

**AGENDA
CITY OF WINDCREST, TEXAS
SPECIAL CITY COUNCIL MEETING**

November 28, 2012

**Special City Council Meeting
10:00 A.M.**

NOTICE IS HEREBY GIVEN THAT A SPECIAL WINDCREST CITY COUNCIL MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 28th DAY OF NOVEMBER 2012 STARTING AT 10:00 A.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COUNCIL MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE CITY COUNCIL RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF NOVEMBER 28, 2012 AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, NOVEMBER 29, 2012 AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

IT IS ANTICIPATED THAT MEMBERS OF OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY ATTEND THE MEETING IN NUMBERS THAT MAY CONSTITUTE A QUORUM OF SUCH OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES, SO THAT NOTICE IS HEREBY GIVEN THAT THE MEETING IS ALSO A MEETING OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE. THE MEMBERS OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY PARTICIPATE IN DISCUSSIONS WHICH OCCUR AT THE MEETING, BUT NO ACTION WILL BE TAKEN BY THE OTHER BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE.

Ordinance No. 618 (09/20/10), Repealing Ordinance No. 593

At all City Council, City Commission or City Board meetings, the agenda shall include a "citizens to be heard" item. It is suggested that Citizens wishing to speak during this item sign in on the sign up roster prior to the meeting. During "citizens to be heard" comments, each individual may speak on an agenda item or any other matter affecting the city. In addition to the "citizens to be heard" portion of meetings, a person may make comments on agenda items prior to the vote on the agenda item. A member of the public will have a total of six (6) minutes to be heard during a City Council, City Commission or City Board Meeting. This does not include any responses from the body. The six (6) minutes time limit authorized herein may not be transferred to another speaker in whole or in part. The presiding Officer or his/her designee will assign a Time Keeper to each meeting. The Time Keeper will maintain strict compliance of the six (6) minute rule, stopping speakers who exceed the allotted time. As authorized by Section 551.042 of the Texas Government Code, the Presiding Officer may direct a City Official to make: a statement of specific factual information in response to an inquiry made by a member of the public or of the City Council, or; a recitation of existing policy in response to an inquiry made by a member of the public or the City Council. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting. Any question posed by a Citizen, Council Member, Board Member or Commission Member for which an answer is not available at a meeting shall be answered by a member of the staff or Presiding Officer at the next regular meeting of the Body, if an answer is reasonably available and prudent. If the information is sensitive, staff will seek advice from the City Attorney.

REQUEST ALL PAGERS AND CELL PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL. CITIZENS ARE ASKED TO REFRAIN FROM TALKING DURING COUNCIL PROCEEDINGS.

Meeting Chair: please remind each participant in your meeting that they must speak into a microphone; the recording is the Official Minutes of your meeting and all who speak must be recorded. All guest speakers and citizens to be heard must speak from podium. Please interrupt speakers during meeting if you recognize that they are not speaking into microphone and have them do so.

I. Call to Order, Pledge of Allegiance, Invocation and Announcements

II. Citizens to be Heard on Subsequent and Non-Subsequent Agenda Items

1. A member of the public will have three (3) minutes to discuss non-subsequent agenda items.
2. A member of the public will have six (6) minutes to discuss subsequent agenda items.
3. City Council may discuss and respond to current and past agendas on subsequent and non-subsequent agenda items by citizens to be heard.

III. Ordinances **"In conjunction with the first reading of an ordinance, a motion should be made to either "reject the proposed ordinance" or "to forward the proposed ordinance to a subsequent City Council meeting for final adoption at its second reading".**

1. City Council will review, discuss and may take action on Ordinance No. 2012-681, an ordinance amending the current residential and commercial refuse collection payment dates. **(Second Reading)** (Mayor Alan Baxter, Sarah Mangham, Municipal Finance Officer requested) (Att. 1)
2. City Council will review, discuss and may take action on Ordinance No. 2012-682, an ordinance appointing Kelly Rodriguez as the City Secretary. **(Second Reading)** (Rafael Castillo, Jr., City Manager / Michael Brenan, City Attorney requested) (Att. 2)
3. City Council will review, discuss and may take action on Ordinance No. 2012-683, an ordinance appointing Heather Weidenbach as Assistant City Secretary. **(Second Reading)** (Rafael Castillo, Jr. City Manager / Michael Brenan, City Attorney requested) (Att. 3)

IV. Discuss and Act

1. City Council will review, discuss and may take action on the Bexar County Water Control and Improvement District #10 Water Conservation and Critical Period Management Plan. (Michael Brenan, City Attorney requested) (Att. 4)
2. City Council will review, discuss and may take action on amending the City of Windcrest Code of Ethics Policy. (Att. 5)

3. City Council will review, discuss and may take action on amending the City of Windcrest Policy and Procedures manual. (Att. 6)

V. General Announcements & Future Agenda Items Requested

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

VI. Adjournment

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two hours prior to the meeting on November 28, 2012.

By:  , Assistant City Secretary

In compliance with the Americans With Disabilities Act, the City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. The City of Windcrest will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please contact Kelly Rodriguez, Assistant City Secretary, at 210-655-0022 ext. 2150 or Fax 210-655-8776.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the ____ November, 2012.

____ Title: _____



City Council Agenda Item Report

November 19, 2012

Contact – Sarah Mangham

smangham@windcrest-tx.gov

Ordinance #: 2012-681

SUBJECT:

**DELIBERATION AND POSSIBLE ACTION ON AN
AN ORDINANCE AMENDING THE CURRENT
RESIDENTIAL AND COMMERCIAL REFUSE
COLLECTION PAYMENT DATES**

1. BACKGROUND/HISTORY

It has been asked by Citizens if they could split their payment, and possibly have a longer period to pay before late charges are assessed since the residential refuse is only collected twice a year.

2. FINDINGS/CURRENT ACTIVITY

On November 5, 2012, there was an agenda item for discussion and direction on this topic. After the discussion, staff is bring back before the City Council an ordinance giving residential customers additional time before assessing a late fee.

3. FINANCIAL IMPACT -

Zero – there is nothing changes that would cause an increase or decrease in processing the bills.

4. ACTION OPTIONS/RECOMMENDATION

Staff recommends to take action on the ordinance amending the current residential and commercial refuse collection payment dates.

ORDINANCE NO. 2012-681

**AN ORDINANCE AMENDING THE CURRENT RESIDENTIAL
AND COMMERCIAL REFUSE COLLECTION PAYMENT
DATES**

WHEREAS, Ordinance 336 granting a franchise for residential and commercial refuse collection and disposal, recycling and hazardous waste disposal was adopted on April 19, 1999 and accepted by BFI Waste Services of Texas, L.P. on April 29, 1999; and

WHEREAS, said franchise has been renewed, extended and modified various times since its original approval; and

WHEREAS, said Ordinance No. 336 included residential and commercial payment schedules in section 14.03 and Appendix B of said ordinance; and

WHEREAS, it is the desire of the City Council to revise the payment schedule stated in Ordinance No. 336.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the payment schedule for residential and commercial refuse collection originally adopted in Ordinance No. 336 is amended as follows:

- (A) Commercial refuse payment schedules shall continue to be billed monthly in advance.
- (B) Residential refuse collection statements shall be issued on the first day of April and October of each year. The due date for statements issued on the first day of April shall be the first day of the following June, and the due date for statements issued on the first day of October shall be on the first day of the following December. If payment for a statement issued on the first day of April is not received by the second day of the following June, a reminder will be sent on the second day of June notifying the customer that a late charge will be imposed on the first day of the following July. If payment for a statement issued on the first day of October is not received by the second day of the following December, a reminder will be sent on the second day of December notifying the customer that a late charge will be imposed on the first day of the following January.
- (C) The late charges of ten percent (10%) for delinquent accounts and the discontinuance of service provisions for nonpayment stated in Ordinance No. 336 shall remain unchanged.

Except as herein provided, all of the terms and provisions of Ordinances No. 336, as amended by subsequent ordinances, are continued in full force and effect.

PASSED and APPROVED this ____ day of November, 2012.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

Michael S. Brennan, City Attorney

ORDINANCE NO. 2012-682

**AN ORDINANCE APPOINTING KELLY
RODRIGUEZ AS CITY SECRETARY.**

WHEREAS, there is a vacancy in the position of City Secretary and it would be in the best interest of the City to fill the position by appointing the assistant City Secretary as the new City Secretary.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that KELLY RODRIGUEZ is hereby appointed City Secretary of the City of Windcrest effective immediately to serve at the will of the City Council.

PASSED and APPROVED this ____ day of _____, 2012.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

MICHAEL S. BRENAN, CITY ATTORNEY

ORDINANCE NO. 2012-683

**AN ORDINANCE APPOINTING HEATHER
WEIDENBACH AS ASSISTANT CITY
SECRETARY.**

WHEREAS, there is a vacancy in the position of Assistant City Secretary and it would be in the best interest of the City to fill the position by appointing HEATHER WEIDENBACH as the new Assistant City Secretary. The City Manager may also delegate other responsibilities and duties to her as needed in the efficient administration of the city government.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that HEATHER WEIDENBACH is hereby appointed Assistant City Secretary of the City of Windcrest effective immediately to serve at the will of the City Council and to perform such other duties and responsibilities as the City Manager may assign to her as needed in the efficient administration of the city government.

PASSED and APPROVED this ____ day of _____, 2012.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

MICHAEL S. BRENAN, CITY ATTORNEY

Kelly Rodriguez

From: Alan Baxter
Sent: Wednesday, November 21, 2012 10:51 AM
To: Kelly Rodriguez
Cc: Rafael Castillo
Subject: FW: Water Conservation and Critical Period Plan

[Another attachment](#)

From: rfrenzel@windcrest-tx.gov [<mailto:rfrenzel@windcrest-tx.gov>]
Sent: Tuesday, November 20, 2012 5:00 PM
To: Alan Baxter
Cc: pbig@swbell.net; teromar@sbcglobal.net; echevalier1@satx.rr.com; melroybrandt@sbcglobal.net; markj.perry@earthlink.net; Trey Wilson
Subject: Water Conservation and Critical Period Plan

Mayor Baxter

We request you submit your concerns *in writing* either to the General Manager, the President of the Board, or to Mr. Wilson through Mr. Brennan by November 30, 2012. If no comments are received by then, the Board will assume the City has no comments and proceed accordingly. This is the same process we set out in our October 15th Board meeting and is consistent with the comments we offered to Mr. Brennan on November 16th.

Respectfully,

Richard Frenzel
General Manager
Bexar County WCID #10

Kelly Rodriguez

From: Rafael Castillo
Sent: Wednesday, November 21, 2012 10:49 AM
To: Kelly Rodriguez
Subject: FW: Water District's Proposed Water Conservation and Critical Period Management Plan
Importance: High



Rafael Castillo, Jr.
City Manager
p: 210.655.0022 ext. 2120
f: 210.655.8776
rcastillo@windcrest-tx.gov
8601 Midcrown
Windcrest, TX 78239
www.windcrest-tx.gov

From: Alan Baxter
Sent: Tuesday, November 20, 2012 2:40 PM
To: Richard Frenzel
Cc: Rafael Castillo
Subject: Water District's Proposed Water Conservation and Critical Period Management Plan

Mr. Frenzel,

The Council, as relayed to your attorney, discussed your proposed plan at the November 19 City Council Meeting. There are some serious concerns with what is proposed. At last night's Council Meeting, which you can view on the web, I made a detailed synopsis of my thoughts. The Council Members also all spoke. By reviewing the meeting, you will see where there are a variety of concerns from the city's stand point – both elected officials and citizens.

I believe we can resolve these issues, but it will take a meeting(s) to do so. It will take several, but after the first meeting, I believe we can determine if we can have some common ground.

Are you receptive to having a meeting between the Water Board and the Council? Between the City Manager, myself and you and the Board President? Or have the lawyers meet? I do not want to spend money on lawyers; however, if that is your preference as it was the last time with regard to the agreements (lease and interlocal), then we can go in that direction. With all due respect to attorneys, I do not think they need to be involved in all the discussions as they charge. In my opinion, they should be brought in to memorialize what is agreed upon between the parties. Also, it should be noted, that myself and the city manager cannot negotiate the entire contract, but I believe we can at least see if we can come to some common ground. Then we could move forward with committees and/or meetings.

I look forward to seeing how you wish to proceed.

ALAN

Kelly Rodriguez

From: Rafael Castillo
Sent: Wednesday, November 21, 2012 10:50 AM
To: Kelly Rodriguez
Subject: FW: Water Conservation and Critical Period Plan

Importance: High



*Rafael Castillo, Jr.
City Manager
p: 210.655.0022 ext. 2120
f: 210.655.8776
rcastillo@windcrest-tx.gov
8601 Midcrown
Windcrest, TX 78239
www.windcrest-tx.gov*

From: Alan Baxter
Sent: Wednesday, November 21, 2012 10:24 AM
To: Richard Frenzel; Pamela Dodson; John Gretz; Michael Brenan (brenanlaw@gmail.com); Johnson, Russell S. (rjohnson@mcginnislaw.com); Rita Davis; Rafael Castillo; John Gretz; James Shelton; gjacobi@sbcglobal.net
Cc: pbjg@swbell.net; teromar@sbcglobal.net; echevalier1@satx.rr.com; melroybrandt@sbcglobal.net; markj.perry@earthlink.net; Trey Wilson
Subject: RE: Water Conservation and Critical Period Plan

The city has plenty of comments as my prior email to you stated. I am a little surprised you did not respond to my email to you so as to show the email I sent to you yesterday?

To be clear, you want the lawyers to handle it. The city's lawyer for Water is Russell Johnson. The city will also keep Mr. Brenan in the loop.

Your decision will cause the city to spend more money on lawyers, but that is the way you would like to proceed.

You will have the city's comments by the end of the day via Mr. Johnson or I will forward his comments to you.

Mr. Wilson and Mr. Johnson can proceed as they deem necessary.

From: rfrenzel@windcrest-tx.gov [<mailto:rfrenzel@windcrest-tx.gov>]

Sent: Tuesday, November 20, 2012 5:00 PM

To: Alan Baxter

Cc: pbig@swbell.net; teromar@sbcglobal.net; echevalier1@satx.rr.com; melroybrandt@sbcglobal.net; markj.perry@earthlink.net; Trey Wilson

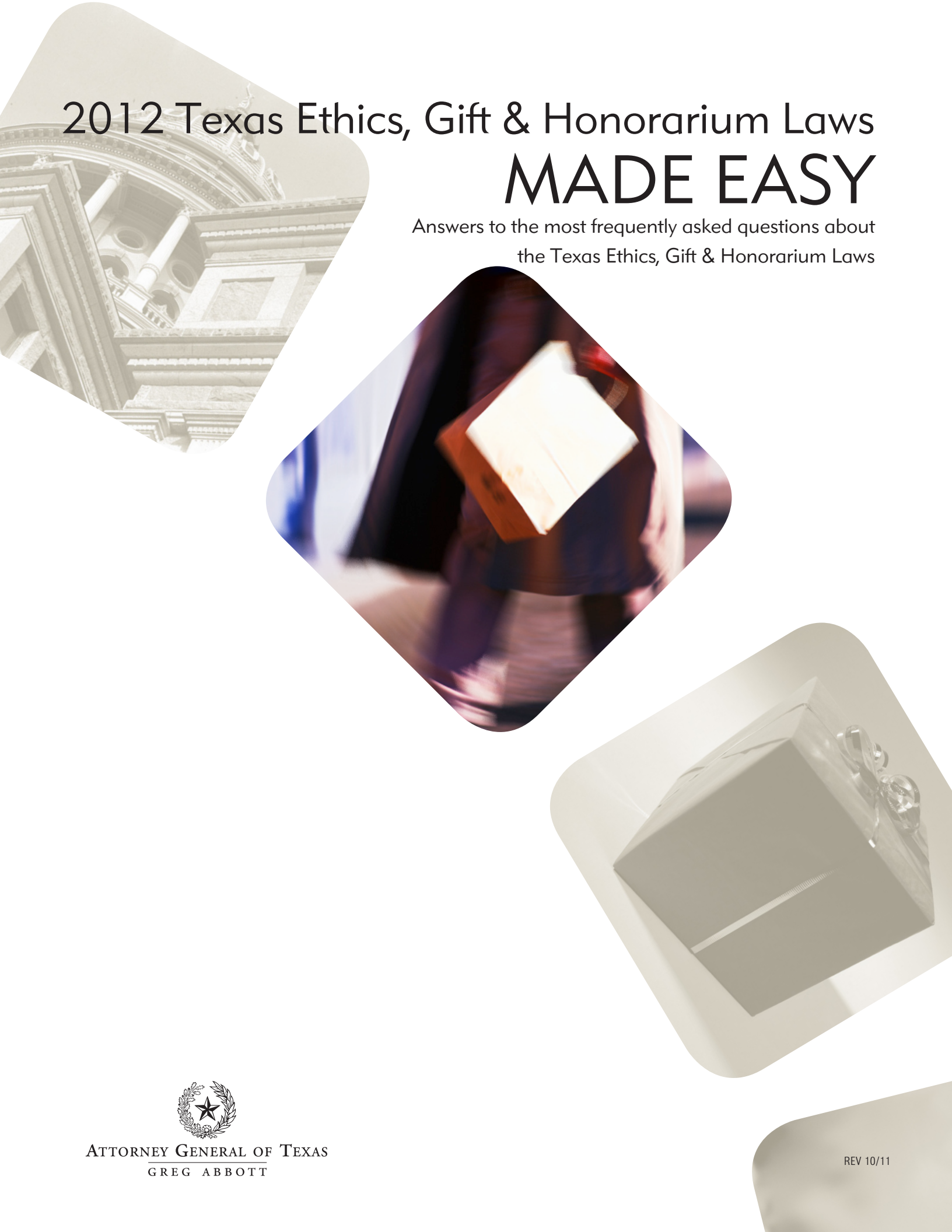
Subject: Water Conservation and Critical Period Plan

Mayor Baxter

We request you submit your concerns *in writing* either to the General Manager, the President of the Board, or to Mr. Wilson through Mr. Brenan by November 30, 2012. If no comments are received by then, the Board will assume the City has no comments and proceed accordingly. This is the same process we set out in our October 15th Board meeting and is consistent with the comments we offered to Mr. Brenan on November 16th.

Respectfully,

Richard Frenzel
General Manager
Bexar County WCID #10



2012 Texas Ethics, Gift & Honorarium Laws **MADE EASY**

Answers to the most frequently asked questions about
the Texas Ethics, Gift & Honorarium Laws



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

REV 10/11

Ethics, Gift and Honorarium Laws Made Easy

Numerous state statutes address ethical limitations that apply to elected and appointed public officials, as well as to staff members. Some of the provisions are contained in the Texas Penal Code and cover the ability of local officials to accept gifts and honoraria and to use certain official information for their own benefit. Additionally, there are laws outside of the Penal Code that place ethical limitations on local officials. These include laws, regulations and codes that regulate the conduct of certain types of professionals, including attorneys, engineers, accountants and others. Throughout the law, there are specific statutes and court decisions that have ethical implications, some of which are discussed in other handbooks and articles available on the Texas Attorney General's website. Public officials and candidates for public office should pay particular attention to the reporting requirements and restrictions set forth in Title 15 of the Election Code; most ethics complaints filed with the Texas Ethics Commission stem from alleged violations of this law. Relevant statutes, rules, opinions and frequently asked questions may be found on the Ethics Commission's website at www.ethics.state.tx.us. However, neither this handbook nor these other resources can catalogue all relevant issues. Finally, local entities might adopt ethics-related limitations through an ordinance, policy or city charter provision that contains such restrictions. Each of these sources should be consulted.

The following questions and answers provide a layperson's explanation of the ethics-related provisions contained in state law or other sources. This handbook is intended to provide general guidance on the issues raised in this area. The Local Government Affairs Section of the Office of the Attorney General is available to answer questions from local officials, who should nonetheless consult with their own legal counsel regarding the application of the law to the facts of each particular situation.

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General Ethics Requirements

1. Is there a general state statute that provides a code of ethics for local officials or staff?

There is not a general statutory code of ethics specifically for local officials or staff. To determine whether an official has violated any ethical duties, one must consult several Texas statutes, including the conflict of interest laws under chapters 171 and 176 of the Local Government Code, as well as any special statutes that may apply to the conduct or to the profession at issue. Most local officials are also “public servants” for purposes of Title 8 of the Texas Penal Code – entitled “Offenses Against Public Administration” – which addresses bribery, honoraria, impermissible gifts and abuse of office. Additionally, the official must look to any local provisions that may have been adopted through a city charter or a local ordinance or policy. State officials are subject to other laws, such as chapter 572 of the Government Code. In summary, there are several provisions in Texas law that may be applicable to local officials.

2. Are there state statutes that impose a set of professional and ethical requirements on certain professionals that may be employed by a local entity (e.g., county engineer, city attorney)?

There are certain state statutes that impose a special set of professional responsibilities on how individuals within certain professions or offices must perform their functions. For example, judges are subject to the standards imposed under the State Code of Judicial Conduct.¹ Generally, a judge who is a licensed attorney is subject to the code of professional responsibility applicable to all practicing lawyers.² Summarized below are some professional ethical and performance standards that may apply to local officials if they are acting within the scope of their professions.

Accountants: Regulated by the Texas Board of Public Accountancy. Phone: (512) 305-7866. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapter 901 - Public Accountancy Act. The Texas State Board of Public Accountancy can be found at www.tsbpa.state.tx.us.

Architects: Regulated by the Texas Board of Architectural Examiners. Phone: (512) 305-9000. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapter 1051. The Texas Board of Architectural Examiners can be found at www.tbae.state.tx.us.

Physicians: Regulated by the Texas Medical Board. Phone: (800) 248-4062. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapters 151-165 - Medical Practice Act. The Texas Medical Board can be found at www.tmb.state.tx.us.

Engineers: Regulated by the Texas Board of Professional Engineers. Phone: (512) 440-7723. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapter 1001. The Board of Professional Engineers can be found at www.tbpe.state.tx.us.

Judges: Regulated by the State Commission on Judicial Conduct. Phone: (877) 228-5750 or (512) 463-5533. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapter 33

¹ TEX. CODE JUD. CONDUCT, reprinted in TEX. GOV'T CODE ANN., tit. 2, subtit. G app. B (West 2005 & Supp. 2011).

² TEX. DISCIPLINARY R. PROF'L CONDUCT 1.01-9.01, reprinted in Tex. Gov't Code Ann., tit. 2, subtit. G app. A (West 2005 & Supp. 2011).

and the Code of Judicial Conduct, *reprinted in* Gov't Code tit. 2, subtit G. app. B. The Commission on Judicial Conduct can be found at www.scjc.state.tx.us.

Lawyers: Regulated by the State Bar of Texas. Phone: (800) 204-2222. Statutes that contain the regulations: Texas Disciplinary Rules of Professional Conduct (1990), *reprinted in* Gov't Code tit. 2, subtit. G. app. A. The State Bar of Texas can be found at www.texasbar.com.

Nurses: Regulated by the Texas Board of Nursing. Phone: (512) 305-7400. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapter 301. The Board of Nurse Examiners can be found at www.bon.state.tx.us.

Physical Therapists and Occupational Therapists: Regulated by the Executive Council of Physical Therapy and Occupational Therapy Examiners. Phone: (512) 305-6900. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapter 452. The Executive Council of Physical Therapy and Occupational Therapy Examiners can be found at www.ecptote.state.tx.us.

Plumbers: Regulated by the Texas Board of Plumbing Examiners. Phone: (512) 936-5200 or (800) 845-6584. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapter 1301. The Board of Plumbing Examiners can be found at www.tsbpe.state.tx.us.

Real Estate Professionals: Regulated by the Texas Real Estate Commission. Phone: (512) 459-6544. Statutes that contain the regulations: (TEX. OCC. CODE ANN.) Chapters 1101, 1102 and 1103. The Real Estate Commission can be found at www.trec.state.tx.us.

For a complete list of state licenses issued for various occupations, see www.texas.gov.

Local professionals may also voluntarily join professional associations that have a code of ethics for their members. For example, city managers and local attorneys often belong to organizations that have their own code of ethics for members. If a member is found to have violated the code in the performance of his profession, the organization might issue a written reprimand to the person and/or cancel the person's membership in the organization. Since membership in such an organization is voluntary, the remedies available to the organization are limited.

3. What role does the Texas Ethics Commission have in enforcing or advising local officials on state or local ethics requirements?

The Texas Ethics Commission administers and enforces several types of statutes, including campaign finance laws, political advertising laws, lobbying restrictions and filing requirements of personal financial statements.³

The Texas Ethics Commission may also issue advisory opinions to a requestor subject to Chapter 36 (Bribery, Gift and Honorarium laws) or Chapter 39 (Misuse of Government Resources) of the Penal Code. The Commission will consider an opinion request only from a person who seeks advice on how the law applies to that person in regard to a specific factual situation, either existing or hypothetical. Once an opinion is issued by the Commission, the opinion is an open record and is posted on the agency's website. The requestor may choose to keep his or her name

³ See TEX. GOV'T CODE ANN. § 571.061 (West Supp. 2011).

confidential. Reasonable reliance upon a written advisory opinion issued by the Commission may serve as a defense to prosecution or the imposition of a civil penalty.⁴

4. *Can a local governing body impose a specific set of ethical requirements on elected and/or appointed officials and staff?*

Unless prohibited by law, a governing body, by majority vote of its members, may impose a set of ethical requirements for elected and/or appointed local officials and staff. If adopted, such a set of requirements is generally contained in an ethics ordinance or policy. In home rule cities (cities that adopted a home rule charter while over 5,000 in population), such ethical limitations may also be contained in the city charter, as well as in the city ethics ordinance or policy.

5. *What types of issues are typically addressed in an ethics ordinance regarding elected and appointed officials?*

An ethics ordinance regarding elected and appointed officials typically addresses issues such as: conflicts of interest;⁵ voting on zoning classifications affecting property owned by an official within a certain distance; supplemental compensation; outside employment; representing business entities before a board, commission or governing body;⁶ post-employment restrictions; restrictions on lobbying for ballot items; requirements for annual financial disclosure statements; and the receipt of gifts.⁷

Some large cities such as Dallas, El Paso, Houston and San Antonio have also imposed registration and reporting requirements on local lobbyists and other individuals and entities.

To the extent authorized by law, local ordinances may be stricter than state law but may not lower the standards set forth in state law.

6. *What types of issues are typically addressed in an ethics ordinance regarding employees?*

An ethics ordinance regarding employees typically addresses issues such as: supplemental compensation; outside employment; representing business entities before a board, commission or governing body;⁸ post-employment restrictions; restrictions on lobbying for ballot items; and the receipt of gifts.⁹

⁴ *Id.*

⁵ See SACHSE, TEX. HOME RULE CHARTER § 14.08.

⁶ See FORT WORTH, TEX., CODE OF ORDINANCES § 2-238(b)(1).

⁷ See SOUTHLAKE, TEX., CODE OF ORDINANCES § 2-264(a)(1); FORT WORTH, TEX., CODE OF ORDINANCES § 2-238(a); see also TEX. PEN. CODE ANN. § 36.08 (West 2003).

⁸ See FORT WORTH, TEX., CODE OF ORDINANCES § 2-238(b)(1).

⁹ See SOUTHLAKE, TEX., CODE OF ORDINANCES § 2-264(a)(1); FORT WORTH, TEX., CODE OF ORDINANCES § 2-238(a); see also TEX. PEN. CODE ANN. § 36.08 (West 2003).

Bribery and Illegal Gift Statutes

7. Is it illegal for a person to offer, or for a public official to accept a gift or benefit in exchange for an exercise of official discretion?

Section 36.02 of the Texas Penal Code makes it a crime of bribery for a person to offer, confer or agree to confer, or for a public official or employee to accept, agree to accept or solicit, any benefit as consideration for a decision, opinion, recommendation, vote or other exercise of discretion.¹⁰ The Penal Code defines a prohibited “benefit” as:

Anything reasonably regarded as pecuniary [monetary] gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.¹¹

In other words, a benefit would include anything that is offered that a reasonable person would consider having some monetary value, whether it is given to the public official or to someone in whom the official has a direct and substantial interest (such as a family member or a business associate).

The state law on bribery does not contain a monetary threshold at which point a benefit that is provided could be considered a potential bribe. Therefore, anything that a reasonable person would find as having a monetary value should be refused. The Texas Ethics Commission, however, has advised that a plaque, unless it was quite elaborate, would not be considered a benefit under the bribery law if such item is unsolicited and not offered or accepted in exchange for any action or inaction on the part of a public servant.¹²

To prove bribery, a prosecutor must show that the benefit offered or given to an official was done so as consideration for an official’s decision, vote, recommendation or other exercise of discretion. Whether a benefit was given as consideration for such actions remains a fact question that would have to be addressed on a case-by-case basis by the local prosecutor.

However, it is important to note that the Penal Code prohibits, with certain exceptions, a public official from ever accepting a benefit from a person subject to his or her jurisdiction, regardless of whether it was in consideration or in exchange for any official action.¹³

8. Does state law prohibit a local official or employee from accepting a gift or benefit if the item was offered or accepted after the exercise of official discretion?

Even if an item was offered or accepted after the exercise of an official action, it may still be considered bribery of a public official or employee. According to section 36.02(c) of the Penal Code, the fact that a benefit was not offered or accepted until after the exercise of some official discretion is not a defense to bribery.

¹⁰ TEX. PEN. CODE ANN. § 36.02(a) (West 2003).

¹¹ *Id.* § 36.01(3).

¹² Op. Tex. Ethics Comm’n No. 36 (1992).

¹³ TEX. PEN. CODE ANN. §§ 36.08, 36.10 (West 2003 & Supp. 2011).

9. Does state law prohibit a local official or employee from accepting a gift or benefit if it was unsolicited and if it can be shown that it did not influence the exercise of official discretion?

Even if an item was not solicited and had no influence over the decision that was made, it may still be considered bribery of a public official or employee. The fact that a benefit did not have influence over the decision would not be considered a defense to a prosecution for bribery.

Additionally, it is important to note that the Penal Code generally prohibits a public servant from ever accepting a benefit from a person subject to his or her jurisdiction, regardless of whether it was in consideration or in exchange for any official action.¹⁴ There are some exceptions to this prohibition (see below). (Nonetheless, these exceptions do not apply to the bribery statute.)

10. Can a local official or staff member accept a gift that is simply provided in appreciation for superior public service and that is not in exchange for any official exercise of discretion?

The Penal Code generally prohibits a public official from ever accepting a benefit from a person subject to his or her jurisdiction, regardless of whether it was in recognition of superior service or a token of gratitude.¹⁵

11. What is considered a “gift or benefit” for purposes of the general prohibition against the acceptance of gifts by public officials and public employees?

A gift or benefit is considered anything reasonably regarded as monetary gain or a monetary advantage. A floral arrangement, gift basket or other item would constitute a gift. Similarly, tickets to an event or the provision of complimentary or discounted services or products would likewise constitute a gift. Whether an item has such a value is a fact question that must be determined on a case-by-case basis by the local prosecutor.

12. Are there exceptions to the gift or benefit limitations that apply to public officials and public employees?

Several exceptions exist to the prohibition against providing a gift to a public official or public employee. (Again, these are not exceptions to the bribery statute.) The following are not prohibited:

1. **Token Gifts:** An item that has a value of less than \$50, excluding cash or a negotiable instrument, if it was not given in exchange for any exercise of official discretion;
2. **Gifts from Family or Close Friends:** A gift conferred by an official’s family or by a personal friend, if there is an independent relationship that is not related to the status or work of the official;
3. **Gifts from Individuals with Whom the Public Official or Public Employee Has an Independent Business Relationship:** A gift conferred by a professional or business contact if there is an independent relationship that is not related to the status or work of the official;

¹⁴ *Id.*

¹⁵ *Id.*

4. **Statutorily Provided Fees:** A fee that is provided by law that an official is lawfully entitled to receive for performing some function other than his or her official function as a public servant (e.g., jury duty fee);
5. **Payment of Expenses:** This exception applies only to a benefit given in honor or appreciation to a public servant who is required to file a campaign finance report under Title 15 of the Election Code or to file a personal financial disclosure statement under Chapter 572 of the Government Code. This benefit must be used solely to defray expenses that accrue in the performance of duties or activities in connection with the office. The expenses must be non-reimbursable by the political subdivision. The benefit and the source of any benefit in excess of \$50 must be reported in the campaign finance report or the personal financial disclosure statement;
6. **Political Contributions as defined by Title 15 of the Election Code;** and
7. **Food, lodging, transportation or entertainment accepted as a guest.** A public servant may lawfully accept food, lodging, transportation or entertainment *as a guest* – meaning that the recipient must be *in the presence* of the donor.¹⁶ A public servant may accept lodging, transportation and meals in connection with a seminar or conference in which the public servant renders a substantive service.¹⁷ Each exception has its own reporting requirements.

13. What can public officials or public employees do with unsolicited benefits that they are prohibited from accepting?

A public official or employee who receives an unsolicited benefit may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious or scientific purposes.¹⁸ However, this exception does not apply if the gift was provided as part of an honorarium. In such a case, the gift should be refused, and the offering entity is free to make some other use of the benefit.

14. Can a public official or employee be criminally prosecuted if found to have illegally accepted a gift or benefit?

A public official who accepts or solicits a gift or benefit in exchange for some exercise of official discretion may be prosecuted for bribery, which is a felony of the second degree.¹⁹ A public official who accepts or solicits a gift or benefit from a person subject to his or her jurisdiction can be prosecuted for accepting an illegal gift, which is a Class A misdemeanor.²⁰

15. Can a public official or public employee be removed from office if found to have illegally accepted a gift or benefit?

There is no special remedy under the Penal Code that provides for removal of a public official due to a violation of the gift laws. However, if a person is criminally convicted of such an offense, it may affect his or her eligibility for office. Additionally, such a conviction may act to automatically remove the official from office or be a ground for seeking the removal of a

¹⁶ *Id.* § 36.07(b).

¹⁷ *Id.* § 36.10(a).

¹⁸ *Id.* § 36.08(i).

¹⁹ *Id.* § 36.02(e).

²⁰ *Id.* § 36.08(h).

member of a governing body through a recall or other removal action if such action is authorized under state law or a city charter.²¹

Honorarium Statutes

16. Does state law prohibit a public official or public employee from accepting an honorarium or other item of value in exchange for providing a speech or other service?

State law generally prohibits a public servant from soliciting, accepting or agreeing to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.²²

In other words, acceptance of an honorarium by a public official or employee is prohibited if the public servant was asked to provide the speech or the service because of his official position or knowledge that was gained in his official position.

Although the Penal Code does not define "honorarium," numerous ethics opinions and attorney general opinions can provide some guidance. The Texas Ethics Commission has noted that an "honorarium" is commonly understood to be "a payment in recognition of acts or professional service for which custom or propriety forbids a price to be set."²³ The Ethics Commission has determined that fees for speaking, teaching and certain other services are included in the term "honorarium."²⁴ The Ethics Commission has concluded that an honorarium payment "in consideration for services" can be either payment of contractual consideration or payment in appreciation of such services.²⁵

The holding in GA-354 (2005) is also illustrative. A payment by a private association of public officials, compensating one of its members for services as its immediate past president, does not per se violate sections 36.07 (concerning prohibited honoraria) or 36.09 (concerning the offer of a gift to a public servant) of the Texas Penal Code. Section 36.07 does not prohibit fair compensation to a person for services as the president of a private association, assuming the person was elected president because of the person's skills and abilities and not because the person is a public servant of a particular county or district. Section 36.09 does not prohibit payment to a person for legitimate consideration rendered in a capacity other than as a public servant.

17. Is the prohibition on accepting honoraria waived if the public official or employee provides the speech or service on his or her own personal time and there is no expenditure of public resources?

The prohibition on accepting honoraria may apply even if the public official or employee provides the speech or service on his or her own personal time and there is no expenditure of public resources. It also does not matter for whom or where the speech or service is being provided.²⁶

²¹ See TEX. LOC. GOV'T CODE ANN. §§ 21.025 & 21.031 (West 2008).

²² TEX. PENAL CODE ANN. § 36.07(a) (West Supp. 2011).

²³ Op. Tex. Ethics Comm'n No. 401 (1998) at p.2, n.1.

²⁴ Op. Tex. Ethics Comm'n Nos. 305 (1996), 416 (1999) and 294 (1995).

²⁵ Op. Tex. Ethics Comm'n No. 97 (1992).

²⁶ See Op. Tex. Ethics Comm'n No. 173 (1993).

18. Does the prohibition against honoraria apply to expenses incurred by a public servant for food, lodging or transportation in connection with providing a speech or service?

The prohibition on honoraria does not prohibit a public official or public employee from accepting payment for meals, transportation or lodging expenses in connection with a conference or similar event in which the public servant renders services, such as providing a speech, to the extent that those services are more than merely perfunctory.²⁷

Misuse of Government Property Statutes

19. Does state law prohibit a public official or public employee from using government property for personal purposes?

State law prohibits a public official or public employee from misusing government property, services, personnel or any other thing of value belonging to the government with the intent to obtain a benefit or to harm or defraud another.²⁸ Misuse is defined as dealing with property in a way that is contrary to an agreement under which the public servant holds the property, a contract of employment or oath of office of a public servant, a law that prescribes the manner of custody or disposition of the property, or a limited purpose for which the property is delivered or received.²⁹

20. Does state law prohibit the use of public employees to perform private work for public officials during work hours?

State law prohibits a public official or public employee from misusing any government property, including personnel.³⁰ Since most public employees are only allowed to perform work that benefits the general public during work hours, use of such employees to perform private work for an official during such hours would be prohibited.

21. Can a public official use government property or the services of public employees for private purposes if the public entity is reimbursed for the value of the property usage or service that is provided?

State law does not allow the use of government property or the services of government employees by a public official for his or her private use even if the public entity is fully reimbursed for the value of the property or the services after the fact.

22. Can a public official use a public employee to perform private work if the employee is paid for the value of the work and the work is performed on the employee's own time without the use of any public resources?

State law does not prohibit the use of the services of a public employee if the work is done on the employee's own time and without the use of any public resources. However, if the employee working on his or her own time for an official is paid less than fair market value by the official for this work, the official might run afoul of gift prohibitions previously discussed.

²⁷ TEX. PENAL CODE ANN. § 36.07(b) (West Supp. 2011).

²⁸ *Id.* § 39.02(a)(2) (West 2003).

²⁹ *Id.* § 39.01(2)(A)-(D).

³⁰ *Id.* § 39.02(a)(2).

23. Can a public official or public employee be criminally prosecuted for a violation of the misuse of government property law?

A public official or public employee can be criminally prosecuted for a violation of the misuse of government property law. *See, e.g., Megason v. State*, 19 S.W.3d 883 (Tex. App.—Texarkana 2000, pet. ref'd). Punishment for a violation of this law ranges from a Class C misdemeanor to a first degree felony, depending on the value of the misused property.³¹

24. Can a public official or public employee be removed for violation of the misuse of government property prohibition?

There is no special remedy under the Penal Code that provides for removal of a public official due to a misuse of government property. However, if a person is criminally convicted of such an offense, it may affect his or her eligibility for office. Additionally, such a conviction may act to automatically remove the official from office or be a ground for seeking the removal of a member of a governing body through a recall or other removal action if such is authorized under state law or a city charter.³²

Misuse of Official Information Statutes

25. Does state law prohibit a public official or public employee from using confidential information to gain a benefit or advantage?

Yes, state law specifically prohibits a public official or public employee from disclosing or using confidential information to which the official or employee has access by virtue of the office or employment to gain a benefit or advantage or with intent to harm or defraud another.³³

26. Does the prohibition on the misuse of government property apply to a public official or employee who uses information that is deemed open to the public (e.g., an open record)?

The prohibition on the misuse of official information applies only to information to which the public does not generally have access and that is prohibited from disclosure under Chapter 552 of the Government Code.³⁴

27. Can a public official or public employee be removed for a violation of the misuse of official information prohibition?

There is no special remedy under the Penal Code that provides for removal of a public official due to a misuse of official information. However, if a person is criminally convicted of such an offense, it may affect his or her eligibility for office. Additionally, such a conviction may act to automatically remove the official from office or be a ground for seeking the removal of a member of a governing body through a recall or other removal action if such is authorized under state law or a city charter.³⁵

³¹ *Id.* § 39.02(c).

³² *See* TEX. LOCAL GOV'T CODE ANN. §§ 21.025 & 21.031 (West 2008).

³³ Tex. Penal Code Ann. § 39.06 (West 2003).

³⁴ *Id.* § 39.06(d).

³⁵ *See* TEX. LOCAL GOV'T CODE ANN. §§ 21.025 & 21.031 (West 2008).

28. Can a public official or public employee be criminally prosecuted for a violation of the misuse of official information law?

A public official or public employee can be criminally prosecuted for a violation of the misuse of official information law. An offense of this law is generally a felony of the third degree.³⁶

Acknowledgment

This paper was reviewed by Henry De La Garza, Ethics Advisor with the Office of the Attorney General, and by Ross Fischer, former chairman of the Texas Ethics Commission.

³⁶ TEX. PENAL CODE ANN. § 39.06(e) (West 2003).



City of Windcrest Code of Ethics Policy

Code of Ethics Committee Members:

Ronnie Cain, City Manager

Tracy Freimarck, City Secretary

Pastor Malcolm McQueen

Ira L. "Shine" Morgan III

Don Myles

Dan Reese, Fire Chief

Cindy Strzelecki

Statement of Purpose

All persons are entitled to have fair, ethical and accountable local government which earns the public's full confidence for integrity. The strong desire of the City of Windcrest, Texas to fulfill this expectation requires that City Officials, Employees and Volunteers:

- Comply with the letter and spirit of the laws and policies affecting the operations of government;
- Be independent, impartial and fair in their judgment and actions;
- Use their office or position for public good, not for personal gain;
- Recognize the worth of individual City Officials, Employees and Volunteers and appreciate their talents, perspectives and contributions;
- Help create an atmosphere of respect and civility where individual City Officials, City staff and the public are free to express their ideas and work to their full potential;
- Conduct their personal and public affairs with honesty, integrity, fairness and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as their highest purpose and focus on achieving constructive solutions for public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interests of Windcrest, Texas;
- Treat all people in a manner they would wish to be treated;

To this end, the Windcrest City Council has adopted this Code of Ethics and Conduct for City Officials, Employees, and Volunteers to assure public confidence in the integrity of local government and its effective and fair operation.

Definitions

The following words, terms and phrases, when used in this Code, shall have the meanings subscribed to them in this section.

Affinity. Relationship by "affinity" ("marriage") is defined in Sections 573.024 and 573.025 of the Texas Government Code.

Benefit. Anything reasonably regarded as pecuniary gain or pecuniary advantage, including a benefit to any other person in whose welfare the beneficiary had a direct and substantial interest.

Business Entity. A sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, a profit or non-profit entity, or any other entity recognized by law.

City Council. The legislative and governing body of the City consisting of the Mayor and City Council members.

City Official. The City Manager, Mayor, any member of the City Council, any department head, any appointed or alternate member of a board, commission, or Committee set up by ordinance, charter, state law or otherwise, on a temporary or permanent basis and any other person appointed by Ordinance as a City Official.

Confidential Government Information. Includes all information held by the City that is not available to the public under the Texas Public Information Act and any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, unless disclosure is permitted under the Open Meetings Act or Public Information Act.

Discretionary Contract. Any contract other than those which by law must be awarded on a low or high qualified bid basis. Discretionary contracts do not include those contracts subject to Section 252.022(a)(7) of the Texas Local Government Code.

Economic Interest. Includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights having more than minimal value. Service by a City Official or Employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an economic interest in the property of the organization.

Electioneering. Working for the election of a candidate to political office.

Employee. Any person employed by the City, including those individuals on a part-time basis and independent contractors hired by the City for repetitive performance of services, but not independent contractors engaged for occasional services.

Gift. A voluntary transfer of property (including the payment of money) or the conferral of a benefit having pecuniary value (such as the rendition of services or the forbearance of collection on a debt), unless consideration of equal or greater value is received by the donor.

Indirect Ownership. A person “indirectly owns” an equity interest in a business entity where the interest is held through a series of business entities, some of which own interests in others.

Partner. Someone who engages in an activity or undertaking with another. “Partner” includes partners in general partnerships, limited partnerships, and joint ventures. One who shares or takes part with another especially in a venture with shared benefits and shared risks.

Personally and Substantially Participated. To have taken action as an Official, Employee or Volunteer through decision, approval, disapproval, recommendation, advice, investigation or similar action. The fact that the person had responsibility for a matter does not by itself establish that the person “personally and substantially participated” in the matter.

Public Servant: "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if he has not yet qualified for office or assumed his duties:

- (a.) an officer, Employee, or agent of government;
- (b.) a juror or grand juror; or
- (c.) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy; or
- (d.) an attorney at law or notary public when participating in the performance of a governmental function; or
- (e.) a candidate for nomination or election to public office; or
- (f.) a person who is performing a governmental function under a claim of right although he is not legally qualified to do so.

Relatives. Spouse, parent, parent-in-law, brother, sister, child, stepchild, grandparent, grandchild, sister/brother-in-law, aunt/uncle, niece/nephew, cousin, domestic partner and relationships created as a result of the domestic partnership that are similar to the family relationships listed (i.e. child of domestic partner).

Representation. A presentation of fact—either by works or by conduct—made to induce someone to act. Representation does not include appearance as a witness in litigation or other official proceedings.

Solicitation. An attempt to obtain subsequent employment or business opportunities includes all forms of proposals and negotiations relating thereto.

Volunteers: Any person who gives his services to the City without any expressed or implied promise of remuneration. Volunteers are required to comply with this Code of Ethics.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, City Officials, Employees and Volunteers will work for the common good of the people of Windcrest, Texas and not for any private or personal interest when acting on behalf of the City of Windcrest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Windcrest City Council, Boards, Commissions, and Committees.

2. Comply with the Law

City Officials, Employees and Volunteers should make diligent efforts to become familiar with the many laws of the United States, the State of Texas and the City of Windcrest applicable to the conduct of government personnel in order to discharge their public duties in an exemplary and legal manner. For example, there are state and federal laws applicable to bribery, gifts to public servants, tampering with governmental records, impersonating public servants, misuse of official information, disruption of meetings, official oppression, abuse of official capacity, nepotism, and disclosure of business and property interests among others. It is impossible to include all of those laws in this Code, so those persons connected with the government of the city should seek information about those laws from all available sources. It shall be a violation of this Code of Ethics for a City Official, Employee or Volunteer to violate the laws of the United States, the State of Texas and the City of Windcrest in the performance of such person's public duties.

3. Conduct of City Officials, Employees and Volunteers

The professional and personal conduct of City Officials, Employees and Volunteers must be above reproach and avoid even the appearance of impropriety. City Officials, Employees and Volunteers shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other City Officials, Employees and Volunteers as well as Board, Commission, and Committee members and the public.

4. Respect for Process

City Officials, Employees and Volunteers shall perform their duties in accordance with the policies and rules of order established by the City Charter, City Council and City Manager.

5. Conduct of Public Meetings

City Officials have an obligation to attend meetings and be prepared for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings. It is expected that City Officials, Employees and Volunteers review material, participate in discussion and base their decisions on the merits and substance of the matter at hand.

6. Contract Personnel

A. A City Official or Employee who, in the course of official duties, has direct supervisory authority over contract personnel shall make reasonable efforts to ensure that the conduct of contract personnel is compatible with the obligations imposed on City Officials and Employees by this Code of Ethics.

1. Contract personnel employed by the City shall comply with all obligations imposed by this Code of Ethics on City Employees, except for restrictions on political activity imposed on City Employees by paragraph 11 of this Code of Ethics. Contract personnel, however, may not engage in political activity using City resources or during duty hours.
2. All contracts for administrative services between the City and independent contractors shall contain a provision requiring the independent contractor to comply with all requirements imposed by this Code on City Employees.

7. Persons Seeking Discretionary Contracts

A. DISCLOSURE OF PARTIES, OWNERS AND CLOSELY RELATED PERSONS

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and this Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract on a form provided by the City:

1. the identity of any individual who would be a party to the discretionary contract;
2. the identity of any business entity that would be a party to the discretionary contract and the name of:
 - a. any individual or business entity that would be a subcontractor on the discretionary contract; and
 - b. any individual or business entity that is known to be a partner or a parent entity of any individual or business entity who would be a party to the discretionary contract, or any subsidiary business entity that is anticipated to be involved in the execution of the contract; and

3. the identity of any lobbyist or public relations firm employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

B. SUPPLEMENTATION

An individual or business entity seeking a discretionary contract is required to supplement by addendum in the event there is any change in the information previously submitted by the individual or business entity under this subsection, i.e. change of ownership, change in mailing address, etc.. The individual or business entity seeking a discretionary contract must supplement this filing before the discretionary contract is the subject of City Council action, and no later than five (5) business days after any change about which information is required to be filed.

C. PROHIBITED CONTACTS DURING CONTRACT SOLICITATION PERIOD

A person or entity who seeks or applies for a City contract or any other person acting on behalf of such person or entity, is prohibited from contacting City Officials and Employees regarding such a contract after a Request for Proposal (RFP), Request for Qualification (RFQ), or other solicitation has been released. This no-contact provision shall conclude when the contract is posted as a City Council agenda item. If contact is required with City Officials, Employees and Volunteers, such contact will be done in accordance with procedures incorporated into the RFP, RFQ or other solicitation. Violation of this provision by respondents or their agents may lead to disqualification of their offer from consideration.

8. **Political Advocacy**

City Officials, Employees and Volunteers shall not utilize the City's name, logo or assets for purposes of endorsing any political candidate or business. City Employees and Volunteers shall not engage in electioneering while on the job.

City Employees and Volunteers shall not engage in political activities relating to a campaign for elective office while in uniform or on active duty.

City Employees and Volunteers are prohibited from using their title or position in any advertisement or endorsement of products, persons or activities, without exclusive authorization by the City Council.

9. **Confidential Information**

City Officials, Employees and Volunteers shall respect the confidentiality of information concerning City property, personnel or proceedings of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal interests.

10. **Use of Public Resources**

City Officials, Employees and Volunteers shall not use public resources generally unavailable to the public, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

11. Representation of Private Interests

In keeping with their role as stewards of the public interest, City Officials and Employees shall not appear on behalf of the private interests of third parties before the Council or any Board, Commission, Committee, or proceeding of the City.

12. Advocacy

City Officials, Employees and Volunteers shall represent the official policies or positions of the City Council, Board, Commission, or Committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, City Officials and Employees shall explicitly state they do not represent their body or the City of Windcrest, nor will they allow the inference that they do.

13. Policy Role of City Officials, Employees and Volunteers

City Officials, Employees and Volunteers shall respect and adhere to the Windcrest City governmental structure as outlined in the City's Charter, Ordinances and the Personnel and Operations Manual. The City Council determines the policies of the City with advice, information and/or analysis from the public, Boards, Commissions, and Committees and City staff. Except for the purpose of inquiry, City Officials, Employees and Volunteers shall not interfere with the administrative functions of the City or the professional duties of the City staff; nor shall they impair the ability of staff to implement City Council policy decisions.

14. Former City Officials, Employees and Volunteers

A. CONTINUING CONFIDENTIALITY

A former City Official, Employee or Volunteer shall not use or disclose confidential government information acquired during service as a City Official, Employee or Volunteer. This rule does not prohibit:

1. Any disclosure or use that is authorized or required by law;
2. The confidential reporting of illegal or unethical conduct to authorities designated by law;
3. Disclosure of information that has been previously made public; and
4. Any disclosure that is no longer confidential by law.

B. SUBSEQUENT REPRESENTATION OF PRIVATE INTERESTS

1. Representation of Private Interests before the City by a Former Board Member. A person who was a member of a Board or other City Body shall not represent any person, group, or entity for a period of one (1) year after the termination of his Official duties:
 - a. Before the Board or Body of which he was a member; or

- b. Before City Staff responsible for making recommendations to, or taking any action on behalf of, that Board or Body, unless the Board or Body is only advisory in nature; or
 - c. Before a Board or other City Body that has appellate jurisdiction over the Board or Body of which the former City Official or Employee was a member, if any issue relates to his former duties.
- 2. Representation of Private Interests before the City by Former City Officials and Employees. A former City Official or Employee shall not represent for compensation any person, private group, or private entity, other than himself, or his spouse or minor children, before the City for a period of one (1) year after termination of his official duties. For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.
- 3. Improper Representation of Influence. In connection with the representation of private interests before the City, a former City Official, Employee or Volunteer shall not state that he is able to influence City action on any basis other than the merits.
- 4. Representation in Litigation Adverse to the City. A former City Official or Employee shall not, without consent from the City, represent any person, group, or entity, other than himself, or his spouse or minor children, in any litigation to which the City is a party for a period of one (1) year after termination of his official duties, if the interests of that person, group, or entity are adverse to the interests of the City and the matter is one in which the former City Official or Employee personally and substantially participated prior to termination of his official duties.

C. PRIOR PARTICIPATION IN THE NEGOTIATION, AWARD, OR ADMINISTRATION OF CONTRACTS

- 1. A former City Official or Employee shall not, within one (1) year of termination of official duties or employment for the City, perform work on a compensated basis relating to a discretionary City contract, if he personally and substantially participated in the negotiation, award, or administration of the contract.
- 2. During the first year after official duties or employment for the City, a former City Official or Employee, shall disclose to the City Secretary immediately upon knowing that he will perform work on a compensated basis relating to a discretionary City contract for which he did not “Personally and Substantially Participate” in its negotiation, award, or administration.

D. DISCRETIONARY CONTRACTS

- 1. Impermissible Interest in Discretionary Contract or Sale. This subsection applies only to contracts or sales made on a discretionary basis, and does not apply to contracts or sales made on a competitive bid basis. Within one (1) year of the termination of official duties or employment, a former City Official or Employee shall neither have a financial interest, direct or indirect, in any discretionary

contract with the City, nor have a financial interest, direct or indirect, in the sale to the City of any land, materials, supplies, or service. Any violation of this Section, with the knowledge, expressed or implied, of the individual or business entity contracting with the City Council shall render the contract involved voidable by the City Manager or the City Council. A former City Official or Employee has a prohibited “financial interest” in a discretionary contract with the City, or in the sale to the City of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:

- a. the former Official or Employee;
 - b. his relative;
 - c. a business entity in which the former Official or Employee, or his parent, child, or spouse, directly or indirectly owns:
 1. ten (10) percent or more of the voting stock or shares of the business entity; or
 2. ten (10) percent or more of the fair market value of the business entity; or
 - d. a business entity of which any individual or entity listed in Subsection a, b, or c is:
 1. a subcontractor on a City contract;
 2. a partner; or
 3. a parent or subsidiary business entity.
2. Exception: Prior Employment or Status. Subsection C of this Section, a former City Official or Employee may upon leaving official duties return to employment or other status enjoyed immediately prior to commencing official City duties.
 3. The City Council may waive the prohibitions contained in this subsection if the City Council determines that a waiver of any prohibition in this subsection would be in the public interest after full disclosure by the contracting party of all relationships between the contracting party and the city regarding the subject matter of the contract

15. Independence of Boards, Commissions, and Committees

Due to the value of the independent advice of Boards, Commissions, and Committees to the public decision-making process, City Officials shall refrain from using their position to influence unduly the deliberations or outcomes of Board, Commission, and Committee proceedings.

16. Positive Work Place Environment

City Officials shall support the maintenance of a positive and constructive work place environment for City Employees, Volunteers and for citizens and businesses dealing with the City. City Officials shall recognize their special role in dealing with City Employees and Volunteers and refrain from creating the perception of inappropriate direction to staff.

17. Compliance, Enforcement, and Enforcement Mechanisms

- A. The Windcrest Texas Code of Ethics and Conduct expresses standards of ethical conduct expected for City Officials, Employees and Volunteers of Windcrest. City Officials, Employees and Volunteers themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of the government.
- B. The Chairs of Boards, Commissions, and Committees and the Mayor have the additional responsibility to intervene when an appointed member of a board, commission or committee's actions appear to be in violation of the Code of Ethics and Conduct and are brought to their attention. The City Manager will intervene when a City Official's, who is a member of the City staff, actions appear to be in violation of the Code of Ethics and Conduct.
- C. The City Council may impose sanctions, such as reprimand, formal censure, or loss of Committee assignment, on City Officials whose conduct does not comply with the City's ethical standards. The City Council also may act to remove members of Boards, Commissions, and Committees from office.
- D. In addition to other remedies provided by law, the following remedies are available with respect to violations of this Code of Ethics:
 - 1. Disciplinary Action. The City Manager may notify, warn, reprimand, suspend, or remove from office or employment any Employee or Volunteer who engage in conduct that violates this Code. Disciplinary action under this provision may be imposed in addition to any other penalty or remedy contained in this Code of Ethics or any other law.
 - 2. Voiding or Ratification of Contract. If it is found upon investigation that there has been a violation of any provision in Section 7 the City Council shall vote on whether to ratify or void the contract. Such action shall not affect the imposition of any penalty or remedy contained in this Code of Ethics or any other law.
 - 3. Disqualification from Contracting.
 - a. Any persons (including business entities and non-profit entities) who intentionally or knowingly violate any provision of this Code related to Persons Doing Business with the City may be prohibited by the City Council from entering into any contract with the City for a period not to exceed three (3) years.
 - b. It is a violation of this Code of Ethics:
 - 1. For a person prohibited from entering into a contract with the City to enter, or attempt to enter, into a contract with the City during the period of disqualification from contracting; or
 - 2. For a City Official to knowingly assist in a violation of Section 17.
 - c. Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public, according to the same terms.

- d. A business entity or nonprofit entity may be disqualified from contracting based on the conduct of an Employee or agent, if the conduct occurred within the scope of the employment or agency.
- E. A person who wishes to file a complaint against a City Official, Employee or Volunteer for violation of this Code of Ethics shall submit a sworn complaint (**attachment 1**) to the City Secretary on a form prepared by the City Secretary for that purpose. The complaint will be kept confidential by the City Secretary to the extent permitted by applicable law. Upon receipt of a sworn complaint, the City Secretary shall forward a copy of the complaint to the appropriate city official for review and possible action and to the person charged in the complaint. Within 10 days of the delivery of the complaint to the person charged in the complaint, the person charged in the complaint may file a sworn response with the City Secretary which will also be forwarded to the appropriate city official and to the complainant. The City Official to whom the City Secretary forwards the complaint and response shall notify the complainant and the person charged in the complaint of any action taken by the official in response to the complaint after review and investigation of the complaint by the Official. The City Official in charge of reviewing and investigating the complaint may refer the matter to another city official, a department head, the City Attorney or the City Council for further investigation or action if the City Official deems such action necessary or appropriate.

18. Administrative Provisions

A. OTHER OBLIGATIONS

- 1. This Code of Ethics is cumulative of and supplemental to applicable City Charter, State and Federal laws and regulations. Compliance with the provisions of this Code of Ethics shall not excuse or relieve any person from any obligation imposed by the City Charter, State or Federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein. (**See Addendum**)
- 2. The city may enforce its personnel policies and rules as therein provided, even though such enforcement may result in a more stringent punishment than is authorized for a violation of this Code of Ethics for the same act.

B. PERIODIC CODE REVIEW

- 1. In accordance with the guidelines in Section 11.03 of the City Charter, the City Council, Boards, Commissions, and Committees shall review this Code of Ethics and shall further consider recommendations from Boards, Commissions, Committees, Employees, Volunteers and Citizens for revision as it becomes necessary.
- 2. The City Secretary shall notify Department Heads regarding any significant amendments to the Code of Ethics within thirty (30) days of adoption. Department Heads shall disseminate the information to Department Employees and Volunteers.

C. IMPLEMENTATION

1. This Code of Ethics shall take effect immediately after passage and the publication of the caption, as the law and City Charter in cases provide. Individuals seated on the City Council and the Mayor and all present and future City Officials, Employees and Volunteers at the time this Code is approved, shall be bound by it immediately after its passage. Their signed acknowledgement of receipt and understanding of this Code shall be submitted to the City Secretary ***(attachment 2)***.
2. Any provision of any ordinance or the Code of Ordinances in conflict herewith is hereby rescinded.

D. SEVERABILITY

If any provision of this Code of Ethics is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code of Ethics which can be given effect without the invalid or unconstitutional provision or application.



WINDCREST
TEXAS
1959

Please complete the form and submit it to:

City of Windcrest
Attn: City Secretary
8601 Midcrown
Windcrest, TX 78239

**SWORN COMPLAINT
AND
AFFIDAVIT**

_____, (hereinafter called the "Complainant"), and
Full name of person filing the complaint

who resides at _____
Mailing or street address, including P.O. Box, number, street, City, county, state and zip code

and for his/her Complaint states as follows:

I.

Name, Title, and Address of Respondent

The Respondent, _____,
Name of Respondent

Currently _____,
Position or Title of Respondent

Whose address is _____
Mailing or street address, including P.O. Box, umber, street, City, county, state and zip code

II.

Nature of Violation

(If possible, state the rule, regulation, or law violated)

(If more space is needed, attach a sheet immediately after this first page and number it as "Page 1(a)".)

Signature of Complainant

Attachment 1

Addendum

1.01 Bribery

It is unlawful for a City Official to intentionally or knowingly offer, confer, or agree to confer on another, or solicit, accept or agree to accept:

- A. any benefit as consideration for a decision, opinion, recommendation, vote, or other exercise of discretion as a City Official; or
- B. any benefit as consideration for a decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or
- C. any benefit as consideration for a violation of a duty imposed by law on a City Official.
- D. any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit;

Tex. Penal Code Ann. § 36.02 (Vernon 2003)

1.02 Gifts to Public Servants

- A. It is unlawful for a Public Servant to solicit, accept, or agree to accept any benefit from a person the Public Servant knows is subject to regulation, inspection, or investigation by the Public Servant or the City.

Tex. Penal Code Ann. § 36.08(a) (Vernon 2003)

- B. It is unlawful for a person to offer, confer or agree to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

Tex. Penal Code Ann. § 36.09(a) (Vernon 2003)

- C. In the event of litigation involving the City, it is unlawful for any Public Servant to solicit, accept, or agree to accept any benefit from a person against whom the official knows litigation is pending or contemplated by the City.

Tex. Penal Code Ann. § 36.08(c) (Vernon 2003)

- D. It is unlawful for a Public Servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government to solicit, accept, or agree to accept any benefit from a person the Public Servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

E. It is unlawful for a Public Servant who has judicial or administrative authority, is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, to solicit, accept, or agree to accept any benefit from a person the Public Servant knows is interested in or likely to become interested in any matter before the Public Servant or tribunal.

F. Exceptions to Gifts to Public Servants

1. Texas Penal Code §§ 36.08 (Gifts to Public Servant) and 36.09 (Offering Gift to Public Servant) do not apply to:

- a. a fee prescribed by law to be received by a Public Servant or any other benefit to which the Public Servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a Public Servant;
- b. a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or
- c. a benefit to a Public Official required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - 1. the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - 2. the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or political subdivision;
- d. a political contribution as defined by Title 15, Election Code;
- e. a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 305, Government Code;
- f. an item with a value of less than \$50, excluding cash or a negotiable instrument as described by § 3.104, Business & Commerce Code; or
- g. an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity.

2. § 36.08 (Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

3. § 36.09 (Offering Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.

Tex. Penal Code Ann. § 36.10 (Vernon 2003)

1.03 Tampering with Governmental Records

- A. A Person commits an offense if he:
1. knowingly makes a false entry in, or false alteration of, a governmental record;
 2. makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
 3. intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;
 4. possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;
 5. makes, presents, or uses a governmental record with knowledge of its falsity;
or
 6. possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.
- B. It is an exception to the application of Subsection (A)(3) that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

Tex. Penal Code Ann. § 37.10 (Vernon 2003)

1.04 Impersonating A Public Servant

- A. A person commits an offense if he:
1. impersonates a Public Servant with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts; or
 2. knowingly purports to exercise any function of a Public Servant or of a City office, including that of a judge and court, and the position or office through which he purports to exercise a function of a Public Servant or City office has no lawful existence under the constitution or laws of this state or of the United States.

Tex. Penal Code Ann. § 37.11 (Vernon Supp. 2007)

1.05 Misuse of Official Information

- A. A City Official commits an offense if, in reliance on information to which he has access by

virtue of his office or employment and that has not been made public, he:

1. acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
 2. speculates or aids another to speculate on the basis of the information; or
 3. as a public servant, including as a principal of a school, coerces another into suppressing or failing to report that information to a law enforcement agency.
- B. A City Official commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, he discloses or uses information for a nongovernmental purpose that:
1. he has access to by means of his office or employment; and
 2. has not been made public.
- C. A person commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he solicits or receives from a City Official information that:
1. the City Official has access to by means of his office or employment;
 2. has not been made public.

Tex. Penal Code Ann. § 39.06 (Vernon 2003)

1.06 Disrupting Meeting or Procession

It is unlawful for any person, with intent to prevent or disrupt a lawful meeting, to obstruct or interfere with the meeting by physical action or verbal utterance.

Tex. Penal Code Ann. § 42.05 (Vernon 2003)

1.07 Official Oppression

It is unlawful for a City Official to intentionally subject another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful, to intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful, or to intentionally subject another to sexual harassment.

Tex. Penal Code Ann. § 39.03 (Vernon 2003)

1.08 Abuse of Official Capacity

It is unlawful for a City Official, with intent to obtain a benefit or with intent to harm or defraud another, to intentionally or knowingly violate a law relating to his office or employment or to misuse government property services, personnel, or any other thing of value belonging to the government that has come into his custody or possession by virtue of his office or employment.

Tex. Penal Code Ann. § 39.02 (Vernon 2003)

1.09 Nepotism

No person related within the second degree of affinity, or within the third degree of consanguinity to any elected officer of the City, or to the City Manager, may be appointed to any office or position, or other service to the City for which they receive compensation. This prohibition does not apply to officers or Employees who have been continuously serving the City or employed by the City for one year or more prior to the election or appointment of the officer related in the prohibited degree.

Windcrest City Charter § 10.3.4 (2007)

1.10 Disclosure of Interest in Property

A. A City Official who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

B. The affidavit must:

1. state the name of the City Official;
2. state the City Official's office, public title, or job designation;
3. fully describe the property;
4. fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
5. state the date when the person acquired an interest in the property;
6. include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code"; and
7. contain and acknowledgement of the same type required for recording a deed in the deed records of the county.

C. The affidavit must be filed with:

1. the county clerk of the county in which the City Official resides; and
2. the county clerk of each county in which the property is located.

Tex. Gov't. Code Ann. § 553.002 (Vernon 2004)

STATEMENT OF ACKNOWLEDGEMENT

As a member of the Windcrest City Council or of a Windcrest City Board, Commission or Committee, an Employee, or Volunteer I agree to uphold the Code of Ethics and Conduct.

I affirm that I have read, understand, accept and support the City of Windcrest, Texas Code of Ethics and Conduct.

Council, Board, Commission, Committee, Employee, Volunteer

Position

Signature

Date

Volunteers' Code of Ethics

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, City Officials, Employees and Volunteers will work for the common good of the people of Windcrest, Texas and not for any private or personal interest when acting on behalf of the City of Windcrest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Windcrest City Council, Boards, Commissions, and Committees.

2. Conduct of Volunteers

The professional and personal conduct of City Officials, Employees and Volunteers must be above reproach and avoid even the appearance of impropriety. City Officials, Employees and Volunteers shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other City Officials, Employees and Volunteers as well as Board, Commission, and Committee members and the public.

3. Respect for Process

City Officials, Employees and Volunteers shall perform their duties in accordance with the policies and rules of order established by the City Charter, City Council and City Manager.

4. Political Advocacy

City Officials, Employees and Volunteers shall not utilize the City's name, logo or assets for purposes of endorsing any political candidate or business. City Employees and Volunteers shall not engage in electioneering while on the job.

City Employees and Volunteers shall not engage in political activities relating to a campaign for elective office while in uniform or on active duty.

City Employees and Volunteers are prohibited from using their title or position in any advertisement or endorsement of products, persons or activities, without exclusive authorization by the City Council.

5. Confidential Information

City Officials, Employees and Volunteers shall respect the confidentiality of information concerning City property, personnel or proceedings of the City. They shall neither

disclose confidential information without proper legal authorization, nor use such information to advance their personal interests.

6. Use of Public Resources

City Officials, Employees and Volunteers shall not use public resources generally unavailable to the public, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

7. Advocacy

City Officials, Employees and Volunteers shall represent the official policies or positions of the City Council, Board, Commission, or Committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, City Officials and Employees shall explicitly state they do not represent their body or the City of Windcrest, nor will they allow the inference that they do.

8. Disciplinary Action.

The City Manager may notify, warn, reprimand, suspend, or remove from office or employment any Employee or Volunteer who engage in conduct that violates this Code. Disciplinary action under this provision may be imposed in addition to any other penalty or remedy contained in this Code of Ethics or any other law.

A person who wishes to file a complaint against a City Official, Employee or Volunteer for violation of this Code of Ethics shall submit a sworn complaint (***attachment 1***) to the City Secretary on a form prepared by the City Secretary for that purpose. The complaint will be kept confidential by the City Secretary to the extent permitted by applicable law. Upon receipt of a sworn complaint, the City Secretary shall forward a copy of the complaint to the appropriate city official for review and possible action and to the person charged in the complaint. Within 10 days of the delivery of the complaint to the person charged in the complaint, the person charged in the complaint may file a sworn response with the City Secretary which will also be forwarded to the appropriate city official and to the complainant. The City Official to whom the City Secretary forwards the complaint and response shall notify the complainant and the person charged in the complaint of any action taken by the official in response to the complaint after review and investigation of the complaint by the Official. The City Official in charge of reviewing and investigating the complaint may refer the matter to another city official, a department head, the City Attorney or the City Council for further investigation or action if the City Official deems such action necessary or appropriate.



City of Windcrest

Personnel Manual



The City of Windcrest welcomes you! We are excited to have you part of a great community and the **City team**.

[Replace with Team Windcrest](#)

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We believe in offering our citizens of our community outstanding customer service and a city government that is fiscally responsible and dedicated to the betterment of our community.

Our expectations of you as an employee of the city are:

- **Team Work:** All employees are expected to work together as a team.
- **Customer Service:** All employees are expected to provide our Customers, internally and externally, with outstanding service. Go the extra mile.
- **Efficiency is a Priority:** All employees are expected to perform their duties and responsibilities with accuracy, proficiency and efficiency. We encourage our employees to offer suggestions on how to improve our processes and build efficiencies that will enhance our customers' experience with the City.
- **Service with a Smile:** A smile takes as much energy as a frown.
- **Respect:** We all work together and it is imperative that we show our respect to our customers and co-workers. Yes Sir, No Sir can not ever be overused.

We believe in great service and team work as described above and expect our employees to share and practice these beliefs in their every day duties and responsibilities. The City of Windcrest is an “**at will employer**” and as such, either you or the City can part company with or without notice. So let's all go the extra mile, build a great city and a great place to work.

Together we make the difference to our community.

Again, welcome to the City of Windcrest!

Signature

Mayor

2

Updated August 10, 2011

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

[Renumber all pages](#)

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**CITY OF WINDCREST
PERSONNEL MANUAL
STATEMENT OF EMPLOYEE**

Please read this Personnel Manual and keep it handy for future reference. You are responsible for adhering to the policies and procedures contained in this Personnel Manual. You are required to sign this sheet and return it to your Supervisor within ten (10) days after you receive this manual. Please understand that this manual summarizes some, but not all, of our policies, practices, and employee benefits.

_____ I have read the City of Windcrest Personnel Manual. I understand that this Personnel Manual supersedes all previously dated manuals and/or materials. I have carefully read and I understand all the rules and information contained therein, including the benefits and privileges to which I may be entitled.

_____ I understand that the City may from time to time change, modify, alter, add, delete or substitute new procedures, policies, rules or regulations concerning working conditions at the City. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

_____ It is expressly understood and agreed by me, my heirs, and assignees that nothing contained in this manual or any subsequent changes or modifications shall act as a contract or guarantee of employment.

_____ I understand that my employment with the City is **at-will** and may be terminated by either me or the City at any time, with or without notice, and with or without cause. Any exception to this at-will condition must be set out in a written agreement, signed by me and the City Manager of the City, after approval of the City Council.

_____ I understand the City of Windcrest's Anti-Harassment Policy and agree to conform to its requirements.

_____ I understand the City of Windcrest's policy on alcohol, drugs and controlled substances and, specifically, that portion of the policy that permits the City to conduct searches and/or inspections of personal property located on city premises, and acknowledge that the City may conduct screenings of individuals on a random basis or an individual basis.

_____ I expressly understand that the City prohibits the possession of any weapons, including firearms, on City premises, including vehicles parked on City property, except those that are required to be carried by persons whose job function requires it.

_____ I understand that the City has made available a grievance procedure for the equitable resolution of problems that may arise and that I will not be penalized in any way for the participation in such procedure.

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2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

Employee Signature

Date

Printed Name

PURPOSE

Whether you have just joined our staff or have been at the City of Windcrest for a while, we are confident that you will find the City a dynamic and rewarding place in which to work and we look forward to a productive and successful association. We consider the employees of the City of Windcrest to be one of its most valuable resources. ~~Insert~~ Percentage of Budget dedicated to employees. Special effort has been made in these policies to emphasize the employee/employer relationship, mutual need for open communication, and clear lines of authority and responsibility. The value of this manual therefore is not found in the pages of the manual, but rather in the application of these policies and procedures. Accordingly, each Department Head is expected to remain knowledgeable of City Policies and is required to ensure all employees are briefed, oriented, trained, and perform according to the application of the contents of this manual.

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~~The purpose of this manual is to set forth the summary of basic policies and practices which govern the administrative, procedural, and operational functions routinely exercised by the City; to complement the existing legal authority for action by the City as confirmed in Local Government Code and by City Ordinances; to identify the principles and philosophies that support the development and implementation of these policies; and to assist the training, management, supervision, coordination and direction of those who serve as employees of the City.~~ ~~delete.~~ Neither this manual nor any other City document confers any contractual right, either expressed or implied, to remain in the City's employ. Nor does it guarantee any fixed terms and conditions of your employment. Your employment is not for any specific time and may be terminated at will, with or without cause and without prior notice, by the City or you may resign for any reason at any time. No Supervisor or other representative of the City (except the City Manager, with the approval of the City Council) has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above.

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The procedures, practices, policies and benefits described here may be modified or discontinued from time to time. Please read it carefully and refer to it often. In the event of a policy change, employees will be notified.

~~Some of the subjects described here are covered in detail in official policy documents. You should refer to these documents for specific information, since this manual only briefly summarizes those documents and benefits.~~ ~~delete~~

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The City typically reviews the manual on an annual basis, however may do so more or less often depending on necessity. Recommended changes, additions, and/or deletions are made to the City Council for approval to ensure its relevance and correctness to current operations and responsibilities.

Note: Whenever the pronouns "he" or "she" or similar term denoting gender appears in this Manual, it also refers to the opposite gender.

STANDARDS

The City Council of the City of Windcrest, duly constituted under the laws of the State of Texas, is responsible for the administrative operations and fiscal management of the affairs of the City. To fulfill these responsibilities, the City is an organizational structure composed of elected officials, a Mayor and five Aldermen, a paid staff of employees and volunteer individuals and/or organizations. Each element of the organization is engaged in the providing of services, and each is held accountable for his actions as representatives of the City.

Since municipal government is engaged in providing 24 hours a day, seven days per week service to the public, each individual in the organizational structure must have and/or develop the personal characteristics which consistently practice the best in public relations, community services, and a dependable and responsive attitude in dealing with the public and with one another. Accordingly, the following standards shall govern the employee's actions as the employee represents the City to both residents and non-residents.

"AT WILL" EMPLOYMENT RELATIONSHIP

Each employee's employment relationship with the City is voluntarily entered into and employees are free to resign at any time, with or without notice. Similarly, the City is free to end any employment relationship at any time, with or without cause and with or without notice. Accordingly, there is no promise that your employment will continue for a set period of time or that an employee's employment will be terminated only under particular circumstances. The relationship between the City and the employee is and always will be one of the voluntary employment 'at will.' Only the City Manager, with the prior approval of the City Council, can enter into an agreement contrary to this policy. Any such agreement must be in writing and signed by both the employee and the City Manager and is attached to a written approval from the City Council.

EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER STATEMENT

The City of Windcrest believes that a person should be rewarded for those achievements for which he is personally responsible and be held accountable for those failings for which he personally responsible. The City is firmly committed to treating employees and applicants for employment according to their experience, talent, and qualifications for the job, without regard to their race, religion, color, national origin, sex, age, or disability (if otherwise qualified to do the job). Our policy in this regard covers all employment decisions, including recruitment, hiring, placement, promotions, transfers, layoffs or terminations, rates of pay, employee benefits, and selection for training.

STANDARDS FOR EMPLOYMENT

Requirements

13
2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

To be employed with the City of Windcrest, an applicant must:

1. Generally, be at least eighteen (18) years of age and possess a high school diploma or equivalent. Refer to specific job requirements that may have other minimum requirements.
2. Police applicants must be at least twenty-one (21) years of age. Some positions may require a higher level of education.
3. Complete an employment application. Each candidate may be required to show supporting documentation, such as: resumes, copies of educational and professional certifications, or any other documents as required.
4. Prove and attest to eligibility under the Federal Immigration Reform and Control Act of 1986. Provide documentation to complete the I-9 Form.
5. Understand, agree to, and sign the required employment forms.
6. Possess the mental and physical ability to perform the essential functions, with or without reasonable accommodation, of the job classification assigned.
7. Arrange for dependable transportation to and from the job.
8. Obtain a license, permit or bond as may be required by the City or its agents.
9. Complete and provide appropriate documentation for release of information pertaining to background screening.
10. Generally, individuals who have received a conditional offer of employment from the City will be required to take a post-offer physical examination and submit to an alcohol, drug, and controlled substance screening test as a condition of employment. A positive test result for alcohol, drugs, or controlled substances may result in denial of employment. ~~are both physical examination and drug screen done for all positions? Yes drug for post; no exam~~

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Polygraph

The City may require an applicant for employment to take a pre-employment polygraph at the City's expense. All law enforcement, fire department, finance department, and post office applicants under consideration for employment will be required to take a pre-employment polygraph exam at the City's expense. Furthermore, at any time the City may require an employee or groups of employees to take a polygraph exam. Should the employee not agree with the results of the examination, he may, at his option and expense, retake such examination with a different examiner, duly licensed and qualified as a professional polygraph examiner. The City will take into consideration the results of the second examination in making any decision concerning the employer/employee relationship.)

Comment [tsd1]: With the word Generally, it should cover all processes for physical and/or drug testing

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This really needs to be reviewed by your legal counsel; it may be a legal risk to the city. See best practices and notes provided. Legal?

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All police applicants will be required to take a psychological examination at the City's expense in addition to the aforementioned exams.

Employment Examination

The City may at any time request any employee to undergo a drug screening, physical and/or psychological examination at the City's expense.

Preventative Immunization and Vaccination Policy

Please refer to [Section 607.004 of the Texas Government Code](#). The City of Windcrest will follow the guidelines as stated in this statute. ~~Could leave out below and put link only~~ provides that a certified fire fighter or other governmental employee who operates an ambulance or who responds to emergency medical calls is entitled to preventative immunization for any disease to which the fire fighter or other governmental employee may be exposed in performing official duties for which immunization is possible. Furthermore, the employee and any member of the employee's immediate family are entitled to vaccination for a contagious disease to which the employee is exposed during the course of employment. The City of Winderest will provide the immunizations or vaccinations without charge or reimburse the employee for any necessary and reasonable expenses incurred by the employee for the immunization or vaccination if such reimbursement is approved by the employee's Department Head. Certified fire fighters and other governmental employees who operate an ambulance or who respond to emergency medical calls shall also receive Hepatitis B vaccinations unless (1) the employee signs a declination form, (2) the employee has previously received the series of three injections of Hepatitis B vaccine, or six injections in the case of an employee who did not respond to the primary vaccination series, (3) antibody testing shows that the employee is immune, or (4) the vaccination cannot be given for medical reasons. A Hepatitis B vaccination declination form is to be signed if an employee declines vaccination and is included in the forms section of the City of Winderest Personnel and Operations Manual. *This form should be added to your portal when it goes live and also be able to request from Finance. It's great you put it in their handbook, but what happens if you change the document or they already used it. They really should know where to find it.*

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NON-DISCRIMINATION AND ANTI-HARASSMENT POLICY

~~This policy regarding equal treatment regardless of race, religion, color, national origin, sex, age or disability applies to prohibit any type of harassment or retaliation for any type of activity protected by appropriate state or federal anti-discrimination laws. Accordingly, the City strictly prohibits any employee from harassing another employee on the basis of their race, religion, color, national origin, sex, age or disability; and the City, likewise, strictly prohibits any type of retaliation for any employee engaging in any activity protected by the appropriate federal or state anti-discrimination laws.~~

~~The City of Windcrest has adopted a policy of "zero-tolerance" with respect to unlawful workplace harassment in accordance with [Section 703 of Title VII of the 1964 Civil Rights Act](#). In this connection, the City expressly prohibits any form of unlawful employee harassment based on race,~~

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color, religion, sex, national origin, age, disability, military or veteran status, or status in any group protected by state or local law. Improper interference with the ability of Company employees to perform their expected job duties is not tolerated.

With respect to sexual harassment, the City prohibits the following:

- Unwelcome sexual advances, requests for sexual favors, and all other verbal or physical conduct of a sexual or otherwise offensive nature, especially where:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of employment
 - Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment
 - Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment
- Offensive comments, jokes, innuendoes, and other sexually oriented statements.

Examples of the types of conduct expressly prohibited by this policy include, but are not limited to, the following:

- Touching, such as rubbing or massaging someone's neck or shoulders, stroking someone's hair, or brushing against another's body
- Sexually suggestive touching
- Grabbing, groping, kissing, or fondling
- Violating someone's "personal space"
- Whistling
- Lewd, off-color, sexually oriented comments or jokes
- Foul or obscene language
- Leering, staring, or stalking
- Suggestive or sexually explicit posters, calendars, photographs, graffiti, or cartoons
- Unwanted or offensive letters or poems
- Sitting or gesturing sexually
- Offensive e-mail or voice-mail messages
- Sexually oriented or explicit remarks, including written or oral references to sexual conduct
- Gossip regarding one's sex life, body, sexual activities, deficiencies, or prowess
- Questions about one's sex life or experiences
- Repeated requests for dates
- Sexual favors in return for employment rewards, or threats if sexual favors are not provided
- Sexual assault or rape
- Any other conduct or behavior deemed inappropriate by the Company

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This policy applies to all applicants, employees and volunteers, and prohibit harassment, discrimination and retaliation whether engaged in by fellow employees, by a Supervisor or manager or by someone not directly connected to the City (e.g., an outside vendor, consultant or customer).

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Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

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Harassment Complaint Procedure

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Each member of management is responsible for creating an atmosphere free of discrimination and harassment, sexual or otherwise. Further, employees are responsible for respecting the rights of their coworkers.

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If you experience any job-related harassment based on your sex, race, national origin, disability, or another factor, or believe that you have been treated in an unlawful, discriminatory manner, promptly report the incident to your supervisor. If you believe it would be inappropriate to discuss the matter with your supervisor, you may bypass your supervisor and should report it directly to your Department Head or City Manager and an investigation will be conducted. Your complaint will be kept confidential to the maximum extent possible.

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If the City determines that an employee is guilty of harassing another employee, appropriate disciplinary action will be taken against the offending employee, up to and including termination of employment.

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The Company prohibits any form of retaliation against any employee for filing a bona fide complaint under this policy or for assisting in a complaint investigation. However, if, after investigating any complaint of harassment or unlawful discrimination, the Company determines that the complaint is not bona fide and was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or who gave the false information, up to and including termination from employment.

Definitions of Harassment

The City of Windercrest has adopted a policy regarding conduct considered to be sexual harassment according to Section 703 of Title VII of the 1964 Civil Rights Act. Could refer to link and delete everything below. Sexual harassment can take the form of verbal abuse, leering, gestures, and more subtle advances and pressure inviting sexual activity. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail); and other physical, verbal or visual conduct of a sexual nature. Sex-based harassment that is, harassment not involving sexual activity or language (e.g., male manager yells only at female employees and not males) may

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also constitute discrimination if it is severe or pervasive and directed at employees because of their sex:

A. ~~Unpermitted physical contact may also be recognized as sexual harassment. Accordingly, the following may be considered sexual harassment:~~

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1. ~~Submission to such conduct as either an explicit or implicit term or condition of employment;~~

2. ~~Submission or objection to such conduct is used as a basis for an employment decision affecting the person rejecting or submitting to the conduct.~~

3. ~~Such conduct interfering with an affected person's work performance or creating an intimidating, hostile, or offensive work environment.~~

B. ~~Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his race, color, religion, national origin, age, disability, citizenship status, marital status, or any other characteristic protected by law or that of his relatives, friends or associates, and that: (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities. I would delete~~

Comment [tsd2]: I would encourage you to keep in specifics of harassment. Plus, you will want to train your supervisors and employees about "no tolerance" policy on harassment. Supervisors need to know what to do with a complaint or if they see harassment.

Move margins. Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

Individuals and Conduct Covered

These policies apply to all applicants, ~~and delete employees and volunteers,~~ and prohibit harassment, discrimination and retaliation whether engaged in by fellow employees, by a Supervisor or manager or by someone not directly connected to the City (e.g., an outside vendor, consultant or customer).

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Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

Retaliation Is Prohibited

~~The City prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or~~

~~discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action.~~

COMPLAINT PROCEDURE

Reporting an Incident of Harassment, Discrimination or Retaliation

~~The City strongly urges the reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they believe is contrary to the City's policy or who have concerns about such matters should file their complaints with their immediate Supervisor, Department Head or the City Manager before the conduct becomes severe or pervasive. Individuals should not feel obligated to file their complaints with their immediate Supervisor first before bringing the matter to the attention of one of the other City's designated representatives identified above.~~

IMPORTANT NOTICE TO ALL EMPLOYEES:

Employees who have experienced conduct they believe is contrary to this policy have an obligation to take advantage of this complaint procedure. An employee's failure to fulfill this obligation could affect his rights in pursuing legal action. Also, please note, federal, state and local discrimination laws establish specific time frames for initiating a legal proceeding pursuant to those laws.

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, while no fixed reporting period has been established, the City strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. The City will make every effort to stop alleged harassment before it becomes severe or pervasive, but can only do so with the cooperation of its staff/employees.

~~The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his behavior is unwelcome and requesting that it be discontinued.~~

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The Investigation

~~Any reported allegations of harassment, discrimination or retaliation will be investigated promptly, thoroughly and impartially. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.~~

~~Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.~~

Responsive Action

~~Misconduct constituting harassment, discrimination or retaliation will be dealt with promptly and appropriately. Responsive action may include, for example, training, referral to counseling,~~

~~monitoring of the offender and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, temporary suspension without pay or termination, as the City believes appropriate under the circumstances.~~

~~If an employee making a complaint does not agree with its resolution, the employee may appeal to the City Manager.~~

~~Individuals who have questions or concerns about these policies should talk with their immediate Supervisor, Department Head or the City Manager.~~

~~Finally, these policies should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work related social activities or discussions in order to avoid allegations of harassment. The law and the policies of the City prohibit disparate treatment on the basis of sex or any other protected characteristic, with regard to terms, conditions, privileges and perquisites of employment. The prohibitions against harassment, discrimination and retaliation are intended to complement and further these policies, not to form the basis of an exception to them.~~

AMERICANS WITH DISABILITIES ACT POLICY STATEMENT

The City is committed to complying with the Americans with **Disabilities Act of 1990** ~~as amended-I believe this act has been updated~~. Accordingly, all employment decisions as to applicants for employment or as to persons having been employed will be made regardless of the existence of a disability or perceived disability. Once it is known that an individual suffers from a disability and that person is otherwise qualified for the job in question, the City will make all means available to reasonably accommodate the individual's disability, provided the accommodation would have been a reasonable accommodation had the hardship been known when the applicant was hired and provided that such accommodation does not constitute an undue hardship on the City. This determination will be made on a case-by-case basis, dependent upon the facts involved. No employee or applicant for employment will be denied employment because of the need for reasonable accommodation.

Employees with a disability who believe they need a reasonable accommodation to perform the essential functions of their job should contact the City Manager or his designee. The City encourages individuals with disabilities to come forward and request reasonable accommodation.

Procedure for Requesting an Accommodation

On receipt of an accommodation request, the City Manager or his designee and your Supervisor will meet with you to discuss and identify the precise limitations resulting from the disability and the potential accommodation that the City might make to help overcome those limitations.

The City will determine the feasibility of the requested accommodation considering various factors, including, but not limited to the nature and cost of the accommodation, the availability of tax credits

and deductions, outside funding, the City's overall financial resources and organization, and the accommodation's impact on the operation of the City, including its impact on the ability of other employees to perform their duties and on the City's ability to conduct business.

The City will inform the employee of its decision on the accommodation request or on how to make the accommodation. If the accommodation request is denied, employees will be advised of their right to appeal to the next level of management, the decision by submitting a written statement explaining the reasons for the request ~~to whom? By supervisor, dept head or city manager.~~ If the request on appeal is denied, that decision is final.

The ADA does not require the City to make the best possible accommodation, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs etc.).

An employee or job applicant who has questions regarding this policy or believes that he has been discriminated against based on a disability should notify the City Manager or his designee. All such inquiries or complaints will be treated as confidential to the extent permissible by law.

IMMIGRATION REFORM AND CONTROL ACT

The Immigration Reform and Control Act of 1986 makes it unlawful for an employer to knowingly hire, recruit, or refer for a fee for employment in the United States any individual (citizen or alien) not supplying proper documentation to verify his eligibility to work in the United States. The City will comply fully with this law and will not knowingly employ anyone who does not supply the City with government-required support documentation to verify that the employee is authorized to work in the United States. In the event it is determined an individual does not have the appropriate documentation, that individual will be subject to termination.

AGE DISCRIMINATION IN EMPLOYMENT ACT

Consistent with the Age Discrimination in Employment Act, we will not discriminate against anyone because he is over the age of forty (40). An employee or job applicant who has questions regarding this policy or believes that he has been discriminated against based on age should notify the City Manager or his designee.

RIGHT -TO-WORK LAWS

The City resolves to respect the Right-to-Work Laws of Texas, our home state, and will carefully protect each person's right to enjoy all the privileges of employment without regard to his membership or non membership in any ~~employee delete and replace with outside~~ organization or association. ~~What does that mean?~~

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OUTSIDE EMPLOYMENT STATEMENT

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2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

The City recognizes the right of employees to engage in activities outside of their employment which are of a private nature and unrelated to our business. However, the employee must disclose any possible conflicts so that the City may assess and prevent potential conflicts of interest from arising. A potential, perceived or actual conflict of interest occurs whenever an employee is in a position to influence a decision that may result in a personal gain for the employee or an immediate family member (i.e., spouse or significant other, children, parents, siblings) as a result of the City's business dealings. ~~When an employee is on FMLA leave, they delete and replace, will not be permitted to work outside employment.~~ While on FMLA, I would add something about possible termination if caught doing this.

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Employees are required to obtain written approval from their Supervisor before participating in outside work activities. Approval will be granted unless the activity conflicts with the City's interest. In general, outside work activities are not allowed when they:

- prevent the employee from fully performing work for which he is employed at the City, including overtime assignments;
- involve organizations that are doing or seek to do business with the City, including actual or potential vendors or customers; or
- violate provisions of law or the City's policies or rules.

From time to time, City employees may be required to work beyond their normally scheduled hours. Employees must perform this work when requested. In cases of conflict with any outside activity, the employee's obligations to the City must be given priority. Employees are hired and continue in the City's employ with the understanding that the City is their primary employer and that other employment or commercial involvement which is in conflict with the business interests of the City is strictly prohibited.

CODE OF ETHICS

Statement of Purpose

All persons are entitled to have fair, ethical and accountable local government which earns the public's full confidence for integrity. The strong desire of the City of Windcrest, Texas to fulfill this expectation requires that City Officials, Employees and Volunteers:

Comply with the letter and spirit of the laws and policies affecting the operations of government;
Be independent, impartial and fair in their judgment and actions;

Use their office or position for public good, not for personal gain;

Recognize the worth of individual City Officials, Employees and Volunteers and appreciate their talents, perspectives and contributions;

Help create an atmosphere of respect and civility where individual City Officials, City staff and the public are free to express their ideas and work to their full potential;

Conduct their personal and public affairs with honesty, integrity, fairness and respect for others;

Respect the dignity and [privacy](#) of individuals and organizations;

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Keep the common good as their highest purpose and focus on achieving constructive solutions for public benefit;

Avoid and discourage conduct which is divisive or harmful to the best interests of Windcrest, Texas;

Treat all people in a manner they would wish to be treated;

To this end, the Windcrest City Council has adopted this [Code of Ethics](#) and Conduct for City Officials, Employees, and Volunteers to assure public confidence in the integrity of local government and its effective and fair operation.

Employees who are uncertain as to whether their present or anticipated conduct violates any of the above standards should obtain clarification from the employee's Department Head/Supervisor. The purpose of this policy is to protect employees from any conflict of interest that might arise.

A violation of this policy will result in immediate and appropriate discipline, up to and including immediate termination.

Refer to Code of Ethics, located on the City's Human Resources Information System (HRIS).

Work Product Ownership

All City employees must be aware that the City retains legal ownership of the product of their work. No work product created while employed by the City can be claimed, construed, or presented as property of the individual, even after employment by the City has been terminated or the relevant project completed. This includes written and electronic documents, audio and video recordings, system code, and also any concepts, ideas, or other intellectual property developed for the City, regardless of whether the intellectual property is actually used by the City. Although it is acceptable for an employee to display and/or discuss a portion or the whole of certain work product as an example in certain situations (e.g., on a resume, in a freelancer's meeting with a prospective client), one must bear in mind that information classified as confidential must remain so even after the end of employment, and that supplying certain other entities with certain types of information may

constitute a conflict of interest. In any event, it must always be made clear that work product is the sole and exclusive property of the City.

Reporting Potential Conflicts

An employee must promptly disclose actual or potential conflicts of interest, in writing, to his Supervisor. Approval will not be given unless the relationship will not interfere with the employee's duties or will not damage the City's ~~relationship/reputation~~ delete and replace with ~~reputation~~.

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EMPLOYMENT

Orientation Period

Every new employee goes through an initial period of adjustment in order to learn about the City and about his job. During this time the employee will have an opportunity to find out if he is suited to, and likes, his new position.

Additionally, the orientation period gives the employee's Supervisor a reasonable period of time to evaluate his performance. The orientation period is six months for non-police personnel and one year for police personnel.

During this time, the new employee will be provided with training and guidance from his ~~Supervisor.~~ ~~He~~Supervisor. He may be discharged at any time during this period if his Supervisor concludes that he is not progressing or performing satisfactorily. ~~;~~ ~~Add with the approval of the City Manager.~~ Under appropriate circumstances, the orientation period may be extended. Additionally, as is true at all times during an employee's employment with the City, employment is not for any specific time and may be terminated at will, with or without cause and without prior notice.

At the end of the orientation period, the employee and his Supervisor may discuss his performance. Provided his job performance is "satisfactory" at the end of the orientation period, he will continue in our employment as an at-will employee.

Applicability of Personnel Policies

Department Heads may establish departmental rules and regulations that relate specifically to personnel issues in their departments as long as they do not conflict with these policies. If there is a conflict between a departmental rule or policy and these policies or any future amendments to these policies, the terms of these policies shall prevail. Departmental rules and regulations must be approved by the City Manager in writing. Additionally, the provisions of these policies are severable, and if any provision or part of a provision is held invalid, illegal, or unenforceable, this shall not affect the validity of the remaining provisions or parts of provisions, which shall remain in force and effect. Changes in state or federal laws or regulations will supersede these policies and/or departmental policies from the effective date of the law or regulation forward and will substitute for these personnel policies only insofar as necessary for compliance. Should Police policy and this manual be in conflict, the Police policy will prevail as approved by City Council.

Employee Categories

FLSA (Federal Labor Standards Act)

The City is firmly committed to complying with all provisions of the Fair Labor Standards Act, as amended, which establishes minimum rates of pay and overtime pay requirements. We support the Equal Pay Act amendments to that law.

Exempt Employee

Employees who are not required to be paid overtime, in accordance with applicable federal, state or local law. Executives, professional employees, outside sales representatives, and employees in certain administrative or computer-related positions are typically exempt.

Non-Exempt Employee

Employees who are required to be paid overtime will be paid at the rate of time and one half (i.e., one and one-half times) their regular rate of pay for actual all hours worked beyond forty hours in a workweek, (i.e. must be at work 40 hours and not used any vacation, sick, etc. in that same 40 hour week. in accordance with applicable federal wage and hour laws.

Full-time Employee

A "full-time employee" is an individual who consistently works at least 37.5 hours per week and at least eleven months per year. This employee is eligible for all of the employee benefits given by the City.

Part-Time Employee

A "part-time employee" is an individual who works less than 37.5 hours per week and do not generally receive benefits.

Temporary/Seasonal Employee

A "temporary/seasonal employee" is an individual who is hired for a period of less than one hundred eighty (180) days. They are paid an hourly rate comparable to the Federal Minimum wage or commensurate with the duties of that position. This employee will not be eligible for City benefits.

Volunteers

A "Volunteer" is any person who gives his services to the City without any expressed or implied promise of remuneration. Volunteers are required to comply with the personnel policy. Volunteers are subject to Worker's Compensation insurance coverage only when providing authorized service to the City. Volunteers work at the will of the respective Department Heads.

TRANSFERS AND PROMOTIONS

The City encourages employees to assume higher level positions or lateral transfers for which they qualify. Toward this end, the City has a job posting program that offers employees the opportunity to apply for certain positions within the City.

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Generally, employees must be in their job for at least one year before applying for a change in position. In addition, employees must have a good performance, attendance and punctuality record.

Each employee requesting a transfer will be considered for the new position along with all other applicants.

Each transfer is judged on an individual basis, depending on the needs of both departments involved.

All final decisions regarding transfers will be made by Management and must be submitted through the City's Human Resources Information System (HRIS) for appropriate approvals or through the City HR designee.

Employees who wish to apply for a transfer should discuss it first with their Supervisor and then with the Department Head so that it may be determined if their skills fit the requirements of the desired job. Employees should also feel free to discuss their career aspirations with their Supervisor at any time.

If an employee fits the basic criteria for the position, the Supervisor will make arrangements to set up an exploratory interview with the other department. ~~Delete~~

WORK SCHEDULE

Continuous Uninterrupted Service

When used in this manual, the term "continuous uninterrupted service" shall mean an employee's continuous performance of productive work for the City. Employees' continuous uninterrupted service may be deemed to be broken when an employee fails to report for work for more than two (2) consecutive working days without cause and fails to report to their Supervisor without delay on the first day of absence the reason for the absence. Absence because of military reserve duty and/or jury duty shall not be counted as time absent for the purpose of this definition.

Working Hours and Break Periods

Regular Hours

The regular work schedules for each position and department may vary. The schedules will be assigned through the employee's Supervisor or Department Head. Please refer any questions relating to working hours to your Supervisor or Department Head.

Lunch Hours Employee meal periods are important to the City's productivity and employee health.

Employees who work at least six (6) consecutive hours will be provided with a meal period. The meal period for employees is one (1) unpaid hour, but may be adjusted at the discretion of the Department Head, but no less than 30 minutes. Employees are to be completely relieved and are not permitted to work during any portion of the employee's meal period.

Breaks

The City recognizes that employees work better and enjoy their work more when they are rested and refreshed. Although not required by Federal Law, the City generally offers all employees working eight hours per day with two (2) paid fifteen (15) minute rest periods when possible; one in the morning and one in the afternoon. Break time is generally a part of the work day. - sSuch time may not be accumulated or used in lieu of leave. The times for these periods will be determined by each Department Head. At times work projects or demands may not allow for a break at specific times. Supervisors and Department Heads will do their best to allow for these break times.

Lactation Breaks

The City will provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child up to one year of age. If possible, this break time shall run concurrently with any break time already provided by law to the employee. Any break time given for this purpose that does not run concurrently with the break time provided by law shall be unpaid.

The City will make every reasonable effort to provide employees with the use of a room or other location (other than a toilet stall) close to the employees' work area for employees to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this policy.

Weekend, Holiday, Afterhours Duty, Special Events and Emergencies:

At times an employee or employees may be placed on call and/or requested to report for duty on weekends, holidays and/or after regularly scheduled work hours. Each employee of the City may be required to work special events or report to work with little notice for emergency purposes.

Limited Duty

When an employee is physically unable to perform his normal duties, a Department Head, with approval of the City Manager, may allow Limited Duty status for that employee for a time frame not to exceed six (6) months in duration unless otherwise required by law. Employees placed on limited duty status may have their pay rate adjusted to the salary level of the position they are temporarily filling by the City Manager. Limited Duty will only be granted when a position is available. No new position will be created by a Department to accommodate an employee's request for this duty.

Layoff

When it is necessary to terminate an individual's employment due to elimination of a position, lack of available work or funds or other circumstances which do not reflect discredit on the employee's performance, this action is termed as "layoff."

The decision of the City Manager to retain or terminate an employee shall be based on his position, job performance, seniority and ability to perform duties and responsibilities of the respective position. Full-time employees shall receive preference over part-time, temporary or seasonal employees.

27
2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

Whenever possible, the affected employee(s) shall be given at least two (2) weeks advance notice of termination.

Rehire Policy

An employee whose employment was terminated by the City for non-performance related issues or by the employee who gave proper notice of resignation will be eligible for rehire.

COMPENSATION

It is important to have a stable permanent salary plan policy, so an employee may see the future in working for the City of Windcrest. The policy is based upon values such as fairness and equity to be able to hire and retain employees. The Salary policy will be reviewed from time to time. ~~Please refer to the Personnel Schedule for additional details.~~

~~Rita said to delete but I would leave this in—Robin~~

~~All City job classifications/positions have been assigned a minimum, midpoint and maximum salary range and a job classification by the City Council. I would add that is comparable to cities similar in size. The Council may adjust, at their discretion, the ranges where determined necessary to insure consistency with prevailing area wages consistent with job responsibilities, working conditions, and overall budget considerations. We can't compete with larger cities. Delete this section~~

Performance Evaluations

All employees will be evaluated annually by May 30th. Non-exempt and exempt employees will be evaluated by their respective Department Head/Supervisor. The City Manager will evaluate other exempt employees, including Department Heads. The Mayor and City Council will evaluate the City Manager. Based on the employee's performance evaluation, each employee may be eligible for a merit increase as outlined in the approved Merit Increase Guide. The Merit Increase Guide contained in the Forms Index ~~and the City's Human Resources Information System (HRIS)~~, will be utilized for computing merit salary increases, considering budget guidance and considering the overall knowledge of the Department Head. Salary increases may be withheld should the employee's work performance warrant such. Based upon overall budget considerations, the City Council will determine the percentage of total salary dollars available for Merit Performance Increases and salary adjustments. Merit increases and salary adjustments will be effective on the first payroll which includes the October 1st effective date or the effective date directed by the City Council. ~~I would keep as is Robin~~

Employees with less than one year of service at the time of merit adjustments would be eligible for a pro-rated merit increase on the fixed-point effective date of merit adjustments. Employees hired within 90 days of the fixed-point date would not be eligible for merit increase until the following fiscal year increase date, at which time they would be eligible for a pro-rated increase reflective of

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their number of months of service. ~~Why~~

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~~Merit raises will be implemented upon City Council approval of obligating funds.~~ ~~delete~~

Non-Exempt Employees

The performance evaluation system of Windcrest is an employee oriented program consisting of joint employee and the Supervisor evaluations and frequent joint interactions to evaluate an employee's work performance. The Windcrest Police Department efficiency report will be used for assigned Police personnel.

Comment [tsd3]: Is this only for Non-Exempt or is it for all employees?

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Purpose

The purpose of performance evaluations are to:

1. Assist the employee and the Supervisor in mutually understanding the job requirements;
2. Help the employee improve individual job performance;
3. Recognize employee accomplishments and good work;
4. Assist the employee in planning his employment with the City;
5. Help determine eligibility for promotion, conversion to regular status or retention.

~~This evaluation system requires continuous communications between the employee and the Supervisor and makes the process of evaluations more meaningful. It helps the employee and Supervisor understand more fully what is involved in doing their jobs as well as clarifying the relationship of their work to others around them. The individual gets direct feedback on how he is progressing through the use of periodic review.~~ ~~delete~~

Definitions of Terms

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~~A. Appraisal Date—Date the employee completes the evaluation period in his current position.~~

~~A. Complete Evaluation—Employee, Supervisor and Department Head have signed completed form. It is now ready for transmittal to the City Manager.~~

~~B. Employee—Any full time or part time employee receiving compensation.~~

~~D. Supervisor—The employee's immediate Supervisor who is directly responsible for the work of the employee. The Supervisor is defined as the person who either oversees, reviews, or checks the daily work of the employee or who is most closely acquainted with the employee's work performance.~~

~~E. Department Head—That individual designated as being in charge of the department.~~

~~G. City Manager—Chief Administrative Officer for the City. Is responsible to the Mayor and City Council for the proper administration of City affairs as assigned by ordinance or directive.~~

~~H. Anniversary Date—The month and date on which an employee's employment began with the City. Delete~~

General Guidelines and Record Keeping Requirements

All performance evaluations will be completed in accordance with this Manual and will be submitted according to the following guidelines:

1. **Informal Performance Review** - Each Supervisor, on a quarterly basis, will discuss with their employees the performance for the quarter. Notes concerning this discussion should be used to assist in writing the formal evaluations.

2. **Formal Evaluations** - Formal evaluations are discussed jointly by employees and Supervisors and are submitted on at least an annual basis and at other times as specified below. Each Department is required to establish a formal chain of command through which evaluations will be routed and reviewed. This chain of command should be the same chain as for disciplinary actions and shall be posted in a visible area within the Department. The employee is required to sign the City's copy of the evaluation to signify that a discussion of the rating has taken place. This signature does not imply agreement with the evaluation. Formal evaluations are kept in the employee's permanent personnel file. These evaluations are done at the following times.

a. **New Employee** - Employees who are newly hired or in a new job with the City will be formally evaluated at 30 days, 90 days, and 150 days of employment. Supervisors are required to discuss the employee evaluation form with their new employee(s).

b. **Annual** - An annual evaluation will be done on each employee by May 30th.

~~Already stated this on page 36 (Robins)~~

c. **Special Evaluation**—A formal evaluation will be done at the following times: when required for disciplinary action, promotions, when transferred to a different job and upon termination of employment with the City. ~~delete~~

~~A.F.~~ Attention must be paid to the proper time sequence in submitting evaluations to the City Manager.

1. When submitting evaluations for a new employee or termination, the evaluation and supporting documentation must be received by the City Manager at least five (5) days prior to the qualifying event. When submitting annual evaluations, the evaluation and supporting documentation must be received by the City Manager at least ten (10)

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Comment [tsd4]: Do you really do this?

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working days prior to May 30th unless another submission date is set by the City Manager or City Council.

2. When any other employee change of status is applicable, the evaluation must be received by the City Manager at least ten (10) days prior to the effective date of the change of status. ~~Delete~~

Completing the Evaluation Form

Evaluation of Performance. Supervisors must complete the following sections:

1. ~~Section A~~—This part contains the usual information needed to identify the individual being evaluated and the reason for the evaluation.

2. ~~Section B—Evaluation Prior Year's Work Plan.~~

This section compares the employee's actual performance with the employee's previous evaluation—Any work plan discussed and documented with employee during prior evaluation is to be compared with the employee's accomplishments over the year.

This section will be rated as follows: Increasing Capability, Competent, Outstanding or Very Exceptional.

3. ~~Section C—Supervisor Assessment of Employee's Performance.~~

In this section the Supervisor will assess the employee's performance in seven specific areas. Each of these areas will consist of three to ten elements of performance. Each element will be rated as follows: Improvement Required, Increasing Capability, Competent, Outstanding or Very Exceptional.

The Supervisor must record a qualifying comment for each element of the evaluation. Each specific area must reflect a rating total.

The rating for Section B and Section C will be totaled together to develop the Overall Evaluation Rating. ~~Delete~~

4. ~~Section D—Establishment of Employee Work Plan.~~

This section establishes the employee's work plan to be accomplished during the next evaluation period. The Supervisor will discuss and document work objectives and an action plan for the employee.

The Supervisor should be as specific as possible when discussing and documenting the work objectives and the action plan for the employee. Include completion dates where necessary and appropriate.

5. ~~Section E—Recommendation, Signatures and Comments.~~

Comment [tsd5]: I've not seen your performance review docs, but do you really need to explain how to fill one out? Or is this info already in the document?

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The Overall Evaluation Rating is recorded.

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Recommendation for a salary increase is made and reflected by an increase percentage. The salary increase recommended by the Supervisor is pursuant to the salary increase guidelines as determined by the City Council annually.

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The employee must sign the evaluation but the employee's signature does not necessarily indicate agreement with the evaluation. If the employee desires to make comments concerning the evaluation, the employee may do so on the Employee Comment Section of the evaluation.

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The Supervisor must sign this page and record comments concerning the evaluation.

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The Department Head must sign this page and record comments concerning the evaluation.

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Generally, the City Manager is the final authority on all evaluations of performance for all employees. The completed evaluation must be submitted to the City Manager for review, signature, comments and filing in the employee's personnel file.

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5. Section F—Employee Comments

This section provides the employee the opportunity to document comments concerning the evaluation.

The Employee Comments form must be signed by the employee, Supervisor and the Department Head. This section is a part of the evaluation and must be attached to the evaluation even if the employee has no comments to be recorded. This doesn't need to be signed by the Supervisor.

Any adjustments to the evaluation resulting from the employee's comments must be documented on this form by the Department Head.

PAYROLL POLICY

Paychecks are payment from the City for services rendered and payment is bi-weekly. When you get your payroll check or direct deposit pay statement, make sure the hours and pay rate are correct. If your hours or rate of pay is not correct, do not cash your check, bring it to the attention of your Department Head or Supervisor and let him correct the error, if any. Also, if you do not understand how to figure your pay or how to read your check, seek help from a Department Head or Supervisor so that it can be properly explained to you.

Employees may be paid by check or through direct deposit of funds to either a savings or checking account at their bank of choice (providing the bank has direct deposit capability). To activate direct deposit, complete the Direct Deposit [form section on the City's Human Resources Information](#)

~~System (HRIS)~~. To ensure account accuracy it may take several weeks for activation of the Direct Deposit.

In the event of a lost paycheck, the Finance Department must be notified in writing as soon as possible before a replacement check can be issued. In the event the lost paycheck is recovered and the City identifies the endorsement as that of the employee, the employee must remit the amount of the replacement check to the City within 24 hours of the time it is demanded. ~~add~~ **Or this amount will be deducted from the next check and holding back paycheck**

The amount of Federal withholding is affected by the number of exemptions claimed on Form W-4, Employee's Withholding Allowance Certificate. If an employee's marital status changes or the number of exemptions previously claimed increases or decreases, a new Form W-4 **must be submitted to the payroll department through the Human Resources Information System (HRIS).** ~~N/A~~

Deductions from Paychecks

There are three automatic deductions from your "gross pay", all of which are required by law: Social Security (F.I.C.A.), Income Tax, and Medicare deductions. The Income Tax deductions vary with the number of dependents you claim. Consult with your Accountant or Financial Advisor or the Internal Revenue Service as to how many you should claim. ~~Additional resource is -Add the~~ **Form W-4, which has a worksheet that will help figure your deductions.**

Your contribution to the Retirement System will be deducted from your paycheck each pay period.

Under Texas law, your employer cannot garnish your wages for the collection of unpaid debts. The only exceptions are the collection of unpaid income taxes, court ordered child support payments, and/or delinquent student loans. Your paycheck can be garnished by Court-ordered deductions. There may be other deductions authorized by the employee. Such authorizations are completely voluntary and must be in writing by you.

Overtime

Overtime work may be required of any employee subject to approval of the employee's Department Head or designated Supervisor. An employee who fails to work scheduled or non-scheduled overtime is subject to disciplinary action, up to and including discharge. In determining whether overtime rates apply to an employee's rate of pay, periods of absence such as holidays, vacations, leaves of absence, sick leave, etc. shall not be computed as "hours worked."

All non exempt employees (except Firefighters and Law Enforcement Officers) will be paid one and one-half times their regular hourly rate for all hours worked beyond forty (40) in any given workweek. Employees who are nearing or have worked forty (40) hours in a work week may be given time off ~~compensatory time???~~ by their Supervisor or Department Head within the same workweek to prevent or reduce overtime if it does not create an undue hardship for a department.

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Comment [tsd6]: See included Wage Deductions Doc.

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Comment [tsd7]: This would not be comp time, it would just be that they reached their 40 hours or will reach it and the supervisor is trying to keep the employee to the 40 hours.

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Employees should receive prior approval from the employee's Department Head/Supervisor before performing work beyond the employee's regular work hours. Failure to receive prior approval will be subject to disciplinary actions.

~~Only under extreme and unusual circumstances may an exempt employee be authorized by the City Manager to receive extra duty pay. You want to be very careful about paying an exempt employee based on hours.~~

Comment [tsd8]: Per our discussions in the past, you may not want to have this in the handbook. When treating an exempt employee like an hourly, you could lose your exempt status.

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Overtime Rule for Firefighters and Law Enforcement Officers

The City will utilize Overtime Compensation Rules defined in Section 553.230 of the Fair Labor Standards Act in determining when overtime will be paid to full-time Firefighters and Police Officers. For those employees engaged in fire protection and law enforcement activities who have a work period of at least seven (7) but less than twenty eight (28) consecutive days, no overtime compensation is required until the number of hours worked exceeds the number of hours which bears the same relationship to two hundred and twelve (212) as the number of days in the work period bears to twenty eight (28). This policy establishes a work period of fourteen (14) days for both Firefighters and Police Officers. Overtime for Firefighters will be paid after one hundred and six (106) hours are worked in a fourteen (14) day period and for Police Officers after eighty six (86) hours are worked in a fourteen (14) day period.

Employee Time

Any employee inaccurately reporting or falsifying time worked is subject to disciplinary action up to and including termination. See the Time and Attendance Policy for details.

PERSONNEL RECORDS

Comment [tsd9]: Who will be the keeper of these updates?

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~~To keep necessary City records up to date, it is extremely important that you update the Human Resources Information System (HRIS) of any changes in:~~

- | | |
|-------------------------------------|--|
| • Name marital status | • # of eligible dependents |
| • Address | • W 4 deductions |
| • Home and cell telephone number(s) | • Person to contact in case of emergency |

~~This data will be maintained in a secure data base on the City's Human Resources Information System (HRIS) and in the employee's personnel file, in the cases of hardcopy documentation. It is the responsibility of each employee to keep the Human Resources Information System (HRIS) updated and to be sure that his personnel file is current. Any changes that need to be made shall be submitted in the Human Resources Information System (HRIS) or in the case of hardcopy in writing to the Payroll Department within five (5) business days. Each employee at the time of hire will have the opportunity to complete a Public Access Information form which exempts the disclosure of their personal information, which can be found on the City's Human Resources Information System (HRIS). I would rewrite since HRIS is no longer available.~~

STAFF SUPPORT FOR EDC / CCPD

City personnel and contract employees will provide support to the Economic Development Corporation and Crime Control and Prevention District with the approval of the City Manager. When such support is approved, the employee will complete the assignment within the scope of their normal work hours. If an employee is required to work overtime to complete their normal duties because of an EDC assignment, they must first get approval from their immediate Supervisor to work the overtime. All personnel performing EDC and/or CCPD duties will submit a record of the hours worked and the scope of the duties to the Municipal Finance Officer. The EDC or CCPD will reimburse the City for all regular and overtime hours worked by City personnel in support of the EDC or CCPD.

TIME OFF

~~New Year's Day Christmas Day. If the holiday falls on Sunday do they off Friday and Monday? If New Year's Day and Christmas Day fall on Saturday do they get off only Friday?~~

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Holidays

The City will grant paid holiday time off to all full-time employees on the holidays listed below:

~~New Year's Eve Martin Luther King Day~~

- New Year's Day
- Martin Luther King Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day

- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

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~~Before or after Christmas~~

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If a City holiday is on a Saturday, the holiday will be observed on the immediately preceding Friday.
If a City holiday is on a Sunday, the holiday will be observed on the immediately following Monday.

Holiday Pay

Full-time, non-exempt employees authorized to work on a scheduled City holiday or the weekend will be paid at the rate of two times their hourly rate for the number of holiday hours worked.

Example:

Christmas Eve Holiday falls on Saturday, the City observes this holiday on the Friday before Christmas Eve. Christmas Day Holiday falls on Sunday, the City observes this holiday on the following Monday. The non-exempt employee would receive double time pay for Friday and Monday.

Work Schedule

Friday, December 23--City Holiday

Pay

2 times hourly rate

rate	Saturday, December 24	Add 1 1/2 Regular delete hourly
rate	Sunday, December 25	Add 1 1/2 Regular delete hourly
	Monday, December 26—City Holiday	2 times hourly rate

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Non-exempt employees may elect to request time off at a later date in lieu of receiving holiday pay. In order to request time off, the employee must submit their request in writing and attach it to the affected dates. Employees may only defer twenty – four (24) hours of holiday hours per year and all deferred holiday time must be taken in the same calendar year. Exempt employees are paid normal rate of pay for having to work on holidays.

Administration of Vacation and Sick Leave

The City provides for earning or using of vacation and sick leave by full-time employees. Request for Leave is done via ~~the City's Human Resources Information System (HRIS)~~ your supervisor and/or ~~Department Head~~.

Vacation and sick leave are earned as indicated in this Manual. Vacation leave and sick leave, when authorized, will only be charged for absence during work days. Saturdays, Sundays or official City holidays are considered non work days for all employees, except those assigned to shifts. All requests for leave must be approved by the employee's Supervisor.

Vacation and sick leave may be used to facilitate short periods of absence, i.e., personal business, physician's appointments, etc. However, individuals who utilize all of their sick and vacation leave will not be advanced leave, but will be required to take leave without pay ~~unless donated~~ he/she ~~receives~~ hours from the Sick Leave Pool. ~~Sick leave pool up to?~~

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Accrual / Vacation Leave

Non- exempt

1. Vacation leave of ten (10) days per calendar year will be granted to non-exempt employees, after one (1) year of continuous satisfactory employment.
2. Vacation leave for non-exempt employees may be accumulated not to exceed hours listed.

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Non-exempt		
1-5 years:	2 weeks	120 maximum hours
5-10 years:	3 weeks	160 maximum hours
10+ years:	4 weeks	240 maximum hours

~~List here in the schedule below.~~ Reimbursement will be made for accrued unused vacation leave upon termination after twelve (12) months of satisfactory employment.

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3. Vacation leave with pay may not be granted until the employee has been on full employment for 12 months. If the employee would have qualified for FMLA leave had that employee been employed for at least 12 months and had worked 1,250 hours then the employee will be required to use their vacation leave after they have exhausted their sick leave for an event that would qualify under the FMLA in lieu of leave without pay.
4. A request from a non-exempt employee for an anticipated vacation leave must be submitted to the Department Head/Supervisor two (2) weeks prior to the beginning date of requested leave. A Department Head may approve a request for vacation leave with less than a two week notice that is based on extenuating circumstances.
5. The City will attempt to grant the employee's request for time off however; circumstances such as absenteeism of other employees, vacation, and workload issues may prohibit the request.

Non-exempt

1-5 years: 2 weeks 120 maximum hours

5-10 years: 3 weeks 160 maximum hours

10+ years: 4 weeks 210 maximum hours

Move to #2 Ask Rita something about if leave pay only 160.

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Exempt

~~+1. —~~ Vacation leave for exempt employees and not to exceed time listed; ~~the City Manager and Department Heads will accrue at the rate of ten (10) hours per month, or 120 hours, or 15 work days per calendar year. Vacation leave for exempt employees may accumulate up to 160 hours and for the City Manager and Department Heads up to 200 hours.~~

Exempt, Department Heads, & City Manager

1-5 years: 3 weeks 160 maximum hours

5-10 years: 4 weeks 210 maximum hours

10+ years: 5 weeks 250 maximum hours

Reimbursement will be made for accrued unused vacation upon termination after one (1) year of satisfactory employment. Time will be provided for exempt employees, the City Manager and Department Heads to make satisfactory arrangements for their vacation time without it impacting on their accrual limits for vacation leave. The City Manager and Department Heads are highly encouraged to take leave to avoid exceeding the accumulated limit.

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2. The scheduling of vacation leave for Department Heads will be coordinated and approved by the City Manager. The Mayor will approve leave for the City Manager.
3. Vacation leave with pay may not be granted until the employee has been on full employment for 12 months. If the employee would have qualified for FMLA leave had that employee been employed for at least 12 months and had worked 1,250 hours then the employee will be required to use their vacation leave after they have exhausted their sick leave for an event that would qualify under the FMLA in lieu of leave without pay.
4. The City will attempt to grant the employee's request for time off however, circumstances such as absenteeism of other employees, vacation, and workload issues may prohibit request.

~~Exempt: Department Heads & City Managers~~

~~1-5 years: 3 weeks 160 maximum hours~~

~~5-10 years: 4 weeks 210 maximum hours~~

~~10+ years: 5 weeks 250 maximum hours~~ [Move to #1](#)

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Personal Leave

An employee who has taken 0 - 3 days of sick leave in the preceding twelve (12) months and has completed twelve (12) months of uninterrupted full time service with the City may elect to convert two (2) days of sick leave to personal leave. An employee who is eligible and elects to convert two (2) days of sick leave to personal leave must use the personal leave before their next anniversary date or it will remain as sick leave accrued.

Personal leave is defined as paid leave and is not to be confused with an employee's accrued vacation leave as personal leave must be taken prior to the employee's next anniversary date.

Administrative Leave

A Department Head, with the approval of the City Manager, may place an employee on administrative leave with or without pay. Administrative Leave is not considered as vacation or sick leave. ~~Is there a form for this did not see one (Robin) NO~~

Bereavement Leave

In the event of a death in the immediate family, a full-time employee will be allowed a leave of absence with pay not to exceed three (3) working days. For the death of a non immediate family member, one (1) day of leave will be provided. For purposes of this policy, immediate family is defined as parent, grandparent, spouse, sibling, child, grandchild, mother in law, father in law, brother in law and sister in law. Non immediate family is defined as grandparent-in-law, aunt, uncle, cousin or in-laws not described above. If the days fall within your vacation, a holiday, or scheduled days off, no adjustment will be made to hours or wages. Your Supervisor must be notified immediately of the forthcoming absence so that proper schedule arrangements can be made.

Jury Duty

If you are summoned to serve on a court jury, you shall show your summons to your Supervisor promptly (within two days of receipt) so that proper schedule arrangements can be made. You shall also keep your Supervisor regularly informed of when you expect to return from jury duty. If you are dismissed from jury service prior to the end of your scheduled work day, call your Supervisor to determine whether you should report for work. A statement from the jury clerk, listing days of service, must be presented to your Supervisor the day you return to work. You will be paid your regular pay for those days which you were assigned to work but instead served on a jury panel, up to a maximum of fifteen (15) working days per year. Absences greater than fifteen (15) working days caused by jury duty service will be without pay unless the employee chooses to use their vacation time for the remainder of their jury duty. An employee who has not been employed with the City for one year is permitted to use their accumulated vacation time for the remainder of their jury duty.

Special Condition Leave

~~On occasion, weather or disaster conditions may affect an employee's ability to travel to and from work in a safe and/or timely manner. Should any of these conditions occur, employees will be notified by their Supervisor or Department Head on the status of reporting for duty. Employees may be instructed not to report for duty or the reporting time delayed until they determine they can safely arrive at their work location. If prudent judgment is used by the employee, they will be paid for the time missed. Employees who fail to report to work as instructed will not be paid for time missed nor be permitted to use accrued time to offset hours missed.~~ [Delete](#)

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Weather Related Closures

In the event that City Hall would be closed or would open late due to hazardous weather and/or road conditions this information would be provided on the Employee Information Line.

The Employee Information Line can be reached by dialing the Main City Hall phone number 210-655-0022, waiting for the Auto-attendant to answer and then dialing extension 4110.

The recording would play relative information to the current situation. Unless otherwise directed by the information in this recording the employee would report to work at the regular time. Calling the Police Dispatcher may not have the latest information provided in the Employee Information Line.

Military Leave

The City of Windcrest's policy is to comply with all applicable laws that afford protection rights to employees serving duty with the military, the Armed Forces Reserves and National Guard.

There are two (2) situations in which military leave is granted: temporary military duty (including summer encampment) and active duty. The City of Windcrest will supplement pay for up to fifteen (15) days per calendar year for employees serving temporary military duty. For active duty or enlistment, leave will be unpaid. Upon the employee's return from active military service they may be eligible for reinstatement as provided in the Uniformed Services Employment and Reemployment Rights Act (USERRA). If an employee enlists or is called to active duty, employee benefits not provided for by USERRA will not continue beyond the end of the month in which leave begins.

Continuation of Health Benefits

During a military leave of less than 31 days, an employee is entitled to continued group health plan coverage under the same conditions as if the employee had continued to work. For military leaves of more than 30 days, an employee may elect to continue his health coverage for up to 24 months of uniformed service, but may be required to pay all or part of the premium for the continuation coverage. The City appreciates the sacrifices made by military families. By appreciation, the City offers to pay 100% of the premium of the employee only portion of group health plan coverage while the employee is on Military Leave. The employee would still need to follow the procedures to elect continuation of coverage and if elected, the employee would be responsible for dependent coverage premiums. [NOTE: Employees and/or dependents who elect to continue their coverage may not be required to pay more than 102% of the full premium for the coverage elected. The premium is to be calculated in the same manner as that required by COBRA.] Is this legal?

All military leave requests must be in writing and accompanied by military orders. Military leave requests shall be submitted to the employee's respective Department Head as soon as possible after receipt of military orders. Military leave benefits will not be paid unless military orders are presented prior to the dates of each absence for military leave.

Return from Military Leave

Notice Required

Upon return from military service, an employee must provide notice of or submit an application for reemployment in accordance with the following schedule:

1. An employee who served for less than 31 days or who reported for a fitness examination, must provide notice of reemployment at the beginning of the first full regular scheduled work period that starts at least **eight hours** ????? after the employee has returned from the location of service.
2. An employee who served for more than 30 days, but less than 181 days, must submit an application for reemployment no later than 14 days after completing his period of service, or, if this deadline is impossible or unreasonable through no fault of the employee, then on the next calendar day when submission becomes possible.
3. An employee who served for more than 180 days must submit an application for reemployment no later than 90 days after the completion of the uniformed service.
4. An employee who has been hospitalized or is recovering from an injury or

Comment [tsd10]: Health and pension plan coverage for service members is provided for by USERRA. Individuals performing military duty of more than 30 days may elect to continue employer sponsored health care for up to 24 months; however, they may be required to pay *up to* 102 percent of the full premium. For military service of less than 31 days, health care coverage is provided as if the service member had remained employed. USERRA clarifies pension plan coverage by making explicit that all pension plans are protected. The period an individual has to make application for reemployment or report back to work after military service is based on time spent on military duty. For service of less than 31 days, the service member must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period. For service of more than 30 days but less than 181 days, the service member must submit an application for reemployment within 14 days of release from service. For service of more than 180 days, an application for reemployment must be submitted within 90 days of release from service.

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Comment [tsd11]: This is correct, see above comment.

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illness incurred or aggravated while serving must report to the Human Resources Department (if the service was less than 31 days), or submit an application for reemployment (if the service was greater than 30 days), at the end of the necessary recovery period (but which may not exceed two years).

Required Documentation

An employee whose military service was for more than 30 days must provide documentation within two weeks of his return (unless such documentation does not yet exist or is not readily available) showing the following: (i) the application for reemployment is timely (i.e. submitted within the required time period); (ii) the period of service has not exceeded five years; and (iii) the employee received an honorable or general discharge.

TIME OFF TO VOTE

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The City encourages employees to vote in elections for public office ("elections for public office" includes elections for sheriff, school board, district attorney, and all primary and general elections) are scheduled throughout the state, county, city or town in which the employee works.

Any employee whose work schedule does not provide him two consecutive hours to vote while polls are open, will be granted reasonable time off in order to vote. This time off will be paid up to a maximum of two (2) hours.

Texas law requires employers to allow employees time off to vote if their work schedules are during voting hours and they do not have at least two (2) hours consecutive outside of work schedule for voting.

- a. Let employees have at least two hours off to vote on an election day (unless they have already voted under early voting procedures)
- b. Such time off needs to be paid to the extent that it cuts into the employee's normal working hours (*statue V-1532*)
- c. Such time off does not need to be paid if the two hours are available outside of normal working hours (*statue V-1532*)
- d. If the time is taken off from mandatory overtime, the time off should be paid at the rate that would have applied to the time so missed (*statue M-53*)
- e. If the time is taken off from optional overtime voluntarily requested by the employee, the time off does not need to be paid, since the time off would be outside of normal working hours and is time that the employee voluntarily chose to spend working rather than voting (*M-53*)

Notify your supervisor of the need for voting leave as soon as possible. The City reserves the right to select the hours you are excused to vote. When you return from voting leave, you must present a voter's receipt to your Supervisor as soon as possible.

No employee will be penalized or retaliated against for requesting time off to vote.

FMLA (Family and Medical Leave of Absence) and Sick Leave

Definitions

FMLA leave is a federally mandated unpaid leave available to employees who have been employed for at least twelve (12) months prior to the request for leave and who have performed at least 1,250 hours of service during the last twelve (12) months. ~~Delete~~ I was looking at this a little closer and I would not delete this section.

Comment [tsd12]: Why delete?

Sick leave is an optional leave provided by the City of Windcrest which is not required by state or federal law and should not be confused with FMLA leave. It is a paid benefit for certain employees, whereas FMLA is an unpaid right. The rules for obtaining the benefits of paid sick leave from the City and unpaid FMLA benefits under federal law are different, although they overlap in some circumstances.

Availability

FMLA leave is available for the following reasons: (a) the employee's serious health condition, (b) to care for a child, spouse or parent who has a serious health condition, or (c) the birth, adoption or placement through foster care of a child and to care for that child within twelve (12) months of birth/placement, (d) for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

Sick leave is provided to all full-time and exempt employees. It is available to an employee who is unable to work due to (a) personal injury, illness or pregnancy, or (b) due to the personal injury, illness or pregnancy of a member of the employee's immediate family. Immediate family is defined as an employee's spouse or the child/legal dependent of the employee or his spouse who is a permanent resident of the employee's household. The employee's personal injury or illness does not need to be serious as in the case of FMLA. ~~Cannot use FMLA if you have a worker's comp. claim (Robin)~~

Comment [tsd13]: Yes, FMLA can be run concurrent with Worker's Comp if it is a Serious Health illness/injury.

Family and Medical Leave of Absence (FMLA)

Accrual of FMLA Leave

If you are an employee eligible for FMLA leave, you may receive up to twelve (12) weeks of FMLA leave during a "rolling" twelve (12) month period for any of the reasons stated above for FMLA leave. The rolling twelve (12) months is reviewed by looking back at the twelve (12) months prior to a leave request to determine how much leave has been taken.

Amendments to the FMLA by the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, expanded the FMLA to allow eligible employees to take up to 12 weeks of job-protected leave in the applicable 12-month period for any "qualifying exigency" arising out of the

fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The NDAA also amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a “single 12-month period” to care for a covered service member with a serious injury or illness.

Intermittent leaves and leaves taken by reducing your work schedule will be granted when necessary due to your own serious health condition or that of a covered family member. Intermittent and/or reduced schedule leaves due to the birth, placement or adoption of a child may be granted with the authorization of your Supervisor. If you work a reduced hour schedule due to an intermittent FMLA leave, you will receive an adjustment to your pay based upon the reduced schedule.

The City reserves the right to limit the leave period for spouses when both are employed by the City, to a combined total of twelve (12) work weeks of FMLA leave per year for the birth, placement or adoption of a child or to care for a parent with a serious health condition. This restriction does not apply to FMLA leave taken for other reasons.

Notice and Verification Requirements for FMLA leave

A thirty (30) day notice of request for FMLA leave is required whenever the leave is foreseeable. If the leave is unexpected, notice must be given as early as possible (within one [1] – two [2] working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible). If the leave is due to an employee’s own medical emergency, a family member or other adult may contact the employee’s Supervisor/Department Head as soon as possible, if the employee is unable to do so. A form to request FMLA leave can be obtained from the company’s Human Resources Information System (HRIS). If the dates of the anticipated leave change, an employee must notify the employee’s Supervisor/Department Head of such changes as soon as practicable.

For FMLA leave, you will be required to submit verification for leave, such as medical certification for your own serious health condition or that of a family member, birth certificate, adoption papers, etc., as well as periodic recertification of medical status. The City may require you to periodically report on the status of your leave and intent to return to work. If the employee’s anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide the City with reasonable notice (i.e., within 2 business days) of the employee’s changed circumstances and new return to work date. If the employee gives the City notice of the employee’s intent not to return to work, the employee will be considered to have voluntarily resigned. If your FMLA leave was due to your own serious medical condition, you may be required to provide verification from your health care provider upon your return to work that you are able to perform the essential functions of your position with or without specified reasonable accommodation.

Intermittent or Reduced Work Schedule Leave

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2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

Intermittent leave is leave taken in separate blocks of time. A reduced work schedule leave is a leave schedule that reduces an employee's usual number of hours per workweek or hours per workday.

Leave because of an employee's own serious health condition, or to care for an employee's spouse, child or parent with a serious health condition, may be taken all at once or, where medically necessary, intermittently or on a reduced work schedule.

If an employee takes leave intermittently or on a reduced work schedule basis, the employee must, when requested, attempt to schedule the leave so as not to unduly disrupt the City's operations. When an employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment, the City may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave. Is this legal?

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Comment [tsd14]: Yes, transfers can be done as long as it is equivalent pay and benefits and the transfer is not to punish or discourage the employee.

Use of Paid and Unpaid Leave

FMLA provides eligible employees with up to 12 workweeks of unpaid leave. During FMLA leave, you will be required to use all of your accrued sick, personal and vacation leave at the start of FMLA leave. This also applies when an employee has not been with the City for 12 months and worked 1,250 hours provided the leave would have qualified as FMLA leave. The time period that is considered "paid" by accrued sick, personal or vacation leave will not increase the length of time of FMLA leave eligibility (e.g. twelve [12] week total time consisting of both paid and unpaid leave time). The remainder of the 12 workweeks of leave, if any, will be unpaid FMLA leave. Any paid leave used for an FMLA qualifying reason will be charged against an employee's entitlement to FMLA leave. This includes leave for disability or workers' compensation injury/illness, provided that the leave meets FMLA requirements.

During FMLA leave, you will not receive holiday pay for any holidays that fall during the leave period. During FMLA leave, at the start of a calendar year, you will not be eligible to be credited for any sick, personal or vacation time for that year until such time as you return to active employment.

Designation of Leave

The City will notify the employee that leave has been designated as FMLA leave. The City may provisionally designate the employee's leave as FMLA leave if the City has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave. If the employee has not notified the City of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify the Department Head or central designated Human Resources person within 2 business days of the employee's return to work that the leave was for a FMLA reason.

Maintenance of Health Benefits

During FMLA leave, group health and life insurance benefits for the employee only will continue to be paid by the City, and any insurance benefits for family members other than the employee must be paid by the employee. The City paid insurance benefits will cease if the employee informs the City

of the employee's intent not to return from leave, if the employee fails to return from leave, or if the leave expires pursuant to other leave policies of the City.

If the employee's payment of health insurance premiums is more than 30 days late, the City may discontinue health insurance coverage upon notice to the employee.

Return from FMLA Leave

Upon return from FMLA leave, the City will place the employee in the same position the employee held before the leave or an equivalent position with equivalent pay, benefits and other employment terms.

Limitations on Reinstatement

An employee is entitled to reinstatement only if he would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, because of a layoff, reduction in force or other reason, the employee would not be employed at the time job restoration is sought.

The City reserves the right to deny reinstatement to salaried, eligible employees who are among the highest paid 10 percent of the City's employees employed within 75 miles of the worksite ("key employees") if such denial is necessary to prevent substantial and grievous economic injury to the City's operations.

Failure to Return to Work Following FMLA Leave

If the employee does not return to work following the conclusion of FMLA leave, the employee will be considered to have voluntarily resigned. The City may recover health insurance premiums that the City paid on behalf of the employee during any unpaid FMLA leave except that the City's share of such premiums may not be recovered if the employee fails to return to work because of the employee's or a family member's serious health condition or because of other circumstances beyond the employee's control. In such cases, the City may require the employee to provide medical certification of the employee's or the family member's serious health condition.

Donation and Transfer of Accumulated Leave: Employees may donate or transfer accumulated sick leave and/or vacation leave to another employee who has exhausted all available leave for use by the recipient employee for the employee's serious health condition or to care for a child, spouse or parent with a serious health condition or to care for a child until the expiration of FMLA leave. Furthermore, for the serious health condition of an employee, transferred or donated leave may extend an employee's time of absence from work by twelve (12) extra work weeks after the conclusion of an employee's twelve (12) work week FMLA leave. During such post FMLA period, an employee shall have no job protection and receive no benefits, such as insurance.

In addition to the foregoing, employees may donate or transfer accumulated sick leave and/or vacation leave to another employee who has exhausted all available leave for use by the recipient employee for any authorized sick leave purpose. There is no limitation on the number of leave hours

one employee may transfer to another employee except that the leave transferred must be accumulated and on record and may not exceed the leave periods described in the preceding paragraphs. Both the employee transferring leave (donor) and the employee accepting the leave transfer (recipient) must sign the Donation Form. The employees' signatures acknowledge the transfer of the accumulated time. The executed donation form must be submitted to the employees' Department Heads for their recommendation and submitted to the ~~Assistant City Manager~~ 2222Municipal Finance Officer for approval.

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Reinstatement after FMLA

Before the employee returns to work from FMLA leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work.

FMLA leave or return to work may be delayed or denied if the appropriate documentation is not provided in a timely manner. Also, a failure to provide requested documentation of the reason for an absence from work may lead to termination of employment.

As an eligible employee, you will be restored to your previous position or an equivalent one upon return from their FMLA leave with the same pay, benefits and other terms and conditions of employment unless your former position was eliminated due to a reduction in force, restructuring or other job elimination that was unrelated to their leave. What happens then?

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Those employees defined as "key employees" under the FMLA may be denied reinstatement at the City's discretion and will be notified of such at the time leave is requested or as soon as a determination can be made by made-by-who-(Robin) the City that reinstatement of such "key employee" will result in substantial and grievous economic injury to operations. Is this Legal?

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Comment [tsd15]: "Key" Employee Exception

Under limited circumstances where restoration to employment will cause "substantial and grievous economic injury" to its operations, an employer may refuse to reinstate certain highly-paid, salaried "key" employees. In order to do so, the employer must notify the employee in writing of his/her status as a "key" employee (as defined by FMLA), the reasons for denying job restoration, and provide the employee a reasonable opportunity to return to work after so notifying the employee.

Sick Leave

Accrual of Sick Leave

Full-time employees earn sick leave at the rate of one (1) working day, or eight (8) hours per month, for each full month of continuous service with the City. Eligibility for sick leave begins at the time of employment. Credit for sick leave may be accumulated from year to year up to sixty (60) working days. Sick leave must be earned before it is used. Earned, unused sick leave credit is not paid upon termination of employment for any reason.

Notice and Verification Requirements for sick leave

In order to use sick leave, an employee must notify his Supervisor of his request as required by the attendance policy of the employee's department. Absences of three (3) or more consecutive days must be documented by a physician's statement and the dates that the employee was under the physician's care. For absences lasting more than three days, you must contact the central Human Resources designee to determine whether you may qualify for FMLA. Employees must use sick leave for its intended purpose. Supervisors will monitor employee use of sick leave for

indications of abuse. Abuse of paid sick leave may result in disciplinary action up to and including termination of employment.

LEAVE OF ABSENCE WITHOUT PAY

Should a situation arise that temporarily prevents an employee from working, he may be eligible for a personal Leave of Absence without pay. This leave may be available to employees who have not satisfied the 1,250 hour requirement under FMLA or have exhausted their FMLA leave and are in need of leave due to an FMLA qualifying event.

Any request for a leave of absence without pay must be submitted in writing as far in advance as possible and it will be reviewed on a case-by-case basis by the employee's Department Head and the City Manager. The decision to approve or disapprove is based on the circumstances, the length of time requested, the employee's job performance and attendance and punctuality record, the reasons for the leave, the effect the employee's absence will have on the work in the department and the expectation that the employee will return to work when the leave expires.

Leaves of absence will be considered only after all vacation, sick and personal time has been exhausted. The duration of a leave of absence, if granted is based on the Department Head's recommendation to the City Manager and only after the City Manager's approval.

Continuing Benefit Plan Coverage

While on a personal unpaid leave of absence, employee's medical coverage will end on the last day of the month following the start of such leave. Employees will have the opportunity of continuing their benefits for a maximum period of 18 months by paying the monthly premiums as required by COBRA legislation. Unemployment Insurance benefits cannot be collected while on a leave of absence without pay.

Salary Action

Any planned salary increase for an employee returning from an unpaid leave of absence without pay will be deferred by the length of the leave.

Vacation and Personal Time

During the calendar year that an employee takes an unpaid leave of absence without pay, the employee is not eligible for vacation. Unused vacation and personal days must be used before an unpaid leave of absence without pay will be granted.

Performance Appraisal

The normal performance appraisal date of an employee on an unpaid leave of absence without pay will be conducted in accordance with the City's performance appraisal schedule.

Returning/Not Returning From a Leave

Due to the nature of our business, the City cannot guarantee either that an employee's job will remain available or that a comparable position will exist when return from an unpaid leave is sought. When an employee is ready to return from a leave of absence without pay, the City will attempt to reinstate the employee to his former position or to one with similar responsibilities.

An employee who returns to work following an unpaid leave will be considered as having continuous service. If an employee does not return from an unpaid leave of absence without pay, the termination date is the last day of the authorized leave period or the date the employee notifies his Supervisor he is not returning, whichever is sooner. Such employees may be considered for reemployment.

EMPLOYEE BENEFITS

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DISCLAIMER

The City has established a variety of employee benefit programs designed to assist you and your eligible dependents in meeting the financial burdens that can result from illness and disability, and to help you plan for retirement. This portion of the Employee Manual contains a very general description of the benefits to which you may be entitled as an employee of the City. Please understand that this general explanation is not intended to, and does not provide you with all the details of these benefits. Therefore, this Manual does not change or otherwise interpret the terms of the official plan documents. Your rights can be determined only by referring to the full text of the official plan documents, which are available for your examination from the Municipal Finance Officer. To the extent that any of the information contained in this Manual is inconsistent with the official plan documents, the provisions of the official documents will govern in all cases.

Please note that nothing contained in the benefit plans described herein shall be held or construed to create a promise of employment or future benefits, or a binding contract between the City and its employees, retirees or their dependents, for benefits or for any other purpose. All employees shall remain subject to discharge or discipline to the same extent as if these plans had not been put into effect.

As in the past, the City reserves the right, in its sole and absolute discretion, to amend, modify or terminate, in whole or in part, any or all of the provisions of the benefit plans described herein, including any health benefits that may be extended to retirees and their dependents. Further, the City reserves the exclusive right, power and authority, in its sole and absolute discretion, to administer, apply and interpret the benefit plans described herein, and to decide all matters arising in connection with the operation or administration of such plans.

For more complete information regarding any of our benefit programs, please refer to the Summary Plan Descriptions, which were provided to you separately or contact the Department Head or central Human Resources designee. If you lost or misplaced those descriptions, please contact the

Department Head or central Human Resources designee for another copy. ~~Delete~~ Rita would like to see the Summary Plan Descriptions.

Bilingual Pay (Grandfathered)

Those employees currently receiving Bilingual Pay as of 10/01/2012 (written in pen) will continue with this benefit and are considered “Grandfathered” in the plan. This benefit will no longer be available to any employee not currently receiving the benefit or who are not considered “Grandfathered” in this benefit.

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The “Grandfathered” employees have the following benefit: Bilingual Pay of \$50.00 I thought it was \$25.00 (Robin) per month will be paid to full-time employees who can demonstrate that they speak and understand a foreign language or can perform and interpret sign language for the deaf. Each Department Head will certify in writing to the City Manager the eligibility of their staff members.

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~~Higher Education Pay (Grandfathered). Rita wants to delete but I think it should stay (Robin)~~

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~~Those employees that have applied for the Higher Education Pay as of 10/01/2012 (written in pen) will be eligible for this benefit and are considered “Grandfathered” in the plan. This benefit will no longer be available to any employee who have not applied for this benefit as of the date above or who are not considered “Grandfathered” in this benefit.~~

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~~The “Grandfathered” employees have the following benefit:~~

~~Full-time employees with a degree from an accredited College or University will receive Higher Education Pay as follows:~~

Associates Degree	\$300.00 per year
Bachelors Degree	\$600.00 per year
Masters or PHD Degree	\$900.00 per year

~~In order to be eligible for Higher Education Pay, each Department Head must submit a copy of the eligible employee's diploma or certified transcript to the Payroll Department. Employees will become eligible to receive this benefit at the beginning of the fiscal year after receiving the Degree.~~

Higher Education Assistance Program

In order to promote and maintain the most qualified employees, the City offers the following Higher Education Assistance Program to full-time employees. For an employee who obtains a degree from an accredited College or University in a field which would provide a benefit to the City, the City will provide the following assistance upon completion:

Associates Degree	\$2,000.00
Bachelors Degree	\$3,000.00
Masters or PHD Degree	\$4,000.00

If the degree field is in question, the City Manager will make the final determination of eligibility.

If an employee achieves a higher degree level after receiving payment for a lower level they will only be eligible for the differential between levels. In order to be eligible for the Higher Education Assistance Program, each Department Head must submit a copy of the eligible employee's diploma or certified transcript to the Municipal Finance Officer, along with the Payroll Change Form, which is located in the city's Human Resources Information System (HRIS). ~~delete I would keep in (Robin)~~

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Health, Dental & Vision Benefits

The City contracts for medical, hospitalization, prescription, dental and vision insurance benefits for all full-time employees and pays premiums on such benefits for the employee only. Each employee is provided with manuals, coverage updates and claim forms for the insurance benefit program. Dependent coverage for health/hospitalization, prescription, dental and vision insurance plans are available to employees through payroll deductions. Open enrollment for dependent coverage is each September. The City abides by the Federal COBRA requirements and compliance. Act of 1985. ~~I believe this act as been updated~~

Comment [tsd16]: This act is referred to as COBRA, Consolidated Omnibus Budget Reconciliation Act, COBRA Act of 1985 or 1986. The ARRA of 2009 extended COBRA for a certain timeframe, but didn't amend the act. You could just refer to Consolidated Omnibus Budget Reconciliation Act (COBRA).

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Life Insurance

Full-time employees eligible to participate in group hospitalization coverage are provided life insurance coverage of one times the employee's annual salary, with a minimum of \$30,000.00. Police Officers will have coverage in the amount of \$100,000.00.

Retirement

All full-time employees become part of the Retirement System on the 1st day of employment. The employee's contribution to this system is 6% of gross pay. The City's contribution will be as prescribed by the Texas Municipal Retirement System.

The Municipal Finance Officer or central Human Resources designee will furnish each employee a separate manual explaining the retirement benefits.

Restricted Prior Service Credit

Under the Act governing the Texas Municipal Retirement System, employees who are members of the System are authorized and allowed restricted prior service credit for service previously performed for various other public entities for which they have not received credited service.

The service credit granted may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity payments allowable to the member, and may not be used in other computations, including computation of Updated Service Credits.

A member seeking to establish restricted prior service credit under this policy must take the action required under Section 853.305 of Subtitle G of Title 8, Texas Government Code while still an employee of Windcrest.

A copy of the application for Restricted Prior Service Credit is located in the Forms Index of this manual.

WORKERS' COMPENSATION

Industrial injury or occupational illness (as defined by Workers' Compensation Laws) is covered by Workers' Compensation Insurance in lieu of the group health insurance policy. The Compensation Insurance will pay all medical expenses for properly reported on the job injuries and under certain circumstances, disability pay. Texas Workers' Compensation Fund is the sole source of disability pay. Workers' Compensation premiums are paid by the City. The maximum leave time for industrial injury or occupational illnesses will be the same as any other leave – please refer to the Benefits section.

An employee injured on the job or that has an illness caused by work, should stop working and report the condition to his Supervisor immediately. The Employer's First Report of Injury or Illness Form, which is located on the city's Human Resources Information System (HRIS) must be completed and turned into the TML WC Office by the Supervisor. Failure to do so may disqualify an employee from benefits. An employee may go for medical treatment with the consent of his Supervisor. The Supervisor and employee must inform the Human Resource office immediately. An employee who has an industrial injury or occupational illness is required to provide a release from the treating physician stating the employee's ability to return to the current duties as well as any restrictions. Failure to report to work as scheduled, following a leave, may result in dismissal.

ON THE JOB

ABSENTEEISM AND TARDINESS

Because the City depends heavily upon its employees, it is important that employees attend work as scheduled. Dependability, attendance, punctuality, and a commitment to do the job right are essential at all times. As such, employees are expected at work on all scheduled work days and during all scheduled work hours and to report to work on time. Moreover, an employee must notify his Supervisor as far in advance as possible, but not later than one hour before his scheduled starting time if he expects to be late or absent. This policy applies for each day of his absence. An employee who fails to contact his immediate Supervisor may be considered as having voluntarily resigned as job abandonment. ~~is this legal I would add or abandoned their job.~~ A careful record of absenteeism and lateness is kept by the employee's Supervisor and becomes part of the personnel record. To the extent permitted by law, absenteeism and lateness lessen an employee's chances for advancement ~~add merit pay increases~~ and may result in dismissal.

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Comment [tsd17]: Earlier in the handbook it is mentioned 2 days absent without notice.

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An employee will request from his Department Head/Supervisor permission to be absent as far in advance as possible, whenever such advance notice is feasible. The Supervisor will evaluate the reason for the absence and decide if the employee may be excused.

Personal or Family Emergency or Illness

If an employee is unable to give advance notice, his Supervisor must be notified as soon as possible on the day of absence, but no later than the second hour of the work day.

Out-of-town Emergency

If out of town and out of funds, an employee may call "collect" and notify their appropriate Department Head/Supervisor of the absence, the nature of the emergency and the time of expected return to duty. Department Head/Supervisor will make notification to the City Manager. All unexcused absences will be without pay.

Unexcused Absence

An employee must notify his Department Head/Supervisor prior to absences or in case of emergency as soon as possible, otherwise the absence is classified as an unexcused absence. An employee who fails to notify his Department Head/Supervisor and is absent for at least two (2) consecutive days is considered **to have resigned his position as job abandonment.** ~~Legal? I would add or abandoned his job.~~ Excessive absenteeism is reason for disciplinary action up to and including discharge. All unexcused absences will be without pay.

Comment [tsd18]: 2 days is a short time, I typically see this as 3 consecutive days absent as job abandonment

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Tardiness

Unless excused by an employee's Department Head or Supervisor, an employee is to report for duty on time, at the beginning of their scheduled shift and after meal breaks. Excessive tardiness is reason for disciplinary action up to and including discharge and lessens employee's chance of receiving merit pay increases-

Failure to Return to Work

Failure to return to work from any leave, as scheduled, may result in dismissal.

POLICY ON ALCOHOL, DRUGS AND CONTROLLED SUBSTANCES I would add handguns (Robin)

Comment [tsd19]: See handgun docs sent.

To ensure a safe, productive work environment at all City facilities and to safeguard City property, the City strictly prohibits the use, sale, purchase, transfer, receipt, or possession of alcohol, drugs, or controlled substances on any City premises by City employees or City volunteers while on duty or on call, except in the course of performing official law enforcement duties or unless the event is otherwise authorized by the City Manager. The City Manager's authority extends only to the consumption of alcohol at authorized functions. An employee that attends an authorized function where alcohol is present and consumes alcohol is responsible not to become impaired as a result of their consumption. City vehicles as well as private vehicles parked on City premises are locations included within this prohibition. In addition, the City strictly prohibits any employee being at work

under the influence of alcohol, drugs, or controlled substances. Any employee found in violation of the above stated policy will be discharged upon the first offense. I would add handguns to this (Robin)

Every City Employee will be required to complete an Employee Consent to Search or Testing Form before assuming employment with the City of Windcrest. This Form can be found in the Form Index at the end of this document.

Any employee taking a legal drug or other medication, whether or not prescribed by the employee's physician for a medical condition, which is known or advertised as possibly affecting or impairing judgment, coordination, or other senses, or which may adversely affect their ability to perform work in a safe and productive manner, must notify his superior or other management official prior to starting work. Employees do not need to report the medications they are taking, but rather the potential effects of the medication on the employee's judgment, coordination or other senses or which may adversely affect the employee's ability to perform work in a safe and productive manner. The Supervisor or management official will decide if the employee can remain at work and what work restrictions, if any, are deemed necessary. Any employee violating this policy will be subject to discharge upon the first offense.

The City reserves the right to conduct searches, inspections, or tests of employees and their personal effects, lockers, purses, and other containers located on City premises, as well as employees' private vehicles, if parked on the City's premises. Entry onto the City's premises or work sites constitutes consent to searches or inspections. If an employee refuses to permit a search, the employee may be disciplined up to and including discharge. The purpose for such searches or inspections under this policy is to determine whether any employee is in possession of or under the influence of alcohol, drugs, or controlled substances. Searches or inspections may be conducted at the discretion of the City from time to time without prior announcement. When appropriate, items discovered as a result of the City's searches or inspections may be taken into custody and may be turned over to the proper law enforcement authorities.

Blood and/or urine samples or other medical tests may be required of employees and screened by a laboratory for the presence of alcohol, drugs, and controlled substances. Such tests may be required among groups of employees on a random selection basis, or on an individual basis whenever the employee's observed behavior or other evidence raises any question about the employee's physical condition or fitness to perform his job. Any employee who refuses to submit to a search or inspection, refuses to give a blood or urine sample, or is found in possession of or under the influence of alcohol, drugs, or controlled substances will be discharged upon the first offense. In every case when an employee is involved in an accident while operating a City vehicle or piece of heavy equipment, they will be required to submit to a blood and/or urine test to be screened by a laboratory for the presence of alcohol, drugs, and controlled substances in their person. In the event the employee is injured and is transported to an emergency hospital, the test will be completed at the hospital. If an employee is not injured or has sustained only minor injuries, the employee will be transported to ~~Concentra~~ change to Nova Source (Robin) Medical by a Supervisor to complete

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testing. After normal hours or on weekends or holidays, a Supervisor will contact the after hour's number for ~~Concentra~~-Nova Source Medical to arrange for testing.

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Within the meaning of this policy ~~Delete~~, "under the influence" is defined as being in a physical or mental condition rendering the individual unable to perform one or more job duties in a productive manner without risk to the safety and well-being of the individual, other employees, the public, or City property, due to the introduction of any substance into the body; and/or having an alcohol concentration in the individual's system of 0.04% or more; and/or having any detectable level, in excess of a trace, for drugs or controlled substances in the body. A "detectable level" for the use of marijuana is at least 50 nanograms per milliliter. A "controlled substance" is defined as any substance, chemical or agent, the use, possession, or sale of which, without a valid doctor's prescription, has been declared illegal by state or federal law. Any employee found in possession of alcohol or marijuana in a usable quantity or of any other drug or controlled substance in any quantity while on duty or on City premises shall be presumed to have intended to use or sell such substance while on duty or on City premises and is therefore in violation of above stated policy and will be discharged. ~~I would delete the detail~~ ~~Suggest that you refer to your legal advisor?~~

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SERVICE TO THE PUBLIC

On a day-to-day basis, citizens base their opinion of the City of Windcrest on the actions of City employees. Over the years the City has developed a code of personal conduct the City thinks will help maintain a reputation for good city government.

CODE OF PERSONAL CONDUCT—This would be a good one to have all employees acknowledge.

1. Remember that we are here to serve the citizens of the City of Windcrest.
2. Our responsibility is to provide fair, efficient service in a courteous manner.
3. Be a good and sincere listener; our visitors and callers want us to understand and care about their problems.
4. Learn all about the activities of the City and try to help others get their problems solved in the most efficient manner, even if the problem must be referred to another employee or department.
5. Write down all of the information you will need to complete a task for a citizen, including the date and time of a call or request and the telephone number or address where the person can be contacted, if possible.
6. Fulfill all obligations you make. If you cannot complete an obligation as anticipated, get back in touch and explain the circumstances.

7. Respect the dignity of every individual; try honestly and sincerely to see the other person's point of view; speak kindly to and of others; avoid arguments; and be friendly.
8. Be punctual in your work and for appointments.
9. Make suggestions to your immediate Supervisor about ways we can improve our services to the citizens of Windcrest or can get our work done in a more efficient manner.
10. Dress and appearance must be appropriate to our job. Expensive clothes are not necessary, but a neat, professional appearance is important.
11. City employees are trustees of public funds---conserve city money, time, and equipment as if it were your own.

Finally, public service requires that we not only obey the law, but it is also important that we avoid even the appearance of any improper action or of using our official position to gain any personal advantage.

DRESS AND PERSONAL APPEARANCE

All City employees from time to time have contact with citizens and the general public; therefore, suitable dress and personal hygiene must be observed at all times. All City employees are issued a photo identification tag which is to be worn at all times the employee is performing official duties for the City or on City premises.

Suitable dress is a prime requirement for safe and efficient work. The type of dress required depends on the location and nature of work performed. As a general rule, the following guidelines are to be followed:

Public Works Employees

1. Uniforms

- a. The City provides uniforms, including caps and patches, which provide proper public identification for City employees. These uniforms are the property of the City of Windcrest and should be worn at all times when on duty within or for the City. Wearing of clothing other than City provided uniforms; patches and caps must be approved in advance by the employee's Supervisor or Department Head.

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Comment [tsd20]: Depends on if you want this to be very strict or you can also do a general statement and then tell them to refer to their position or departments policies.

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b. Employees must properly care for these uniforms, patches and caps. Should they become unsuitable for use, they should be returned to the employee's Supervisor for replacement with suitable attire.

c. Wearing of City uniforms, patches or caps after hours, or when not assigned to official City responsibilities, is not permitted unless approved by the Supervisor.

2. Employees are to be clean shaven at all times while on duty unless they are wearing a mustache or beard. If a mustache or beard is worn, it must be kept clean, trimmed and neat while representing the City. ~~Delete~~

3. Hair must be appropriate for public exposure and not a safety hazard as determined by the Supervisor.

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4. All safety equipment, protective clothing and foot apparel, such as hard hats, gloves, eye protection, hearing protection, safety toe foot apparel, etc., issued by the City or required by the City must be properly worn and used. If any such equipment becomes defective, it must be returned to the employee's Supervisor.

Police Department

Governed by Police Department Policy and Procedure.

Fire Department

Governed by Fire Department Policy and Procedure.

Administrative Personnel

General office apparel suited for contact with the public is required. The following items are not authorized: shorts, halter tops, tank tops, or short hemlines. Career shorts are authorized attire. Career shorts are shorts that are knee length and are of a material that are consistent with slacks commonly worn in a professional environment. With authority of their respective Department Head, an employee can wear jeans (provided they are not of an overly faded nature and do not have any holes or fraying), tennis shoes, t-shirts (provided they do not have any unprofessional logos or designs) and flip flops with a rubber sole on special occasions only. Hair, makeup and jewelry must be appropriate for public exposure. Male and female employees must keep hair properly groomed. Male employee's hair must not be shown below the shirt collar line. ~~Delete~~

PREFERENTIAL TREATMENT PROHIBITIONS

No person related within the second degree of kinship (i.e. in-laws), or within the third degree of relationship by blood to any elected officer of the City, or to the City Manager, may be appointed to any office or position, or other service to the City. This prohibition does not apply to officers or employees who have been continuously serving the City or employed by the City for one year or

more prior to the election or appointment of the officer related in the prohibited degree. See also the [Ethics Policy](#), which is located on the Human Resources Information System (HRIS).

Comment [tsd21]: Need to take out all reference to HRIS.

VIOLENCE IN THE WORKPLACE

Comment [tsd22]: It was suggested to add handguns to an earlier section of the handbook, would this section cover that suggestion?

The City strongly believes that all employees should be treated with dignity and respect. Acts of violence will not be tolerated. Any instances of violence must be reported to the employee's Department Head and/or the City Manager. All complaints will be fully investigated. The City will promptly respond to any incident or suggestion of violence. Violation of this policy will result in disciplinary action, up to and including immediate discharge.

PROHIBITION AGAINST WEAPONS OR THREATS AND NOTICE OF SEARCHES

The City prohibits possession or use of weapons, including firearms, on [City premises](#) [What about parking on street or at Golf Course?](#). City vehicles, as well as private vehicles parked on City premises, are locations included in this prohibition. This prohibition includes all employees with the exception of those required to carry weapons as a function of his job. In accordance with Texas law, employers retain the legal right to prohibit weapons in the workplace.

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Comment [tsd23]: See handgun docs sent

Any employee who violates this policy is subject to disciplinary action, including termination of employment. Due to the serious nature of this offense, an employee will be terminated unless extraordinary circumstances warrant a lesser punishment. Employees, who are aware of violations, must report such violations of this policy. Failure to report a violation is prohibited, and any employee who fails to make such a report is subject to disciplinary action, including termination of employment.

~~The City reserves the right to conduct searches or inspections of employees and their personal effects, desks, lockers, briefcases, purses, and other containers located on City premises, as well as employees' private vehicles, if parked on the City's premises. Entry onto City premises constitutes consent of a search or inspection. Searches or inspections may be conducted at the discretion of the City from time to time without prior announcement. When appropriate, items discovered as a result of the City's searches or inspections may be taken into custody and may be turned over to the proper law enforcement authorities. Any employee who refuses to consent to or permit a search by the City will be terminated, unless extraordinary circumstances warrant a lesser punishment. Already discussed under drugs~~

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~~Verbal threats of violence or threatening behavior are prohibited. Violation of this policy will subject the employee to disciplinary action, including possible termination. Due to the serious nature of this offense, any comment will be taken seriously, and it will not be accepted as an excuse that the employee intended the comment in a joking or harmless manner or that the employee made such statement while angry. Already discussed under harrassment~~

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WORKING ENVIRONMENT

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~~Refer to Departmental Safety Policies. The City provides a clean, decent and safe working environment for its employees. Each employee is therefore expected to keep his work area clean and hazard free. Employees shall handle tools carefully, avoid play, lift heavy objects properly and, above all, think before acting.~~

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~~Maintaining a safe work environment requires the continuous cooperation of all employees. The City strongly encourages employees to communicate with fellow employees and their Supervisor regarding safety issues.~~

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~~All employees will be provided care, first aid and emergency service, as required, for injuries or illnesses while performing their job for the City. Employees should contact their Supervisor, the nearest Supervisor, and/or 911 in the event of an accident or emergency.~~

~~If an employee is injured on the job, the City provides coverage and protection in accordance with the Worker's Compensation Law. When an injury is sustained while at work, it must be reported immediately to the employee's Supervisor, who in turn will notify City Manager of the incident. Duplicate already discussed.~~

~~Failure to report accidents is a serious matter as it may preclude an employee's coverage under Worker's Compensation Insurance. Safety Policy, which is located on the city's Human Resources Information System (HRIS).~~

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~~1. Safety Requirements~~

~~All employees are required to observe and obey all safety rules, regulations and instructions.~~

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~~Accidents~~

~~All accidents shall be reported immediately. Any employee having knowledge or being witness to an accident shall, if requested, give full and truthful testimony regarding same. First aid kits shall be kept fully stocked and readily accessible to all persons for emergency use.~~

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~~Aisles & Passageways~~

~~All aisles and passageways shall be kept free of objects that may create an unsafe condition.~~

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~~Vehicles and Equipment Shall Be~~

~~A. Used only in a manner which will not threaten or endanger any person or property.~~

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~~B. Driven only by employees, or authorized City volunteers, with a valid Texas Driver License. Copies of employee or authorized City volunteers' driver licenses must be provided semi-annually to the Human Resource Director or upon request. No employee or authorized City Volunteer shall distract an employee or authorized City Volunteer operating equipment in a manner which could result in injury to a person or property.~~

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In the event that an employee is involved in an accident while operating a City vehicle or piece of heavy equipment the procedure to follow is outlined in the Policy on Alcohol, Drugs, and Control Substances.

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C. Operated in a safe manner, following both municipal and state traffic laws and guidelines, both in and outside the material yard.

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D. Cleaned and serviced at least once each week.

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F. Checked to insure they contain the proper amount of water, oil, gasoline, battery water, etc. before using each day. And may not be used after duty hours.

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G. City vehicles will be used for official City business only.

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2. Fire Prevention and Sanitation

All fire prevention and sanitary rules, regulations and instructions shall be observed and obeyed. I would delete

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Fire Hazards

Fire hazards shall not be created or maintained within the maintenance building, offices, recreational building area or the material storage yard. Not a sentence

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Fire Extinguishers and Fire Equipment

Fire extinguishers and equipment shall be maintained in good order, placed in designated areas, and kept clear of obstructions at all times. Not a sentence

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Smoking

Smoking and smokeless tobacco is prohibited in all City owned facilities and City owned vehicles. Smoking and smokeless tobacco will be permitted only in specific areas designated by the City Manager or his designee. Smoking is also prohibited by City employees while operating gas pumps or while engaging in any other activity where a fire or explosion could result.

Flammable Materials

Flammable materials, including explosives, shall be stored in a safe, designated area.

Flammable Refuse and Waste

Flammable refuse and waste shall be placed in safe, designated containers.

Other Refuse and Waste

Other refuse and waste shall be placed in appropriate containers, provided for that purpose.

Work Areas

Work areas shall be kept clean and sanitary.

PROPERTY ISSUED BY CITY

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All City provided property, such as supplies, uniforms, equipment, automobiles and materials necessary to perform your job, must be used solely for the City's business. ~~The City provides supplies, uniforms, equipment, automobiles and materials necessary for you to perform your job. These items are accounted for on the equipment inventory form completed by the employee's Supervisor and signed by the employee acknowledging receipt of the equipment. These items are to be used solely for the City's purposes.~~ Employees are expected to exercise care in the use of all City equipment and property and use such property only for authorized purposes. Loss, damages or theft of City property should be reported at once to the employee's immediate Supervisor. Negligence in the care and use of City property may be considered grounds for discipline, up to and including termination.

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~~Upon termination of employment, the employee must return all City property, uniforms, equipment, work product and documents in his possession or control. Already mentioned on page 53~~

USE OF CITY VEHICLES

Only employees with an unrestricted, current driver's license may operate City vehicles or use a vehicle to conduct City business. City vehicles may only be used for authorized City business. Any employee operating a City vehicle must do so in a safe manner. Any employee operating a City vehicle under the influence of drugs or alcohol or in an unsafe or negligent manner will be immediately terminated. The City has the right to search any City vehicle at any time. Therefore, employees have no reasonable expectation of privacy with respect to City vehicles. See also City-Owned Cellular Phones: Appropriate Use.

OPEN DOOR POLICY

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The City promotes an atmosphere whereby employees can talk freely with members of the management staff. Employees are encouraged to openly discuss with their immediate Supervisor any problems so appropriate action may be taken. If the immediate Supervisor cannot be of assistance, the employee should follow their chain of command for their respective department for resolution. If these avenues do not resolve the issue the City Manager is available for consultation and guidance. The City is interested in all of our employees' success and happiness with us. We, therefore, welcome the opportunity to help employees whenever feasible. ~~Already discussed on page 13~~

GRIEVANCE PROCEDURE

The Grievance Procedure is available to all employees who seek an equitable solution to problems within a reasonable time through frank and open discussion. Employees are encouraged to use this procedure, and they will not be penalized in any way for bringing problems to the attention of the Supervisor or Department Head. ~~I would delete~~

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It is the policy of the City to work with employees in finding fair and just solutions to personnel problems, including any employee grievance, question, misunderstanding or alleged discrimination. As a general rule, problems can be resolved either informally or formally at some level of supervision within the normal administrative structure.

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Filing of Formal Grievance

1. If an employee decides to file a formal grievance, the written grievance shall be brought to the immediate Supervisor within five (5) working days from the date of action or condition which precipitated the grievance. The immediate Supervisor must acknowledge to the employee, in writing, receipt of the written grievance. A copy of the grievance shall be sent to the City Manager. The grievance should contain a statement of the complaint and a statement of what the employee considers is sufficient remedy.

Within five (5) full working days thereafter, the immediate Supervisor shall give a written decision concerning the grievance to the employee.

Should the Supervisor fail to provide a response, then the employee should continue to the next step after the five (5) days have expired.

A copy of this decision and any subsequent decisions in the appeals process shall be sent to the City Manager. All information regarding an employee's grievance shall be considered confidential and maintained separate from the employee's personnel folder.

2. If the immediate Supervisor's response is not acceptable to the employee, the employee may submit a written grievance to the City Manager within five (5) working days after receipt of the immediate Supervisor's written decision. A copy of this decision shall be attached to the grievance. Issues raised and remedies sought through this and subsequent appeals are limited to those items stated in the original grievance. Prior to forwarding the written grievance, the employee shall inform the first level Supervisor of his desire to continue the grievance procedure. Where the Department Head is also the employee's immediate Supervisor, this does not apply.

Generally, a written decision will be submitted by the City Manager within five (5) full working days, five (5) full working days following receipt of the grievance. At times, full review of the grievance may require a longer period of time. The City Manager will review prior decisions, supporting information and any necessary investigation will be done. A copy of the decision shall be furnished by the City Manager to the immediate Supervisor.

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SOLICITATION, DISTRIBUTIONS, AND USE OF BULLETIN BOARDS

Comment [tsd24]: Let's discuss this more. I have some best practices we can discuss about this section.

For the protection of employees and to avoid disruptions of the City's work schedule, solicitation of employees by non-employees for any charitable or commercial purpose, and the promotion,

distribution, or circulation of pamphlets, literature, or any other material on City premises is prohibited without prior approval of the Department Head.

Sales of **commercial products** ([Amway, Mary Kay?](#)) and services and the distribution of advertising matter, circulars, leaflets or petitions in connection with commercial products or services are strictly prohibited at all times on City premises.

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The posting of any leaflets, notices, literature, or other material on City property without the permission of the City Manager is strictly prohibited.

With approval of their respective Department Head, employees may solicit other employees to participate in charitable, religious, school, civic or social club **fundraisers** [No Girl Scout Cookies](#)

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Any employee who violates any of the above rules will be subject to disciplinary action, up to and including discharge. [—check with Legal Advisor](#)

Bulletin Boards

Bulletin boards maintained by the City are to be used only for posting or distributing material of the following nature:

Notices containing matters directly concerning City business;

Announcements of a **business nature** [Amway, Mary Kay?](#) which are equally applicable and of interest to employees.

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All posted material must have authorization from each department's Department Head. All employees are expected to check these bulletin boards periodically for new and/or updated information and to follow the rules set forth in all posted notices. Employees are not to remove material from the bulletin boards.

USE OF THE CITY'S COMPUTER SYSTEMS

The City provides certain computer and computer related equipment to the City's employees to assist the City in conducting the business of the City and in meeting its business needs. These computers are not to be used for the playing of games at any time. All of the City's computers, software, internet services, on-line services, computer data, and back up data, including without limitation the electronic mail ("e-mail") system (collectively the "Systems"), are the property of the City and are intended to be used primarily for City business messages and not as personal, confidential messages of the employee(s).

Employees should have no expectation of privacy as it relates to the use of the Systems. The City's management reserves the right at any time to enter the Systems to review, copy, or delete any information or messages on the Systems, and to disclose such messages to others as warranted by the business needs and interests of the City. Private passwords are intended to protect the security of the Systems for the City, not the employee. Thus, the employee should not assume that messages are private even though a private password is used.

Caution should be exercised in transmitting any information through e-mail or other on-line services. Reasonable efforts should be made to protect the security of such information, especially if the information contains confidential or proprietary information regarding the City or its clients. For example, do not forward confidential information via e-mail outside the City or even to City employees.

The City's policies against harassment or unprofessional conduct apply to all uses of the Systems, including messages sent by e-mail. These messages should be business-like, and the employee should refrain from using the e-mail system for gossip and personal messages. Likewise, e-mail should not be profane, vulgar, defamatory, sexually explicit or harassing. Remember, just because the employee deletes a message does not mean it has been deleted from the Systems. Please consider the professionalism of the City and observe proper etiquette when sending an e-mail message. Remember, that simply because the employee believes something is clearly sarcastic or exaggerated does not mean it will be clear to others who, intentionally or unintentionally, receive the message.

Additionally, employees should restrict their use of on-line services to a use that is consistent with the professionalism, business and policies of the City. Employees should be aware that use of on-line services can be monitored by the City at any time, including after the service has been used.

The Information Technology (IT) Consultant or the Municipal Finance Officer is designated by the City Manager and is responsible for maintaining and securing the City's Computer Systems and Data.

No employee is authorized to add or remove computer programs or alter computer hardware from any City computer system without written authorization from the IT Manager.

If it is discovered that an employee is improperly using the City's Systems or otherwise violating this policy, the employee may be subject to discipline, including without limitation, termination of privileges to use the Systems, or termination of employment.

INTERNET USE POLICY

Certain employees may be provided with access to the Internet to assist them in performing their jobs. The Internet can be a valuable source of information and research. In addition, e-mail can provide excellent means of communicating with other employees, our customers and clients, outside

vendors, and other businesses. Use of the Internet, however, must be tempered with common sense and good judgment.

If you abuse your right to use the Internet, it will be taken away from you. In addition, you may be subject to disciplinary action, including possible termination, and civil and criminal liability.

Your use of the Internet is governed by this policy and the above Policy.

Disclaimer of Liability for Use of Internet

The City is not responsible for material viewed or downloaded by users from the Internet. The Internet is a worldwide network of computers that contains millions of pages of information. Users are cautioned that many of these pages include offensive, sexually explicit, and inappropriate material. In general, it is difficult to avoid at least some contact with this material while using the Internet. Even innocuous search requests may lead to sites with highly offensive content. In addition, having an e-mail address on the Internet may lead to receipt of unsolicited e-mail containing offensive content. Users accessing the Internet do so at their own risk.

Duty Not to Waste Computer Resources

Employees must not deliberately perform acts that waste computer resources or unfairly monopolize resources to the exclusion of others. These acts include, but are not limited to, sending mass mailings or chain letters, spending excessive amounts of time on the Internet, playing games, engaging in online chat groups, printing multiple copies of documents, or otherwise creating unnecessary network traffic.

No Expectation of Privacy

The computers and computer accounts given to employees are to assist them in performance of their jobs. Employees should not have an expectation of privacy in anything they create, store, send, or receive on the computer system.

Monitoring Computer Usage

The City has the right, but not the duty, to monitor any and all of the aspects of its computer system, including, but not limited to, monitoring sites visited by employees on the Internet, monitoring chat groups and news groups, reviewing material downloaded or uploaded by users to the Internet, and reviewing e-mail sent and received by users.

Blocking of Inappropriate Content

The City may use software to identify inappropriate or sexually explicit Internet sites. Such sites may be blocked from access by City networks. In the event you nonetheless encounter inappropriate or sexually explicit material while browsing on the Internet, immediately disconnect from the site, regardless of whether the site was subject to City blocking software.

Prohibited Activities

Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful, inappropriate, offensive (including offensive material concerning sex, race, color, national origin, religion, age, disability, or other characteristic protected by law), or violation of the City's equal employment opportunity policy and its policies against sexual or other harassment may not be downloaded from the Internet or displayed or stored in the City's computers. Employees encountering or receiving this kind of material should immediately report the incident to their Supervisors or the Municipal Finance Officer. The City's equal employment opportunity policy and its policies against sexual or other harassment apply fully to the use of the Internet and any violation of those policies is grounds for discipline up to and including discharge.

Games and Entertainment Software

Employees may not use the City's Internet connection to download games or other entertainment software, including wallpaper and screen savers, or to play games over the Internet.

Illegal Copying

Employees may not illegally copy material protected under copyright law or make that material available to others for copying. You are responsible for complying with copyright law and applicable licenses that may apply to software, files, graphics, documents, messages, and other material you wish to download or copy. You may not agree to a license or download any material for which a registration fee is charged without first obtaining the express written permission of the IT Department.

Accessing the Internet

To ensure security and to avoid the spread of viruses, employees accessing the Internet through a computer attached to the City's network must do so through an approved Internet firewall. Accessing the Internet directly by modem is strictly prohibited unless the computer you are using is not connected to the City's network.

Virus Detection

Files obtained from sources outside the City, including disks brought from home; files downloaded from the Internet, newsgroups, bulletin boards, or other online services; files attached to e-mail; and files provided by customers or vendors may contain dangerous computer viruses that may damage the City's computer network. If you suspect that a virus has been introduced into the City's network, notify the **IT Department** immediately.

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Sending Unsolicited E-mail (spamming)

Without the express permission of their Supervisors, employees may not send unsolicited e-mail to persons with whom they do not have a prior relationship.

Amendments and Revisions

This policy may be amended or revised from time to time as the need arises. Users will be provided with copies of all amendments and revisions.

Violations of this policy will be taken seriously and may result in disciplinary action, including possible termination, and civil and criminal liability.

Use of the Internet via the City's computer system constitutes consent by the user to all of the terms and conditions of this policy.

Telephone Use

Because a large percentage of our business is conducted over the phone, it is essential to project a professional telephone manner at all times.

Although the City realizes that there are times when an employee may need to use the telephone for personal reasons, it is expected that good judgment will be used in limiting the length and frequency of such calls. Additionally, no long distance personal calls may be made on City phones without prior approval from the employee's Supervisor.

USE OF SOCIAL NETWORKING COMMUNICATIONS

Blogging, "tweeting", e-mail, texting, and other social media such as MySpace and Facebook are also subject to restrictions. You may not use company property to create, maintain, amend, view, access, download, contribute to, or store a blog, "tweet" or post entries on the Internet (whether through a social network such as MySpace or Facebook, or using another method), unless you have written authorization from your Supervisor to do so. You may not blog, "tweet" or post entries on the Internet (whether through a social network such as MySpace or Facebook, or using another method) **while using city property and equipment, you are on duty** ~~Does that mean they can do it before and after duty times?~~, unless you have written authorization from your Supervisor to do so. The Company has access to all company-provided electronic equipment and property, and may from time to time, and without notice inspect the condition of that equipment and the communications, content, data and imagery stored on it. If you access, view, create, or save any communications, content, data or imagery in company-provided digital equipment, you have no privacy rights as to it and any such communications, content, data, and imagery are subject to monitoring by the Company. You must cooperate in such monitoring.

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INTERNAL INVESTIGATIONS AND SEARCHES

From time to time, the City may conduct internal investigations pertaining to security, auditing or work-related matters. Employees are required to cooperate fully with and assist in these investigations if requested to do so.

Whenever necessary, in the City's discretion, work areas (i.e., desks, file cabinets, etc.) and personal belongings (i.e., brief cases, handbags, etc.) may be subject to a search without notice. Employees are required to cooperate.

The City will generally try to obtain an employee's consent before conducting a search of work areas or personal belongings, but may not always be able to do so.

REFERENCE CHECKS

All inquiries regarding a current or former City employee must be referred to the to the specific Department Head of the current or former employee's department.

Should an employee receive a written request for a reference, he should refer the request to the Department Head for handling. No City employee may issue a reference letter to any current or former employee without the permission of the Department Head.

Under no circumstances should any City employee release any information about any current or former City employee over the telephone. All telephone inquiries regarding any current or former employee of the City must be referred to the Department Head.

In response to an outside request for information regarding a current or former City employee, the Department Head will furnish or verify only an employee's name, dates of employment, job title and department. No other data or information regarding any current or former City employee, or his employment with the City, will be furnished unless the employee authorizes the City to furnish this information in a writing that also releases the City from liability in connection with the furnishing of this information or the City is required by law to furnish any information.

All inquiries for reference or outside request for information regarding Department Heads must be referred to the City Manager or his designee.

TAPE RECORDING POLICY

It is a violation of City policy to record conversations with a tape recorder or other recording device unless prior approval is received from your Supervisor or a member of upper-level management or all parties to the conversation give their consent.

~~The purpose of this policy is to eliminate a chilling effect on the expression of views that may exist when one person is concerned that his conversation with another is being secretly recorded. This concern can inhibit spontaneous and honest dialogue especially when sensitive or confidential matters are being discussed. I would delete~~

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Violation of this policy will result in disciplinary action, up to and including immediate termination.

This policy does not pertain to police department personnel in their normal course of performing their duties as a police officer.

INEFFICIENCY PROCEDURE

When it is determined by management that an employee's overall performance or efficiency does not meet established and acceptable standards, the following procedures will ~~generally~~ ~~I would take this work out.~~ be used (unless the employee's conduct or a specific incident is so unacceptable that immediate termination or other appropriate measures are necessary):

Comment [tsd25]: If you take this out, then you must follow the policy exactly.

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1. The Department Head/Supervisor will counsel with the employee regarding any problems that are affecting or interfering with the employee's efficiency or performance, or with respect to the circumstances that are adversely affecting his performance. The employee will be advised of his shortcoming and will be given counseling and instruction as to the proper performance that is expected of him.
2. Should the level of efficiency or performance continue to be unacceptable, the employee will again be counseled by the Supervisor, and all matters discussed in the prior counseling session shall be reviewed. The employee will be given a written warning and advised that if he does not correct his deficiencies within a specified period of time, he will be placed on suspension.
3. Should the employee fail to correct his deficiencies and improve the level of his performance and efficiency within the time period specified in Step 2, the employee shall be suspended without pay for a period of time to be ~~determined by the Needs time frame~~ respective Department Head/Supervisor. The employee shall be advised that if he does not correct his deficiencies within a second specified period of time, he will be discharged. The suspension shall be given to the employee in writing and shall constitute a final warning.
4. Should the employee fail to correct his deficiencies and improve the level of his performance specified in Step 3, he shall be discharged.

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A written record will be kept of every instance requiring activation of any of the above procedures (steps). The record will include the allegation/infraction, actions taken by the Supervisor, the remedy of the problem, items discussed and any agreements made during counseling sessions, and all pertinent dates. The records shall be signed and dated by both the employee and his Supervisor.

The foregoing procedure is intended to exhaust every possibility of correcting employees who are experiencing problems in their job performance or efficiency and to afford these employees the opportunity to improve their employment deficiencies.

In case of discharge, the discharged employee may initiate an appeal concerning his discharge as outlined in the Grievance Procedure of this Manual.

In the event of dismissal for misconduct, all benefits end at the end of the month. COBRA may not be available to anyone dismissed from the City for gross misconduct. ~~I am not sure this is correct check with legal~~

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Comment [tsd26]: Yes, you can deny coverage for gross misconduct.

The term "gross misconduct" is not specifically defined in COBRA or in regulations under COBRA. Therefore, whether a terminated employee has engaged in "gross misconduct" that will justify a plan in not offering COBRA to that former employee and his or her family members will depend on the specific facts and circumstances. Generally, it can be assumed that being fired for most ordinary reasons, such as excessive absences or generally poor performance, does not amount to "gross misconduct."

DISCIPLINARY ACTION

For employee guidance, the following is a list of actions, however is not all inclusive, which are considered against the best interest of the City and its employees. Such actions are subject to discipline and, under certain circumstances, discharge:

1. Theft, abuse, or deliberate destruction or defacing of property not belonging to the employee.
2. Misappropriating City funds, property, or assets.
3. Incoherent or abnormal behavior in work areas or during working hours, which suggests that the employee's physical and/or mental faculties are seriously impaired by consumption of alcohol, narcotics, or any mind-altering agent, chemical, or drug.
4. Attempting to coerce an employee to join or resign from an employee association or organization by means of threats, intimidation, or abusive conduct.
5. Falsification of any City records, such as employment applications, time entries, expense reports, any official record used during the course of performing assigned responsibilities, or reason for an employee's absence from work.
6. Discourteous or abusive conduct toward the public.
7. Revealing, without authorization, confidential information obtained in the course of employment, including information about City plans or records.
8. Fighting or gambling in any form on City premises.
9. Knowingly completing another employee's time entry or time entries without authorization from Supervisor/Department Head.
10. Tampering with or using fire equipment for purposes other than fire suppression, without notifying the Fire Department Chief or Officer in charge for approval.
11. Commission of any crime while on duty, on City premises, or through use of City vehicles or equipment.

12. Possession of weapons or explosive materials on City premises or in vehicles except as required by the job.
13. Violation of City rules on acceptance of any form of gratuity.
14. Insubordination. Definition: refusal or deliberate failure to follow a reasonable, specific instruction of, or abusive conduct toward, a Supervisor in chain of command. Unless the instruction is unethical or illegal, the employee is expected to follow instructions received by Supervisory/Managerial personnel. If the employee believes the instruction is inappropriate, the employee has the right to discuss this incident with next higher level of supervision to include the City Manager.
15. Violation of the City's Anti-Harassment Policy.
16. Leaving work during working hours without the permission of the immediate Supervisor.
17. Carelessness or negligence which results in the destruction or damage of property not belonging to the employee, or endangers life or property.
18. Violation of the City's rules governing solicitation and distributions.
19. Participation in horseplay or practical jokes which could endanger life or property or materially affect the work, or disorderly conduct of any kind while on City premises or during working hours, including the use of abusive, profane, or threatening language.
20. Careless or inefficient performance of duties, including failure to maintain proper standards of work performance.
21. Malicious gossip or false accusation, which tends to destroy friendly relations between the City and its employees or between employees.
22. Failure or refusal to cooperate with fellow workers.
23. Operation of City vehicles without possession of valid and/or proper operator's license, failure to maintain satisfactory driving record, or not on official business. ?????
24. Personal calls are to be done during breaks or lunch periods, except for emergency or short necessary discussions. ~~Wording. The use of official City telephones and computer system, delete for other than official business, is limited except for to~~

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emergency or necessary discussions calls of the shortest possible nature. No Personal Calls unless emergency

25. The use of cell phones is prohibited except for emergency or necessary calls of the shortest possible nature. All personal cell phones will be placed on vibrate mode while the employee is on duty. City issued cell phones should, when practical, also be placed on vibrate mode. See also City-Owned Cell Phone Policy ~~????, which is located on the city's Human Resources Information System (HRIS). Delete~~

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26. Tardiness; reporting late for work without approval of Department Head.

An employee who receives a written warning will be required to acknowledge receipt of the warning immediately by signing the warning. Any employee who refuses to sign a written warning may be subject to further discipline for insubordination at the discretion of management. The employee's signature on a warning does not mean that the employee admits to any wrongdoing -- it only indicates that he has been notified.

It is not possible to list all rules of conduct. As far as possible, the City tries to avoid unnecessary restrictions on employee's personal conduct because the City believes that the employee will follow the generally accepted customs of good taste. In the event of a violation of a rule, fair and just consideration will be given to all of the circumstances, disciplinary considerations, up to and including termination. ~~Any disciplinary action taken shall be consistent with the nature of the deficiency or infraction involved and the record of the employee. Disciplinary action may include oral reprimand, written reprimand, and suspension with or without pay, reduction in pay, demotion and termination. In any case, all disciplinary action shall be documented in the employee's personnel file. Delete~~ I would delete the entire paragraph (Robin)

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Depending on the violation and its severity the following may apply with regards to the level of discipline and time period in which the documentation pertaining to the infraction committed and discipline taken will remain in an employee's personnel file:

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- A. First occurrence will be cause for a Supervisor counseling which may include corrective advice, training or warning. Documentation will be placed in the personnel file detailing the counseling session. Should a rolling twelve (12) months pass with no recurrence of the incident which precipitated the counseling; the record of counseling will stay in the personnel file. Multiple issues within the same rolling twelve (12) months may lead to termination.
- B. Second occurrence will be cause for a Supervisor reprimand, either oral or written, with documentation placed in the personnel file. Should a rolling eighteen (18) months pass with no recurrence of the incident which precipitated the reprimand, and the member has not been counseled or disciplined for other Policy violations, the record of reprimand will stay in the employee's personnel file.
- C. Third occurrence will be cause for a one day suspension without pay, with documentation

placed in the personnel file.

D. Fourth occurrence will be cause for a three day suspension without pay, with documentation placed in the personnel file.

E. Fifth occurrence will be cause for fifteen (15) days suspension without pay, as well as a review by the City Manager and Department Head as to possible dismissal, with documentation placed in the personnel file. Shouldn't it be expunged?

EXPENDITURES AND REIMBURSEMENTS

No employee is authorized to make expenditures in the name of the City of Windcrest for personal use. Employees will not be reimbursed for expenses made without prior approval from their Department Head or City Manager. ~~Delete~~. It is the policy of the City to reimburse employees for out of pocket expenses incurred by the employee as a result of their participation in an authorized event. When a personal vehicle is used for travel outside the City, mileage will be paid at the current State of Texas Travel Rates established by the State Comptroller's Office.

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Comment [tsd27]: If you are going to delete first section, it might be good stipulate that reimbursement is for business related items only (just thinking of the city's history with the past manager).

LOCAL GOVERNMENT RECORDS

This policy establishes a process for the accountability of Local Government Records.

A Local Government Record means any electronic or digital document, paper, letter, book, map, photograph, word or video recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to laws, including an ordinance, or in the transaction of City business.

Local Government Records are the property of the City; therefore City personnel are prohibited from reproducing or maintaining copies of any Local Government Record for any reason other than in the performance of their official duties. City personnel requesting a Local Government Record for any reason outside of their official duty will be required to comply with the Open Records Act.

HUMAN RESOURCES

The Municipal Finance Officer is the central Human Resources designee for the City.

The City Manager must approve all new hires and promotions recommended by Department Heads. Before an applicant is hired, the Department Head will meet with the Municipal Finance Officer to discuss the applicant. The Municipal Finance Officer will then discuss the applicant with the City Manager. All new hires will be scheduled for a pre-employment briefing and benefits sign-up with the Municipal Finance Officer on or before their first workday.

Reclassification Or Establishment Of New Positions

Any requirement to reclassify a position or to establish a new position must be developed to include a job description and salary range be fully justified and submitted to the City Manager for his

approval by the requesting Department Head. These positions may not be filled until approved by the City Council and in accordance with current budget allowances and guidance.

SEPARATION

Dismissal

Any employee terminated by the City of Windcrest will have his salary computed to his termination date and paid on the next regular pay date. An employee being dismissed from employment by the City of Windcrest will, under no circumstances, be eligible to receive any monies upon this involuntary termination from employment except those sums of money constituting wages paid for actual hours worked, unused vacation hours and other authorized accruals. Accumulated but unused sick leave pay will not be available to the dismissed employee.

Every City employee has the status of "employee-at-will," meaning that no one has a contractual right, express or implied, to remain in the City's employ. The City may terminate an employee's employment, or an employee may terminate his employment, without cause, and with or without notice, at any time for any reason. No Supervisor or other representative of the City (except the City Manager) has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above.

Resignations

Any employee planning to leave the employment of the City of Windcrest is asked to give his respective Department Head/Supervisor proper two weeks advance written notice and work out that notice so a replacement may be recruited and trained to fill the position. Supervisors and Department Heads are asked to give one month advance written notice. Employees who turn in their notice of intent to terminate while on vacation or who do not work out their notice for any reason will not be considered to have given proper notice. Employees who voluntarily resign will be paid for any unused accrued vacation time but will not be paid for any unused sick leave. Each resigning employee is asked to hold an exit interview with the Municipal Finance Officer before leaving.

DISCIPLINE OTHER THAN IMMEDIATE TERMINATION

All employees are expected to meet the City's standards of work performance. Work performance encompasses many factors, including attendance, punctuality, personal conduct, job proficiency and general compliance with the City's policies and procedures.

If an employee does not meet these standards, the City may, under appropriate circumstances, take corrective action, other than immediate dismissal.

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~~The intent of corrective action is to formally document problems while providing the employee with a reasonable time within which to improve performance. The process is designed to encourage development by providing employees with guidance in areas that need improvement such as poor work performance, attendance problems, personal conduct, general compliance with the City's policies and procedures and/or other disciplinary problems. Delete- stated earlier~~

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WRITTEN WARNINGS

The Supervisor should discuss the problem and present a written warning to the employee in the presence of the Department Head. This should clearly identify the problem and outline a course of corrective action within a specific time frame. The employee should clearly understand both the corrective action and the consequence (i.e., termination) if the problem is not corrected or reoccurs. The employee should acknowledge receipt of the warning and include any additional comments of their own before signing it. A record of the discussion and the employee's comments should be placed in the employee personnel file ~~in the Human Resources Department.~~

Employees who have had formal written warnings are not eligible for salary increases, bonus awards, promotions or transfers during the warning period, which is listed on their disciplinary documentation. ~~What time frame?~~

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POST RESIGNATION/TERMINATION PROCEDURES

Exit Interview

Department Heads are responsible for scheduling an exit interview with a terminating employee on the employee's last day of employment and for arranging the return of City property including:

~~I would add Computer, Uniforms if applicable, credit cards~~

- Picture Identification Card
- Keys
- City-issued credit cards
- City manuals
- Cell phones
- Key fobs
- Any additional City-owned or issued property

~~Employees may choose the continuation or waiver of comprehensive medical coverage, vision and dental coverage under COBRA. Specific information will be provided at the exit interview. Even if fired not needed. It is covered under benefits.~~

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Benefits

Medical benefits end on the last day of the month in which your last day of employment falls. Vision, dental and life end on the last day worked. An employee, unless dismissed for gross misconduct, has the option to convert to individual life insurance, and/or to continue Medical/Dental/Vision Benefits in accordance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") regulations.

Final Paycheck ~~Mentioned on previous page~~

If an employee terminates their employment with the City they must return all City equipment, including, but not limited to, office keys, cell phone, computer, credit cards, etc. The final paycheck will be mailed during the next normal pay period if receiving a hard check. If the employee receives direct deposit, then the final check will be issued in the same direct deposit process. ~~Failure to return all city property will result in the City holding your final paycheck until such items have been returned to the City. Sarah I would make their final check a hard check in case they don't turn in all items (then you can hold the money)~~

Failure to return issued equipment may result in theft charges being filed against the employee. City-authorized cell phone service will be terminated.

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Comment [tsd28]: Refer to attached Wage Deductions document and this should also be reviewed by your legal team.

Forms Index

The following forms can be downloaded from the City's Human Resources Information System (HRIS)

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2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

CITY OF WINDCREST'S
EMPLOYEE CONSENT TO SEARCH OR TESTING

Instructions to Employee: Read paragraphs 1, 2 and 3 below. Circle the word "GRANT" or "REFUSE" in the three sentences at the end, and then sign and date this form in the space provided.
[It states circle one](#)

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1. I hereby give my voluntary consent for a representative (Supervisor) of the City of Windcrest to search my person, personal effects, vehicle, and other property located on the City of Windcrest premises at anytime while I am employed by the city. I understand that my refusal to permit such searches will likely result in the termination of my employment by the city.
2. I hereby give my voluntary consent for a representative (Supervisor) of the City of Windcrest to collect a urine specimen from me for testing for alcohol, drugs, and controlled substances. I understand that if I am taking or have recently taken any prescription drugs or medication, I should notify the laboratory attendant or authorized representative who collects the specimen for testing. I hereby authorize the laboratory or facility conducting this test to disclose the results of the test to the City of Windcrest for use in determining the future status of my employment, and I further agree that such test results shall be admissible into evidence at any proceeding in which disciplinary action taken against me for using, selling, buying, transferring, receiving, possessing, or being under the influence of alcohol, drugs, or controlled substances is placed in issue.

3. I hereby release the City of Windcrest, its agents, employees and officers, from any and all liability which may result from my participation in a drug test or which may result from the disclosure of the results of my drug test, or a search of my person or belongings, including but not be limited to, any claim related to negligence, invasion of privacy, assault, battery, intentional infliction of emotional distress, false imprisonment, or defamation, including libel, slander or compelled self-defamation.

I UNDERSTAND THAT MY REFUSAL TO GIVE SUCH CONSENT MAY RESULT IN THE TERMINATION OF EMPLOYMENT. _____ initial

I HEREBY (CIRCLE ONE) **GRANT/REFUSE** MY CONSENT TO THE SEARCH(ES) AS STATED IN PARAGRAPH 1.

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I HEREBY (CIRCLE ONE) **GRANT/REFUSE** MY CONSENT TO THE TESTING AND DISCLOSURES AS STATED IN PARAGRAPH 2.

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I HEREBY (CIRCLE ONE) **GRANT/REFUSE** MY CONSENT TO THE RELEASE OF LIABILITY AS STATED IN PARAGRAPH 3.

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Employee's Signature

Date

Employee's Printed Name

CITY OF WINDCREST

LEAVE DONATION FORM

I, _____, do hereby authorize the Payroll Department to deduct the hours shown from my Sick Leave and/or Vacation time records, and transfer those hours to the account of _____.

Sick Leave, hours donated _____

Vacation Leave, hours donated _____

(Donor signature) (Date)

(Recipient signature) (Date)

(Department Head signature) (Date)

(City Manager signature) (Date)

Hepatitis B Vaccine Declination

I understand that, due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring the Hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with Hepatitis B vaccine, at no charge to me. However, I decline the Hepatitis B vaccination at this time.

I understand that by declining this vaccine, I continue to be at risk of acquiring the serious disease Hepatitis B.

If, in the future, I continue to experience occupational exposure to blood or other potentially infectious materials and I wish to be vaccinated with the Hepatitis B vaccine, I can receive the vaccination series at no charge to me.

Employee Signature

Date

Responsible Person Signature

Date

**EMPLOYEE RECOGNITION PROGRAM
HIGHLIGHT AWARD & BRILLIANT EMPLOYEE OF THE MONTH
NOMINATION FORM**

Nominee's Name:

Nominee's Department:

Nominee's Title:

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2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

In the space provided below, please indicate the reasons why your nominee should receive the:
(Check one)

Highlight Award ☐ Brilliant Employee of the Month ☐

Return to: City of Windcrest
Employee Recognition Committee
8601 Midcrown
Windcrest, Texas 78239

Nominator's Name: _____

Phone Number: _____

TEXAS GOVERNMENT CODE SECTION 552.024 PUBLIC ACCESS OPTION

The Public Information Act allows employees, public officials and former employees and officials to

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2011

Updated August 10,

The City, at its option, may change, delete, or discontinue parts of the handbook in its entirety, at any time or without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.

elect whether to keep certain information about them confidential. Unless you choose to keep it confidential, the following information about you may be subject to public release if requested under the Texas Public Information Act. Therefore, please indicate whether you wish to allow public release of the following information.

	Public Access	
	No	Yes
Home Address		
Home Telephone Number		
Social Security Number		
Information that reveals whether you have family members		

Print Name

Signature/Authorization

Date

Miscellaneous

City of Windcrest

Permanent Salary Range Table— ~~Don't add to handbook, post each year on Employee Website.~~

Salary Range	Minimum	Midpoint	Maximum	Salary Range	Minimum	Midpoint	Maximum
1	\$13,000	\$16,250	\$19,500	36	\$30,852	\$38,565	\$46,278
2	\$13,325	\$16,656	\$19,988	37	\$31,623	\$39,529	\$47,434
3	\$13,658	\$17,073	\$20,487	38	\$32,414	\$40,517	\$48,620
4	\$14,000	\$17,499	\$20,999	39	\$33,224	\$41,530	\$49,836
5	\$14,350	\$17,937	\$21,524	40	\$34,054	\$42,568	\$51,082
6	\$14,708	\$18,385	\$22,062	41	\$34,906	\$43,632	\$52,359
7	\$15,076	\$18,845	\$22,614	42	\$35,778	\$44,723	\$53,668
8	\$15,453	\$19,316	\$23,179	43	\$36,673	\$45,841	\$55,009
9	\$15,839	\$19,799	\$23,759	44	\$37,590	\$46,987	\$56,385
10	\$16,235	\$20,294	\$24,353	45	\$38,530	\$48,162	\$57,794
11	\$16,641	\$20,801	\$24,962	46	\$39,493	\$49,366	\$59,239
12	\$17,057	\$21,321	\$25,586	47	\$40,480	\$50,600	\$60,720
13	\$17,484	\$21,854	\$26,225	48	\$41,492	\$51,865	\$62,238
14	\$17,921	\$22,401	\$26,881	49	\$42,529	\$53,162	\$63,794
15	\$18,369	\$22,961	\$27,553	50	\$43,593	\$54,491	\$65,389
16	\$18,828	\$23,535	\$28,242	51	\$44,682	\$55,853	\$67,024
17	\$19,299	\$24,123	\$28,948	52	\$45,799	\$57,249	\$68,699
18	\$19,781	\$24,726	\$29,672	53	\$46,944	\$58,681	\$70,417
19	\$20,276	\$25,344	\$30,413	54	\$48,118	\$60,148	\$72,177
20	\$20,782	\$25,978	\$31,174	55	\$49,321	\$61,651	\$73,982
21	\$21,302	\$26,628	\$31,953	56	\$50,554	\$63,193	\$75,831
22	\$21,835	\$27,293	\$32,752	57	\$51,818	\$64,772	\$77,727
23	\$22,380	\$27,976	\$33,571	58	\$53,113	\$66,392	\$79,670
24	\$22,940	\$28,675	\$34,410	59	\$54,441	\$68,051	\$81,662
25	\$23,513	\$29,392	\$35,270	60	\$55,802	\$69,753	\$83,703
26	\$24,101	\$30,127	\$36,152	61	\$57,197	\$71,497	\$85,796
27	\$24,704	\$30,880	\$37,056	62	\$58,627	\$73,284	\$87,941
28	\$25,321	\$31,652	\$37,982	63	\$60,093	\$75,116	\$90,139
29	\$25,954	\$32,443	\$38,932	64	\$61,595	\$76,994	\$92,393
30	\$26,603	\$33,254	\$39,905	65	\$63,135	\$78,919	\$94,703
31	\$27,268	\$34,085	\$40,903	66	\$64,713	\$80,892	\$97,070
32	\$27,950	\$34,938	\$41,925	67	\$66,331	\$82,914	\$99,497

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33	\$28,649	\$35,811	\$42,973	68	\$67,990	\$84,987	\$101,984
34	\$29,365	\$36,706	\$44,048	69	\$69,689	\$87,112	\$104,534
35	\$30,099	\$37,624	\$45,149	70	\$71,432	\$89,289	\$107,147

Midpoint %
2.50%

Range Spread
50.00%

**City of Windcrest
Job Classification Table**

Job Class	Salary Range¹
City Manager/Treasurer	70
City Secretary	45
Municipal Finance Officer	53
Assistant Municipal Finance Officer	31
Administrative Secretary I	32
Administrative Secretary II	28
Postal Clerk	22
Emergency Mgt Coordinator/IT Mgr	53
Director of Public Works	55
Public Works Supervisor	33
Public Works Technician IV	29
Public Works Technician III	26
Public Works Technician II	22
Public Works Technician I	18
Director of Building Services	48
Code Compliance Officer	30
Fire Department Chief	57
Assistant Fire Chief/Fire Marshall	51
Fire Department Administrative Officer	32
Chief of Police	57
Assistant Chief of Police	54
Patrol Commander - Lieutenant	49
Patrol Supervisor - Sergeant	43
Patrol Supervisor - Corporal	39
Patrol Officer	35
CID Commander - Detective Sergeant	43
Detective - Corporal	39
Communications Manager	33
Assistant Communications/Records Admin	29

Records Manager	31
Police Dispatcher	28
Court Clerk I	27
Court Clerk II	24

1 Salary range number corresponds to salary range on Permanent Salary Range Table

CITY OF WINDCREST
SALARY ADMINISTRATION PLAN

MERIT INCREASE GUIDE – 2009

	ACHIEVEMENT PERCENTAGE					LEVEL/RATING
	0% 20%	- 21% 42%	- 43% 63%	- 64% 84%	- 85% - 100%	
COMPA-RATIO	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	
80.0 – 84.9	0%	5%	6%	7%	8%	
85.0 – 89.9	0%	4%	5%	6%	7%	
90.0 – 94.9	0%	3%	4%	5%	6%	
95.0 – 99.9	0%	2%	3%	4%	5%	
100.0 – 104.9	0%	0%	2%	3%	4%	
105.0 – 109.9	0%	0%	0%	2%	3%	
110.0 – 114.9	0%	0%	0%	0%	2%	
115.0 – 120.0	0%	0%	0%	0%	2%	

NOTES: Funding level at 4%*; no increase to exceed Maximum of salary range;
Compa-ratio is the % relationship of an incumbent's salary amount to the

Midpoint of the salary range
for their position's job class.

CITY OF WINDCREST

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Windcrest, Texas 78239
210-655-0022 – fax 210-655-8776

Illustrative Achievement Levels

- 1 Improvement Required
- 2 Increasing Capability
- 3 Competent
- 4 Outstanding
- 5 Very Exceptional

* Funding Level and Percentage Increases May Vary Annually Based on Financial Resources

Memo

Field Code Changed

To: All City of Windcrest Employees
From: Betsy Mills, Municipal Finance Officer
Date: December 3, 2009

Subject: Pay Periods for Balance of 2009 and 2010-----Not needed in manual can send memo
each year to employees, also can add to Employee Website.

The following is the City of Windcrest pay schedule:

PAY DATE	PAY PERIOD COVERED	PAY DATE	PAY PERIOD COVERED
December 11	Nov 16 - Nov 29	July 9	Jun 14 – Jun 27
December 25	Nov 30- Dec 13	July 23	Jun 28 - Jul 11
January 8, 2010	Dec 14 - Dec 27	August 6	Jul 12 - Jul 25
January 22	Dec 28 - Jan 10	August 20	July 26 - Aug 8
February 5	Jan 11 - Jan 24	September 3	Aug 9 - Aug 22

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2011

Updated August 10,

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February 19	Jan 25 - Feb 7	September 17	Aug 23 - Sept 5
March 5	Feb 8 - Feb 21	October 1	Sept 6 - Sept 19
March 19	Feb 22 - Mar 7	October 15	Sept 20 - Oct 3
April 2	Mar 8 - Mar 21	October 29	Oct 4 - Oct 17
April 16	Mar 22 - Apr 4	November 12	Oct 18 – Oct 31
April 30	Apr 5 - Apr 18	November 26	Nov 1 - Nov 14
May 14	Apr 19 - May 2	December 10	Nov 15 – Nov 28
May 28	May 3 - May 16	December 24	Nov 29 - Dec 12
June 11	May 17 – May 30	January 7, 2011	Dec 13 – Dec 26
June 25	May 31 - Jun 13	January 21	Dec 27 – Jan 9

CITY OF WINDCREST - CITY HOLIDAYS, 2010

The dates listed below are the City Holidays for 2010. If a Holiday falls on a Saturday, the City Holiday will be observed on the preceding Friday. If a Holiday falls on a Sunday, the City Holiday will be observed on the following Monday.

<u>Date</u>	<u>Day</u>	<u>Holiday</u>
January 1	Friday	New Year's Day
January 18	Monday	Martin Luther King Day
February 15	Monday	President's Day
May 31	Monday	Memorial Day
July 5	Monday	Independence Day (Observed)
September 6	Monday	Labor Day

September 10	Friday	Patriot Day (Observed)
November 11	Thursday	Veteran's Day
November 25	Thursday	Thanksgiving Day
November 26	Friday	Day after Thanksgiving
December 23	Thursday	Christmas Eve (Observed)
December 24	Friday	Christmas Day (Observed)
December 30	Thursday	New Year's Eve (Observed)
December 31	Friday	New Year's Day (Observed)