Items:

Registration	_____ (23)
Hotel Accommodations	_____ (24)
Meals	_____ (25)
Transportation	_____ (26)
Air Travel	_____ (27)
City Car Rental Card	_____ (28)
Other (29)	_____ (29)
Total Prepaid Items	_____ (30)

ADVANCE REQUESTED _____ (31)

Non-City Employee Expenses ☐ yes ☐ no (32)
 Spouse/Family Traveling ☐ yes ☐ no (33)

Pre-Travel Authorization:

_____ (46) _____ (47)
 Responsible Traveler Date

Post-Travel Expense Report Authorization:

_____ (50) _____ (51)
 Responsible Traveler Date

Actual Cost of Trip

Cost Elements:

Registration	_____ (34)
Hotel Accommodations	_____ (35)
Meals	_____ (36)
Transportation	_____ (37)
Air Travel	_____ (38)
Personal Car Mileage	_____ (39)
Other (40)	_____ (40)
(40) (40)	_____ (40)
Total Cost of Trip	_____ (41)

Less Prepaid/Charged Items:

Registration	_____ (23)
Hotel Accommodations	_____ (24)
Meals	_____ (25)
Transportation	_____ (26)
Air Travel	_____ (27)
City Car Rental Card	_____ (28)
Personal Telephone Calls	_____ (42)
Other (29)	_____ (29)
(29) (29)	_____ (29)
Advance Request Paid	_____ (31)
Total Prepaid Items	_____ (43)

AMOUNT DUE CITY _____ (44)

AMOUNT DUE EMPLOYEE _____ (45)

_____ (48) _____ (49)
 Approving Official Date

_____ (52) _____ (53)
 Approving Official Date

Reviewed by: _____ (54)	Finance Department Use Only	Date: _____ (55)
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CITY OF ODESSA

TRAVEL AUTHORIZATION AND EXPENSE REPORT INSTRUCTIONS

General Travel Information

1. Person making request for Travel Authorization.
2. Vendor Number for person traveling, if none, leave blank, Finance will assign a number.
3. Date the Travel Authorization is being submitted for approval.
4. Account to be charged (14 digit number).
5. Additional person(s) traveling with Responsible Traveler.
6. Give reason for and benefit to be gained by taking trip.
7. City and State of travel destination.
8. Date and time leaving on trip.
9. Date and time returning from trip.
10. If personal vehicle mileage is being reimbursed, estimated number of miles.
11. The amount per mile to be reimbursed per policy.

City Manager's Approval

12. To be checked if car rental using a City credit card is being requested (Alamo, Budget, Hertz).
13. Estimated cost of car rental.
14. Approval signature from the City Manager's Office.

Estimated Cost of Trip - Cost Elements

15. Registration cost whether paid in advance or requested in advance travel amount.
16. Estimated costs for hotel accommodations.
17. Estimated costs for meals for the trip.
18. Estimated rental car, gas, and oil required for trip or taxi service.
19. Estimated cost of air travel.
20. Estimated personal car mileage for the trip.
21. Any other estimated costs associated with the trip. Description of costs.
22. Total of items 15 through 21.

Estimated Cost of Trip - Prepaid/Charged Items

23. Actual registration costs paid by Payment Authorization Request.
24. Actual hotel accommodation paid by Payment Authorization Request.
25. Actual meals paid by Payment Authorization Request, if not included in registration.

26. Actual transportation paid by Payment Authorization Request.
27. Actual air travel paid by Payment Authorization Request.
28. Actual car rental paid by City credit card.
29. Any other actual cost paid by Payment Authorization or City credit card. Description of costs.
30. Total of items 23 through 29.
31. Subtract the amount in item 30 from the amount in item 22. This is the amount being requested from the City as a travel advance.
32. If Non-City employee expenses are being requested check yes; otherwise check no.
33. If spouse or family member is traveling with the Responsible Traveler, check yes; otherwise check no.

Actual Cost of Trip

34. Actual cost for registration expenses.
35. Actual cost of hotel accommodations.
36. Actual cost of meals during trip.
37. Actual cost of transportation during trip.
38. Actual cost of air travel.
39. Actual cost of personal car mileage (must be supported by odometer reading).
40. Actual cost of other expense during trip. Description of costs.
41. Total of items 34 through 40.
42. Personal telephone calls not reimbursable under travel policy.
43. Total of items in "Less Prepaid/Charged Items" section (under "Actual Cost of Trip").
44. If the total cost of trip (41) is less than total prepaid items (43), subtract the amount in item 41 from the amount in item 43.
45. If the total cost of trip (41) is more than the total prepaid items (43), subtract the amount in item 43 from the amount in item 41.

Pre-Travel Authorization Signatures

46. Responsible traveler signature for Travel Authorization.
47. The date the responsible traveler signs the Travel Authorization portion of the report.
48. The signature of the Finance Committee for the Travel Authorization portion of the report.
49. The date the Finance Committee signs the Travel Authorization portion of the report.

Post-Travel Expense Report Authorization Signatures

50. The responsible traveler signature for expense portion of the report.
51. The date the responsible traveler signs the expense portion of the report.
52. The Finance Committee signature for the expense portion of the report.

53. The date the Finance Committee signs the expense portion of the report.

Finance Department Signature

54. The signature of Finance Department employee reviewing the expense report.

55. The date the Finance employee reviewed the Travel Authorization and Expense Report.

5.5 TRAINING

From time to time, the City offers training to its employees to enhance or acquire new skills for the performance of their jobs or future advancement. Training may include seminars, institutes, in-house training, and courses offered for credit at local colleges/universities. Department Heads or supervisors may require employees to participate in appropriate training from time to time. Employees may also request that they be allowed to participate in appropriate training. Work load, training topic and appropriateness to job duties, budget constraints, cost of training, and other factors will be considered by the City in determining if requested training will be approved.

Time Spent in Training. Time spent by nonexempt employees attending mandatory training will be considered work time and employees will be compensated. Attendance at training, lectures, meetings, etc., will not be counted as working time if:

(A) Attendance is voluntary; or

(B) The employee's Department Head did not approve the training, prior to the employee's attendance.

Prior Authorization. All requests for outside training must be approved in advance by your Department Head.

5.7 TRAVEL AND REIMBURSEMENT

It is the City's policy to pay for, or reimburse, all reasonable and necessary expenses incurred by an employee when the employee travels on City-related business, in accordance with this policy.

Request to Travel. When an employee travels on behalf of the City, the appropriate form must be completed by the employee and submitted for approval to the Department Head; Department Heads must obtain approval for their own travel from the City Administrator. The travel request must be submitted as soon as the need to travel is known. All travel on behalf of the City must be approved prior to any expenses being incurred.

Request for Advance Funds. Employees are typically provided with a City-issued purchasing card to pay for expenses associated with City travel. In instances where a purchasing card is not made available, an employee needing an advance of funds must, except under extenuating circumstances, complete and submit a written request for an advance of funds at least ten business days before the advance is needed. All advancement of fund requests and deviations from the above policy must be approved by the City Administrator.

Request For Reimbursement. A request for reimbursement form and substantiating receipts must be submitted to the Department Head (or, in cases of travel by a Department Head, to the City Administrator) within five business days after completion of travel. (Refer to Forms in back of book.)

Approving Authority. All travel and meeting documents, requests for travel, requests for advance of funds, and requests for reimbursements (with supporting receipts), must be approved as follows:

- (A) The Department Heads shall be responsible for approving their employees' travel. The City Administrator is the final approving authority for Department Heads' travel.
- (B) All travel documents must be submitted to the employee's Department Head or the City Administrator, as applicable.
- (C) All spouse and/or family member's travel expenses must be paid by the employee.

- (D) Only the actual cost of reasonable and necessary business related expenses incurred by the employee on behalf of the City will be reimbursed.

Transportation. The City has the option of requiring that travel be made in a City-owned vehicle. When a City vehicle is not furnished, the City will reimburse the employee at the current allowable IRS reimbursement rate per mile or the cost of a round-trip coach/economy airline ticket, whichever is appropriate, plus other stated costs (i.e., parking at airport and ground transportation at destination). A receipt(s) is required for reimbursement.

Hotel/Motel Reimbursement. Employees will be reimbursed for the actual cost of lodging in a hotel/motel that is appropriate for the particular meeting or purpose of the trip. A receipt(s) is required for reimbursement. The room rate must be pre-approved by the employee's Department Head, or in the case of a Department Head, approved by the City Administrator. Overnight stays will only be authorized for travel to destinations in excess of 60 miles from the City, unless otherwise approved in writing by the City Administrator.

Meal Reimbursement. When City business requires an employee to travel the employee's meal expenses will be reimbursed at the current GSA (General Services Administration) reimbursement per diem rate, if the employee does not have a City-issued purchasing card. The City will not pay for alcoholic beverages.

Subject to the above restrictions, Department Heads and other City employees who have a City-issued purchasing card should charge their transportation, lodging and meals when traveling, to the extent possible. Employees who use a City-issued purchasing card should provide receipts for all charges in accordance with the City's purchasing card policy.


At the end of the trip employees must fill out a Travel Expense Form and attach all receipts. Travel Expense Form can be obtained from the Human Resources Department. Employees are expected to use good judgment when accruing travel expenses such as meals, hotels and transportation. Abuse of meals, hotels, and transportation will result in disciplinary action, up to and including termination of employment.

Compliance. Abuse of this policy, including falsifying expense reports or submitting false claims, will result in disciplinary action, up to and including termination of employment.

5.8 PROFESSIONAL MEMBERSHIPS AND SUBSCRIPTIONS

The City may elect to pay for all or a portion of an employee's professional memberships and subscriptions. Requests for payment (or reimbursement) of such expenses (subject to

Budget approval) must be submitted on forms provided by the City and approved by the City Administrator. Approval must be obtained in advance and will be based on such factors as available funds, the relationship of the membership and/or subscription to the employee's job duties and the number and/or cost of other memberships and subscriptions paid by the City for the employee.

 City of Rockwall	City Policies & Administrative Directives		
	Policy Number 608	Page Number 1 of 1	Origination Date: 8/5/91 Revision Date: 8/04, 10/06
	Subject: Travel		<u>Julie Couch</u> Date: <u>11/15/04</u> City Manager Signature

POLICY

The Fair Labor Standards Act (FLSA) prescribes certain wage and salary requirements for employees that travel in connection with their job. The purpose of this policy is to outline procedures for payment of wages in connection with travel for all employees classified as non-exempt under the FLSA. Mileage reimbursement will be determined by the City Manager. It is the policy of the City of Rockwall that business travel must be approved in advance and should be reimbursed according to the guidelines.


PROCEDURES

It is the policy of the City of Rockwall that business travel must be approved in advance and should be engaged in and reimbursed according to the following guidelines:

1. Supervisors must approve any employee travel in advance. Under normal circumstances, employees should use the most cost effective method available to book travel arrangements, i.e. Internet, direct phone contact, or with the City's specified travel agent.
2. The City may issue guidelines specifying or restricting travel booking requirements. Under normal circumstances, employees should use the most appropriate form of transportation available, book the least expensive fares, and stay in and eat in moderately priced establishments.
3. Key employees who are traveling together should make every effort to schedule their transportation and lodging separately to minimize risks from accidents.
4. Employees should provide their supervisor with a copy of their itinerary before leaving on business travel.
5. When overnight travel is required, a per diem rate set by the City Manager within the parameters allowed by the IRS, will be paid prior to travel.
6. Employees may obtain a cash advance for approved business travel by submitting a written request to the Accounts Payable Department.
7. Time spent by nonexempt employees in traveling away from home on City business during normal working hours is considered hours worked for pay purposes.
8. Employees traveling on City business are representatives of the City and are expected to maintain a high level of professionalism and to follow all Cities' policies and rules.
9. Mileage reimbursement will be paid for employees that use their personal vehicle.

LOCAL TRAVEL

Local travel is hereby defined as travel that occurs within 60 miles of the city limits of Rockwall. Travel time for the purpose of this section is hereby defined as the actual time spent in traveling from the City to the alternate work location.

 City of Rockwall	City Policies & Administrative Directives		
	Policy Number 608	Page Number 2 of 2	Origination Date: 8/5/91 Revision Date: 8/04, 10/06
	Subject: Travel		<i>Julie Couch</i> Date: <u>11/15/04</u> City Manager Signature

If an employee is required by the City to travel to a location other than the normal workplace within this distance, it is hereby deemed to be local travel and the employee shall be paid for travel time as follows:

1. Employees will be paid for travel time, whether such time occurs during, and prior to or after the normal business hours. All travel time incurred ***within a 40 hour work week*** shall be compensated at the regular rate of pay and such hours shall not be used for the purposes of calculating hours for overtime pay. Such pay shall generally not exceed (3) three hours per day unless travel time was increased due to conditions not under the control of the employee. It shall be the responsibility of the Department Director to verify distance to the required location and approve the requested travel time prior to its occurrence. Employees shall not be paid for time not actually spent either in travel or in the required work location. Employees shall not be compensated for lunch hours.
2. As prescribed by FLSA, if the employee is required to leave from or return to the workplace from or to an alternate work location, hours accumulated ***over 40 hours*** within a work week during the travel from the normal work site to or from the alternate work location will be included in total number of hours worked for the purpose of calculating overtime.

Note: Mileage and travel time will not be paid for any testing or certification that is not a requirement for the position. If certification is a requirement of a position or a possible promotion, then the City may pay for mileage and travel time for the first test or certification class, however, if the employee does not pass the test to achieve the certification, then the employee must pay for any additional test. Travel time and mileage will be at the expense of the employee.


Meals and Incidentals

Reimbursement will be made to an individual for actual expenses if supported by valid receipts, less any paid in advance, if required to be away from work all day.

TRAVEL

Non Local

Employees required to travel farther than 60 miles from the City of Rockwall shall be paid for travel time from the City to the alternate work location and back to the City, and actual time spent in the required activity, excluding lunch hours. The Department Director is responsible for verifying the distance to the location and approving the requested travel time prior to the occurrence.

 City of Rockwall	City Policies & Administrative Directives		
	Policy Number 608	Page Number 3 of 3	Origination Date: 8/5/91 Revision Date: 8/04, 10/06
	Subject: Travel		<u><i>Julie Couch</i></u> Date: <u>11/15/04</u> City Manager Signature

Overnight Travel

Employees required to travel overnight will be paid for the actual time spent traveling and actual time spent in the required activity, excluding lunch hours. It shall be the responsibility of the Department Director to verify distance to the location and approve the requested travel time prior to the occurrence. All travel time accumulated under this section during normal work hours, 8:00a.m. to 5:00p.m., Monday through Sunday shall be used for the purpose of calculating overtime. Any travel time accumulated before or after normal work hours will not be used for the purpose of calculating overtime and such time will be compensated for at the regular rate of pay.

Meals and Incidentals

When overnight accommodations are required, a per diem rate to defray all meals, tips, and miscellaneous expenses, will be paid prior to travel once approved and submitted. No receipts are required upon return using the per diem method of reimbursement. **Refer to www.gsa.gov for current per diem rates.**

Use of Personal Vehicle

If it is required that the employee use their personal vehicle while traveling on business, then the City will reimburse the employee for mileage. **A Mileage Reimbursement form must be completed and forwarded to Accounts Payable in order to receive payment.**

Time Sheets

All time sheets must clearly identify any time spent in travel and the actual time spent in any required event away from the normal workplace. Differences between actual time spent in travel and the estimated travel time must be initialed by the Department Director.

RESPONSIBILITIES

Employees

1. Complete Request for Travel form prior to travel date and have Department Director sign.
2. Upon completion of required travel activity, if use of personal vehicle required, complete Mileage Reimbursement form and have Department Director sign.

Supervisors

1. Approve all travel time prior to occurrence.
2. Approve employee's mileage reimbursement form before sending to Accounts Payable.

Human Resources

1. Communicate policy and provide assistance as needed to supervisors and employees.
2. Provide necessary forms.

CHAPTER 20 TRAVEL

20.0 PURPOSE

The Purpose of this chapter is to establish rules for all travel and training arrangements and the timely reporting and requesting of reimbursements of related expenses in the course of conducting City business.

20.1 POLICY

No policy can specifically address every scenario that can occur related to official travel. However, this policy provides foundational rules that are applicable for employees traveling on city business. Department Directors may impose additional as well as more restrictive rules for their employees as long as the rules are in writing, distributed and written acknowledgement to all members of the department and have been approved by the Director of Human Resources.

20.2 TRAVEL/TRAINING

A. LOCAL/REGIONAL

Every effort should be made to use local and regional sites for business training and conferences due to their corresponding lower cost impact on the City.

B. OUTSIDE OF THE UNITED STATES OR CANADA

Department Directors must provide written justification and projected costs to the City Manager for approval for all travel or training outside of the Continental U.S. This justification must include:

- 1) Why the training is necessary
- 2) The training received will have direct impact (s) on either the employee's regular job and/or City business
- 3) Similar training is not available within the Continental U.S. in the time frame necessary to obtain this training

20.3 ACCOUNTABILITY FOR TRAVEL EXPENSES

All expense reports must be accompanied by receipts (except mileage costs and per diem food allowance). A Mileage Form must accompany an expense report for mileage reimbursement.

20.4 TRAVEL PAY ADVANCES

- A. All advances to support official travel must be greater than \$100. Employees must complete and submit the Advance Form at least 10 business days prior to travel.

The advance request must be signed by the employee's supervisor or next higher level of authority prior to submitting to Accounting for distribution.

- B. Advances will not be approved for registration fees, airline tickets, etc., as these should be directly charged to the City.
- C. Advances will not be requested for more than the anticipated out-of-pocket allowable expenses the employee expects to incur.
- D. Unused advances must be returned to Accounting with the expense report within 5 business days after concluding travel.

20.5 TRANSPORTATION REIMBURSABLES

When attending conferences, seminars and professional meetings, employees are expected to choose the most economical means of travel available.

- A. **City Vehicle** - City-owned vehicles are to be used when practical and available.
- B. **Air Travel** - All air travel tickets will be purchased for the most economical fare available. In all cases, airline reservations should be made as far in advance as possible in order to receive airline discounts.

For air travel, the following expenses are not authorized for reimbursement:

- 1. Flight insurance
 - 2. Excess or overweight baggage charges
 - 3. Express check-in or early boarding charges
 - 4. In-flight entertainment
- C. **Taxi Service** - Taxi service is reimbursable. Receipts are required for reimbursement for individual charges in excess of \$25.
 - D. **Car Rental** - The following provisions apply:
 - 1. Employees travelling solo can rent a mid-size vehicle when it is more cost effective than using a taxi or shuttle service. Employees may accept complimentary upgrades offered by the rental car company.
 - 2. When more than two employees are traveling together, a full-size car may be rented. Only one of the employees can claim this cost on the travel reimbursement form. Employees may accept complimentary upgrades offered by the rental car company.

3. When more than three persons are traveling together, a mini-van or sport utility vehicle may be rented. Only one of the employees can claim this cost on the travel reimbursement form. Employees may accept complimentary upgrades offered by the rental car company.
 4. Employees will decline the liability/collision damage waiver offered on the rental contract, as this coverage is already provided through the City.
- E. Mileage** – The City will pay mileage from the Municipal Complex (4000 Main Street, Rowlett, Texas, 75088) to the address of the facility at which the training, conference or business meeting occurred as depicted in MapQuest, Google Maps, or other Internet-based mapping system, at the City's discretion.
1. Mileage will be reimbursed according to the IRS approved rate at the time of travel.
 2. The maximum mileage allowed for airport travel is 41 miles each way to/from DFW and 27 miles each way to/from Love Field. This mileage reflects the distance from the Municipal Complex to each airport.
 3. "On call" employees are not authorized mileage reimbursement for responding to after-hours calls. This is considered a job requirement.

20.6 OTHER RELATED EXPENSES

A. LODGING

When City business (conferences, training, etc.) requires overnight lodging, an employee is authorized to reserve a conference hotel room or nearby reasonable rate hotel room. Receipts are required for reimbursement.

B. REGISTRATION FEES

Any basic registration fee associated with attendance at an approved conference, seminar or professional meeting should be charged directly to the City. In a situation when this is not feasible, the expense will be reimbursed to the employee. Receipts are required for reimbursement.

Fees for special activities such as golf tournaments, personal sightseeing tours, etc., will not be reimbursable expenses.

C. PER DIEM FOOD ALLOWANCE

1. While attending out-of-town training, conferences, or business meetings that are beyond a 50-mile radius from the Municipal Complex, an employee will be reimbursed up to \$50.00 per day for the costs of meals, including tips. No receipts are required for this per diem. An employee may be reimbursed up to

\$60.00 per day for the costs of meals, including tips with itemized receipts attached.

2. Daily per diem calculations are set at a rate of:

\$10.00 for breakfast: 5:00 a.m. – 9:30 a.m.

\$15.00 for lunch: 10:30 a.m. – 2:00 p.m.

\$25.00 for dinner: 5:15 p.m. – 8:00 p.m.

These times reflect actual training or conference session times—not travel time.

Example 1: An employee who attends a conference that includes an agenda from 8:00 a.m. until 1:00 p.m. is eligible to file for reimbursement for both breakfast and lunch since those time fall within the eligible meal reimbursement windows.

Example 2: An employee who attends a conference that ends at 4:00 p.m. will not be reimbursed for dinner, even though travel time back to Rowlett will extend past the 5:15 p.m. dinner reimbursement “start” time.

3. When prior day travel is necessary, the employee is permitted to claim per diem beginning at the reasonable start of auto travel time or arrival at the airport, and concluding no later than the evening of the day the meeting or seminar concludes.
4. Where an employee combines business with personal expenses, such as bringing a spouse, or taking a side trip or vacation before, during or after the City business function, the employee must keep City business expenses separate and distinct from personal expenses.
5. Department Directors are authorized to approve and/or delegate approval for reimbursement for meals associated with an in-town (less than 40 miles from the City Municipal Complex) business meeting.

20.7 TIPS

Non-food tips are reimbursable expenses, which should be itemized, if not included in receipts used to document other expenses. Suggested rate is in the 15-18% range for taxi service and \$1.00 per bag for porters.

20.8 PARKING FEES

Toll fees, airport parking, and hotel parking fees are reimbursable expenses. Documentation is required for reimbursement.

20.9 MISCELLANEOUS CHARGES

Alcoholic beverage charges, dry cleaning or laundry, health club or spa, and pay TV movies will not be reimbursable expenses. Valet services will be considered reimbursable if the situation is one in which the employee has no other option.

Example: An employee may be reimbursed for valet charges when the hotel in which he/she is staying does not have on-site parking available.

20.10 TAXES

The City is exempt from the State of Texas Sales and Use Tax, and thus will not reimburse this cost. When making a purchase for City business, an employee should claim an exemption at the time of purchase by providing a properly completed exemption certificate in lieu of paying tax.

The City is not exempt from taxes on the rental of motor vehicles or state and local hotel occupancy tax. These costs, when incurred on official City business, will be reimbursed when receipts are provided.

20.11 REPORTING EXPENSES AND REQUESTING REIMBURSEMENT

Employees will submit expense reimbursement requests within 5 business days following the completion of travel.

LANCASTER CITY COUNCIL

City Council Work Session

5.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Quality Development

Submitted by: Opal Mauldin-Robertson, City Manager

Agenda Caption:

Discuss whether or not the staff should bring a resolution to the City Council to direct the Planning and Zoning Commission to hold a public hearing and make a recommendation to City Council to amend Section 14.505 of the Lancaster Development Code (LDC) to permit tilt-up wall construction as a matter of right in an industrial zoned district.

Background:

As prescribed in the City Council rules and procedures as amended September 2016, Section D. City Council Agenda Process, Subsection 1.b., Councilmember Marco Mejia requested that an item be included on the April 17, 2017 Work Session for the purpose of discussing Section 14.505 of the Lancaster Development Code (LDC) to permit tilt-up wall construction as a matter of right in an industrial zoned district.

Councilmember Mejia has requested City Council to consider amending Section 14.505 (a) General Industrial District Standards (1) to remove the exception requiring all tilt-up walls to be required to have approval by the Planning and Zoning Commission or City Council.

The LDC currently reads as follows:

Sec. 14.505 Industrial Districts

a. General Industrial District Standards.

1. **Construction Materials.** Exterior Walls - Each exterior wall shall consist of 100% masonry materials as defined in *Article 14.1300 Definitions - Masonry*, excluding doors and windows, on walls which are visible from a public street or open space, including a minimum of 20% stone.

All buildings shall have exterior walls constructed of stone, brick, glass block, tile, cast metal, cast or cultured stone, or a combination of those materials. The use of other cementaceous products (e.g. stucco, Hardy Plank, or other similar materials approved by the Building Official) shall be limited to 50% of the buildings exterior finishes where it is deemed important as a design feature and where it will be applied under the highest standards for quality and durability. However, stucco may not be located in the first 8 feet above grade on a façade visible from a street or public area.

Exceptions to this requirement, including allowing concrete tilt-up walls, may be permitted on a case by case basis by the Planning and Zoning Commission or City Council upon submission and approval of elevation drawings of the subject structure, and material samples.

LANCASTER CITY COUNCIL

City Council Work Session

6.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Healthy, Safe & Vibrant Community

Submitted by: Jim Brewer, Public Works Director

Agenda Caption:

Discuss and receive a presentation regarding the property located at 607 E. Main Street.

Background:

As prescribed in the City Council rules and procedures as amended September 2016, Section D. City Council Agenda Process, Subsection 1.b., Mayor Pro Tem Carol Strain-Burk requested that an item be included on the April 17, 2017 Work Session for the purpose of discussing the status of the commercial property located at 607 E. Main Street.

Operational Considerations:

In February 2015, the property located at 607 E. Main Street was significantly damaged by a fire. The condition of the property remains an eyesore. Several requests have been received from Mayor Pro Tem Carol Strain-Burk and Deputy Mayor Pro Tem Stanley Jaglowski requesting staff to explore options for addressing the situation. Staff provided memorandums to Council dated, January 20, 2016; July 21, 2016; November 16, 2016 and March 2, 2017.

Following is a sequence of events related to the property:

Property Owner of Record is James Travis Roberts, III.

- February 13, 2015 - property substantially destroyed by fire
Numerous notices of violation were sent to the property owner of record and the property duly posted. However, the property owner has his address of record noted as 103 North Dallas Avenue which is the address for the City of Lancaster Visitors Center and State Auxiliary Museum.
- July 14, 2015 - Staff requested three quotes for demolition of property. The requested bids did not include asbestos abatement.
- November 1, 2015 - Staff consulted with a title company and completed a title search.
- February 3, 2016 - Notice of violations sent to property owner and lien holders of record
- February 3, 2016 - Notice of hearing for Property Standards & Appeals Board
- February 25, 2016 - Agenda for Property Standards & Appeals Board posted
- March 2, 2016 - Property Standards & Appeals Board meeting - Board unanimously approved demolition. The property owner was not present at meeting.
- March, 2017 - Staff solicited an additional quote for demolition of property to include asbestos abatement.

Demolition would be at the sole expense of the City, as the owner has not responded to any previous notifications regarding the property. We can place an additional lien on the property with the knowledge and understanding that based on the value of the property, the delinquent taxes, outstanding vendor liens, City of Lancaster liens and a federal lien, it is unlikely that the City could recover any of the cost associated with demolition.

Fiscal Impact:

Dallas Central Appraisal District Records show the property valued as follows:

	2015	2016
Land	\$28,310	\$28,310
Improvements	\$189,610	\$1,000

The title search yielded the following outstanding liens as of October 2016:

Delinquent Taxes (City, County, Schools, Hospital District, Community College District)	\$26,311.80
Federal Tax Lien	\$14,144.63
April 1998 - Vendor Lien	\$47,100.00
February 2009-October 2016 City of Lancaster maintenance liens	\$4,022.75
July 2013 - Bank Loan/Lien	\$6,661.18
August 2015 - Vendor Lien	\$100,830.48
TOTAL	\$199,070.84

The lowest qualified vendor quote for asbestos abatement and demolition is: \$71,125.

LANCASTER CITY COUNCIL

City Council Work Session

7.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s): Financially Sound Government

Submitted by: Baron Sauls, Director of Finance

Agenda Caption:

Receive a presentation and discuss the Quarterly Financial Report for the second quarter of FY 2016/2017 for the period ending March 31, 2017.

Background:

The broad purpose of the City's Financial and Investment policy statements is to enable the City to achieve and maintain a long-term stable and positive financial position, and provide guidelines for the day to day planning and operations of the City's financial affairs. The following information is representative of the second quarter of fiscal year 2016/2017; January 1, 2017 through March 31, 2017. The reports will be distributed, presented and reviewed during the work session.

LANCASTER CITY COUNCIL

City Council Work Session

8.

Meeting Date: 04/17/2017

Policy Statement: This request supports the City Council 2016-2017 Policy Agenda

Goal(s):

- Financially Sound Government
- Healthy, Safe & Vibrant Community
- Sound Infrastructure
- Quality Development
- Civic Engagement
- Professional & Committed City Workforce

Submitted by: Opal Mauldin-Robertson, City Manager

Agenda Caption:

Discuss the Report of City Council Five Year Goals and Strategies established during the annual City Council Strategic Planning Session in June 2016 for the second quarter of FY 2016/2017.

Background:

City Council conducted an annual Strategic Planning Session in June 2016. This report represents activity for the second quarter of FY 2016/2017 (January 1 - March 31, 2017). This is a review of the implementation and progress on strategies and initiatives outlined in the 2016/2017 strategic plan and how said strategies connect to continued progress toward the realization of the Lancaster Vision.

Attachments

Quarterly Report

Operational Considerations:

Financially Sound Government - The City has a long-range financial plan and has prudent fiscal policies and processes in place. It has met or exceeded all fund reserve goals, has funds available to address the needs of the community, and responsibly manages its debt. The community continues to move toward a more competitive tax rate.

1. Bond refinancing (refunding) is an important debt management tool for the city. Refunding is commonly executed to achieve interest cost savings, remove or change burdensome bond covenants, or restructure the stream of debt service payments to avoid a default, or in extreme circumstances, an unacceptable tax or rate increase. The City refunded \$6,650,000 in general obligation bonds with a savings of \$770,000.
2. Oversight and management controls covering all of the city's operations with a focus on accountability at each department or function are critical to strong credit rating. The City maintained its credit rating of Aa3 with Standard & Poor's.
3. The City received the Comptroller's office Transparency Award in two areas including traditional finances for exemplary efforts in creating financial transparency around public services and spending decisions; and debt obligations for exemplary efforts in creating financial transparency around public debt.
4. BKD LLP CPA's and Advisors completed the Comprehensive Annual Financial Report audit of the City Financial Statements for the Fiscal Year ended September 30, 2016.
5. The Finance Department submitted the FY 2016 Comprehensive Annual Financial Report (CAFR) for the Certificate of Achievement for Excellence in Financial Reporting Award to the Government Finance Officers Association.
6. The Finance Department submitted the Continuing Disclosure Report for the Fiscal Year Ending September 30, 2016.

Quality Development - The City encourages high quality construction in its housing, commercial buildings and public facilities. The City employs sustainable building practices and encourages conservation and the use of alternative energy sources. The City has a diverse housing stock with walkable neighborhoods and other high quality neighborhood amenities. A diversity of commercial businesses includes corporate business parks and distribution facilities, which make use of the expanded airport, rail, and highway system. Retail areas have grown because of growth in industrial, commercial and residential development.

1. Develop a "Land Bank" strategy for City property.

Staff is researching land banking best practices used as an economic development tool as well as an opportunity to sell property directly rather than through Dallas County Sheriff's office for the purpose of revitalizing blighted areas and homes.

Staff is in the process of identifying a list of properties available for the program. Staff met with the City Attorney to create a framework for a program unique to the City's needs and to continue researching Land Banking options.

2. Develop a plan to show Developers the opportunities for building custom homes.

The City hosted a Broker and Developer Luncheon on November 9, 2016 with participation from Lancaster ISD and The Retail Coach. Staff is continuing outreach to residential and commercial real estate organizations represented in the DFW area.

3. Create and implement a retail strategy so we are clear on what types of retail development the City wants to attract.

Staff continues to work with The Retail Coach and utilize their material and contacts to reach targeted retailers. Staff has a list, independent from Retail Coach, we are reaching out to. Staff is collecting available property for distribution prior to a stronger outreach effort.

The Economic Development page on the website has been updated. The aerial map on the website was replaced with a GIS interactive map showing specific areas, traffic counts, and community amenities. Staff purchased LancasterRetail.com and forwarded the domain name to the retail recruitment section of the City website. The objective is to make finding information easy for prospects and to use the City website to disseminate information.

Staff is awaiting final population numbers from the NCTCOG, and will order USB cards for the ICSC Conference once we have the final numbers. The cost and feasibility for a mobile application is being explored for collection of information from prospects, and to immediately send Lancaster information to the prospect. Appointments will be arranged beginning in mid-April.

4. Downtown Tax Increment Finance District (TIF).

Staff will utilize the implementation plan and tools from the recently adopted comprehensive plan to explore appropriate steps for the creation of a TIF district within the downtown area. Staff has made a presentation to Council regarding options for implementation of a TIF.

New City Hall – Staff has met with several consultants regarding design elements and cost estimating for a City Hall.

Staff is in communication with Dallas County to determine strategies for TIF feasibility and creation in both the Lancaster Campus District and Historic Downtown.

5. Complete the Update of the Comprehensive Plan; Including: Adopting Ordinances to Ensure Consistency of Companion Ordinances.

Council approved the Comprehensive Plan update in October 2016. Staff is in the process of evaluating the LDC for conflicts in order to bring before City Council in early spring. At the December 19, 2016 work session, City Council heard a presentation on the Tree Preservation and Landscape Ordinance. A work session was held on February 6, 2017 to discuss the Tree Preservation and Landscape Ordinance.

The planning consultant is in the process of reviewing the Lancaster Development Code and other related plans for conflicts related to the recent adoption of the comprehensive plan. A town hall meeting and joint Planning and Zoning Commission and City Council meeting are being coordinated for early May to discuss revisions.

6. Review Economic Development Policy.

Staff received final proposals for an Economic Development Strategic Plan once the proposals have been reviewed Council will receive an update.

During the current reporting period, 56,705 square feet of new or formally empty space was occupied by business operations.

7. Review Existing Incentive Policy.

The Comprehensive Plan Update was completed in October 2016. As part of implementation staff obtained access to <https://texasbusinessincentives.com/> to compare with our existing incentive policy.

An amendment to the existing incentive policy is to be presented to City Council on April 24th. It will be inclusive and specific to lodging facilities. Additional incentive concepts will be presented to Council late Spring or early Summer.

8. Develop a strategy to pursue the development of a nationally brand hotel/convention center in Lancaster.

In the first quarter of FY 2016/2017 staff has compiled a list of national chains and reached out to each chain, sending personalized material to targeted hotels. This was followed-up by phone calls and other communication to the targeted hotels.

In the second quarter, seventy-five letters were sent to local hotels to provide information regarding the City of Lancaster.

Staff is currently working with a national chain that is planning to locate within our community. Currently, the effort is to assist in developing a larger and more encompassing facility.

9. Recruit Quality Commercial, Industrial and Retail Jobs.

In the first quarter of FY 2016/2017 The Retail Coach contacted 33 targeted retailers and we responded to one RFP from the Governor's office.

In the second quarter of FY 2016/2017 staff conducted 10 sales calls on commercial/industrial brokers, developers and potential end users promoting Lancaster as a location for solutions to their logistic needs. Staff responded to 13 inquiries for information regarding Lancaster as a potential location for potential expansion and/or relocation needs. Staff met with one national retailer and plans for an industrial facility have been submitted to the city.

10. Code Compliance Commercial Quarterly Inspections:

Business	Address	Violation	Action	Status
Dakk's Fine Cars	1810 I-35E	parking on unimproved surface	1-9-16 verbal & photos	2-13-17 voluntary compliance
Vacant building	2400 N I-35E	fence leaning	1-9-17 notice processed	04-11-17 Issuing citations
Vacant building	1005 W. Pleasant Run	dead bush in the right of way	1-9-17 notice processed	2-22-17 voluntary compliance
Lancaster Plaza	1023 W. Pleasant Run	rodent infestation complaint	1-10-17 notice processed	2-22-17 store closed
Dollar General	1220 Dallas Avenue	sign in disrepair	1-10-17 notice processed	2-22-17 voluntary compliance
Express Lube	1220 Dallas Avenue	fallen gas sign	1-10-17 notice processed	1-26-17 forced compliance
Express Lube	2253 W. Beltline	overhanging tree limbs	1-10-17 verbal to store mgr.	2-22-17 voluntary compliance
Dollar General	607 E. Main	grass and weeds violations	1-10-17 notice processed	3-22-17 forced compliance
Substandard bldg.	1810 N. I-35	zoning violation	1-10-17 notice processed	2-13-17 voluntary compliance
Dakk's Fine Cars	506 E. Second	parking on unimproved surface	1-18-17 notice processed	3-23-17 voluntary compliance
No name	501 E. Second	fence in disrepair	1-18-17 notice processed	3-23-17 extension
Vacant Land-commercial	501 E. Second	storage of inoperative vehicles	1-18-17 notice processed	2-13-17 voluntary compliance
Vacant Land-commercial	1015 W. Pleasant Run	banner/sign permit	1-18-17 notice processed	2-22-17 banner removed
Jamaican Restaurant	1013 W. Pleasant Run	banner/sign permit	1-18-17 notice processed	2-22-17 banner removed

Vibe Hair Salon	930 N. I35E	brush/bulk behind dumpster	2-6-17 notice processed	3-23-17 voluntary compliance
Hwy Express Inn & Suites	920 N. I35E	litter/trash/debris	2-6-17 notice processed	2-22-17 voluntary compliance
vacant lot	940 N. I35E	litter/trash/debris	2-6-17 notice processed	2-22-17 voluntary compliance
vacant lot	1518 N. Dallas Avenue	high grass and weeds	3-1-17 notice processed	3-17-17 forced compliance
Vacant Land-commercial	1360 N. I-35E	litter/debris	3-1-17 notice processed	3-6-17 voluntary compliance
Shell Station	710 W. Pleasant Run	litter/debris	3-1-17 notice processed	3-21-17 voluntary compliance
Shell station	2480 N I-35%	grass and weeds violations	3-1-17 notice processed	3-24-17 voluntary compliance
Vacant Land-commercial	1616 N. I-35 E	grass and weeds violations	3-1-17 notice processed	3-16-17 voluntary compliance
Advanced Machining & Tool	1620 N. i-35E	grass and weeds violations	3-1-17 notice processed	3-16-17 voluntary compliance
CT Sport Inc.	3215 W. Pleasant Run	litter/debris	3-6-17 notice processed	3-14-17 voluntary compliance
Commercial building	3215 W. Pleasant Run	trim trees/cut the grass	3-6-17 notice processed	met Mr. Muhammed in the office request extension 3-14-17
Commercial building	3215 W. Pleasant Run #120	banner/sign permit	3-6-17 notice processed	3-14-17 voluntary compliance
Lancaster Star	3215 W. Pleasant Run 105	trash in back of bldg.	3-6-17 notice processed	3-14-17 voluntary compliance
Dan's Seafood	3215 W. Pleasant Run 105	banner/sign permit	3-6-17 notice processed	3-14-17 voluntary compliance
Dan's Seafood	3215 W. Pleasant Run 110 B	trash containers and trash in back	3-6-17 notice processed	3-14-17 voluntary compliance
Cleaner's	3225 W. Pleasant Run	dumpster debris	3-6-17 notice processed	3-14-17 voluntary compliance
Commercial building	3225 W. Pleasant Run	faulty weather protection	3-6-17 notice processed	extension granted 3-14-17

11. Hot Spot and Illegal Dumping abated by Code Compliance:

Address	Date	Work conducted	Community Service
400 Saddlebrook	1/10/2017	illegal dumping	code enforcement
Main & Houston School rd.	1/10/2017	illegal dumping	code enforcement
Donlee & Sunny Meadows	1/10/2017	illegal dumping	code enforcement
Across from 700 E. Main	1/6/2017	illegal dumping	code-Fabrice
Wheatland Road	1/10/2017	illegal dumping	code
Bear Creek & Bluegrove	1/9/2017	illegal dumping	code
April Showers & Dizzy Dean	1/9/2017	illegal dumping	code removed
Hall & Pleasant Run	17-Jan	illegal dumping	removed by code
Taylor & Daniel	1/11/2017	illegal dumping	removed by code
Catalina	2/8/2017	litter and debris along the alley	CSW & code
876 Pleasant Run	2/8/2017	hot spot from council	CSW & code
Ten Mile and Bear Creek	2/8/2017	hot spot from council	CSW & code
3rd and Cornell	2/8/2017	hot spot from council	CSW & code
Nancy	2/2/2017	grocery stored carts in alley	code supervisor
Pleasant Run	2/8/2017	discarded pots and pans in street	code supervisor
Donlee & Sunny Meadows	2/22/2017	mattress/building materials	CSW & code
2925 Dallas Avenue	2/22/2017	illegal dumping	CSW & code
1541 Robin Lane	2/22/2017	illegal dumping	CSW & code
1338 Rogers Avenue	2/22/2017	illegal dumping	CSW & code
Beltline and SH 342	2/21/2017	illegal dumping hot from council	CSW & code
Pleasant Run & Cornell	2/8/2017	illegal dumping hot from council	code
876 Pleasant Run	2/8/2017	illegal dumping	code and csw
2301 W. Main	2/1/2017	illegal dumping	code and csw
Brookhaven & Dallas	1/27/2017	illegal dumping	code and csw
600 block of Redbud	1/27/2017	illegal dumping	code and csw
2900 block of Mayfair	1/27/2017	illegal dumping	code and csw
Pleasant Run & Glendover	2/21/2017	not illegal dumping-council	street department
500 W. Pleasant Run	2/28/2017	fence panels	removed by code

At the Chamber of Commerce Luncheon in October 2016 the City Manager and Superintendent of Schools presented a joint work plan to the City Council and School Board regarding projects and programs the two organizations are working on to further the established partnership. The plan was titled Village 2020.

Village 2020

- One of our goals is to get more LISD District employees involved on Boards & Commissions. Boards and commissions applications and information was sent to the LISD Communications Division to provide to LISD employees.
- Ten LISD employees participated in the 2016/2017 Civic Leadership Academy.

- Both 2nd and 6th grade students became registered library card holders at the Lancaster Veterans Memorial Library. On January 9, 2017 the City Council approved the resolution to allow school district employees (non-Lancaster residents) the ability to apply for library cards and the partnership to collaborate with T-Mobile to allow students to check out “hot spots” in an effort toward extending “WIFI” throughout the city.
- There are 5 student council members now serving on the Youth Advisory Council (YAC).
- City Council has recognized various schools, students and student organizations for their achievements within the district, to include Football Team, Basketball Team, Band and National Attendance Month classes to name a few.
- LISD recognized City Council members and staff for participating in the “My Brother’s Keeper”.

Healthy, Safe, & Vibrant Community - Lancaster is a place where we enhance public safety in our neighborhoods. The community unites at city-wide events and participates in recreational and cultural activities that keep residents involved and engaged in their respective neighborhoods. Compassionate enforcement personnel help to sustain vibrant residential and business communities. All residents have access to Parks and leisure facilities where they live.

1. Lancaster Animal Shelter in partnership with the Texas Coalition for Animal Protection (TCAP), a non-profit organization, offers low-cost veterinarian services on the third Tuesday of each month.
2. Low-cost vet services consisting of spaying/neutering are available by appointment only.
3. Since January 2016, 37 animals have undergone surgery (spay/neuter) and 69 have received the rabies vaccine through the transport service.
4. Oncor continued their partnership with the City to plant seasonal color beds with annual flowers and to help beautify Bear Creek Nature Park. Oncor agreed to purchase some materials and organize volunteers to plant over 1,500 annuals and perennials at four difference sites. Bear Creek Nature Park was set up for the families of staff and volunteers who spent the day in fellowship with a cookout, fishing and family activities.
5. Volunteers from United Natural Foods Incorporated (UNFI) planted over 500 drought tolerant Lantana, Salvia and Sweet Potato Vine at Town Square and Heritage Park. They also repaired the educational kiosks replacing frames, shingles, sign boards, and trimmed low tree limbs at Bear Creek.
6. Atmos Energy and the Texas Trees Foundation provided the city with thirty new trees, including Live Oaks and Red Oaks. These trees were planted by Texas Trees

Foundation workers, and drip watering bags and mulch were also provided. The trees were installed at Community Park, City Park, and Meadowcreek Park.

7. Creeks and large drainage areas: removed all debris and large trees from golf course, Ten Mile Creek on Nokomis and Houston School Road.
8. Christmas trees were collected in January and disposed of at Living Earth. The company collecting the trees did not keep track of the tonnage.

Lancaster Police Department Update

On January 4, 2017, the Lancaster Police Department received the award of "Recognized Law Enforcement Agency" from the Texas Police Chiefs Association Law Enforcement Recognition Program. The program evaluates a Police Department's compliance with over 166 Best Business Practices for Texas Law Enforcement.

1st Quarter vs 2nd Quarter 2016/2017 OFFENSES				
	1Q	2Q	UP/DOWN	PERCENTAGE
Assault	92	95	3	3.26%
Burglary Building	17	12	-5	-29.41%
Burglary Habitation	59	40	-19	-32.20%
Burglary Vehicle	104	82	-22	21.15%
Criminal Mischief	83	75	-8	-9.64%
Drug Crimes	56	33	-23	-41.07%
DWI	17	13	-4	-23.53%
Financial Crimes	23	30	7	30.43%
Information Report	274	309	35	12.77%
Mental Evaluations	20	27	7	35.00%
Murder	0	0	0	34.78%
Robbery	23	31	8	34.78%
Runaways	26	20	-6	-23.08%
Sex Assault	8	4	-4	-50.00%
Theft	136	107	-29	-21.32%
UUMV	73	62	-11	-15.07%
ARREST				
	1Q	2Q	UP/DOWN	PERCENTAGE
Arrest	378	489	111	29.37%
CALLS FOR SERVICE				
	1Q	2Q	UP/DOWN	PERCENTAGE
Total Calls	15483	16321	838	5.41%
Close Patrols	4583	5561	978	21.34%
House Check Request	37	21	-16	-43.24%
House Check Calls	85	47	-38	-44.71%
PATROL				

	1Q	2Q	UP/DOWN	PERCENTAGE
Traffic Stops	2417	2266	-151	-6.25%
Field Contacts	112	123	11	9.82%
WARRANTS				
	1Q	2Q	UP/DOWN	PERCENTAGE
New Felony	26	27	1	3.85%
New Misdemeanor	39	34	-5	-12.82%
New Warrants Total	65	61	-4	-6.15%
Served	17	36	19	-111.76%
ACCIDENTS				
	1Q	2Q	UP/DOWN	PERCENTAGE
Total Accidents	138	161	23	16.67%

Municipal Court Update

- The second quarter of FY 2016/2017 the Municipal Court collected revenues of \$539,651. This is a decrease of \$98,179 from the same period last year of \$637,830.
- There were a total of 2,398 cases filed, 1,192 trials/hearings, and 2,284 dispositions the second quarter of FY 2016/2017.
- In the second quarter of FY 2016/2017 the Municipal Court, City Marshal's and Police officers cleared 1,307 warrants, with a total of \$78,105 in collections. This is an increase of 178 cleared warrants from the same period last year of \$15,380.

Village 2020

- Public Safety coordinated with LISD to receive floor plans for all LISD schools in the event of an active shooter situation where they might be needed. Floor plans are located in our GIS office.
- The Mayors Health and fitness Council was launched on January 9, 2017 between the City, School District, and entire city. Recreation staff and the School District met to align recreation programs with athletics. Winter basketball leagues began practice with over 80 teams practicing and competing utilizing four of LISD campus gymnasiums and Lancaster Recreation Center.
- LISD staff were invited to participate in a shooter simulation training at the Public Safety Building on April 6, 2017 from 10:00 am to 6:00 pm.
- LISD continues to participate in both National Night Out (NNO) activities hosted by the City of Lancaster.

Professional & Committed Workforce - Lancaster city government is an employer of choice with competitive pay that attracts an engaged, responsive, customer-oriented, innovative, and effective workforce. Some employees live in the City and all have a sense of ownership of the community. City employees feel needed and appreciated by elected officials, residents and businesses and are respectful to and appreciative of their customers and the City's governing body. The City's executive staff is engaged with residents and attends community events, upholds strong customer service, and uses technology to aid them in working smarter.

1. Lancaster University – Establish a professional level training program for all levels of employees.

HPO Seminar – Building High-Performance Organizations – Continued efforts to improve the organizational culture with emphasis on quality customer service and leadership in the hands of the employees delivering the service is the basic premise to becoming a “high-performing organization” defined as simultaneously delivering appropriate product and service quality with excellent execution quality, outstanding customer value, and sound financial performance.

On March 10, 2017, the City of Lancaster closed operations to provide a full day of leadership and professional development for all city employees. Topics included customer service, servant leadership, energized support for organizational goals and objectives, as well as technical classes on software programs commonly used by employees. The program was received well by employees, and many commented on how grateful they were to have council support for employee development.

2. Continue Compensation Policy – Commitment to Average of Survey Cities – Progression.

We have worked collaboratively and strategically with the City Council regarding employee compensation and retention. Compensation has been an objective of the Council for the past three years. It remains a City Council objective. While we still have progress to make, we have accomplished milestones with compensation, comparable benefits and creating opportunities for career progression.

In 2015/2016 City Council approved a 2% increase to the pay plan and with recent FY 16/17 budget adoption an additional 5% employee, 3% executive and 2% part time employee increase was approved.

Staff is preparing an updated presentation for City Council at a future work session.

3. The City received for the second year the Clean Fleet Award from the North Central Texas Council of Governments for compliance in fleet and facilities.
4. Through our Community Service program, the Municipal Court Judge has the authority to require a defendant to discharge all or part of the fine or costs by performing community service if the judge determines the defendant has insufficient resources or income to pay the fine or costs. With the assistance of these

defendants, staff has been successful in addressing illegal dumping throughout the City.

Village 2020

- The City and LISD Human Resource Departments are collaborating and sharing links to employment pages for job opportunities.

Sound Infrastructure - The City has well-maintained streets and well-planned preventative maintenance programs for infrastructure which including streets, water, storm water, wastewater and other assets.

1. Infrastructure project – Pleasant Run Road Phases 1, 2 & 3-4.

Pleasant Run Road was listed on the 2007 Bond Program for street improvements. The cost for completing Pleasant Run Road street improvements (removal and replacement of existing concrete pavement) exceeded \$15M. As an alternative, an engineering design for limited pavement replacement will be completed. This will include a visual inspection of existing pavement, removal of the existing pavement, and other services (topographic survey, geotechnical investigation, etc.) needed for the installation of new concrete pavement matching existing.

Due to cost constraints of completing all of these improvements at one time, this project will be divided into 4 separate phases: 1) From IH35E to Houston School Road, 2) Houston School Road to Blue Grove Road, 3) Blue Grove Road to Rogers Avenue, and 4) Rogers Avenue to Dallas Avenue (SH342). Each phase will be advertised and constructed separately based on available funding. In addition, this agreement will also include limited water and storm drainage improvements within the project limits. Council will receive an agreement for consideration late Spring.

2. Complete Golf Course Assessment.

In January 2016, the City employed the professional services of Marvin's Paint and Remodeling, LLC to conduct a visual assessment on the clubhouse.

Staff issued an RFP for an assessment on non-structural elements of the course. The initial phase (site visit) for the Golf Course Assessment took place in June 2016 at Lancaster Country View Golf Course. The assessment was completed by Touchstone Golf.

The opportunity assessment of the Lancaster Country View Golf Club was completed this quarter. The findings and recommendations were presented to City Council at the January 9, 2017 work session.

Overall findings indicated that the Golf Course is in need of over \$6MM in Capital Improvements to increase its market share. The existing contract is set to expire on December 31, 2017. City Council was briefed at the April 10, 2017 regular meeting with options regarding the direction that City Council may choose to take.

3. Complete Facility and Infrastructure needs – Assessment for future Bond Issue.

In December of 2015, the City employed the professional services of Marvin's Paint and Remodeling LLC to conduct the assessment on all city facilities. Staff is in receipt of the report and Council received a presentation at the July 2016 work session. Carpet replacement and painting of the Recreation Center was completed in the second quarter of 2017 as part of the initial program. A request was made to include the Lion's Den, and staff is preparing a presentation to council after the audit presentation in May 2017.

4. Complete the Fleet Maintenance Facility.

In May 2016, the contractor mobilized for early grading and utility relocation. The building pad was graded for construction, water and sewer lines have been installed, and the grade beams and building pad have been poured. The parking lot is completed and the building structural frame is completed. Project is expected to be completed in May 2017.

5. Sidewalk Replacement Program.

Sidewalk Replacement Program – In the first and second quarters of FY 2016-2017 six sidewalks have been replaced.

6. Roadway Construction.

Lancaster Hutchins, and Rogers reconstruction was completed in January 2017. Over 2.74 lane miles of roadway was repaired as well as 1.72 miles of water main and .19 miles of sewer main miles in 2016/2017.

7. Lancaster Hutchins Road and E Second Street water main replacement is complete.

8. The Sanitary Sewer Overflow Initiative was submitted to TCEQ on March 28, 2017, ahead of schedule from TCEQ deadline.

9. Water line upgrade on Second Street from Main Street to State Street is complete.

10. The water line upgrade on Main Street between Cedar Street and First Street is in construction phase. The project should be completed by June 2017, weather permitting. This is by Rumsey and from the LH project.

11. On March 27, 2017, Council approved the water meter register replacement program for 3,000 additional registers. Staff placed the order on March 28, 2017 from Hydro Pro Solutions and the estimated delivery of the registers is June 2017.

12. CDBG:

- Curb & Gutter on Arbor Street and Carol Street are complete and asphalt repair is pending (awaiting the school construction to be completed).
- Street reconstruction project on Rogers Street completed.

13. Mosquito Control: standing water treatments repeated every 15 to 30 days. Standing water was last treated in November 2016. Treatment was to resume in March 2017, however it was postponed due to the rains. The next treatment will begin when the weather forecast shows a full week without rain and be repeated every 15 to 30 days.

Village 2020

- The City partnered with the School District to review current library software and to ensure that the most utilized, educationally focused software is purchased for students. Parent tutorials prepared by LISD will be available in the library circulation by January 30, 2017. Current usage of the Library was reviewed, and staff implemented a sixth grade library card roll out on December 14th and 15th, 2016.

Civic Engagement - The City provides a variety of opportunities for involvement through special events, boards and commissions, youth and parent volunteer opportunities in recreation, sports teams, City Elections, Civic Academies, Schools and City-wide celebrations.

1. A new App called Recycling Coach is available to citizens via their smart phones. The app allows a resident to enter their address and always know their trash, recycling and bulk trash schedules. Staff and residents continue to volunteer for our quarterly Trash-off events.
2. On January 14, 2017, was the MLK Day Parade.
3. On January 18, 2017, was the Leadership Southwest Government & Economic Development Day in Lancaster.
4. Staff participated in My Brother's Keeper Summit at Cedar Valley College on January 20, 2017.
5. The Mayor's Love your Healthy Self Health Fair was on February 16, 2017. Nearly 20 vendors distributed healthful tips on becoming and staying healthy. Bicycle and Zumba demonstrations were provided at the health fair.
6. On March 21, 2017, Open Meetings Act training was offered to all Board and Commission members as well as City Council and staff.
7. The Mayor's Couch to 5k brought out walkers and runners of all ages on March 25, 2017 to participate in the It's Time Texas Community Challenge.

Recreation

- The annual Education Appreciation Breakfast was held on January 3, 2017 at the Library. In attendance were nearly 300 LISD educators and administrators.
- On January 21, 2017, the Lancaster Youth Advisory Committee assisted with the City-Wide Trash off event.

- On January 24, 2017, the S.A.F.E. Program visited the Perot Museum and participated in a hands-on program in which participants learned about simple machines and how they operate.
- On January 25, 2017, the Lancaster YAC committee traveled to Austin, Texas to help the Texas Recreation and Park Society lobby for the 85th legislature.
- On February 7, 2017, the S.A.F.E. Afterschool Program participated in “The Healthy Cooking School” sponsored by Azar Foundation. The participants learned how to cook and eat healthy meals that can be easily prepared at home.
- On February 10, 2017, the Annual Parent/Child Valentine’s Dance was held at the Recreation Center and as many as 110 participants attended.
- On February 11, 2017, the Lancaster Soccer Association held its preseason Soccer Camp Powered by Challenger Sports at the Lancaster Soccer Complex.
- On February 25th and 26th, 2017, the Lancaster Youth Advisory Committee attended the 17th Annual Texas Municipal League’s Youth Advisory Council Summit which was hosted at the Abilene Civic Center in Abilene, Texas. Lancaster YAC joined over 600 young adults from all over the state of Texas in a conference-style event to showcase what they had accomplished this past year.
- On February 28, 2017, the Challenger Sports Soccer Association along with Lancaster Recreation staff held a Preseason Pep Rally at West Main Elementary. Challenger Sports wanted to get the players and teachers excited about the upcoming season.
- On March 7, 2017, the S.A.F.E. Afterschool Program participants geared up for the Mayor’s “Couch to 5k” event by partaking in relay races on the indoor track.
- On March 16, 2017, the Handles and Hoops Basketball Camp was held at the Lancaster Recreation Center. The participants learned different drills such as passing, shooting, dribbling, and rebounding. This camp focused on the importance of teamwork while gaining a better knowledge of basketball.
- On March 18, 2017 the Lancaster RBI Association held its Opening Day Ceremonies. Activities for the day included 2017 RBI player introductions, Pitch—Hit & Run competition, bounce houses, and food. A special thanks to the Texas Rangers Foundation, all of our volunteer coaches, and team moms of the Lancaster RBI Association for making this event a huge success.
- On March 20, 2017, the Youth Advisory Committee gave an update of their activities to City Council during the city council’s work session.
- On March 23, 2017, as part of the Mayor’s Community Challenge, City employees competed with Cedar Valley College employees in a friendly game of Basketball.

2016/2017	October	November	December	January	February	March	Total
Membership Scans	3,321	3,032	2,990	3,143	3,121	3,611	19,218
Daily Passes	52	98	141	49	53	55	448

Library

- A new library program called Hook, Yarn and Needles was introduced this quarter. It is a knit and crochet group that meets every Tuesday at 2:00 p.m. All skill levels are welcome.
- The Institutional Library Card was introduced this quarter. Institutional cards allow non-resident members of local businesses to check out library items. A local business owner or director can submit a letter with company letterhead to the library requesting permission for their employee/s to receive institutional library cards.
- Mobile hotspots were introduced for checkout allowing users the ability to receive Internet connections in areas that do not have Wi-Fi access. The Hotspots can be checked out to users for 14 days. This is in conjunction with the City of Lancaster and Lancaster ISD Village 2020 strategic plan.
- The Teen Club participated in the Grinch Escape Room during the Christmas holiday. It was so successful we introduced a new Escape room called the Wizard's Escape Room based off the Lord of the Rings Trilogy. Escape rooms allow teens to work together in teams in order to solve a series of questions that lead to the access of escape codes.

Senior Services

- The first Tuesdays of January, February, and March, the Dallas County Health and Human Services, provided a Health and Wellness Clinic to the senior membership, which included flu shots, blood pressure checks, assessment of sugar levels, cholesterol checks, body weight assessments, and other related health screening.
- On January 10, 2017, the senior membership participated in a Senior Spades Tournament.
- During the week of January 23, 2017, the senior membership received a special visit from Judge Valencia Nash and Constable Tracy Gulley. Judge Nash's presentation was a legal seminar which covered the topics "Protecting Your Property", "How to File Suit in Justice Court", and "Debt Claims and Credit Card Questions".
- During the week of January 23, 2017, representatives from Mary Kay provided the senior membership with facials and nail polishing for men and women, and discussed the benefits of proper and aging skin care.
- On January 27, 2017, the Senior LIFE Center was awarded with additional Title III Funding for the Congregate Meal Program, sponsored in part by Dallas County.
- On February 2, 2017, representatives of AARP began free tax preparation for seniors which will run through April 13th.

- On February 10, 2017, the senior membership celebrated Valentine's Day with a Senior Valentine's Social. Seventy-two senior members were in attendance. The program included a skit entitled "Love in the Midst of a Storm" and a comic relief provided a "Laughter is Medicine" set. There were tabletop games and door prizes at the social event.
- On February 15, 2017, the finishing touches were placed on the Black History Tree in the lobby, which sparked a lot of interest from senior members and visitors.
- On February 16, 2017, twenty-one senior members attended the Mayor's Community Health Fair at the Lancaster Recreation Center. Local chiropractic and dental representatives were a few of the vendors onsite providing the senior membership with information.
- On February 17, 2017, the Senior LIFE Center presented its annual Black History Program, celebrating the vital roles that African Americans have had throughout history and continue to make in the development of our past, present, and future. Senior members shared their personal "reflections" of Black History". The senior membership also had the opportunity to laugh and enjoy comedian, Ms. Staci Holloway.
- On February 20, 2017, the Lancaster Police Department presented the senior membership with information relative to Senior Tax Fraud and Scams. Law enforcement personnel talked about the importance of having identify theft protection, checking their credit report on a regular basis, chip implants on debit and credit cards, awareness of fraudulent phishing and false IRS phone calls, and being aware of your surroundings during the issuance of monthly social security deposits. Thirty-seven members were in attendance.
- During the week of February 20, 2017, senior members participated in the opening ceremonies of the Dallas Area Senior Games. A senior member placed third in the 5K Run/Walk and qualified for the National Senior Games to be held in Birmingham, AL in June 2017.
- On February 24, 2017, the senior membership participated in Senior Oracle Speeches.
- On February 28, 2017, the senior membership participated in a senior outing to the 2017 Dallas Area Senior Games at the Harry Stone Recreation Center to observe the dynamics of senior Pickle Ball. Twenty-four members participated in this activity.
- On March 7, 2017, a representative from the Dallas Area on Aging spurred a lot of interest amongst the senior membership about the DAAA Diabetes Self-Management Program, a six week, hands-on training. DAAA also provided a Will Clinic which provided information to the senior membership on the importance of being prepared for death, which includes having a valid and current will. DAAA worked with local and volunteer attorneys to make this event a successful one.

- On March 22, 2017, the senior membership attended and participated in the “Senior Tsunami” sponsored by the Silver Summit and Senior Solutions. “Senior Tsunami” was an event intended to assist seniors ages 55 and above to prepare for natural disasters, and “aging in place”. This free event provided the senior membership with free preparedness binders, tee shirts, notary services, and lunch.

Visitor’s Center and State Auxiliary Museum

- In January, a training for BMW was held at the Visitors Center for staff training. BMW was elated about this opportunity, and has expressed a desire to have quarterly staff trainings at this wonderful, historic venue.
- In January, the City of Lancaster collaborated with Leadership Southwest to provide a venue for the Class of 2017 to get a historical perspective of the City of Lancaster. School Board trustee Ms. Ellen Clark gave a historical perspective of the Lancaster ISD history, as well as, early settlers to the Lancaster Community. Museum staff provided guided tours for over 30 participants highlighting the wonderful exhibits in the museum.
- In March of this quarter staff received a wonderful donation from Mr. & Mrs. Ted Burk. The Visitors Center grounds will now display a historical marker of “Steel Dust the Fabulous Quarter Horse” that details the history of this race horse along with its lineage, owner and races won. This cast-aluminum plaque was read into the minutes in the form of a recognition at the April 10, 2017 City Council meeting and installed later that week.

Parks

- Adopt-a-Spot volunteers reported just under 21 hours and picked up over 3 cubic yards of litter and debris. The following groups have adopted listed parks and rights-of-way.
 Leading by Example-Meadowcreek Park
 Brasscraft-S. Lancaster-Hutchins Road
 Cold Springs Church of Christ-W. Main
 Rusty Lemley-S. Houston School
 Church of Christ at Cedar Valley-W. Wintergreen
 Lemley and Scott-Parkerville
 Boy Scouts Troop 1141-Kids Square
 Girl Scouts Troop 305-Community Park
 Johansen Lighting Products-City Park
- On March 4, 2017, Arthur Arroyo and fellow boy scouts spread mulch on the soft surface nature trails at Bear Creek Nature Park to provide ADA accessibility. Also, Mr. Arroyo repaired and replaced park signage throughout the park. Arthur completed this as his community service project to earn Eagle Scout ranking.
- Oncor completed the installation of utilities at Bear Creek Nature Park to power the newly installed restrooms. Bear Creek is now open to the public again.

Vision 2020

- Staff attended the LISD Mixer at the Lancaster High School for recruitment of YAC members.
- To ensure that the most utilized, educationally focused software is purchased for students staff partnered with Dr. Mosley, Nick Smith and Kim Lane. Parent tutorials prepared by LISD will be available in Veterans Memorial Library circulation by April 30, 2017.
- Staff met with Dr. Helena Mosely to discuss the implementation of "HOT SPOTS" to be added to the circulation and checked out at the library for students/ families that do not have "WIFI" in their respective homes. Dr. Mosely presented to their cabinet and the district approved to purchase one year for 30 hot spots to deploy from the library to students. Policy was adopted by city council in January 2017. There will be a parent connect meeting on April 25th and 27th at the Veterans Memorial Library to educate parents even further as to how these devices can be accessed.
- Staff continued the partnership with Beverly Humphrey and Chris Gilbert to align recreation programs with athletics and coaches from school districts. The winter basketball league began practice with over 80 teams practicing and competing utilizing LISD campus gymnasiums and Lancaster Recreation Center.