Board Information

MEMORANDUM

TO: **Ray Gosack, City Administrator**

FROM: Richard B. Jones, Director of Human Resources

DATE: August 31, 2011

SUBJECT: **The City of Fort Smith Human Resources Policy Handbook Final Draft**

The City of Fort Smith Human Resources Policy Handbook has been updated to include those policies and procedures that have been added or adjusted since the handbook was last printed in late 2003.

The items that have been added are as follows:
Page 8, Section I E - Code of Business Conduct
Page 16, Section I F - Identity Theft Prevention Program
Page 40, Section III R - Cell Phone Policy

Items that have been updated are as follows:
Table of Contents, Section III P - changed from Bad Weather to Inclement Weather
Page 21, Section II B - Appointment
Page 28, Section III H 2- Disciplinary Action
Page 32, Section III Q 2 - Travel and Training, Procedures
Page 39, Section III Q 3 - Travel and Training, Travel Advances
Page 94, Section XXI A - Smoke Free Workplace

I plan to have the Ordinance approving the updated handbook as part of a Board of Directors' meeting as soon as it is reviewed by the city attorney.

7-21-11

July 20, 2011

Here is your copy of the Human Resources Policy Handbook for the City of Fort Smith.

The handbook is the human resource policy approved by the City Board of Directors.

Please read and keep your handbook. It covers information you need to know, and it may answer many of your questions.

While all questions cannot be answered by a handbook, ours is flexible enough to address specific questions and situations in your department.

Most of the policies are easy to read and understand. Others may seem very formal. So, please talk to your supervisor, department head, or Human Resources if you would like clarification on any of the policies.

Thank you for your interest. Hopefully, this handbook will help us all to better understand the City's human resource policy.

Sincerely,

Ray Gosack, City Administrator

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE HUMAN RESOURCES POLICY FOR NON-UNIFORMED EMPLOYEES (2011) AND RESCINDING PRIOR POLICIES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMIHT, ARKANSAS, THAT:

Section 1: The attached Human Resources Policy for Non-Uniformed Employees (2011) is hereby approved. The City Administrator and his designated agents, including the Director of Human Resources, are hereby authorized and directed to implement said Policy.

Section2: All ordinances and policies of the City in conflict with the Policy approved by Section 1 are hereby rescinded.

This Ordinance adoopted this _____ day of _____, 2011.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

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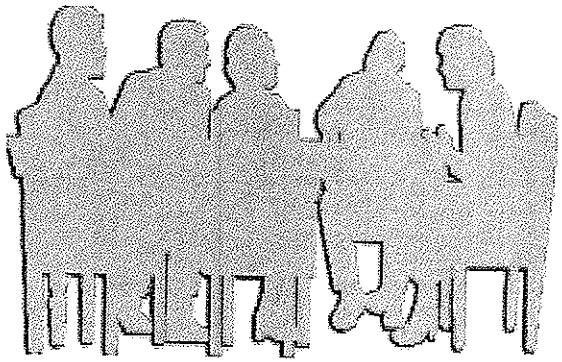

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SECTION I: Human Resources Policy

A. The following Human Resources principles and policies are established:

1. Employment in the City government will be based on ability and qualifications free from personal favoritism and political considerations.

2. Just and equitable policies and conditions of employment will be established and maintained to promote efficiency and economy in operation of the municipal government.

3. Positions having similar duties and responsibility will be classified and compensated on a uniform basis.

4. Personnel appointments will be based solely on the basis of job-related merit and ability to do the job.

5. ***Continuity of employment covered by this policy will be subject to good behavior, satisfactory work performance and the availability of funds. Neither this policy nor the contents of any other human resources policy and procedure handbook that may be used by the City, nor any oral promise, will constitute or imply an employment contract. Rather, employment with the City of Fort Smith is at-will and for an indefinite period of time, capable of being terminated at any time by the employee or by the City.***

6. Every effort will be made to encourage high morale by fair administration of Human Resources policies and by every consideration of the rights and interests of employees consistent with the best interests of the public and the City. This includes open and fair communication efforts between supervisors and employees. However, if an employee believes his or her rights and interests have not been sufficiently considered, he or she may follow a progressive resolution process by presenting the issue, either verbally or in writing, to:

a. The employee's immediate supervisor. If the employee believes sufficient consideration of the issue is not achieved, then the employee may proceed to step b.

b. The employee's department director. If the employee believes sufficient consideration of the issue is not achieved, then the employee may proceed to step c.

c. The Director of Human Resources. The Director of Human Resources will meet with the employee and determine appropriate steps to achieve sufficient consideration of the issue. If the employee believes sufficient consideration of the issue is not achieved, then the employee may proceed to step d.

d. The City Administrator or his designee. The City Administrator will determine any appropriate steps to achieve sufficient consideration of the issue. The City Administrator's decision will be final.

e. The resolution process outlined above is not, however, intended to be a formal grievance procedure and, consequently, is specifically not to be construed as to obligate the City to adhere strictly to the process or to obligate the City to any form of arbitration.

B. The provisions of this policy will be applied equally to all employees and applicants without regard to race, color, religion, sex, national origin, handicap or disability, or status as a Vietnam era, special disabled or other veteran who served on active duty during a war campaign in accordance with federal laws. In addition, the City of Fort Smith will comply with all applicable State of Arkansas laws governing nondiscrimination in employment. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, demotion, discipline, termination, layoff, recall, transfer, leave of absence, compensation and training.

1. To further the principle of equal opportunity for all, the City of Fort Smith has voluntarily developed an affirmative action policy

for minorities and women, the handicapped or disabled, and Vietnam era, special disabled or other veterans or those who served on active duty during a war campaign.

2. The City of Fort Smith expressly prohibits any form of unlawful employee harassment based on race, color, religion, sex, national origin, age, handicap or disability, or status as a Vietnam era, special disabled or other war campaign veteran. Improper interference with the ability of City employees to perform their expected job duties will not be tolerated.

C. All City employees must be treated equally in their terms and conditions of employment. The harassment of any employee is contrary to this and may be considered a violation of federal law and will be considered justification for disciplinary or other appropriate action. This applies to all employees, supervisors, agents and non employees who have contact with employees during working hours. The following defines harassment and outlines the method by which it should be reported.

1. Harassment is any annoying, persistent act or action that singles out an employee to that employee's objection or detriment, because of, but not limited to, race, sex, religion, ancestry, national origin, age, physical disability, mental conditions, or marital status. Harassment may include any of the following:

a. Verbal abuse or ridicule. This includes epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments.

b. Interference with an employee's work. This includes physical contact such as assault, blocking normal movement, or interference with work directed at an individual because of his/her race, color, religion, sex, national origin, age, handicap or disability, or status as a Vietnam era, special disabled or other war campaign veteran.

c. Displaying or distributing sexually offensive or racist materials. This includes derogatory posters, cartoons, drawings or gestures.

d. Discriminating against any employee in work assignment or job-related training.

e. Unwelcome intimate physical contact.

f. Making offensive innuendoes.

g. Demanding favors (sexual or otherwise), explicitly or implicitly, as a condition of employment, promotion, transfer, or any other term or condition of employment.

h. Retaliation for having reported harassment or cooperating with an investigation.

2. It is every employee's responsibility to ensure that his or her conduct does not include or imply harassment in any form. If however, harassment or suspected harassment has or is taking place, it is the employee's duty to report the harassment.

3. An employee should report the harassment or suspected harassment immediately to their supervisor, department director, or Director of Human Resources. If possible, this complaint should be in writing, setting forth all pertinent facts. However, the complaint does not have to be in writing. All communication concerning the complaint will be confidential, to the extent feasible, and provided only to those employees and legal council of the City on a need-to-know basis.

   a. Any employee who receives a report of or has knowledge of harassment will promptly inform the department director or Director of Human Resources.

   b. Each complaint will be investigated by the Director of Human Resources or designee and a determination of the

facts will be made on a case-by-case basis. Recommendation of appropriate action up to and including discharge will then be taken to the appropriate department director, or Deputy City Administrator or City Administrator.

   c. Employees will refrain from reporting bad faith complaints. If the investigation finds that the complainant falsely accused another of sexual harassment knowingly or in a malicious manner, the complainant will be subject to disciplinary action.

   d. Employees have an obligation to cooperate fully and truthfully with the investigation.

   e. The results of the investigation will be kept confidential and provided only to those employees and legal council of the City on a need-to-know basis.

   f. The investigation files, including the complaint, will be maintained by the Director of Human Resources. Any disciplinary action taken will also be documented in the disciplined employee's personnel file.

4. The City will not tolerate harassment or any form of retaliation against an employee who has either reported or cooperated in an investigation of alleged harassment. Violation of this provision may result in disciplinary action up to and including termination.

D. The City will have a "zero tolerance" policy for workplace violence. Zero tolerance means that threats, intimidation, harassment, or acts of violence (particularly employee against employee assaults) will not be tolerated. If any employee displays or threatens any violent activity in the workplace, he or she will be subject to immediate disciplinary action up to and including termination of employment.

   1. Definitions and clarifications of terms are as follows:

      a. Workplace violence: An implied or actual act or threat made

directly or indirectly that creates, or could create, physical harm to employees, their families, friends or property that takes place at the workplace or because of performing work duties associated with employment by the City of Fort Smith.

b. Long gun: Any firearm with a barrel length greater than or equal to twelve (12) inches designed, made, or adapted to be fired with two hands.

c. Handgun: Any firearm with a barrel length of less than twelve (12) inches designed, made, or adapted to be fired with one hand.

d. Knife: Any bladed (a blade of three and one-half inches or longer) hand instrument that is capable of inflicting serious physical injury or death by cutting or stabbing. It includes a dirk, sword or spear in a cane, razor, ice pick, throwing star, switchblade, or butterfly knife.

e. Club: Any instrument that is specially designed, made or adapted for inflicting serious physical injury or death by striking, including a blackjack, billie, and sap.

f. Course of conduct: A pattern of conduct composed of two or more acts separated by at least 36 hours but occurring within one year. Constitutionally protected activity is not included within the meaning of course of conduct.

g. Stalking: A person commits stalking if he or she purposely engages in a course of conduct that harasses another person and makes a terroristic threat with the intent of placing that person in imminent fear of death or serious bodily injury or placing that person in imminent fear of the death or serious bodily injury of his or her immediate family.

h. Harassment: A person commits harassment if, with intent to harass or threaten another person, the person:

   i. Communicates or causes a communication with another

   person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a way that harasses or threatens.

   ii. Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.

   iii. Engages in a course of conduct or repeatedly commits an act that harasses or threatens another person.

2. It is prohibited for any employee, while on City property or while conducting City business, to carry (or possess), maintain in a vehicle, or maintain in a desk, locker, a personal item or otherwise have readily available for use as a potential weapon, any loaded or unloaded long gun or handgun, knife, club, ammunition or item that clearly is intended as a weapon. For the purpose of this prohibition, a City tool is not considered to be a prohibited weapon.

3. The following actions are prohibited:

   a. While on City property or while conducting City business, any person's involvement in workplace violence including, but not limited to, any act of violence (including pushing and shoving) or threats of violence (including "joking" or intimidation of others).

   b. Any course of conduct by a City employee that may or may not occur on City property or while conducting City business, and involves another City employee(s), their families, friends, or property that includes stalking or harassment as defined above and by the laws of the State of Arkansas.

4. Searches inspection:

   a. A department director, or his designated representative, has the right to search and inspect all City work areas and equipment, including but not limited to buildings, vehicles, desks, lockers, computers, and storage areas.

b. A department director may also conduct a reasonable search of an employee's personal property, if presently situated on City property, provided the employee consents to the search in writing. If a department director has a reasonable suspicion, as validated by objective facts and observations, that an employee may be concealing a prohibited weapon in an article of personal property, the department director will contact the Director of Human Resources who may involve law enforcement.

5. Duty to Report:

a. All City employees have a duty to contribute to workplace safety. This duty includes reporting information about perceived, potential, or real problems that may involve workplace violence. Employees are encouraged to report their concerns to their supervisor, department director, or the Director of Human Resources. If appropriate, an investigation will be undertaken and specific action will be pursued.

E. Code of Business Conduct

The Code of Business Conduct sets out basic principles and standards of conduct to guide all employees and volunteers who represent the City in any capacity. The Code is to promote public confidence in the integrity of City government and its effective and fair operation. This Code is a means to employ independent, objective judgment in the performance of municipal duties. Municipal matters are to be based on merit, free from avoidable conflicts whether real or apparent.

The City of Fort Smith is committed to treating public services as a public trust. The City desires to use the power and resources of public service to advance the public trust and not for the purposes of attaining personal or private benefit.

The City did not want this policy to discourage anyone from serving the City in any appointed, elected or volunteer position. Some municipal representatives, such as independent contractors, vendors

and volunteers, may conduct business with the City in their capacity as business persons. However, under this policy, those same municipal representatives would be required to abstain or recuse themselves when a decision they influence may provide personal benefit or gain to them.

The Code of Business Conduct addresses standards for ethical behavior by municipal representatives. As with any policy, it is not possible to provide guidance for all improper business practices. If a situation arises which is ambiguous or is not specifically addressed by this Code, municipal representatives should avoid the conflict of interest or compromising action. If a municipal representative has questions or concerns, he or she may contact the City's Internal Auditor for guidance.

1. Definitions are as follows:

a. Appointed officials - persons appointed to serve on any municipal board, commission or committee as authorized in the City of Fort Smith Code of Ordinances and Arkansas state law.

b. Arkansas Ethics Commission - the Commission established by A. C. A. § 7-6-217 to review reported violations of conduct by elected and appointed officials.

c. Business entity - any of the following entities whether or not carried on for the purpose of profit: business, sole proprietorship, firm, partnership, unincorporated association, venture, trust, or corporation.

d. Contract - any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished for a valuable consideration or is to be sold or transferred. For purposes of the Code, "Contract" does not include:

i. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

ii. Merchandise sold to the highest bidder at public auctions;
iii. Investments or deposits in financial institutions which are in the business of loaning or receiving monies;
iv. Contracts with a corporation in which a municipal representative exercising an official action holds a de minimus interest, i.e. 5% or less.

e. Employee - any person holding any paid position of employment with the City.

f. Fiduciary Duty - a responsibility of, relating to, or involving a confidence or public trust.

g. Gift - any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefore. Per state law, an allowable gift to public officials is anything which is $50 or less in value.

h. Independent contractor - a person or entity other than an officer or employee who is paid for services rendered to the City pursuant to a contract for services and any officer, employee, agent, volunteer or subcontractor of such people or entity.

i. Interest - a substantial interest held by an individual that is:

i. An ownership in a business;
ii. A creditor interest in an insolvent business;
iii. An employment or a prospective employment for which negotiations have begun;
iv. An ownership interest in real or personal property;
v. A loan or any other debtor interest; or
vi. A directorship or officership in a business.

The term "Interest" is intended to reflect a pecuniary, property, or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss, but does not include any matter in which a similar benefit is conferred to all persons or property similar-

ly situated. An interest in the following persons and entities will be deemed to constitute an interest of a municipal representative:

i. Any relative or municipal representative; or
ii. Any business entity in which the municipal representative is an officer, director, employee, partner or owner, or
iii. Any business entity in which the municipal representative owns or controls shares of stock, the aggregate of which constitutes more than 1% shares of the business entity then outstanding. Participation in a stock mutual fund shall not be considered an interest in a business entity of which the mutual fund owns or controls shares of stock.

j. Municipal representative - An officer, elected official, appointed official, employee, independent contractor, or volunteer of the City, including candidates for elected positions.

k. Officer - all elected or appointed officials including but not limited to:

i. Mayor;
ii. Director;
iii. District Judge;
iv. City Administrator;
v. Treasurer;
vi. Attorney;
vii. City Clerk;
viii. Police Chief; and
ix. Fire Chief.

l. Relative - any person related to a municipal representative by blood or marriage, in any of the following degrees: parents, spouse, children, stepchildren, brothers, sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren and children-in-law. A separation between spouses shall not be deemed to terminate relationships described herein.

m. Verified complaint - a written complaint containing a statement signed by a person indicating he or she has personal knowledge of the complaint and knows them to be true.

n. Volunteer - any person who is appointed or authorized to act on behalf of the City in any manner without compensation.

2. CODE OF CONDUCT

a. Conflicts of Interest - Municipal representatives must avoid conflicts of interest involving the City or its business. A conflict of interest occurs when an individual's private interest interferes in a way, or even appears to interfere, with the interests of the City as a whole. A conflict situation can arise when a municipal representative takes actions or has interests that may make it difficult to perform his or her work for the City objectively and effectively. Conflicts of interest also arise when a municipal representative or their relatives receive improper personal benefits with the City. In accordance with state laws, officers will disclose financial interests and they will abstain from participating in deliberations and decision-making where conflicts may exist.

In the event that a municipal representative considers that a personal association may cause or appear to cause a potential conflict of interest, he or she may declare such in writing and request that the declaration be kept on file.

b. Impartiality in the performance of duties.
Municipal representatives will perform their duties without regard for personal benefit.

c. Financial Interests - A municipal representative is prohibited from engaging in a financial transaction for his or her private business purposes as it relates to City business. Furthermore, a municipal representative will not perform an official act, to its economic benefit, a business or other undertaking in which he or she either has an interest or is engaged as counsel, consultant, representative or agent.

d. Representation before boards, committees or commissions - A municipal representative will not appear before the City Board or any commission or committee on matters for which or over which he or she sits or has supervisory or advisory responsibilities, except in the official representation of the City.

e. Political Activities - Officers are nonpartisan. There will be no partisan references or campaigning for political office at meetings of the Board or any City commission or committee. Partisanship will not be a factor in any official action of any municipal representative.

Laws governing employee involvement in political activities shall be adhered in accordance with federal and state laws. Specifically, A.C.A. § 21-1-501 thru § 21-1-503 will be followed.

f. Misuse of Position - All municipal representatives have a fiduciary duty to refrain from using their positions in any manner for personal or private gain or which is detrimental to the public good. Municipal representatives must be mindful that the appearance of impropriety can be as corrosive as an actual impropriety, and must strive to avoid situation which may create an appearance of impropriety.

g. Misuse of City Assets - Municipal representatives must not request, direct or permit for personal use the use of any City vehicle, equipment, or facilities not available to the general public. City funds and resources shall not be directed for personal use or gain by municipal representatives.

h. Confidential Information - Municipal representatives shall respect the confidentiality of information concerning City property, personnel or proceedings of the City. They shall neither disclose confidential information without proper authorization, nor use such information to advance their personal interests.

i. Nepotism

i. Employment Procedures. It shall be a violation of the Code to engage, hire or appoint a relative of a municipal representative unless the City's personnel policies applicable to such employment appointment have been followed.

ii. Terms of Engagement. Municipal representatives are prohibited from influencing or attempting to influence the compensation, benefits, or other terms and conditions or engagement by or service to the City applicable to any relative of a municipal representative.

j. Gifts - Gifts in value greater than $50 shall not be accepted by municipal representatives for services or official actions while performing official duties of his or her position. The acceptance of cash or the equivalent is never permitted. Municipal representatives shall not solicit gifts. The City follows state law regarding the definition of gifts in A.C.A. § 21-8-401 through § 21-8-804.

k. Outside Employment or Service - Municipal representatives shall not engage in or accept any employment or service, other than employment by the City, if such employment or service reasonably would tend to impair the municipal representative's independence of judgment in the performance of his or her duties. Outside employment by employees must follow applicable City personnel policies in Section III L.

l. Fund-raising Activities - Political fund-raising is prohibited by municipal representatives on City time, in a City uniform, and in a City workplace. Charitable fund-raising by employees in a City workplace and on City time must be approved by the City Administrator.

m. Contracts with the City - Municipal representatives shall not be engaged as a vendor or independent contractor with the City when their City position is a factor in the decision-making process and the relationship would create a conflict of interest.

n. Crimes - Municipal representatives may be removed from their position if convicted of a felony or a misdemeanor which relates directly to their official duties.

o. Discrimination - Municipal representatives shall not violate any federal, state or City laws prohibiting discrimination.

p. Sexual Harassment - Municipal representatives shall not violate any federal, state or City laws prohibiting sexual harassment.

q. Retaliation - Municipal representatives shall not violate any federal, state or City laws prohibiting retaliation, including retaliation against whistle blowers or those filing claims against the City, Specifically, A.C.A. § 21-1-601 through § 21-1-609 will be enforced.

r. Similar Conduct - Other similar conduct which threatens the public confidence in the integrity of government including but not limited to illegal conduct, conduct which puts self interest before public interest, or conduct involving dereliction of duties is prohibited.

s. Other Policies or Rules of Conduct - A municipal representative may be required to follow more stringent policies or rules of conduct, such as departmental personnel policies. The more stringent policies or rules must be followed.

3. Enforcement

a. Complaints
A verified complaint in writing, signed by someone with personal knowledge of the facts giving rise to the complaint, which states the name of any person alleged to have committed a violation of the Code and which sets forth the particulars thereof shall be reported to:

i. Arkansas Ethics Commission for violations involving elected officials;
ii. City Board of Directors for violations involving appointed officials and volunteers; and
iii. Director of Human Resources for violations involving employees.

The filing of a frivolous complaint by a municipal representative shall be a violation of this code.

b. Investigation
Following receipt of an internal or external verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis to believe that a violation of the Code has been committed or that an investigation of a possible violation is warranted, the City Internal Auditor will provide a written report within five business days of receiving the complaint. If evidence exists that a violation has occurred, the violator shall be notified and the report shall be presented to the appropriate level of authority.

F. Identity Theft Prevention Program

1. The Federal Trade Commission (FTC) and several other Federal agencies jointly issued a final rule and guidelines implementing section 114 of the Fair & Accurate Credit Transactions Act of 2003 ("FACT" Act"). The FTC has set forth the Identity Theft Prevention Program (ITPP) requirement in 16 CFC Subsection 681.2.

2. The purpose of the ITPP is to establish policies and procedures to detect, prevent, and mitigate identity theft in connection with the opening of a covered account or any existing covered account. This program shall apply to all City Departments who receive payments for services.

3. Identify Red Flags
Red flags are the potential patterns, practices, or specific activities

indicating the possibility of identity theft. The following Red Flags may be used to detect potential fraud. These are not intended to be all inclusive and other suspicious activity may be investigated as necessary.

a. Consumer report includes a fraud or active duty alert, a notice of credit freeze and/or a notice of address discrepancy.

b. Documents provided for identification appear to have been altered or forged.

c. Photograph, physical description and/or other information on the identification is not consistent with the appearance of the person presenting the identification.

d Information on the identification is not consistent with readily accessible information that is already on City documents.

e. Information provided is inconsistent when compared against external information sources (address does not match any address in the consumer report and/or social security number has not been issued or is associated with a deceased person).

f. Information provided by the customer is inconsistent with other information provided by the customer (no correlation between SSN range and date of birth).

g. Information provided is associated with known fraudulent activity (address and/or phone number on an application is the same as the address provided on a previous fraudulent application).

h. Information is of a type commonly associated with fraudulent activity (address on an application is fictitious and/or phone number is invalid).

i. Social security number, address and/or telephone number provided is the same as or similar to ones provided by another customer.

j. Customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

k. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.

l. City is notified that it has opened a fraudulent account for a person engaged in identity theft.

4. Detect Red Flags

a. Require customer opening an account to provide proof of identity which may include but not be limited to: a valid driver's license; photo identity card, state ID card, social security number.

b. Verify personal information using records on file or through a third-party source such as a consumer reporting agency.

c. When fielding a request to access and/or modify an existing account (such as a change of billing address), verify identity of customer by requesting specific pieces of personal identifying information. Only discuss the account with third parties who have been authorized by the customer.

5. Prevent and Mitigate Identity Theft
The following items detail the response actions if employees observe a Red Flag associated with a new or existing customer account.

a. The City will not open a new account (after review of the present identifying information).

b. For an existing account, the City may discontinue the services associated with that account and/or:

i. Continue to monitor the account for evidence of identity

theft and contact the customer to discuss possible actions.

ii. Change the passwords, security codes, or other security devices that permit access to an existing account.

iii. Close an existing account.

iv. Re-open an account with a new account number.

c. For all instances of suspected or confirmed identity theft, the City will contact the customer and recommend notifying law enforcement.

d. Determine that no response is warranted under the particular circumstances.

6. Update the Program
This program will be reviewed annually and updated to reflect changes in risks to customers from identity theft based on factors such as:

a. The City's experience with identity theft;

b. Updates in methods of identity theft;

c. Updates in customary methods used to detect, prevent, and mitigate identity theft;

d. Updates in the types of accounts that the City offers or maintains;

e. Updates in service provider arrangements.

7. Program Administration

a. An annual report, as required by FTC regulations, shall be prepared regarding compliance with red flag requirements and will recommend any material changes that may need to be made to the program.

The report will address material matters related to the pro-

gram and evaluate issues such as, the effectiveness of these policies and procedures and significant incidents involving identity theft and management's response.

b. Staff Training

Any employee with the ability to open a new account, access/manage/close an existing account or accept payment for a covered account will receive training on identifying and detecting Red Flags. They will also be trained in the appropriate response actions in the event that an instance of identity theft is suspected. As necessary, employees will be retrained if the program is updated or if new response actions are implemented.

8. Service Provider Oversight

Whenever the City engages a service provider to perform an activity in connection with one or more of the covered accounted, the City will verify that the activity of the service provider is conducted in accordance with the ITPP.

SECTION II: Appointment

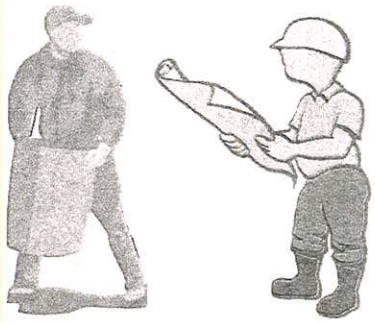
A. With the exception of the City's Civil Service (uniformed) employees, all employees of the City of Fort Smith are hereby categorized as either Exempt employees or Non-Exempt employees, as these two groups are defined in this Subsection. Unless otherwise expressly indicated, the provisions of this policy will apply uniformly to Exempt and Non-Exempt employees but will not apply to the City's Civil Service (uniformed) employees. In the event, that a difference exists between this policy and the rules, policies and procedures of the Civil Services departments of the City, ie: Police and Fire, then non civil service employees who work in a Civil Service department are required to adhere to the Civil Service department rules, policies and procedures applicable to non Civil Service employees.

1. ***Exempt*** employees include any employee employed in a bona fide executive, administrative, or professional capacity as such terms are defined and delimited from time to time by the Fair Labor Standards Act, Codified at 29 U.S.C. Sections 201 et seq.

2. ***Non-Exempt*** employees include any employee who is not included in the Exempt classification and whose salary may vary each week based on the number of hours worked. Overtime pay or compensatory time for a Non-Exempt employee will be administered in compliance with the Fair Labor Standards Act, 29 U.S.C. Sections 201 et seq., and applicable State of Arkansas wage and hour laws.

B. The City Administrator will nominate, to the Board of Directors, individuals for appointment and will make recommendations to the Board of Directors for termination of individuals in the following Exempt positions: Deputy City Administrator, City Clerk, Director of Sanitation, Director of Engineering, Director of Finance, Director of Human Resources, Director of Street & Traffic Control, Director of Utilities, Fire Chief, Police Chief, Director of Parks & Recreation, Director of Information Technology Systems, Director of Transit, Director of the Convention Center, Director of Development & Construction, Director of Economic Development, Internal Auditor. The appointment and removal of persons in all other Exempt positions will be determined by the City Administrator without the necessity of approval by the Board of Directors. Pursuant to A.C.A. 16-17-108 The Sebastian County District Court-Fort Smith District Judges shall appoint a qualified elector to serve as district court clerk.

C. All job vacancies with the City of Fort Smith will follow the notification procedure outline here when filling positions.



1. If a job opening can be filled from within a program classification, then a job opening notice does not need to be posted.

2. If a job opening cannot be filled from within a program classification, then a job opening notice is to be posted within the department for five working days. Posting the job is the responsibility of the department director.

3. If a job opening cannot be filled from within a department, then a job opening notice is to be posted in each department Citywide for five working days. Posting the job is the responsibility of the Human Resources Department.

4. If a job opening cannot be filled from within the City, then employment applications will be accepted from the public for five working days and will be reviewed for qualified applicants.

5. If a job opening cannot be filled from employment applications taken from the public, then the job opening may be published in the local newspaper. Additional notification may also be circulated to various agencies on the City's employment notification list.

6. The city reserves the right to adjust the notification process as necessary to speed up the recruitment of any position deemed critical to the operations of the City. In no case will the City bypass any step in the notification process. However, the City may do some or all the steps simultaneously to fill the open position in the shortest time possible.

D. The following additional employee classifications will be used to determine eligibility for employee benefits.

1. ***Regular***: An employee regularly scheduled to work a minimum of thirty (32) hours in a work week. Employees in this classification are eligible for benefits offered by the City of Fort Smith.

2. ***Part-time***: An employee regularly scheduled to work only a portion of the work week and whose work will not exceed thirty (32) hours per week on a regular basis. Employees in this classification are not eligible for benefits offered by the City of Fort Smith.

3. ***Seasonal/Temporary***: An employee regularly scheduled to work in a seasonal/temporary position for a brief period of time. Employees in this classification are not eligible for benefits offered by the City of Fort Smith.

4. ***Active***: An employee working in a regular, part-time or seasonal/temporary classification.

5. ***Inactive***: A regular employee on a non compensated absence approved by the Director of Human Resources.

   a. A non compensated absence is defined as that period during which an employee is absent from work, with the approval of the Director of Human Resources, and such employee has already exhausted his or her sick leave benefits, as well as vacation benefits, and injury leave benefits, if applicable. Such absence will also include any period of time when an employee is absent from work and directly drawing workers' compensation benefits; it will also mean that period of time when an employee is absent under a Family and Medical Leave (see Section VIII, supra). This term does not, however, include a qualified military leave of absence.

   b. An employee on a non compensated absence will not be eligible to earn the following employment benefits that would otherwise be available to a regular employee: vacation, sick leave and holiday pay during the non compensated absence.

   c. An employee on a non compensated absence will continue to be eligible for group medical benefits during the non compensated absence. However, the employee will personally be responsible for the timely payment to the City, through the Director of Human Resources, that portion of the premium required to keep family or dependent coverage in effect during the non compensated absence. Failure on the employee's part to make such timely payments will result in a lapse in coverage.

E. Seniority is defined as the length of a regular employee's continuous period of service since the last date of hire with the City of Fort Smith.

F. The term layoff will refer to a reduction in the City's work force due to a lack of work, a decrease in work, a reorganization, a change or reallocation in the appropriation of funds by the City Administrator and the Board of Directors. The determination as to which classification or classifications will be reduced in personnel will be made by the City Administrator and the Board of Directors. In the event of a layoff in any position classification in any department, the employee in that position classification in that department or program with the least seniority with the City will be laid off, provided that the remaining employees in the position classification have the ability to perform the remaining available work with normal efficiency without further training. This paragraph relating to the manner of removal of employees during a layoff in any position classification within a department is inapplicable where an entire position classification is abolished.

G. In the event of reemployment of employees who have been laid off as set forth in paragraph (F) immediately above, such employees will be offered reemployment in the department from which laid off in reverse order of the layoff, provided the employee has the ability to perform the available work with normal efficiency and without further training.

H. Relatives of employees may be hired under certain circumstances directly associated with hiring the most qualified applicant for any available job vacancy. However, no employees will hold a direct supervisory position over his or her relative, regardless of degree of relationship, and regardless of whether by consanguinity or operation of law, unless specifically approved by the City Administrator.

I. Employment of any employee will terminate for any of the following reasons:

1. Resignation, or
2. Discharge, or
3. Death.

SECTION III: Disciplinary Action & Personal Conduct

A. Each employee is responsible for his or her own job performance and personal conduct. The City of Fort Smith follows a policy of progressive discipline to deal effectively with problems in job performance as well as violations of personal conduct standards. The progressive discipline policy begins with a series of maintenance steps and ends with the most serious disciplinary action, i.e., discharge. These steps are applied on a case-by-case basis and will relate specifically to the seriousness of each case. The progressive discipline steps are:

1. Verbal warning or verbal reprimand.
2. The written counseling statement.
3. The written reprimand.
4. The second written reprimand.
5. Suspension without pay.
6. Discharge/termination of employment.

B. Disciplinary action, including verbal warnings or verbal reprimands, will be documented and permanently placed in the employee's personnel file. An employee will sign a written counseling statement or a written reprimand to indicate an understanding of the basis for the disciplinary action as well as the effect thereof. An employee who disagrees with the disciplinary action, either as to the basis or the effect, will have those rights of review set forth in paragraph (D) below.

C. Some violations of work rules or personal conduct standards are considered more serious than others. Therefore, the City reserves the right to apply the policy in a way considered appropriate in each case based on the seriousness of a single incident or accumulation of incidents. This means, for example without limiting other illustrations, Step 6 (discharge) may, in an appropriate case, be used without preceding the decision with any or all of Steps 1-5.

D. An employee may request the following actions, and no others, in response to disciplinary measures taken under Steps 2-4 of the progressive discipline policy.

1. A written statement of the employee's position will be allowed to become an item of the employee's personnel record during the counseling stage (Step 2) of the progressive discipline policy.

2. An employee may request, in writing, within three (3) working days of the disciplinary action, that his or her disciplinary case be reviewed by the Director of Human Resources during the written reprimand stages (Steps 3 and 4) of the progressive discipline policy. The Director of Human Resources will have the discretion to set appropriate case review guidelines based on the seriousness of each case.

E. For regular employees, suspension without pay cases will be reviewed prior to the suspension. The review will be by the involved employee's department director and the Director of Human Resources. No regular employee will be suspended without pay without the prior approval of the Director of Human Resources.

F. For regular employees, discharge cases will be reviewed prior to the discharge. The review will be by the involved employee's department director, the Director of Human Resources and the City Administrator. No regular employee will be discharged without the prior approval of the City Administrator.

G. For part-time and seasonal/temporary employees, suspension without pay and discharge cases will be reviewed prior to the suspension or discharge. The review will be by the involved employee's department director and the Director of Human Resources. No part-time or seasonal/temporary employee will be suspended without pay or discharged without the prior approval of the Director of Human Resources.

H. The following are some, but not all, of serious infractions of personal conduct standards that will call for disciplinary action ranging from a verbal warning or reprimand to discharge/termination of employment:

1. Insubordination: refusal or failure to perform work as assigned.

2. The intentional use of profane or abusive language toward or in the presence of supervisors, other employees and/or citizens.

3. Intentional falsification of City records or providing false information to supervisors and/or citizens.

4. Stealing City, citizen's or another employee's property.

5. Fighting or attempting bodily injury to another person or engaging in pranks or horseplay which cause, or could cause physical damage to another employee or property.

6. Failure to meet conditions and standards set forth by the City's Substance Abuse & Drug-Free Workplace and Smoke-free Workplace policies.

7. Defacing or damaging City property or equipment.

8. Dishonestly handling the finances or property of the City or of its citizens and representatives.

9. Unauthorized or unreported absence from the work site during working hours. (Two consecutive days of unreported absence may result in termination of employment.)

10. Failure to notify a supervisor, who has been designated by the department director, before an absence from scheduled working hours.

11. Excessive absenteeism, tardiness or abuse of sick leave.

12. Use of City equipment or materials for personal benefit is prohibited.

13. Deliberate limitation of work activity, or deliberately encouraging, suggesting or advising any other employee in the limitation of work activity.

14. Intentional and improper conduct in dealing with the public, including, but not limited to, discourtesy over the telephone.

15. Creating an unsafe condition or violating a safety rule or safety procedure.

16. Abuse of break or lunch period.

17. Mishandling of confidential information relating to the City's business.

18. Unauthorized distribution on City premises of any literature, written or printed matter, during an employee's working hours, the effect of which is to be disruptive of the work environment.

19. Solicitation or acceptance of personal gifts, fees, or gratuities from any firm, person or corporation doing business or anticipating doing business with the City.

20. Violation of the City's policy prohibiting Harassment and Workplace Violence.

21. Violation of the City's Code of business Conduct.

I. No employee will have an interest (excluding de minimis ownership of publicly-held common stock) in any contract or job for work or materials, or the profits thereof, or service to be furnished or performed for the City or for any person, firm, or corporation operating any public transportation service, gas works, waterworks, electric light or power plant, telephone exchange, or other public utility within the territorial limits of the city.

J. No employee may accept or receive, directly or indirectly, any frank, pass, free ticket or free service from any person, firm, or corporation operating within the territorial limits of the city, any public transportation service, gas works, waterworks, electric light or power plant, telephone exchange or from any other business acting or operating under a public franchise of the City; nor may an employee accept or receive, directly or indirectly, from any person, firm, or corporation, or its agents, any other service upon terms more favorable than those granted to the public generally.

K. No employee will participate in political activities during normal working hours, nor will he or she use City property or facilities for political activities unless the activity relates to a policy matter approved by the Board of Directors. Any employee who becomes a candidate for a city, county, district, state or national office may be granted a leave of absence without pay, if approved by the City Administrator, during the time he or she actively campaigns.

L. Holding a second job or conducting a business activity while employed by the City may be permissible with the prior approval of the department director and the Director of Human Resources. However, employment with the City must be primary, and any secondary employment or business activity must not be in a business area, trade, occupation or profession which would interfere with the employee's City job duties, working hours or would represent a conflict of interest.

M. All employees involved in a workplace accident or injury must immediately report the accident or injury to their supervisor and complete an injury form (N Form). The supervisor must then call Company Nurse to report the injury. In addition, the Human Resources Department must be immediately notified by the involved employee's supervisor following the accident or injury, especially if an injury requires immediate emergency care. A supervisor will also be required to investigate and document the circumstances surrounding all workplace accidents or injuries.

N. The City recognizes the importance of health and safety of its employees and is committed to maintaining a safe and healthy work environment. Employees will be expected to comply with all safety practices, participate in safety training and any educational opportunities offered by the City and to bring any unsafe condition(s) to the immediate attention of their supervisor. All employees are responsible for the prevention of workplace accidents. The ability to work without an accident is an important factor when considering an employee for promotion, retention or reassignment. The ability to secure, and

willingness to require, compliance with generally accepted safe work practices is essential to the continuation of a supervisor in his or her assignment.

O. If an employee is assigned or uses a city-owned vehicle, no travel is authorized outside of the City limits of Fort Smith other than on official City business as determined by the City Administrator.

1. Personal use is prohibited with the exception of commuting and de minim is personal use.

2. City vehicles assigned to employees, as provided below, may be driven to and from work; however, City owned vehicles may not be used to commute to and from an employee's out-of-town residence without prior written approval of the City Administrator.

3. For an employee to be authorized the take-home use of a city vehicle; one of the following tests must be met:

Test 1: The employee is:

a. subject to frequent (4 or more times per month) after-hours emergency callback or other unscheduled work, and
b. such unscheduled work involves the first response to a real or present threat to life, health or property requiring an immediate response, and
c. a specialized vehicle, tools, or equipment are required for the performance of emergency duties.

Test 2: The employee is:

a. subject to frequent (4 or more times per month) after-hours callback,and
b. such call back arrangements are to locations other than the employee's normal duty station, and
c. a special vehicle, tools or equipment are required to perform after-hours assignments, and

d. an unacceptable delay in the response would result from the employee's return to the normal duty station to retrieve the needed equipment.

4. All department heads as designated by the City Administrator will receive an automobile allowance or a city vehicle.

5. All accidents involving City owned vehicles must be reported immediately to the involved employee's supervisor and a police report (or incident report if an accident occurs on private property) must be obtained. This includes, but is not limited to, scraping or scratching of a vehicle, throwing objects from machinery that is in operation and hitting other objects, accidents which result in damage to either City vehicles or private vehicles, and accidents involving bodily injury.

P. Employees of the City must be available to provide services to citizens during all normal business days. In the event of bad weather, the City Administrator will determine if conditions merit interrupting the normal work schedule. If an employee is unable to come to work and their department is working, the employee must notify a supervisor, who has been designated by the department director, and the employee will be considered absent from work.

Q. Travel & Training - The City recognizes the need to develop and update the working skills and knowledge of its employees as an integral part of maintaining a progressive environment in the workplace. Therefore, this policy establishes procedures governing the eligibility for payment of expenses incurred by City employees traveling and/or training on official business. The policy outlines the procedures to follow in requesting approval of travel and training related items, including travel advances and reimbursement of travel related expenses incurred by the employee.

1. Policy

a. The final responsibility for defining the policy regulating official travel and the rates allowable for approved travel and training expenses rests with the City Administrator. These

definitions and rate allowances will be defined or changed as deemed appropriate by the City Administrator or his designee.

b. The department directors are responsible for dissemination and implementation of these policies and procedures to all employees.

c. The Finance Department ensures conformity to the procedures prescribed herein. Normal audit guide lines will be applied to establish conformance among City departments.

d. In order to afford employees maximum flexibility in the accomplishment of their assigned tasks, the City of Fort Smith will pay travel and training expenses directly related to official business in accordance with the policies stated herein as approved by the department director or in the case of department directors, the City Administrator or Deputy City Administrator.

2. Procedure

a. Department directors must approve all requests for official travel prior to the employee's departure whenever possible. The department director will evaluate the impact of travel requests against factors including budget availability, job-relatedness of traveler's activities and other program considerations.

b. Allowable expenses for official City travel and training are as follows:

i. Transportation

1.) Airline Transportation

(a.) Airline ticket payment will be made for actual coach costs. Vendors will be paid directly, e.g., airlines, travel agents, etc. Reimbursement to an

employee due to use of a personal credit card will not be honored without the approval of the City Administrator or his designee.

(b.) An airline voucher received by rescheduling a flight due to over booking is the property of the City and must be submitted to the City for future travel arrangements. Transferring tickets is not allowed. FAA regulations state the tickets must be issued in the traveling employee's name.

(c.) Air travel accommodations should be made to take advantage of savings offered by airline companies whenever feasible.

2.) Private Vehicle

(a.) The City will reimburse an employee for travel in a private vehicle which occurs beyond the City limits and a City vehicle is not available. Reimbursement will be made on a per mile basis at the rate established in the non-uniformed annual pay ordinance. Trip distances will be computed based upon the most reasonable direct route using roadways as classified as state, federal or interstate highways using state highway maps or an on-line map service. Additionally, mileage for over the road trip distances will be reimbursable for necessary travel in and around the destination city.

(b.) Personal vehicle mileage reimbursement will not exceed the lowest coach airfare available at the time of the travel request, nor will food or lodging expense be for more than one day of travel time to and from the destination city.

(c.) When two (2) or more employees travel in the same vehicle, only one vehicle reimbursement

will be made. Sharing of the same vehicle is expected and exceptions must be made in advance of the travel date by the City Administrator or his designee.

(d.) Employees will not be reimbursed for any fines for traffic violations, parking tickets or the cost of repairs, breakdowns or accidents.

(e.) The employee is responsible for providing his/her own liability insurance coverage as well as any other costs associated with operating his/her personal vehicle.

3.) City Vehicle

(a.) The employee will be reimbursed for actual cost of repairs, gas, oil, tolls, etc. Original receipts must be provided.

(b.) If deemed necessary, the department director may authorize an employee to take a city vehicle home the night before a scheduled trip and/or return he city vehicle the day following the return date of the scheduled trip.

4.) Rental Vehicles

(a.) If a rental vehicle is necessary, approval for such an expense must be made prior to the travel date by the department director. Actual costs of mid-sized vehicles rented from recognized car rental agencies including fuel costs and insurance are reimbursable with original receipts. Where more than four (4) employees are traveling to the same destination, reimbursement for actual costs of renting vans will be allowed.

(b.) Written justification of the need for the rental car must be attached to the rental car receipt upon submittal of a travel expense report.

(c.) Ground transportation, such as taxis, shuttles, etc. will be reimbursed at actual cost upon submittal of original receipts with the travel expense report form. Tips may be included in this cost not to exceed the allowable rate as posted by the finance department.

(d.) Parking fees incurred on the trip should be accounted for in the transportation costs of the trip. Reimbursement for parking fees will be made if original receipts are included with the travel expense report. If an unattended hourly parking lot is used, the employee will submit this fact with the travel expense report and may be reimbursed for the actual cost.

ii. Lodging

1.) The City will reimburse for a single room rate, taxes and phone calls made on behalf of the City, with actual receipts, where it is reasonably expected that a prudent traveler could not return to his/her residence.

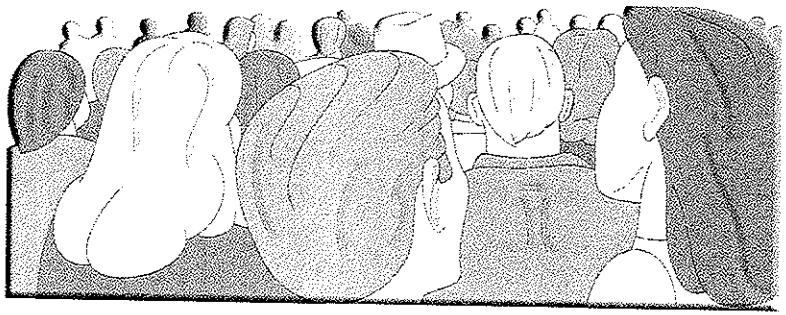
2.) Lodging reimbursement in excess of the rate posted annually by the finance department excluding tax and hotel fees per night requires approval in writing by the City Administrator or his designee prior to traveling. The most economical lodging consistent with the purpose for the travel and training will be used.

3.) Personal expenses such as in-room movies, personal phone calls, laundry, snacks, etc. are not eligible for reimbursement. However, the City will reimburse for phone activation or connection charges.

iii. Meals and Tips

1.) A per diem meal allowance which includes tips will be provided in accordance with the annually established rates. Tips are paid by meal allowance monies. In cases where a meal is provided by the attended function or other party, the allowance will not be paid for that meal, unless approved in advance by the department director. By receiving a per diem for applicable meals, an employee is not required to present actual receipts upon reconciliation of the travel expense report. Department directors may reduce the per diem meal allowances on a per trip basis. A copy of the registration form indicating meal provisions or the lack thereof must be attached to the travel advance, as applicable, and the travel expense form.

2.) Breakfast or dinner allowances are not provided for travel with an initial departure time later than 8:00 a.m. or a final return time earlier than 6:00 p.m., respectively. For example, if an employee departs for a trip at 8:30 a.m. and returns at 4:30 p.m., then the per diem meal allowance is limited to the approved lunch per diem. Lunch allowances for travel within the City limits are provided only upon approval by the Department director. Reimbursement (per diem) for meals for travel that does not require an overnight stay is allowed only when the travel is for business



purposes required for the employee's position and a meal is not provided during the training or meeting.

3.) Reimbursement for meals for other purposes, i.e., meetings, recruitment, etc., must state the names of guest(s), nature of business and be approved by the City Administrator or his designee. This would include purchase of meals for colleagues.

4.) The City will not reimburse the costs of alcoholic beverages.

5.) Approval in writing by the City Administrator or his designee is required to provide reimbursements for allowances over the stipulated amounts. Actual meal receipts must be provided in such cases.

iv. Registration Fees

1.) It will be the City's policy to prepay registration fees by a separate remittance for all conferences, seminars and meetings attended by City employees, unless alternative measures are approved.

2.) When early registration fee schedules are available, the employee should attempt to obtain these early fee discounts.

v. Miscellaneous Expenses

1.) Non-food tips, excluding ground transportation tips, are reimbursable up to the annually allowable maximum per trip per person, if properly itemized on the travel expense report. Examples of non-food tips are sky cap tips and bell cap tips.

2.) Receipts for all other miscellaneous expenses, e.g., manuals, tapes, publications, supplies, etc. must be submitted with the travel expense report. Leisure

activities with charges separate from the registration fees are not reimbursable.

vi. Spouse or Other Non-Employee Expenses

1.) It is the City's policy that all expenses incurred on behalf of an employee's spouse or other non-employee accompanying the traveler will not be provided by the City. All such expenses must be segregated from the employee's expenses. These costs include registration fees, transportation, meal expense and the difference between a single occupancy lodging rate and the actual occupancy lodging rate.

2.) If an employee combines business travel with personal travel on the same trip, only those expenses incurred by the employee for business purposes will be eligible for reimbursement. In other words, reimbursement will be made for those expenses incurred on behalf of the employee as if the travel was for business purposes only.

3. Travel Advance

a. In order to receive a travel advance, a completed form approved by the department director must be submitted to the Finance Department no later than seven (7) work days prior to departure. An advance for travel will not be provided if the travel expenses are estimated to be less than the annually determined amount per employee per trip. If there are multiple employees attending the same training and each employees' advance does not meet the minimum level for an advance, the department director may attach an explanation to the advance requests of those employees.

b. The travel advance must include the purpose, destination, dates of travel and an estimate of expense amounts.

c. The approval by the City Administrator for any travel advance is required prior to check release.

d. Finance will not make advance travel payments if the employee has a city credit card for travel,outstanding post-travel reconciliations or refunds past due from the individual requesting the advance.

e. The check for the advance will be made payable to the City employee named as the requesting party. Once the check is received by the employee, the employee is solely responsible for the accounting of advanced funds. Only one employee may be designated on each travel advance.

f. All travel advances must be reconciled on a travel expense report form within two (2) weeks of the return date. Failure to reconcile a travel advance within this time period will constitute authorization for the entire advance to be withheld from the requesting employee's next pay check following this time constraint. If the travel is partially reconciled, only the unreconciled portion of the advance will be withheld and the employee may within one week from the withholding, complete the reconciliation and the withheld sum will be refunded. Thereafter, there will be no right to reconcile and claim a refund of any withheld sum.

4. Travel Expense Report

a. A travel expense report form must be completed for all travel and training expenses incurred by an employee within two (2) weeks of the return date whether an advance is provided or not. Reimbursement requests beyond the two (2) week time period will not be honored.

b. If an amount is due the City, a check or money order must be provided with the report. CASH is not acceptable.

c. If a meal was provided with the registration fee, charged to a City credit card, or included on another employee's report form, please so note on the travel expense report form.

d. Any employee traveling for City business will be required to

attach a copy of the program schedule for the class/seminar/symposium/conference attended to validate any meals provided as part of the registration.

5. Use of City Credit Cards

   a. If your department has a City issued credit card authorized for travel and training purposes, charges may be made for any legitimate City expenses but are not allowed to be made for any personal expenses, entertainment or alcoholic beverages. The employee is to write on the back of the credit card receipt the reason for the expense, the person(s) involved in the expense and sign and date the receipt. The designated departmental representative is to retain all credit card receipts and reconcile the receipts with the monthly statements before forwarding statements to the Finance Department.

   b. To avoid finance charges and/or freezing of charge privileges, request for pay of credit card statements must be forwarded no later than Monday following receipt of the statement to allow for payment processing that same week.

   c. Meals charged to a City issued credit card account while on a business trip are in lieu of the per diem meal allowances. Such meals must not exceed the per diem rates.

R. Cellular Telephones and Pagers

1. Purpose

   The purpose of this policy is to establish policies and procedures regarding the distribution and use of cellular telephones and pagers

   a. The City shall provide employees with the most cost effective communication tools necessary to enable performance of official City business. The City reserves the right to assign or reassign communication equipment based solely on management decisions.

   b. The City will periodically solicit bids for cellular telephone service and for paging service for all City employees. These

services are contracted with outside vendors. Cellular telephone service shall be provided to employees who are frequently out of the office, away from a standard landline phone, and in need of immediate access to telephone service. Paging services provide alphanumeric displays which allow the caller to enter either a number or text message to be displayed on the employee's pager. These services are intended to maximize communications between employees which should ultimately save time and enhance response times.

2. Policy

   a. City employees may be authorized to use cellular phones and/or pagers by their department director. Numbers and equipment shall be assigned by the vendor in coordination with the IT Communications Administrator and department head. The City shall request phone number transfers when changing vendors.

   b. An overarching concern of the City is the personal safety of employees and the public at large. Therefore, employees should use proper safety procedures at all times when using a cellular phone, but especially while operating equipment, driving on City business, or performing similar duties. All employees shall observe local and/or state laws which restrict or limit cell phone usage and texting while operating a City-owned vehicle.

   c. Department directors shall review the assignment of cellular phones and/or pagers annually to determine if continued use should be maintained. Department directors shall perform an annual assessment to determine whether e-mail and internet capability is necessary for each cell phone user.

   d. Cellular phones should not be used when a less costly alternative method is safe, convenient, and readily available, i.e. landline phone, pager, etc. If excessive usage is noted on a City issued cellular phone during an audit of cell phone use, the applicable employee will respond to audit inquiries and

appropriate disciplinary action will be taken which may include rescinding cell phone privileges. Cellular phones should not be used for directory assistance when a less-costly alternative method is safe, convenient and readily available (i.e. landline phone, pager, landline or online directory assistance, etc.).

e. Personal phone calls must be kept to a minimum. All cellular calls made for personal reasons must be reimbursed by the employee responsible if the activity resulted in charges exceeding the individual department's established service plan (e.g. unlimited mobile-to-mobile for common carrier, texting, date service, nights and weekends, etc.).

i. Reimbursements shall be made within two weeks upon receipt of the bill and be made to the department representative who processes the cellular phone vendor invoice. The departmental representative should give a copy of the receipt to the cell phone used received back from collections to insure deposit was made into City account.

ii. Cellular phone air time usage shall be reimbursed at the current contract rate.

iii. Cellular phone roaming fees and long distance fees shall be reimbursed at actual cost to the City.

iv. All reimbursements shall be submitted to the applicable department employee immediately upon termination of an employee.

v. All employees assigned a cellular phone and/or pager must acknowledge receipt and an understanding of these policies by signing the Human Resource Policy Handbook.

vi. The IT Communications Administrator shall maintain a list with each cell phone user and corresponding number

with annual audit to ensure compliance with Human Resource Cellular Use Policy.

vii. All employees assigned communication equipment and related accessories must return them to their department director or Human Resources immediately upon separation from employment with the City or when requested by the Department Director.

3. Restrictions

a. In an effort to keep the City's costs to a minimum, all service requests for cellular phones, equipment and service and for pagers shall be coordinated by the corresponding department head through the Purchasing Office or IT Communications Administrator.

b. The City does not normally allow or pay for collect calls. Unless the collect call is made in an emergency situation, all collect calls will be treated as a personal call and must be reimbursed by the employee accepting the call.

c. The City strictly prohibits calls placed to "900" numbers.

d. Using city-provided communication devices to access adult content websites is prohibited.

e. Using city-provided communication devices to send or receive calls, e-mails, or text messages of sexual, criminal, racist, or otherwise negative nature is prohibited.

S. City Credit Cards - The use of credit/charge cards issued for the purpose of City business is a privilege and, as such, requires that the utilization of the card be for official City business only. It will be the City's practice to issue cards, subject to approval by the City Administrator and the applicable department director, to assist employees in conducting City business, in compliance with this policy and other City policies and procedures.

1. Compliance with the following is required by each employee who is provided a credit/charge card.

   a. The City employee receiving the card will acknowledge receipt of the card and an understanding of these policies.

   b. The cardholder will assume responsibility for timely payment of all obligations incurred while using the card for credit transactions.

   c. The City and cardholders will comply with existing agreements of respective credit/charge card companies.

   d. The cardholder will maintain, at all times, the whereabouts of the City credit/charge card that has been assigned and accepted. The cardholder is responsible for security of the credit/charge card. If the card(s) is lost or stolen, the cardholder must follow the procedures as outlined in the card company's form which accompanied the issuance of the card. Failure to follow the procedures as outlined by the company may result in the cardholder becoming responsible for charges made to the card.

   e. The cardholder will ensure that all charges made with the card are for official City business.

   f. The cardholder will be required to assume personal responsibility for any charges that are requested for payment and determined not to be for official City business.

   g. At termination of employment with the City or upon earlier request by the appropriate City officials, the cardholder will surrender any credit/charge card(s) issued under this policy.

2. To complete timely and accurate reimbursement to the credit/charge company for legitimate transactions, each cardholder listed on the monthly credit/charge card billing statement will be required to adhere to the listed procedures for this section of the policy.

   a. Attach the original customer copy of the charge slip which must include the date, vendor, location, business reason for the charge, cardholder's signature, and, if the charge is a business meal, the individuals whose meals were charged and the nature of the business discussed during the meal.

   b. The monthly statement(s) must be forwarded to the Finance Administrative Secretary within ten days of receipt of the statement. The original customer receipt copies must be attached to the statement.

   c. Meals charged with a credit/charge which are related to training and travel must adhere to the annually approved per diem meal allowances. Any non compliance with these amounts must be documented and approved by the applicable department director.

3. Any questioned costs will be forwarded to the Director of Finance for resolution with the applicable department director, or if necessary, the City Administrator.

4. Failure to adhere to the policies and procedures will result in the loss of credit/charge privileges. Cardholders who violate the policies and procedures will be subject to disciplinary actions.

SECTION IV: Hours of Work

A. The work week will normally, but not always, consist of forty (40) hours of five (5) eight-hour days, but special work schedules may be established as required.

1. Employees may be provided with one fifteen (15) minute rest period for each four (4) hours worked. The rest period will be scheduled and administered by the employee's supervisor.

2. Employees may be provided with an applicable lunch period during each eight (8) hour day. Lunch periods will be established by the employee's supervisor at a time deemed appropriate for the day's work schedule.

B. All employees will work reasonable amounts of overtime when requested.

1. For Non-Exempt employees, overtime is defined as all hours worked in excess of forty (40) hours in one work week.

2. Non-Exempt employees will receive overtime pay at the rate of one and one-half hours for each hour worked in excess of forty (40) hours per work week.

3. All work hours involving possible overtime pay must be approved by the employee's department director prior to the hours being worked.

4. For purposes of computing overtime, a holiday actually taken will be considered as eight (8) hours worked. Time spent on an approved administrative leave, such as seminars and training programs, will also be considered as time worked.

C. Stand-by and Call Out Bonuses.

1. Non-Exempt employee who participates in a stand-by bonus pay plan in which the employee is responsible for "standing-by" (a telephone or by carrying a paging device) to report to work on a Saturday or Sunday, or on any City observed holiday, or on any other approved event(s) will be compensated the equivalent of three (3) hours regular pay as a stand-by bonus for each eight (8) hours he or she is actually responsible for being on stand-by. In order to qualify for the stand-by bonus, an employee must actively be on stand-by for a minimum period of eight (8) hours. If an

employee is called upon to perform service, as opposed simply to "stand-by", he or she will be paid for the time actually worked in addition to any earned stand-by bonus. If an employee is called upon to perform service, all hours actually worked will be compensated at the employee's regular rate of pay, with all hours actually worked during the call to perform service being used to calculate weekly hours in determining the applicability of overtime pay. The stand-by bonus is not considered "hours worked" for the purposes of calculating overtime or for calculating other benefits.

2. A Non-Exempt employee not on stand-by, who is "called-out" and thus back to emergency duty during normal off-duty hours, will be compensated the minimum equivalent of four (4) hours regular pay as a call-out bonus. If a call-out should last more than 2.75 hours, the call-out bonus will not apply and all hours actually worked will be compensated at the employee's regular rate of pay, with all hours actually worked during the call-out being used to calculate weekly hours worked in determining the applicability of overtime pay.

D. Working "On-Call"

1. A Non-Exempt employee, who is required to remain on City premises and available for duty or so close in proximity to City premises that he or she cannot use their time effectively for their own purposes, is considered to be working "on call". A Non-Exempt employee who is not required to remain on City premises, but is merely required to leave word at home, or with a supervisor or department director as to where the employee may be reached, or where the employee may be reached by means of a paging device, is not working "on call".

2. A Non-Exempt employee, who is required to wear a paging device and who is restricted in his or her movements and required to respond quickly if called, may be entitled to compensation for time spent "on call". Ordinarily, a Non-Exempt employee is not considered to be "restricted in his or her movements" if he or she has the freedom to engage in private pursuits, and thus has

enough time to eat, sleep, entertain and engage in activities free from the duties of the job.

3. Exempt employees who are required to supervise Non-Exempt employees during approved overtime or call-out periods, and those Exempt employees who are required to perform work approved as necessary by their supervisor in an overtime setting, may earn alternate time. Alternate time will accrue at the rate of one hour for each hour required by the approved overtime period. Alternate time will not, however, be reflected in an Exempt employee's salary nor will it be compensated at the time of termination of employment. Alternate time may be used as time away from work during normal working hours in exchange for the time previously spent at work after normal working hours. Alternate time may not exceed sixteen (16) hours and must be used within thirty (30) days immediately following its accrual or it will be forfeited, unless otherwise approved by the department director. Approval by the Exempt employees' supervisor is required before any alternate time may be granted.

E. Inclement Weather Pay

1. City services will be maintained during inclement weather, such as heavy snow or ice storms and all employees are expected to report to work.

2. Employees scheduled to work during this time who were not required to report for duty will be paid their regular rate of pay. The pay category for those hours will be "W" time (weather time) and it should be listed on the time sheets. Hours under the "W" category will not be counted toward overtime. NO paid leave hours will be lost for employees receiving "W" time.

3. Employees who were not required to report for duty and were scheduled for vacation or any other leave will still be charged for that scheduled leave. In other words, weather time may not be traded for scheduled vacation time.

4. Employees who were ordered to report for duty, or those who voluntarily reported for duty and were allowed to work by their supervisor, will have one-half time pay added to their normal pay rates for all hours worked during this period. As examples, employees working regular hours will be paid at time and one-half. Employees earning overtime hours will be paid at double time.

5. Provision #3 applies to non-exempt employees. For exempt employees, alternate time on a one-half time basis will be authorized.

SECTION V: Holidays

A. Active, regular full-time employees will be paid for 11 observed holidays. The official holidays are:

1. New Year's Day
2. Martin Luther King's birthday
3. Good Friday
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. Day after Thanksgiving
10. Christmas Eve Day
11. Christmas Day

B. If an observed holiday falls on a Saturday, it will be observed by the City on the preceding Friday, and, if any such holiday should fall on a Sunday, it will be observed by the City on the following Monday. However, the City reserves the right to change the observed day in the event that business conditions necessitate such a change.

C. Holiday pay is defined as the equivalent of an employee's regular rate of pay for the actual working hours regularly scheduled on the day the holiday is observed. An employee must complete the regularly scheduled shift on the day before and the day after the observed holi-

day to qualify for holiday pay. An employee who is on an approved leave of absence (other than a non compensated absence), or who is on vacation or who can verify, with a written health care provider's statement, the use of sick leave on the day before or the day after an observed holiday, will be deemed to have met the working requirement in order to qualify for holiday pay.

D. If a Non-Exempt employee is required to work on an observed holiday, the employee will be paid holiday pay plus one and one-half times the employee's regular rate of pay as a bonus for the actual hours worked on the holiday (unless, an alternate holiday work schedule, without the holiday pay bonus, is determined to be agreeable with an employee and the alternate holiday work schedule has the approval of the department director and the Director of Human Resources). If an Exempt employee is required to work on an observed holiday, another day off may be awarded and substituted for the required holiday work with the approval of the Exempt employee's department director.

SECTION VI: Vacation

A. A regular employee, on the anniversary date of his or her employment, will be become eligible for annual vacation time off with pay based on his or her uninterrupted service in accordance with the following schedule:

1. After twelve (12) consecutive months of continuous service, ten (10) days.

2. After eight (8) consecutive years of continuous service, twelve (12) days.

3. After ten (10) consecutive years of continuous service, fifteen (15) days.

4. After eleven (11) consecutive years of continuous service, sixteen (16) days.

5. After twelve (12) consecutive years of continuous service, seventeen (17) days.

6. After thirteen (13) consecutive years of continuous service, eighteen (18) days.

7. After fourteen (14) consecutive years of continuous service, nineteen (19) days.

8. After fifteen (15) consecutive years of continuous service, twenty (20) days.

B. In addition to the foregoing vacation days, each employee will receive one (1) discretionary day off with pay after twelve (12) consecutive months of continuous service and on each calendar year thereafter. The discretionary day must be taken before the last day of the calendar year or it will be forfeited. Discretionary days do not qualify for payment if unused.

C. During a regular employee's vacation day, such employee will earn his or her regular rate of pay for the actual hours regularly scheduled to work on the workday that the vacation day is taken.

D. Employees are encouraged to use their vacation as a personal time benefit. Therefore, vacation days will not be accumulated from year to year, except as follows:

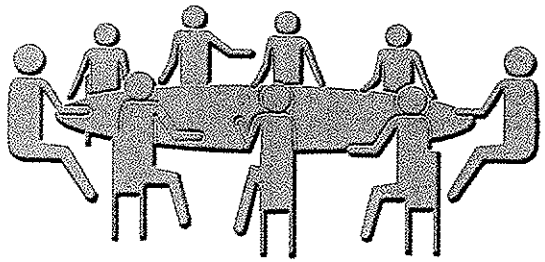
1. If a regular employee has earned but not used vacation prior to his or her employment anniversary date, the employee may be allowed (60) calendar days past his or her employment anniversary date to take such accumulated vacation time if the payroll department is notified in writing of his intent not later than five (5) working days following the employee's employment anniversary date.

2. Alternatively, the employee may be paid for earned but not used vacation at his or her regular rate of pay, provided that: (a) the employee has already taken a minimum of five consecutive (5) vacation days of the annual vacation benefit; (b) the City and the employee's department director have budgeted for this request; and, (c) the employee has made a written request to the payroll department no later than five (5) working days following the employee's employment anniversary date, for payment of the unused vacation time

3. An employee will become eligible to receive cash payment for earned but not used vacation only at or after his or her employment anniversary date.

4. If an employee does not fully comply with the provisions of subparagraph (1) or (2) above, he or she will lose any earned but not used vacation at the end of the fifth working day following the employee's employment anniversary date.

5. If an employee does comply with the provisions of subparagraph (1) above, but fails (or is not authorized) to take the vacation time within the sixty (60) day limit, he or she may request payment for



the earned but not used vacation subject to the five (5) day minimum vacation taken and budgetary conditions outlined in subparagraph (2) above. This request must be made in writing to the payroll department **prior** to the expiration date of sixty (60) days from the employee's employment anniversary date or the employee will lose any earned but not used vacation.

6. In extenuating circumstances, the City Administrator may authorize an extension of up to one hundred twenty (120) days past an employee's employment anniversary date for the utilization of earned but not used vacation.

E. If an employee is receiving workers' compensation benefits, the employee may supplement those benefits with any accrued vacation or sick leave so as to receive benefits from both sources in an amount equal to but not to exceed the employee's regular weekly pay at the time of the employee's injury or illness.

F. An employee may utilize his or her accrued vacation benefits as compensation during a work-related injury or illness **if** the employee has exhausted workers' compensation benefits and **if** the employee has been released to return to work with limitations which cannot be "reasonably accommodated" as that term is used under the Americans with Disabilities Act (ADA).

G. Employees who retire, resign or are discharged will be paid for any earned but not used vacation days at their regular rate of pay at the time of their termination of employment.

H. Supervisory approval is required before any vacation benefits are scheduled or granted.

SECTION VII: Personal or Administrative Leave of Absence & Leave Without Pay

A. An active, regular employee may be granted, under certain conditions judged by the Director of Human Resources on a case-by-case basis,

a leave of absence without pay for a period not to exceed thirty (30) days. If an employee requests a personal leave they will be required to use any and all paid leave available consistent with the personal leave request before leave without pay will be granted. Extensions of an approved leave of absence without pay may also be granted in thirty (30) day increments approved by the City Administrator on a case-by-case basis. During an approved leave of absence without pay, an employee may only engage in gainful occupation with the prior written approval of the Director of Human Resources. If an approved leave of absence without pay is granted, the employee will be subject to inactive status as defined above in Section II, Paragraph D (5).

B. Paid leave must always be exhausted prior to any voluntary leave without pay being granted. Leave without pay requests up to five working days may be approved by the department director. Leave without pay requests of greater than five working days will be considered to be a request for a personal leave of absence as defined in subsection A above.

C. Employees may be placed on administrative leave as determined necessary by the department director on a case by case basis in consultation with the Director of Human Resources. Administrative leave may be used for department related issues such as an investigation or review process, or departmental needs. Administrative leave will be no longer than 30 days without City Administrator approval. Employees on administrative leave will be paid their regular rate of pay during leave.

SECTION VIII: Family and Medical Leave of Absence

A. Pursuant to the Federal Family and Medical Leave Act of 1993 (FMLA), which requires employers with fifty (50) or more employees to provide up to twelve (12) weeks of unpaid family leave per year, the following policy is designed to provide FMLA leave to employees for:

1. The birth, adoption or foster care placement of a child. However, the right to this leave expires twelve (12) months after the birth, adoption or foster care placement of the child.

   a. The use of a licensed adoption agency is not required to qualify for FMLA leave.

   b. Foster care is defined as requiring State action, rather than just an informal arrangement to take care of another person's child.

2. The care of a serious health condition which affects an employee or the employee's spouse, child or parent.

   a. A "spouse" is defined as an employee's husband or wife (as those terms are recognized and given legal effect by the statutes and court decisions of the Supreme Court of the State of Arkansas) at the time the FMLA leave is sought. This term does not include, however, alleged "spouses" of common law marriages unless those marriages have previously been recognized specifically by a court of competent jurisdiction in the State of Arkansas. Unmarried domestic partners do not qualify for family leave to care for their partner.

   b. A "child" is defined as an employee's biological, adopted, or foster child, stepchild, legal ward or a child for whom the employee acts as a parent. The child must be under eighteen (18) years of age; or eighteen years of age or older and incapable of self-care because of a mental or physical disability.

   c. A "parent" is defined as the biological parent of an employee or an individual who filled a parental role for the employee when that employee was a child.

B. A City employee is eligible for FMLA leave if:

1. The employee has worked for the City of Fort Smith for at least twelve (12) months; and,

2. The employee has worked a minimum of 1,250 hours during the twelve (12) month period immediately preceding the start date of the leave.

C. If two employees are spouses of each other and working for the City of Fort Smith, they are jointly entitled to a combined total of twelve (12) weeks of FMLA leave per year for the birth, adoption or foster care placement of a child. This limitation does not apply, however, to leave taken by either spouse to care for the other who is seriously ill and unable to work; to care for a child with a serious health condition; or to care for the employee's own serious health condition.

D. A "year" in which an employee may be eligible for up to twelve (12) weeks of FMLA leave is defined as the period beginning at the start date of the first leave request and ending on the same date twelve (12) months later.

E. A serious health condition means an injury, illness, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment connected with inpatient care (an overnight stay) in a hospital, hospice or residential medical care facility; or,

2. Any period of incapacity requiring the absence from work of more thanfivethree (5) calendar days that also involves continuing treatment by (or under the supervision of) a health care provider; or,

3. Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than five (5) calendar days, and for prenatal care.

a. Continuing treatment includes:

i. Two or more visits to the health care provider;
ii. Two or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider; or
iii. A single visit to a health care provider that results in a regimen of continuing treatment under the supervision of the health care provider.

F. In addition to doctors of medicine and osteopathy, health care providers under FMLA include podiatrists; dentists; clinical psychologists; optometrists; chiropractors; nurse practitioners and nurse midwives - all of the foregoing only in so far as they perform within the scope of their licensed practice under Arkansas law; and Christian Science practitioners.

G. Employees seeking to use FMLA leave will be required to utilize the following notice and certification procedures:

1. A thirty (30) day advance notice of the need to take an FMLA leave will be provided to the Director of Human Resources when the need is foreseeable (birth or placement of a child for foster care, or for planned medical treatment). Employees will attempt to schedule foreseeable leave so as not to unduly disrupt City operations.

2. When it is not practical under the circumstances to provide such advance notice, notice must be given within two (2) working days of when the employee learns of the need for an FMLA leave. Notice will be given to the Director of Human Resources or the department director either in person or by telephone when medical emergencies are involved, and may be given by the

employee's spouse or other family member if the employee is unable to do so due to a personal serious health condition.

3. A verbal notice is sufficient to satisfy the FMLA notice requirement. However, employees are encouraged to request an FMLA leave in writing.

4. Medical certification from the health care provider supporting a leave request either to care for an employee's seriously-ill family member, or for leave due to the serious health condition that makes the employee unable to perform his or her job functions will be provided to the Director of Human Resources within fifteen (15) calendar days of the leave request, unless it is not practical to do so under the circumstances.

   a. A certification for medical leave will include the statement that the employee "is needed to care" for a seriously-ill family member or, in the case of an employee's own serious health condition, a statement that the employee is "unable to perform the functions" of the position.

   b. A certification of the medical necessity of intermittent leave or leave on a reduced leave schedule will include the specified description of the treatment program.

5. The Director of Human Resources may require an employee to obtain a second medical opinion, at the City's expense. If the opinions of the first and second health care provider differ, the Director of Human Resources may require a third medical opinion, again at the City's expense, from a health care provider mutually agreed upon by the Director of Human Resources and the employee. The third medical opinion will be final and binding.

6. The Director of Human Resources may, not more often than every thirty (30) days, require an employee to obtain subsequent re-certifications to support continuing FMLA medical leave, unless:

   a. The employee requests an extension of the leave.

   b. Changed circumstances occur regarding the illness or injury; or,

   c. The Director of Human Resources receives information that casts doubt upon the continuing validity of the most recent certification.

H. An employee on an approved FMLA leave will maintain group benefits on the same terms as was provided before the leave was taken and on the same terms as if the employee had continued to work for the City. Any share of benefit premiums which had been paid by the employee prior to the commencement of FMLA leave will continue to be paid by the employee during FMLA leave.

   1. An employee's medical, dental, vision and or life benefit coverage will end if the employee's share of the applicable benefit premium remains unpaid for more than thirty (30) days past the date due. Claims related to treatment during the dates when premiums remain unpaid will not be eligible for payment. However, if the employee fails to make a premium payment during an FMLA leave, and such failure causes coverage to end, the terminated benefit coverage will be reinstated effective on the date the employee returns to work following the FMLA leave, without the need for the employee to meet qualification requirements.

   2. The period an employee is on an approved FMLA leave will be treated as continued service (i.e., no break in service) for purposes of vesting and eligibility to participate in any pension or retirement plan sponsored by the City.

I. Upon return from FMLA leave, an employee will be restored to his or her original job (or to an equivalent job with equivalent pay), benefits and other terms and conditions of employment.

   1. An employee returning from FMLA leave, taken for a serious personal health condition, will be required to provide certification

from the employee's health care provider that the employee is able to resume work, i.e., is fit for duty for the job the employee had when FMLA leave commenced or a job of similar pay and stature.

2. An employee, upon returning from an FMLA leave, who is no longer qualified for a position because of a failure to attend a class or renew a license, will be allowed a reasonable opportunity to fulfill those conditions upon return to work. What constitutes a reasonable opportunity will be determined by the Director of Human Resources.

3. An employee is considered to have failed to return to work from an FMLA leave thirty (30) calendar days following the end date of the maximum twelve (12) week leave period.

J. An employee will be required to utilize any accrued paid time off (vacation and sick leave benefits) concurrently with FMLA leave.

1. In all circumstances, it is the Director of Human Resources's responsibility to designate leave, paid or unpaid, as FMLA qualifying, based on information provided by the employee or otherwise obtained.

K. Under some circumstances approved by the Director of Human Resources, employees may take FMLA leave intermittently - which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

1. An employee must support a request for intermittent leave or leave on a reduced leave schedule due to a serious health condition of the employee or immediate family member with a certification from the health care provider that such leave is medically necessary and the expected duration and schedule of such leave.

2. The certification from the employee's health care provider must include:

a. The existence of a medical need for the leave; and

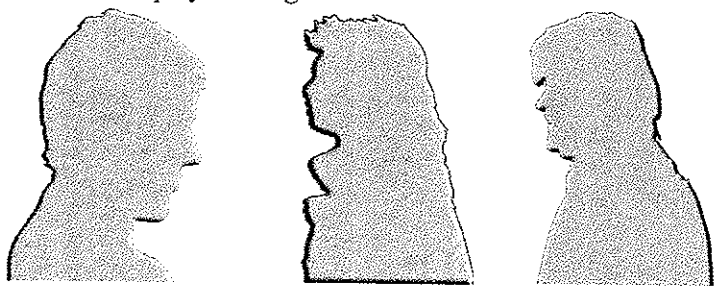
b. That the medical need can best be accommodated through an intermittent or reduced leave schedule.

SECTION IX: Military Leave of Absence

A. Employees who are members of the National Guard or any of the reserve branches of the armed forces will be granted leave at the rate of fifteen (15) days per calendar year for annual training requirements or other duties performed in an official duty status. The leave will be granted in addition to regular vacation time. Each employee who requests military leave will furnish a copy of his or her official orders to the Human Resources Department.

B. An employee who is drafted or called to active duty in the armed forces of the United States or who volunteers for military service will be placed on extended military leave without pay, and, upon application within the time outlined in USERRA (Uniformed Services Employment and Reemployment Rights Act of 1994) after the effective date of his or her release from active duty, will be reinstated to the position vacated or to an equivalent position at no loss of seniority or any of the other benefits and privileges of employment. The right of reemployment will conform with all federal government rules and regulations.

C. Any employee who enlists or reenlists for military duty for more than the time outlined by USERRA (Uniformed Services Employment and Reemployment Rights Act of 1994) will be deemed to have forfeited his or her reemployment rights.



D. Personnel called to duty in emergency situations by the Governor of the State of Arkansas or by the President of the United States will be granted leave with pay not to exceed thirty (30) working days after which leave without pay will be granted. This leave will be granted in addition to any earned but not used vacation time.

E. During any military leave of absence, the employee will be entitled to all seniority rights, promotional status, retirement privileges, life and health insurance benefits and any other rights, privileges and benefits to which they have become entitled. The period of military service will, for purposes of computations to determine whether such person may be entitled to retirement benefits, be deemed continuous service and during such military service the employee will not be required to make any contributions to any retirement fund.

SECTION X: Sick Leave

A. All regular employees will be eligible to accrue sick leave benefits from their date of hire.

B. Each regular employee will accrue one (1) day of sick leave for each continuous month of employment.

C. Sick leave is a benefit designed to protect an employee's earnings in the event of an illness, injury or qualified event. Use of sick leave is only authorized for:

1. An employee's non work-related illness or injury which prevents him or her from performing regular job duties.

2. An employee's medical treatment for a non work-related illness or injury (including appointments with health care providers), hospitalization or convalescence.

3. Required or authorized care (a health care provider's statement may be required) of a member of the employee's immediate family.

The immediate family is defined as the employee's spouse; children (or stepchildren); parents (or stepparents); and any relative living in the employee's home.

4. A supplement to workers' compensation benefits so as to permit an employee to receive benefits from workers' compensation and sick leave in an amount equal to but not to exceed the employee's regular weekly pay at the time of the employee's injury or illness.

D. Unused sick leave may be accumulated from year to year not to exceed one hundred and twenty (120) days (960 hours) at any one time. Upon termination of employment, an employee with a hire date prior to February 4, 1992 will be paid for any accumulated sick leave in excess of forty-five (45) days (360 hours). Upon termination of employment, an employee with a hire date on or after February 4, 1992 will be paid for any accumulated sick leave in excess of ninety (90) days (720 hours). All payment of unused sick leave at termination will be paid at the employee's regular rate of pay in effect on the date of termination.

E. Sick leave may be restricted on an individual or departmental basis at the discretion of the department director, with the approval of the Director of Human Resources. Restricted sick leave means an employee will be required to submit a health care provider's written statement before any sick leave will be paid for an employee's illness or for the use of sick leave for any of the qualifying events listed above.

F. A health care provider's written statement will be required prior to authorizing an employee's use of sick leave lasting longer than five (5) consecutive days. The Director of Human Resources will determine whether any sick leave qualifies for FMLA leave.

G. Before an employee is permitted to return to work after a sick leave absence lasting longer than five (5) consecutive days, a health care provider's statement authorizing the employee to return to work with no restrictions, must be presented to, and approved by, the Director of Human Resources or designee.

SECTION XI: Injury Leave

A. All employees will be covered in the event of an on-the-job injury or work related illness by workers' compensation benefits.

B. Additionally, in the event a regular employee is injured on the job, or contracts an illness related to the job and is temporarily incapacitated as a direct result of such injury or illness (as supported by doctor's orders), the employee will be placed on injury leave of absence with full pay not to exceed thirty (30) calendar days from the date of injury. Injury leave is considered to be a short-term disability income benefit which may be restricted by the Director of Human Resources on a case-by-case basis.

C. If an employee received compensation under an approved injury leave of absence, the City will be entitled to recover, up to a maximum amount equal to thirty (30) days of such injury leave compensation, any disability payments to which the employee might otherwise be entitled under workers' compensation.

D. If an employee's injury leave extends past the thirty (30) day maximum injury leave period, or if the employee's injury leave benefits are restricted, the employee will be limited to direct workers' compensation benefits.

E. If an employee is directly receiving workers' compensation benefits, the employee may supplement these benefits with any accrued sick leave or vacation so as to receive benefits from both workers' compensation and sick leave or vacation in an amount equal to but not to exceed the employee's regular weekly pay at the time of the employee's injury or illness.

F. If an employee's injury leave extends past the thirty (30) calendar day maximum injury leave period, the employee will be placed on inactive status as defined above in Section II, paragraph (D) (5).

SECTION XII: Bereavement Leave

A. A regular employee may have up to three (3) consecutive paid working days of bereavement leave upon notification to his or her department director of a death in the employee's family. The employee's family recognized for this benefit will only include the following: ***employee's*** spouse, child (stepchild), parent (stepparent), legal guardian, sister (stepsister), brother (stepbrother), grandparent, grandchild, grandparent-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law and brother-in-law.

B. The Director of Human Resources may grant additional paid bereavement leave for travel time in an amount not to exceed two days, one day for travel to the funeral and one day for travel home from the funeral. To be eligible for additional bereavement leave the employee must be traveling a distance greater than 300 miles one way to attend the funeral.

C. A regular employee called for service as a pallbearer may be allowed up to one (1) day off from work with pay, for the time necessary to serve as a pallbearer. However, the employee must have prior approval from his or her department director before leaving work for pallbearer service. If the pallbearer service is for a family member that qualifies the employee for bereavement leave as outlined in Paragraph A of this section, then the employee will not be eligible to receive the one day of pay for pallbearer service. Any additional time off from work to serve as a pallbearer will be charged to vacation first and if no vacation leave is available then the employee must take leave without pay.

SECTION XIII: Jury Duty and Witness Duty

A. An employee who is required to report for jury duty during normal working hours or who has been subpoenaed as a witness for court duty will be compensated for the amount he or she would have earned at his or her regular rate of pay for the time lost. An employee must obtain appropriate proof from the Court Clerk or other applicable

source stating the date the employee was in court as a juror or witness. The statement must be presented with the payroll records for any pay period during which the employee serves as a juror or court witness. Jury duty pay or witness fee is the property of the employee and pay will not be reduced accordingly unless the employee represents the City as a witness.

1. Employees who fail to provide proof of jury duty service or witness subpoena will have their regular pay reduced by the hours undocumented.

2. Each employee who is required to report for jury duty or to serve as a witness will come to work on regularly scheduled work days when they are not required to be in court.

3. An employee released from jury duty or from a witness subpoena at a time which leaves at least two hours of their scheduled work day must report for work as soon as possible after being released from the court.

SECTION XIV: Compensation & Classification

A. This policy defines procedures for a fair and equitable classification and compensation plan.

B. Human Resources will prepare and administer a classification and compensation plan based upon analysis of position duties and responsibilities. The current plan is approved by City ordinance.

C. Classification and Compensation Plan Maintenance - Positions will be assigned to appropriate salary grades based upon objective factors and market surveys. Human Resources will review City position duties and responsibilities on an ongoing basis and recommend necessary compensation plan adjustments. Employees may request position reviews for proper salary grade through their supervisors or department.

D. Position Reviews - There are two situations in which department directors may ask Human Resources to review positions within their area. The first occurs when a department director believes a position should be reviewed for equitable rank in relationship to other positions in the City or paid properly in relationship to other positions within the market. The second occurs when an incumbent's duties have changed significantly and warrant an audit for position reclassification recommendation.

1. Compensation Equity Issue (Upgrade/Downgrade) - This issue considers whether a position is properly ranked or compensated in relationship to other City or market positions. The issue is compensation, not duties or classification.

2. Reclassification - When an employee's job duties have changed or been altered significantly, there is a question of the position's proper classification. A job audit may be requested for position reclassification recommendation. Position reclassification usually results in a job title and salary change.

   a. Compensation Equity Issues - Requests for compensation studies will be initiated by a department director and forwarded to Human Resources. The requests will explain the reasons for the compensation study. It is Human Resources responsibility to maintain the compensation plan in accordance with market conditions. Human Resources evaluates positions (classifications) for internal equity using the position evaluation system. When positions are upgraded, incumbents' salaries will be adjusted by an amount that is fair to the employee being reclassified and allows the City to maintain equity within the position and grade.

   b. Downgraded Position - The pay rate for an employee who is in a position that is downgraded will not be reduced by the downgrade.

   c. Reclassification Issue Process - Reclassification study requests will be initiated by a department director and forwarded to Human Resources. Requests will contain detailed

explanations specifying how the duties have changed. Reclassification requests may be made at any time. Human Resources will conduct appropriate studies, audits or surveys to evaluate the issue.

3. Promotions - A promotion is defined as an employee moving from one job to a different job in a higher classification. The new pay rate for an employee who is promoted will be equal to the lowest step in the new grade that provides an amount that is fair to the employee being promoted and allows the City to maintain equity within the position and grade. Under extenuating circumstances, the City Administrator can approve a different pay adjustment.

4. Voluntary or Involuntary Reassignment to a Lower Classified Position - An employee who voluntarily is reassigned to a lower classified job will be paid at the same percentile in the lower classified position as his/her current rate of pay in the higher classified position.

5. Lateral Transfer - A lateral transfer occurs when an employee transfers to a position that is in the same grade as the employee's current position. If a lateral transfer occurs, the employee's rate of pay will not change.

6. Temporary Assignment - If an employee is temporarily assigned to a position in a higher classification, the employee's rate of pay will be adjusted by 5% or to the minimum of the higher pay grade, whichever is greater but no higher than the maximum rate of pay for the position. For nonexempt employees to be eligible

for temporary assignment pay, the period of time of the temporary assignment must be a minimum of one hour. For exempt employees to be eligible for temporary assignment pay, the period of time of the temporary assignment must be more than five (5) consecutive work days.

7. Shift Differential - A nonexempt employee assigned to work a second or third shift may receive an hourly shift differential bonus as established by the City's Annual Salary Ordinance.

8. Longevity - All regular employees will receive a longevity pay bonus according to the following schedule:

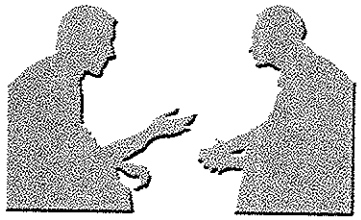
   a. After five (5) consecutive years of continuous service, a ten (10) dollar per month bonus will be added to monthly base pay.

   b. After ten (10) consecutive years of continuous service, a fifteen (15) dollar per month bonus will be added to monthly base pay.

   c. After fifteen (15) consecutive years of continuous service, a twenty (20) dollar per month bonus will be added to monthly base pay.

   d. After twenty (20) consecutive years of continuous service, a twenty-five (25) dollar per month bonus will be added to monthly base pay.

   e. After twenty-five (25) consecutive years of continuous service, a thirty (30) dollar per month bonus will be added to monthly base pay.



SECTION XV: Performance Evaluations

A. The performance evaluation policy is to ensure that all City employees are evaluated in a fair and equitable manner.

B. Performance evaluation is important in improving productivity, morale and communications. Evaluations provide an excellent means for goal-setting between supervisors and employees. Performance evaluations will be conducted annually. It should be a matter of practice, however, to review performance with employees periodically in addition to the annual evaluation.

C. Evaluations of performance will be a continuous process throughout the year. For the purpose of the formal evaluation, the performance evaluation should be conducted no later than 30 days of employee's anniversary date.

D. A newly hired employee's performance should be reviewed between the third and six month of being hired. No increase in pay will be awarded at these times due to performance.

E. Department directors and supervisors will establish job related criteria or factors for rating their employees. Supervisors should meet with each employee to discuss job related criteria and specific employee goals at the beginning of the evaluation period.

F. Employees will have the opportunity to perform a self-evaluation prior to the supervisor's evaluation. The supervisor and employee should agree on the final evaluation. Any disagreement of the evaluation will be resolved by the supervisor and department director.

G. Employees whose rate of pay at the time of the evaluation is between the minimum and midpoint of their pay range will be eligible for an increase in pay up to the next step only if the employee's performance is rated at an average of level C or above.

H. Employees whose rate of pay is between the midpoint and maximum

of their pay range will be eligible to receive a performance increase in their base rate of pay only, depending on their performance level.

I. Employees whose rate of pay is at or above the maximum of their pay range will be eligible for a lump sum payment only, depending on their performance level.

J. Employees whose performance is unacceptable will receive appropriate counseling to include written warnings, performance improvement program (PIP) or other actions as deemed appropriate.

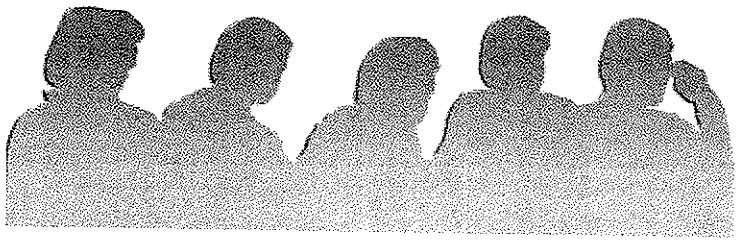
SECTION XVI: Benefits

A. The City of Fort Smith will authorize group benefits for all regular employees by annual resolution(s) passed by the Board of Directors. In addition the Mayor and members of the Board of Directors may, at their option and full expense, participate in City's group health plans during their term of office.

B. The City's retirement plan will remain with the International City Management Association Retirement Corporation (ICMA-RC) Prototype Money Purchase Plan and Trust (401a) as established by Ordinance No. 12-97.

C. All regular employees will be eligible to make voluntary contributions to an individual retirement account (457) with the International City Management Association Retirement Corporation (ICMA-RC).

D. All regular employees will be eligible to receive tuition benefits, at accredited learning institutions, up to a maximum amount per semester established annually for this benefit.



1. Supplies, books and classroom equipment will be the responsibility of the employee.

2. Upon completion of a course, an employee will provide a completion certificate from the accredited institution to the Director of Human Resources within thirty (30) days. If the employee completes the course with a grade of "A" or "B", then 100% of the tuition cost will be paid on behalf of the employee up to the maximum amount established annually for this benefit. If the employee completes the course with a grade of "C", then 50% of the tuition cost will be paid on behalf of the employee with the employee responsible for reimbursing the City for the remaining 50%. If the employee does not complete the course, or completes the course with less than a grade of "C", then the employee will be required to reimburse the City the total cost incurred by the City for employee's tuition benefits for that semester.

3. Prior to the granting of tuition benefits, the employee must authorize the City to take payroll deductions for the amount paid by the City if the employee does not satisfactorily complete the course work.

4. Course work must be scheduled so as not to interfere with the employee's regularly scheduled working hours.

E. If an employee is required to wear a uniform, protective clothing, or any type of protective device as a condition of employment, such uniform, protective clothing or protective device will be furnished to the employee by the City. Unless otherwise determined by a department director, the cost of maintaining the uniform or protective clothing in proper working condition(s) (including tailoring, dry cleaning and laundering) will be paid by the City.

F. If an employee's work requires a special license (including a commercial driver's license, but not including an operator driver's license) the City will pay for the examination, licensing or re-licensing fee.

SECTION XVII: Retirement

A. The purpose of the retirement policy is to define when an employee is eligible for retirement benefits under the City provided retirement income plan with the ICMA Retirement Corporation and medical,dental and vision benefits.

B. Retirement Income Benefits - All regular full-time employees are participants in the City's retirement income plan. Retirement income benefits are provided by the City contributions to the 401(a) retirement plan through ICMA Retirement Corporation. Employees are entitled to benefits from the retirement plan based on the following vesting schedule:

1. Years of Service Entitlement
2. 0 - 1 year 0%
3. after 1 year 20%
4. after 2 years 40%
5. after 3 years 60%
6. after 4 years 80%
7. after 5 years 100%
8. All employees withdrawing funds from the retirement income plan will be subject to provisions of the Internal Revenue Code.

C. Other Retirement Benefits - Employees are eligible to continue at their full cost, medical, dental and vision plan benefits if the employee meets the following criteria: The employee is eligible to begin drawing retirement dollars from their retirement plan within 60 days of retirement and with no penalties as outlined by the Internal Revenue Code.

1. Employees who are not eligible according to Paragraph C will be allowed to continue benefits as provided through the provisions of COBRA.

2. Employees continuing benefits as a retiree will be required to pay the full cost of the benefits.

3. When a retiree becomes eligible for Medicare at age 65, health benefits will cease as outlined in Resolution 189-84. Employees who retire under these provisions and go to work for another employer must notify Human Resources at the City. The employee must provide a letter from their employer stating his/her eligibility for health benefits at their place of employment. If the retiree is eligible for health benefits at their place of employment, he or she will be ineligible to continue benefits under the City's medical, dental and vision plans. Failure to comply with this policy will result in cancellation of the City's medical, dental and vision benefits. If a retiree does not comply with this policy and the City determines that the retiree is working and eligible for health benefits at his/her place of employment, and the retiree has failed to notify the City, the City has the right to seek all remedies allowed by law.

4. Vacation benefits will be paid at retirement according to the vacation benefit under the leave policy.

5. Accrued sick leave will be paid at retirement according to the sick leave benefit under the leave policy.

SECTION XVIII: Substance Abuse & Drug Free Workplace

A. The City of Fort Smith is committed to:

1. Provide its employees with a safe working place.
2. Promote high standards of employee health.
3. Ensure public safety, and
4. Provide its customers with quality service.

B. Consistent with this commitment, the City has developed this policy regarding substance abuse. Substance abuse includes, but is not limited to, the use of illegal drugs and the abuse or misuse of legal drugs, medications, or alcohol.

C. The objective of this policy is to attempt to achieve and maintain a workplace free from substance abuse and comply with all Federal and State laws. The City does not intend to intrude upon the private lives of its employees. However, the City demands that its employees report to work, capable of not only performing their duties, but performing them safely at the highest level of their capability. The safety of other employees and the public in general depends upon this high level of capability. The City recognizes that employee on-the-job and off-the-job substance abuse can have a major impact on the employee's capability to perform those duties. Thus, it is essential that all employees be free from the effects of substance abuse.

D. SCOPE - This policy will apply to all employees. The City maintains the right to modify or change this substance abuse policy at any time, without notice.

E. DEFINITIONS - The term "possession" when used in the policy relating to drugs, includes trace of drugs found in the body as evidenced by a "Positive" drug test.

1. As used in this policy, the term "legal drug" is defined as including any prescribed drugs and over-the-counter drugs which have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured.

2. As used in this policy, the term "illegal drug" is defined as follows: Drugs, the synthetic or generic equivalent of drugs which are illegal under federal, state or local laws, including but not limited to marijuana, heroin, hashish, cocaine, hallucinogens, depressants and stimulants not prescribed for current medical treatment by an accredited physician and any other drug-like substance, the use, possession or sale of which is unlawful. It also includes any legal drug which is being used in a manner or for a purpose other than as prescribed or labeled.

3. The term "possession" when used in the policy relating to alcohol, includes traces of alcohol found in the body at a rate equal to or greater than .040%.

4. As used in this policy, the phrase "aberrant/reckless behavior" is defined as: Any act(s) performed or the omission of the performance of any act(s) by an employee which is reckless or abnormal and which indicate the employee is incapable of properly or safely performing job responsibilities and duties. Circumstances that could be indicators of such include, but are not limited to:

   a. Apparent physical state of impairment;
   b. Incoherent mental state;
   c. Marked changes in personal behavior; or,
   d. Deteriorating work performance or reckless conduct not readily attributable to other factors.

5. The term "on-the-job" accident refers to any act(s) performed or the omission of the performance of any act(s) by an employee which results in physical injury to any person, or to any employees, or any damage to any real or personal property in excess of $200. Should such an incident occur, then all employees involved will be tested. A determination as to which employees are "involved" as well as what constitutes a "significant physical injury" will be left to management's discretion, as such may vary from incident depending upon the facts involved.

F. GENERAL PROSCRIPTION

1. In order to attain the afore described objective, the following proscriptions apply to all employees:

   a. The use or possession of illegal drugs at any time or place,
   b. The use, consumption or possession of alcohol on City property or during working hours,
   c. The sale, distribution, purchase or transfer, or attempt to do the same, of illegal drugs at any time or place.

2. Any illegal drugs found in the possession of a City employee while on the job or on City property may subject the employee to criminal prosecution.

3. At specified City-sponsored events, where possession or use of alcoholic beverages is approved by the City Administrator or a City Official, the possession or use of alcoholic beverages does not constitute a violation of City policy. If alcohol is served at a city-sponsored event, employees must conduct themselves in such a manner so that they do not represent a danger or embarrassment to themselves, to other employees, or to the general public.

G. WHEN TESTING WILL OCCUR

1. The City may conduct drug testing under the following circumstances:

   a. As part of the selection process for employment,

   b. Suspected use, possession or sale of illegal drugs, based on reasonable suspicion,

   c. If an employee exhibits aberrant/reckless behavior,

   d. Suspected abuse or misuse of legal drugs or medication, based on reasonable suspicion,

   e. For any employee involved in an on-the-job accident, or

   f. Random for all positions.

   g. As required by the Department of Transportation (DOT).

2. The City may conduct alcohol testing under the following circumstances:

   a. Suspected use of alcohol based on reasonable suspicion,

   b. If an employee exhibits aberrant/reckless behavior, or,

   c. For an employee involved in an on-the-job accident.

   d. As required by the Department of Transportation (DOT).

H. CONSENT TO TESTING - Each employee/applicant will be required to sign a consent form as part of the testing procedure. An employee who refuses to submit to drug and/or alcohol testing requested under the terms of this policy will be subject to discharge and denial of re-employment opportunities. Any applicant who refuses to submit to a drug test under the terms of this policy will not be considered for employment.

I. TESTING PROCEDURE

1. ***Drugs***

a. Urinalysis is the method employed for testing for the presence of drugs. The urine sample will be taken at an office designated by the City under controlled conditions. The specimen will then be tested at a laboratory chosen by the City for a screening test. If the results of that screening test are positive, a confirmation test will be performed to corroborate the results of the screening test. The results of the confirmation test are controlling.

b. The laboratory will retain for a period of one year a portion of all specimens which test positive. Any employee who tests positive may have a test performed upon the retained portion of the specimen at the employee's expense. The City will retain control of the specimen at all times, including transportation to and from the approved retesting laboratory, except after delivery to the testing laboratory.

c. Consideration will be given to the results of the retest. However, those results are not binding upon the City.

2. ***Alcohol***

d. Breath, saliva and/or blood serum testing will be the methods employed for testing for the presence of alcohol. A saliva or breath specimen will first be obtained from the employee or applicant, and a test will be performed. If the results are posi

tive, the individual will be required to provide a blood serum specimen for a confirmation test. The results of the confirmation test are controlling.

J. TEST RESULTS

1. ***Drugs***

a. A positive test result occurs when the initial screening or the confirmation test indicates the presence of the drug(s) for which the test was conducted. A positive test result is in violation of City policy and will be reviewed by a Medical Review Officer. If the employee tests positive for a substance for which the employee could have a valid explanation, i.e. a legal drug, the City will request the employee to provide an explanation for the positive test result, including, but not limited to documents or a container demonstrating a current and valid prescription from a physician for the drug or medication which caused the positive test result. After consideration of the employee's explanation, if the City determines that the employee had a valid explanation for the positive test result, i.e., the employee was taking a legal drug, the City will consider the test result as a negative. The City nevertheless retains the rights to ensure that the employee is capable of performing the essential functions of the position (with or without an accommodation) and that the employee's use of the drug or medication does not constitute a direct threat of harm to the employees or others.

b. A negative test result occurs when either the initial screening or the confirmation test indicates the absence of the drug(s) for which test was conducted.

2. ***Alcohol***

c. A positive test result occurs when both the breath/saliva and the blood serum test indicate the presence of alcohol equal to or greater than .040%. A positive test result is violation of City policy.

d. A negative test result occurs when either the breath/saliva test or the blood serum test indicates the presence of alcohol at less than .040%.

K. ***Confidentiality*** - Information regarding test results will be treated as confidential and placed in a secure place away from other employee records in accordance with ADA regulations. In regard, the City will allow limited access and provide it only to persons within the City with the need to know and to the employee who was tested, if requested. The City will comply with the Arkansas Freedom of Information Act.

L. POTENTIAL ACTION FOR VIOLATION OF THIS POLICY

1. Applicants for all positions - If the result is positive, the individual will not receive any further employment consideration.

2. Sale, distribution, purchase or transfer, or attempting to do the same, of illegal drugs. The individual will be subject to immediate discharge and denial of reemployment opportunities.

3. Observed use or possession of illegal drugs while on the job or on City property - This will result in immediate suspension without pay pending the results of further investigation. Upon conclusion of the investigation, if the investigation establishes that the employee violated the provisions of this policy, the employee may be discharged and denied reemployment opportunities. Testing may occur as part of the investigation.

4. Suspected use, consumption or possession of illegal drugs/alcohol, aberrant/reckless behavior, random selection for illegal drugs, or on-the-job accident. This will result in immediate Administrative Leave. The employee may be tested. If so tested and the result is positive, the employee may be discharged and denied reemployment opportunities. If the result is negative, the employee will be returned to work.

5. Known taking of prescription drugs - If an employee is undergoing medical treatment, which includes the use of any drug or

medication which is affecting the employee's ability to perform job-related functions, and under this policy, informs the supervisor or Human Resource Department in writing of such, the City reserves the right to remove the employee from the job if the employee is unable to perform the essential functions of the position (with or without a reasonable accommodation) or refer the employee to a physician to determine if the use of the medication creates a direct threat of harm to the employee and/or others. If so determined, the employee will be required to remain off the job until employee is able to perform the essential functions of the position with or without reasonable accommodations or the direct threat is eliminated or reduced below the direct threat level.

6. Failure to participate in a drug/alcohol screening when directed to do so. Result - Termination

7. Tampering with test samples or process. Result - Termination

M. EDUCATIONAL MATERIAL - Educational information concerning the dangers of substance abuse, as well as the names/phone numbers of local hospitals, medical clinics, and other social service agencies which offer substance abuse counseling and rehabilitation programs are available at the Human Resource Department. Anyone may come by and pick up literature/pamphlets, or, in the alternative, may obtain information by calling the office. All requests will be in confidence.

N. COSTS - All costs, excluding the costs of the initial drug/alcohol testing, will be borne by the employee.

O. EMPLOYEE DISCOVERY OF DRUGS/ALCOHOL OR OBSERVATION OF PERSON SUSPECTED OF BEING UNFIT FOR DUTY

1. If an employee discovers suspected illegal drugs or alcoholic beverages on City property or on the job, the employee will immediately notify his/her immediate supervisor or the Human Resource Director. The employee should not touch or disturb the suspected item(s).

2. If an employee observes another employee using, possessing, distributing, transferring or selling illegal drugs on or off City property or on the job, or observes another employee consuming or possessing alcohol on City property or while on the job, or observes another employee exhibiting aberrant/reckless behavior, the employee will immediately notify his/her immediate supervisor.

SECTION XIX: Employee Assistance Plan (EAP)

A. The City of Fort Smith recognizes that personal problems can sometimes affect an employee's attendance or work performance. Employee assistance programs are designed to help employees and their families work through personal difficulties.

B. The City's employee assistance program can assist employees with a wide range of issues, including parenting, depression, loss, budgeting, stress, interpersonal conflicts, alcohol or drug abuse and other issues. Employees may be referred to the EAP in one of two ways:

1. Voluntary self-referral; or

2. Voluntary supervisor-referral.

C. ***Voluntary Self-Referral***

1. An employee may voluntarily contact the EAP at any time for assistance with the EAP on call counselor. This self-referral can be completely of his/her own initiative. The self-referral can also be in response to informal suggestions by supervisors, through whom employees are made aware of EAP services. The EAP contact telephone number will be posted in all departments and will be communicated regularly throughout the City.

2. In some cases, appointments are available after normal working hours or on weekends in crisis situations. If appointments are necessary during normal work hours, the time may be charged to

accrued sick leave. If sick leave is not available, time off without pay should be used, or employees may be allowed to make up any hours missed, at the supervisor's discretion.

3. Up to eight visits may be provided free of charge to each employee. If additional treatment sessions are necessary, they may be covered according to the employee's health plan.

4. Information regarding the reasons employees are seeking assistance through the EAP is strictly confidential. Supervisors should not ask what the reasons are and, if an employee volunteers any information, it should be treated confidentially.

D. ***Voluntary Supervisor-Referral***

1. Supervisor- referral to the EAP generally occurs in conjunction with some work related matter, such as a performance improvement plan, based on documented performance deficiencies.

2. If a supervisor feels that he or she should refer an employee to the EAP, they should first review the case facts with the Director of Human Resources and an EAP counselor. (The supervisor may or may not have previously talked to the employee informally about seeking assistance from the EAP.) Upon agreement that a supervisor- referral to the EAP is the appropriate action, the employee's supervisor will contact the EAP counselor with the initial information that the employee has been strongly suggested to contact the EAP.

3. In some cases, appointments are available after hours or on weekends in crises situations. Scheduled appointments for the assessment visits should be recorded as time worked if during working hours. This time will not be counted toward overtime. An employee should not have his or her time docked for voluntary supervisor referred EAP assessment appointments.

4. Up to eight visits may be provided at no charge to the employee. If additional treatment sessions are necessary, they will be cov-

ered according to the employee's health plan and may be charged to sick leave or other paid or unpaid leave, subject to supervisor approval.

5. Although case specifics will be treated confidentially, the EAP will keep supervisors and Human Resources apprised of employee's general progress, such as whether they have attended scheduled meetings and are cooperating, and whether they are attempting to resolve the issues adversely influencing their work performance.

SECTION XX: Information Security

A. Computer information systems and networks are an integral part of business at the City of Fort Smith. The City has made a substantial investment in human and financial resources to create these systems. The enclosed policies and directives have been established in order to:

1. Protect this investment.

2. Safeguard the information contained within these systems.

3. Reduce business and legal risk.

4. Protect the good name of the City.

B. All computer records and messages created, sent, or retrieved over the Internet are the property of the City of Fort Smith and may be regarded as public information.The City of Fort Smith reserves the right to access the contents of any messages sent over its facilities if the City believes, in its sole judgment, that it has a business need to do so.

1. All communications, including text and images, can be disclosed to law enforcement or other third parties without prior consent of the sender or the receiver. ***This means, don't put anything into your e-mail messages that you wouldn't want to see on the***

front page of the newspaper, or be required to explain in a court of law.

2. Remember that e-mail is a written form of communication that can survive electronically for a very long time (even after deletion). It cannot be un-sent, and it cannot be considered private.

C. Violations will result in disciplinary action by the City, up to and including discharge, in accordance with City policy. Actions will be predicated upon the following factors:

1. The type and severity of the violation.

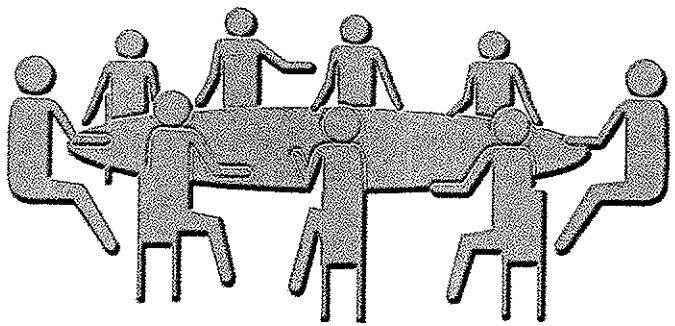
2. The presence of any repeated violations.

3. Whether it causes liability or loss to the City.

D. The Information and Technology Systems Director (ITS Director) is responsible for the administration of this policy.

E. The topics covered in this document include:

1. Statement of responsibility
2. Internet and e-mail
3. Computer viruses
4. Access codes and passwords
5. Physical security
6. Copyrights and license agreements



F. General responsibilities pertaining to this policy are set forth in this section. The following sections list additional specific responsibilities.

1. Managers and supervisors must:

   a. Ensure that all personnel that use or have access to City computers, are aware of, and comply with, this policy.

   b. Create appropriate performance standards, control practices, and procedures designed to provide reasonable assurance that all employees observe this policy.

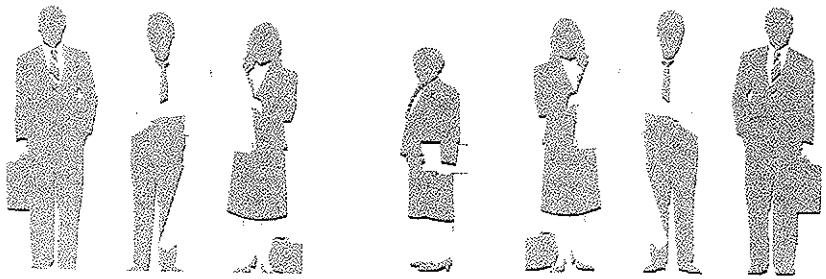
2. The ITS Director must:

   a. Develop and maintain written standards and procedures necessary to ensure implementation of, and compliance with, these policy directives.

   b. Provide appropriate support and guidance to help employees fulfill their responsibilities under this directive.

G. The Internet is a very large, publicly accessible network that has millions of connected users and organizations worldwide. E-mail is an integral feature of the Internet with legitimate business value.

1. Access to the Internet is provided to employees for the benefit of the City of Fort Smith and its citizens. With it, employees are able to access a variety of information resources around the world.



2. Unfortunately, the Internet also contains considerable risk and inappropriate material. To ensure that all employees are responsible and productive Internet users, and to protect the City's interests, the following guidelines have been established for using the Internet and e-mail.

3. ***Use of City supplied e-mail or Internet implies acceptance of these policies.***

4. Acceptable Use - Employees using the Internet are representing the City. Employees are responsible for ensuring that the Internet is used in an effective, ethical, and lawful manner. Examples of acceptable use are:

   a. Using a Web browser to obtain City related business and government information from commercial and government web sites.

   b. Accessing databases for information as needed by the City.

   c. Using e-mail to conduct City business.

   d. Using personal break or lunch periods on personal messages or web browsing.

5. Unacceptable Use - Employees must not use the Internet for purposes that are illegal, unethical, harmful to the City, or nonproductive. Examples of unacceptable use are:

   a. Sending or forwarding chain e-mail or any messages containing instructions to forward the message to others.

   b. Indiscriminately broadcasting e-mail or sending the same message to multiple recipients or distribution lists.

   c. Subscribing to mailing lists unrelated to work.

   d. Using excessive time for personal e-mail. It is understood that some personal messages will be sent and received, and

time spent on personal activities should come from break or lunch periods.

e. Conducting a personal business using City resources.

f. Transmitting or accessing any content that is offensive, harassing, degrading or fraudulent. It is possible to connect to offensive web sites accidentally in the course of legitimate research, and this should not cause alarm. Employees are expected to close or back out of these windows immediately. Examples include, but are not limited to, pornography, gambling, and potentially offensive stories or jokes.

g. Streaming transmissions, audio or video, unrelated to business. This includes, but is not limited to, radio and television webcasts unrelated to business. This does not include webcasts for business purposes.

h. Intentionally using internet facilities to disable, impair or overload the performance of any computer system or network, or to circumvent any system intended to protect the privacy or security of another user. That is, "cracking" in all forms, whether within the City network or on the internet, is ***expressly*** forbidden.

6. File downloads of non business related software and programs from the Internet are not permitted. All file downloads of software and programs that are business related should be cleared by the ITS Department. If there is any question about the downloading of software or programs, please contact the ITS department for assistance. These guidelines constitute the general limits of that permission, and exist in recognition of the fact that it is impossible to use the Internet without downloading some files.

7. An employee who uses the Internet or Internet e-mail will:

a. Ensure that all communications are for business related reasons, and that they do not interfere with their productivity or the productivity of others.

b. Be responsible for the content of all text, audio, or images placed or sent over the Internet.

c. All outbound and inbound communications should have the employee's name attached.

d. Not transmit copyrighted materials without written permission from the copyright holder.

e. Know and abide by all applicable City policies dealing with security and confidentiality of City records.

f. Run a virus scan on all files received through the Internet.

g. Avoid transmission of confidential information. If it is necessary to transmit confidential information, employees are required to take reasonable steps to ensure that the information remains confidential, is delivered to the intended recipient, that the intended recipient is authorized to receive such information, and that the intended use is legitimate. Data encryption is the only known reasonable method at this time.

H. Employees using the Internet are not permitted to copy, transfer, rename, add, or delete information or programs belonging to others without express written permission from the copyright owner. Failure to observe copyright or license agreements may result in disciplinary action by the City and legal action by the copyright owner.

I. Computer viruses are programs designed to make unauthorized changes to programs and data. Therefore, viruses can cause destruction of City resources. It is important to know that:

1. Computer viruses are much easier to prevent than cure.

2. Defenses against computer viruses include protection against unauthorized access to computer systems, using only trusted sources for data and programs, and maintaining anti-virus software.

3. ITS responsibilities:

   a. Install and maintain appropriate anti-virus software on all computers.

   b. Respond to all virus attacks, destroy any virus detected, and document each incident.

4. Employee responsibilities:

   a. Employees will not knowingly introduce a computer virus into City computers.

   b. Employees will not load diskettes, CDs or other media of unknown origin.

   c. Employees will not tamper with the configuration of anti-virus software except as directed by ITS technicians.

   d. Incoming files/date (diskettes, cd s, and other) will be scanned for viruses before they are used.

   e. *Never* open email attachments that end with ".exe", ".bat", ".bas" or other known executable identifiers.

   f. Any employee who suspects that their workstation has been infected by a virus will IMMEDIATELY POWER OFF the workstation and call the ITS Help Desk. This is one of the very few times that a normal shut down is discouraged.

J. Access Codes and Passwords - the confidentiality and integrity of data stored on City computer systems must be protected by access controls to ensure that only authorized employees have access. This access will be restricted to only those capabilities that are appropriate to each employee's job duties.

1. The ITS Director will be responsible for the administration of access controls to all networked City computer systems, The ITS Director will process used adds, deletes, and changes

upon receipt of a written request from the end user's supervisor. Deletes may be processed per oral request prior to receipt of a written request. Data Tronics access is covered by a separate policy. The ITS Director will maintain a list of administrative access codes and passwords and keep this list in a secure area. Accounts that remain inactive for an extended period of time will be deactivated, then purges by the ITS Director or designee.

2. Employee Responsibilities - Each employee:

   a. Will be responsible for all computer transactions that are made with their User ID and password.

   b. Will not disclose passwords to others. Passwords must be changed immediately if it is suspected that they may have become known to others. Passwords should not be recorded where they may be easily obtained.

   c. Will attempt to change password every 45 days. For instance, if your birthday is Feb. 10, changing your password on the 10th of every month may be an easy habit to develop.

   d. Should use passwords that cannot be easily guessed by others.

   e. Should log out or lock their workstation when leaving it unattended for any length of time.

   f. Each employee must use their personal username and password. Username and passwords must not be shared.

   g. Store data and files on their designated file server. Because servers are backed up routinely, this protects against date loss.

3. Supervisor's Responsibility - Managers and supervisors should notify the ITS Director or designee promptly whenever an employee leaves the City, or transfers to another department, so their access can be revoked or changed. Involuntary termination should be reported concurrent with, or prior to, termination.

4. Human Resources Responsibility - The Human Resources Department will notify ITS monthly of employee transfers and terminations. Involuntary terminations should be reported concurrent with the termination.

K. Physical Security - It is City policy to protect computer hardware, software, data, and documentation from misuse, theft, unauthorized access, and environmental hazards.

1. Employee Responsibilities - The directives below apply to all employees:

a. Media (diskettes, CDs, tapes, or other data storage devices) should be stored out of sight when not in use. If they contain sensitive or confidential data, they should be locked up. Employees are strongly encouraged to store such data on their designated file server.

b. Media should be kept away from environmental hazards such as heat, direct sunlight, and magnetic fields.

c. Critical computer equipment, such as file servers and network equipment, must be protected by an uninterruptible power supply (UPS). Other computer equipment must be protected, by a surge suppressor at minimum. ***Never*** plug laser printers or spaceheaters into a UPS!

d. Computer and network hardware should not be exposed to environmental hazards such as food, smoke, liquids, high or low humidity, and extreme heat or cold. Where these hazards are unavoidable, appropriately hardened equipment should be used.

e. Since the ITS Director is responsible for all equipment installations, disconnections, modifications, and relocations, employees are not to perform these activities. This does not apply to portable computers for which an initial connection has been made by ITS Technicians.

f. Employees will not take shared portable equipment such as laptop computers off the premises without the informed consent of their supervisor. Informed consent means that the manager knows what equipment is leaving, what data is on it, and for what purpose it will be used.

g. Employees should exercise care to safeguard the valuable electronic equipment assigned to them. Employees who neglect this duty may be accountable for any consequent loss or damage.

h. Employees should remember that existing policy concerning care and handling of City property also applies to computer equipment.

L. Copyrights and License Agreements - It is the City's policy to comply with all laws regarding intellectual property.

1. The City and its employees are legally bound to comply with the Federal Copyright Act (Title 17 of the U. S. Code) and all proprietary software license agreements. Noncompliance exposes the City and the responsible employee(s) to civil and criminal penalties.

2. This directive applies to all software that is owned by the City, licensed to the City, or developed using City resources by employees or vendors. Software not owned or licensed to the City should not be installed on City computers.

3. ITS Responsibilities - The ITS Director will:

a. Maintain records of all software owned or licensed by City, including software license details and assignments for all software applications, utilities, and modules.

b. Periodically scan City computers to verify that only properly licensed, City owned software is installed.

4. Employee Responsibilities - Employees will not:

   a. Install software unless authorized by the ITS Department. Only authorized software that is licensed to or owned by the City is to be installed on City computers.

   b. Copy software unless authorized by the ITS Director.

   c. Download software unless authorized by the ITS Director.

5. Violations of copyright law expose the City and the responsible employee(s) to the following civil penalties:

   a. Liability for damages suffered by the copyright owner.

   b. Any lost profits attributable to the copying.

   c. Damage awards up to $100,000 for each illegal copy.

6. Violations of copyright law that are committed "willfully and for purposes of commercial advantage or private financial gain (Title 18 Section 2319{b})", that is, to save or make money, expose the City and those employees responsible to the following criminal penalties:

   a. Fines up to $250,000 for each illegal copy.

   b. Jail terms of up to five years for each illegal copy.

SECTION XXI: Smoke-Free Workplace

A. *Pursuant to Ordinance No. 44-08 and The Arkansas Clean Indoor Air Act of 2006 (ACT 8) the City's Smoke-Free Workplace Policy is revised to read as follows:*

1. "Smoking" means the lighting of any cigarette, cigar or pipe, or the possession of any lighted cigarette, cigar or pipe.

2. No person will smoke in any City owned, operated and/or leased space in buildings and offices including elevators, stairways, hallways, restrooms and break rooms.

3. No person shall smoke in any City owned, leased and/or operated vehicles.

4. Smoking may be permitted only in designated smoking areas (to be designated by each department director) outside of City owned, operated and/or leased buildings or offices and sufficient distance from any building entrance so that those using the entrance will not come into contact with secondhand smoke. Smokers are required to dispose of all butts and other trash so the designated smoking area remains clean and litter free. If the designated smoking area becomes a litter problem, then smoking will be prohibited at that City owned, operated and/or leased building or office.

5. The provisions of this policy are considered standards of personal conduct for City employees. Therefore, City employees may be subject to disciplinary action up to and including termination of employment for violating the provisions of this policy.

SECTION XXII: Administration

A. In matters pertaining to rates of pay, wages, work schedules, and conditions of employment, the City Administrator is authorized to establish rules and regulations not inconsistent with the provisions of this policy for the administration of the Human Resources system.

B. The City Administrator is responsible for the maintenance of a competent, trained and qualified work force, and is authorized to recruit, interview, employ, promote, demote, discipline and terminate employees subject to the provisions of this policy.

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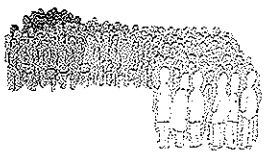

Acknowledgment

I have received a copy of the Human Resource Policy Handbook for Non-Uniformed employees and I acknowledge that it is my responsibility to read and become familiar with this booklet.

I understand the handbook represents the existing human resource policy approved by the Board of Directors of the City of Fort Smith. I also understand that as an employee of the City of Fort Smith, I am expected to follow that policy as well as any additions or amendments that may be established by the Board of Directors.

_____
Employee Signature

_____
Employee Name (Please Print)

_____
Date