

ORDINANCE NO. 28024

An ordinance amending Sections 34-4, 34-5, 34-10, 34-11, 34-14, 34-15, 34-16, 34-17, 34-19, 34-20, 34-21, 34-22, 34-23, 34-24.1, 34-25, 34-32, 34-36, 34-38, 34-39, 34-40, and 34-43 of and adding Sections 34-21.1 and 34-31.1 to CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended; defining terms; providing notification requirements for arrested employees; requiring a person to be reappointed as a city employee within 10 years after termination of previous city employment to retrieve previous continuous full-time service; clarifying that there is no probationary period after a lateral transfer or demotion; clarifying rules for flex time; providing for the computation of and the eligibility for overtime and compensatory leave; providing for the electronic distribution of pay information to employees; revising requirements for advance sick leave requests; clarifying certain requirements for the use of vacation leave; revising family leave requirements to comply with the Family and Medical Leave Act; establishing a September 11th Remembrance Day holiday; providing requirements and procedures for mandatory city leave; requiring employees hired on or after January 1, 2010 to pay the full costs of continued health benefits upon retirement; providing rules of conduct relating to performing personal business, failing city-required drug or alcohol tests, texting or emailing while operating a motor vehicle on city business, pursuing a denied request to a higher authority, harassing, possessing tasers, violating departmental rules or procedures, or failing to timely report a violation of employee rules of conduct; revising certain grievance and appeal procedures; revising certain wage supplementation plan requirements; providing for modification of compensation and leave policy provisions of the personnel rules by meet and confer or

collective bargaining agreements; providing for rates of pay for certain lump sum leave payments; making certain semantic, grammatical, and structural changes; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 34-4, "Definitions," of Article I, "General Provisions," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-4. DEFINITIONS.**

In this chapter:

(1) ADMINISTRATIVE TERMINATION means termination because of death, disability, service retirement, or end of a temporary assignment.

(2) APPOINTMENT means:

(A) initial city employment; or

(B) placement into a position of department director, assistant department director, or other managerial personnel designated by the city council in accordance with Section 11, Chapter XVI of the city charter, regardless of whether the placement was through a competitive or noncompetitive selection process.

(3) ASSIGNMENT PAY means additional compensation for specialized duties as established by the salary and classification schedule.

(4) AUTHORIZED POSITION means an individual position described by a specific classification title and approved by the city council. Any change to an authorized position requires city council approval.

(5) BASE HOURLY RATE OF PAY means the hourly rate of an employee's base salary as established in the salary and classification schedule.

(6) BENEFIT means an employer-sponsored program that includes, but is not limited to, paid leave and health and life insurance benefits, but does not include wages, merit increases, service credit, or seniority.

(7) BREAK IN SERVICE means termination for one or more work days as a result of:

(A) administrative termination, resignation, reduction in force, or discharge, followed by reappointment; or

(B) leave of absence without pay for more than six consecutive calendar weeks, except to the extent that the leave without pay is authorized by federal or state law.

(8) CITY means the city of Dallas, Texas.

(9) CIVIL SERVICE BOARD means the civil service board of the city.

(10) CLASSIFICATION means all positions, regardless of departmental location, that are sufficiently alike in duties and responsibilities to:

(A) be called by the same descriptive title;

(B) be accorded the same pay scale under like conditions; and

(C) require substantially the same education, experience, and skills.

(11) CLASSIFICATION CHANGE means revision of a position title that may include an adjustment of pay range.

(12) CLASSIFIED POSITION means a position that is subject to civil service rules and regulations as designated by the city charter.

(13) DEMOTION means a demotion as defined in Section 34-12(a) of this chapter.

(14) DISCHARGE means involuntary termination.

(15) EMPLOYEE means a person employed and paid a salary or wages by the city, whether under civil service or not, and includes a person on a part-time basis, but does not include an independent contractor or city council member.

(16) EMPLOYEES' RETIREMENT FUND BOARD means the board of trustees of the employees' retirement fund of the city of Dallas.

(17) EXEMPT EMPLOYEE means an exempt employee as defined by the Fair Labor Standards Act, as amended.

(18) FAMILY AND MEDICAL LEAVE ACT means the Family and Medical Leave Act of 1993 (29 U.S.C.A. §§ 2601 et seq.), as amended.

(19) FAMILY LEAVE means authorized leave as provided for in the Family and Medical Leave Act.

(20) FIRE DEPARTMENT means the fire-rescue department of the city.

(21) FLEX TIME means a balancing time entry process that provides an employee with the opportunity to substitute additional hours worked outside of his or her normal work schedule for time not worked during the same pay period in order to meet the total 80 hours required in a pay period. Flex time is a balancing entry only and is not paid leave.

(22) FURLOUGH LEAVE means time off from work when employees are placed in a temporary non-duty, non-pay status for required budgetary reasons.

(23) GRADE means a division of a salary and classification schedule with specified rates or ranges of pay.

(24) GRIEVANCE means an employee's formal, written complaint regarding work conditions that the employee claims have been adversely affected by a violation, misinterpretation, or misapplication of a specific law, ordinance, resolution, policy, rule, or regulation.

(25) [(24)] IMMEDIATE FAMILY MEMBER means:

(A) a husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, brother, or sister of an employee; or

(B) any person related to an employee by blood or marriage and who resides in the same household as the employee.

(26) [(22)] INTERNAL APPEAL means an administrative appeal to which an employee may be entitled under this chapter, this code, the city charter, or departmental regulations.

(27) [(23)] LEAVE WITHOUT PAY means an authorized temporary absence without pay.

(28) MANDATORY CITY LEAVE means paid leave that is provided to employees by the city as a result of budget-related pay reductions.

(29) [(24)] MERIT INCREASE means a discretionary increase in salary based on performance.

(30) [(25)] MILITARY LEAVE means authorized leave to perform duties in the military service as provided for in:

(A) the Uniformed Services Employment and Reemployment Rights Act;

(B) Chapter 431 of the Texas Government Code, as amended; and

(C) Chapter 613 of the Texas Government Code, as amended.

(31) ~~[(26)]~~ MILITARY SERVICE means:

(A) the uniformed services, as defined in the Uniformed Services Employment and Reemployment Rights Act;

(B) the state militia, as defined in Chapter 431 of the Texas Government Code, as amended; and

(C) the military service, as defined in Chapter 613 of the Texas Government Code, as amended.

(32) ~~[(27)]~~ NON-CIVIL SERVICE EMPLOYEE means an employee who fills a position that is exempt from the provisions applicable to the civil service, as designated by the city charter. Non-civil service employees include:

(A) employees of the legal department, the city manager's office, the library department, the park and recreation department, and the radio department (WRR);

(B) municipal court judges; and

(C) city council office staff.

(33) ~~[(28)]~~ NONEXEMPT EMPLOYEE means a nonexempt employee as defined by the Fair Labor Standards Act, as amended.

(34) ~~[(29)]~~ PAID LEAVE means sick leave, vacation leave, holiday leave, court leave, death-in-family leave, ~~[and]~~ military leave, and mandatory city leave.

(35) ~~[(30)]~~ POLICE AND FIRE PENSION BOARD means the board of trustees of the police and fire pension system of the city of Dallas.

(36) ~~[(31)]~~ POSITION means a collection of tasks, duties, and responsibilities regularly assigned to and performed by an individual.

(37) ~~[(32)]~~ PROBATION:

(A) Probation means a minimum six-month period:

(i) after initial appointment, during which an employee can be terminated without right of appeal; or

(ii) after promotion, during which an employee can be:

(aa) returned to the previous position, if a retreat right to the previous position exists; or

exists. (bb) terminated without right of appeal, if no retreat right

(B) Probation may be extended to allow:

- (i) six months on-the-job work performance; or
- (ii) completion of any written prerequisites to employment.

(C) Probation does not apply to positions in departments exempt from civil service, and employees in those positions do not serve a probationary period.

(D) The service of a probationary period or the successful completion of a probationary period does not convey upon, imply, or intend to imply that an employee has a property interest in continued employment or a contract of employment with the city.

(38) [~~(33)~~] PROMOTION means an increase in grade with a resulting increase in salary due to placement in a position as a result of a competitive or noncompetitive selection process.

(39) [~~(34)~~] REAPPOINTMENT means re-employment of a former city employee.

(40) [~~(35)~~] REASSIGNMENT means a change of an employee to an equivalent position (same grade) within the same department.

(41) [~~(36)~~] REDUCTION IN FORCE means a reduction in the number of budgeted positions due to a change in work or funds.

(42) [~~(37)~~] REGULAR RATE OF PAY means an employee's base hourly rate of pay plus additional payments as established in the salary and classification schedule.

(43) [~~(38)~~] RESIGNATION means a voluntary termination.

(44) [~~(39)~~] SALARY AND CLASSIFICATION SCHEDULE means a city council-approved resolution that establishes all position classifications for city employment and the corresponding pay rates.

(45) [~~(40)~~] SERVICE CREDIT means the total duration of city employment, less any adjustments for breaks in service.

(46) SEXUAL ORIENTATION means an individual's:

(A) real or perceived orientation as heterosexual, homosexual, or bisexual; or

(B) real or perceived gender identity.

(47) [~~(41)~~] SHIFT DIFFERENTIAL PAY means additional compensation for regularly scheduled work hours outside of the city's normal business hours, as specifically described in administrative directives of the city.

(48) [~~(42)~~] STEP means one salary increment within a grade for a sworn police or fire department employee.

(49) [~~(43)~~] SUSPENSION means unpaid disciplinary leave for a specified period of time.

(50) [~~(44)~~] SWORN EMPLOYEES OF THE POLICE DEPARTMENT means:

(A) police officers and all related classifications, including trainee police officers; and

(B) park rangers and all classifications above park ranger in the same classification family.

(51) [~~(45)~~] TASKING means release from duty upon completion of assigned work before the scheduled end of the work day.

(52) [~~(46)~~] TERMINATION means cessation of employment with the city.

(53) [~~(47)~~] TRANSFER means the change of an employee from a position in one department to an equivalent position (same grade) in another department, but that does not result in either promotion or demotion.

(54) [~~(48)~~] UNCLASSIFIED POSITION means an unclassified civil service position as designated by Section 3, Chapter XVI of the city charter.

(55) [~~(49)~~] UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT means the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.A. §§-4301 et seq.), as amended.

(56) [~~(50)~~] WORK WEEK means the seven-day period from Wednesday through Tuesday.

(57) [~~(51)~~] WORKING DAYS means Monday through Friday, excluding official holidays observed by the city of Dallas as set forth in Section 34-25 of this chapter."

SECTION 2. That Section 34-5, "Conditions of Employment," of Article I, "General Provisions," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended by adding Subsection (e) to read as follows:

“(e) Notification of arrest. Within one business day after returning to work, an employee who has been arrested in the United States or any other country shall notify the human resources representative for the employee’s department of the arrest and the reason for the arrest. An arrested employee who gives notice under this subsection is still required to comply with the notice of absence or tardiness requirements set forth in Section 34-36(b)(1)(B) of this chapter.”

SECTION 3. That Subsection (a) of Section 34-10, “Reappointments,” of Article I, “General Provisions,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended to read as follows:

“(a) Retrieving continuous full-time service.

(1) A person who is reappointed as a city employee retrieves previous continuous full-time service earned during the immediately preceding period of full-time city employment if the person:

(A) previously had completed at least six months, but less than five years, of continuous full-time service with the city; and

(B) is reappointed within one year after termination of the previous city employment.

(2) A person who is reappointed as a city employee retrieves previous continuous full-time service earned during the longest single preceding period of full-time service if the person:

(A) previously had completed at least five years~~[, but less than 10 years,]~~ of continuous full-time service with the city; and

(B) is reappointed within 10 years after termination of the previous city employment.

~~(3) [A person who is reappointed as a city employee retrieves previous continuous full-time service earned during the longest single preceding period of full time service if the person:~~

~~(A) previously had completed at least 10 years of continuous full time service with the city; and~~

~~(B) is reappointed within 25 years after termination of the previous city employment.~~

(4) Continuous full-time service retrieved under this subsection will be for purposes of determining all service related benefits except retirement benefits. Service credit for retirement and pension programs is defined in the governing documents, ordinances, and statutes establishing those programs.”



SECTION 4. That Subsection (c) of Section 34-11, "Probation," of Article I, "General Provisions," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

"(c) Applicability.

(1) All employees in a classified or unclassified civil service position (including directors, assistant directors, and other managerial personnel designated by the city council of departments that are not exempt from civil service provisions under Section 9, Chapter XVI of the Dallas City Charter) serve a probationary period of six months after an initial appointment or a promotion.

(2) Non-civil service employees do not serve a probationary period after either an initial appointment or a promotion.

(3) No employee serves a probationary period after a lateral transfer or demotion."

SECTION 5. That Section 34-14, "Terminations," of Article I, "General Provisions," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-14. TERMINATIONS.**

(a) Classification. A termination is classified as follows:

- (1) resignation;
- (2) discharge;
- (3) reduction in force; or
- (4) administrative.

(b) Death during working hours. An employee who ~~[terminated because of death shall be carried on the payroll to the completion of the regular work day if the employee]~~ dies during working hours will be paid as if the employee had worked the entire regular work day.

(c) Benefits. Benefits due a terminating employee are stipulated elsewhere in this chapter under the sections pertaining to the respective benefit."

SECTION 6. That Section 34-15, "General," of Article II, "Compensation," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-15. GENERAL.**

- (a) Charter provisions. Section 18, Chapter XXIV of the city charter provides:

SEC. 18. EMPLOYEES' WAGES.

The wages, hours and conditions of employment of any and all of the city employees shall be fixed and approved by the city council.

- (b) Salary schedule. All classifications and salary ranges existing in city employment are identified in the salary and classification schedule. Any addition to or deletion from this schedule must be made by resolution of the city council.

- (c) The provisions of this article may be modified by a city council ordinance or resolution adopting a meet and confer or collective bargaining agreement. If any provision of this article conflicts with a provision of a meet and confer or collective bargaining agreement adopted by the city council, the provision of the meet and confer or collective bargaining agreement will prevail.

SECTION 7. That Section 34-16, "Work Hours," of Article II, "Compensation," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-16. WORK HOURS.**

- (a) Standard work day. The standard work day is eight hours, but may deviate depending on departmental operating needs. The work day may exclude approved meal periods, but may include a 15-minute break period within any uninterrupted four-hour work period. An employee may be required to work hours other than the employee's normal work schedule.

- (b) The standard work week is 40 hours, but may deviate depending on departmental operating needs.

- (c) Alternate work schedules. The following alternate work schedules, and any additional ones adopted by city council resolution, may be selected and implemented for a department, with prior written approval from the director of human resources and the city manager.

SCHEDULE	HOURS PER WEEK	HOURS PER 24 HOUR PERIOD BEGINNING AT MIDNIGHT
(1) Four 10-hour days a week.	40	Maximum of 10.
(2) 12-hour days on Monday and Tuesday and 8-hour days on Thursday and Friday. Tasking is allowed.	40	Varies from a minimum of 8 to a maximum of 12.
(3) Five 8-hour days a week. Tasking is allowed.	40	Maximum of 8.
(4) Four 9-hour days and one 4-hour day a week.	40	Varies from a minimum of 4 to a maximum of 9.
(5) Three 11-1/2 hour days one week of a pay period and four 11-1/2 hour days the other week of a pay period.	Varies from 34.5 to 46.	Maximum of 11-1/2.
(6) Three 12-hour days one week of a pay period and four 12-hour days the other week of a pay period.	Varies from 36 to 48.	Maximum of 12.

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(7) Three 12-hour days one week of a pay period and three 12-hour days and one 8-hour day the other week of a pay period.	Varies from 36 to 44.	Varies from a minimum of 8 to a maximum of 12.
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(8) Two 13-hour days and one 14-hour day a week.	40	Varies from a minimum of 13 to a maximum of 14.
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(9) Any combination of hours, ranging from a minimum of 4 to a maximum of 12, in a day. A work week consists of a minimum of 3-1/2 days and a maximum of 7 days. Tasking is allowed.	Varies from 32 to 48	Varies from a minimum of 4 to a maximum of 12.
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(d) 24-hour staffing. For jobs requiring 24-hour staffing, meals may be eaten while on duty. An employee is considered on duty during all meal breaks and is expected to be readily available to perform required duties.

(e) Take-home vehicles. The work day for an employee who travels to and from a regular jobsite in city equipment begins at the time and location at which the employee is initially required to report for duty. The work day ends when the employee is relieved of duty.

(f) Flex time. Rules regarding the use and application of flex time are addressed in the administrative directives of the city."

SECTION 8. That Section 34-17, "Overtime and Paid Leave," of Article II, "Compensation," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 34-17. OVERTIME AND PAID LEAVE.**

(a) Weekly overtime. Any nonexempt employee will be paid an overtime hourly rate of 1-1/2 times the employee’s regular rate of pay for all hours worked over 40 in any work week.

(b) Paid leave. An employee is charged with paid leave only on days the employee would otherwise have been scheduled to work. If the employee is assigned to a standard work week, no more than 40 hours paid leave may be charged in one work week. If the employee is assigned to an approved alternate work schedule, the hours charged in one work week as paid leave may not exceed the maximum hours contained in the alternate work week during which the leave was taken. Except for holiday leave, mandatory city leave, and court leave pursuant to Section 34-26, paid leave will not be counted as work time for purposes of computing overtime or compensatory leave.

(c) Call backs. A nonexempt employee who is called back to work and reports back to work outside of the employee’s scheduled work hours must be paid a minimum of two hours worked, if the call back does not merge with the employee’s scheduled start time.

(d) Exception. This section does not apply to a sworn employee of the police department or the fire department.”

SECTION 9. That Section 34-19, “Work Hours for Public Safety Employees,” of Article II, “Compensation,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 34-19. WORK HOURS FOR PUBLIC SAFETY EMPLOYEES.**

(a) Police department. The work period and work hours for sworn employees of the police department are as follows:

(1) For purposes of the Fair Labor Standards Act, as amended, the work period for a nonexempt sworn employee of the police department is 28 days.

(2) Weekly overtime. A nonexempt sworn employee of the police department will be paid an overtime hourly rate of 1-1/2 times the employee’s regular rate of pay for all hours worked over 40 in any work week, or be granted compensatory leave for all hours in excess of 40.

(3) Paid leave. Any sworn employee of the police department is charged with paid leave only on days the employee would otherwise have been scheduled to work. If the employee is assigned to a standard work week, no more than 40 hours paid leave may be charged in one work week. If the employee is assigned to an approved alternate work schedule, the hours charged in one work week as paid leave may not exceed the maximum hours contained in the alternate work week during which the leave was taken. Authorized attendance incentive leave, vacation leave, [Except for] holiday leave, leave with pay as defined by Section 34-29,

compensatory leave, [and] court leave pursuant to Section 34-26, mandatory city leave, military leave, and death-in-family [paid] leave will [not] be counted as work time for purposes of computing overtime or compensatory leave.

(4) Call backs. A nonexempt sworn employee of the police department who is called back to work and reports back to work outside of the employee's scheduled work hours must be paid a minimum of two hours worked, if the call back does not merge with the employee's scheduled start time.

(5) Compensatory leave in lieu of overtime pay may be granted a nonexempt sworn employee of the police department at the request of the employee, subject to supervisory approval. Compensatory leave is earned at the rate of 1-1/2 hours for each hour worked, to a maximum of 480 hours accrued. Compensatory leave will be granted within a reasonable time after being requested if the use of the compensatory leave does not unduly disrupt the operations of the department. Compensatory leave may be taken in hourly increments. The accrual and use of compensatory leave is governed by the Fair Labor Standards Act, as amended, and Section 142.0016 of the Texas Local Government Code, as amended. Compensatory leave not taken during the payroll quarter in which it is accrued or during the following two payroll quarters will be paid at the employee's regular rate of pay earned at the time of payment or at the time of forfeiture of the compensatory leave, whichever rate is higher. Compensatory leave will be paid upon termination at the higher of:

(A) the average regular rate of pay received by the employee during the last three years of the employee's employment with the city; or

(B) the final regular rate of pay received by the employee.

(6) A sworn employee of the police department above the rank of captain is an exempt employee and does not earn overtime or compensatory leave.

(b) Fire department. The work period and work hours for sworn employees of the fire department are as follows:

(1) The work period for a sworn employee of the fire department is, depending upon assignment, 28 days (pursuant to Fair Labor Standards Act, as amended,) or a standard 40-hour work week.

(2) The standard work day or shift for a sworn employee of the fire department may consist of the following, depending upon assignment:

(A) 8 hours a day;

(B) 12 hours a day; or

(C) 24 hours a day.

(3) A sworn employee of the fire department assigned to special training is subject to the eight-hour work day.

(4) A sworn employee of the fire department with the rank of assistant chief ~~[captain]~~ or above is an exempt employee and does not earn overtime ~~[except a captain assigned to the fire and rescue operations bureau who is a nonexempt employee]~~. A civilian employee of the fire department with a classification equivalent to assistant chief or above is an exempt employee and does not earn overtime.

(5) ~~[An exempt sworn employee of the fire department who earns compensatory leave will do so at the rate of 1-1/2 times the hours worked beyond each scheduled work period.]~~

~~(6)~~ A nonexempt sworn employee of the fire department who works more than 212 hours in a 28-day work period or 40 hours in a standard work week, depending upon assignment, will be paid at 1-1/2 times the employee's regular rate of pay for hours worked beyond the scheduled work period.

(6) ~~(7)~~ A nonexempt sworn employee of the fire department may, subject to departmental approval, choose to receive compensatory leave in lieu of overtime pay at the rate of 1-1/2 hours for each hour worked beyond each scheduled work period, to a maximum of 480 hours accrued.

(7) ~~(8)~~ Compensatory leave may be earned by a sworn employee of the fire department other than an exempt employee above the ranks of fire battalion/section chief and fire prevention section chief. Compensatory leave will be granted within a reasonable time after being requested if the use of the compensatory leave does not unduly disrupt the operations of the department. Compensatory leave may be taken in hourly increments. The accrual and use of compensatory leave is governed by the Fair Labor Standards Act, as amended, and Section 142.0016 of the Texas Local Government Code, as amended. Compensatory leave not taken during the payroll quarter in which it is accrued or during the following two payroll quarters will be paid at the employee's regular rate of pay earned at the time of payment or at the time of forfeiture of the compensatory leave, whichever rate is higher. Compensatory leave will be paid upon termination at the higher of:

(A) the average regular rate of pay received by the employee during the last three years of the employee's employment with the city; or

(B) the final regular rate of pay received by the employee.

(8) ~~(9)~~ A sworn employee of the fire department must use or be paid for all accrued compensatory leave before transferring to or from the emergency response ~~[fire control and rescue operations]~~ bureau of the fire department or whenever the employee's full-time regular work schedule is increased or reduced.

(9) Authorized attendance incentive leave, vacation leave, holiday leave, leave with pay as defined by Section 34-29, compensatory leave, court leave pursuant to Section 34-26, mandatory city leave, military leave, and death-in-family leave will be counted as work time for purposes of computing overtime or compensatory leave.

(10) Call backs. A nonexempt sworn employee of the fire department who is called back to work and reports back to work outside of the employee's scheduled work hours must be paid a minimum of two hours worked, if the call back does not merge with the employee's scheduled start time.

(11) A sworn employee of the fire department may, with prior approval from the fire chief or a designated representative, trade time with another sworn employee. Trade time is not considered as work time in determining overtime, but trading time is subject to the Fair Labor Standards Act, as amended."

SECTION 10. That Section 34-20, "Exempt Employees," of Article II, "Compensation," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-20. EXEMPT EMPLOYEES.**

(a) Pay. An exempt employee is paid on a weekly salary basis regardless of the number of hours worked, unless an absence is taken when the employee has no remaining paid leave balances or when the employee is on furlough leave. In rare instances, and with the approval of the city manager, an exempt employee may receive his or her regular rate of pay for overtime worked.

(b) Absence. Pursuant to the principles of public accountability and depending upon the reason for the absence, an absence of an exempt employee may be charged to administrative leave, sick leave, vacation leave, compensatory leave, furlough leave, mandatory city leave, family leave, court leave, death-in-family leave, military leave, or ~~[, if no paid leave balances remain,]~~ leave without pay.

(c) Prorated salary. If part of a week is taken as leave without pay, a proportionate part of the weekly salary will be paid to an exempt employee for the hours worked or charged to paid leave. A proportionate part of the weekly salary will be paid to an exempt employee for the part of the week worked in the initial or terminal week of employment."

SECTION 11. That Section 34-21, "Distribution of Pay Checks," of Article II, "Compensation," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:



**“SEC. 34-21. DISTRIBUTION OF PAY CHECKS.**

(a) Administration. The city controller is responsible for proper distribution of pay checks. Any discrepancy in a pay check resulting in overpayment or otherwise should be brought to the attention of the employee’s supervisor and/or the human resources representative for [payroll clerk in] the employee's department. The employee shall also report the discrepancy to the city controller payroll section.

(b) Payday. Friday is the official payday of the city.

(c) Pay information for the appropriate payroll will be made available electronically to employees immediately after payroll processing is completed. This electronic information is provided in lieu of paper pay stubs and may be accessed from any computer with internet access. If necessary, signature pay [Pay] checks will be released on or about 2:00 p.m. Friday [Thursday] by the city controller [only] to authorized departmental personnel or directly [—Pay checks may be released] to payee employees[; at the discretion of the department, after 2:00 p.m. Thursday or anytime Friday].”

SECTION 12. That Article III, “Leave Policies,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended by adding Section 34-21.1, “General,” to read as follows:

**“SEC. 34-21.1. GENERAL.**

The provisions of this article may be modified by a city council ordinance or resolution adopting a meet and confer or collective bargaining agreement. If any provision of this article conflicts with a provision of a meet and confer or collective bargaining agreement adopted by the city council, the provision of the meet and confer or collective bargaining agreement will prevail.”

SECTION 13. That Section 34-22, “Sick Leave,” of Article III, “Leave Policies,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 34-22. SICK LEAVE.**

(a) Eligibility. Every permanent employee accrues and may use sick leave upon initial appointment.

(b) Reappointments. A person reappointed as a city employee under conditions described in Section 34-10(a)(1) or (a)(2) retrieves sick leave credit accumulated before the person’s previous termination from city employment and is entitled to both accrue and use sick leave after reappointment.

(c) Sworn employee's sick leave eligibility.

(1) A sworn employee of the police or fire department may take 30 sick leave days each calendar year. This amount shall not exceed 360 hours for a sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department and 240 hours for every other sworn employee of the police or fire department.

(2) Any sick leave days taken in excess of the number that, under Subsection (d), can be accrued during a year will be subtracted from the employee's accrued sick leave balance.

(d) Accrual. Every permanent employee accrues sick leave each year as follows:

(1) A sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department accrues six hours each bi-weekly pay period, to a maximum of 144 hours annually.

(2) A sworn employee in the communications bureau of the fire department accrues four hours each bi-weekly pay period, to a maximum of 96 hours annually.

(3) Every other bi-weekly paid employee accrues five percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 96 hours annually.

(4) Every weekly paid employee accrues five percent of hours paid up to 40 in each weekly pay period, to a maximum of 96 hours annually.

(e) Maximum accrual. The maximum sick leave that may be accrued is 2,160 hours for a sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department and 1,440 hours for any other employee. When an employee's accrued sick leave reaches the maximum number of hours, the accrual ceases until the employee takes sick leave hours.

(f) Computation of sick leave taken. An absence charged to sick leave will be for the number of hours in the standard work day and will not include overtime whether scheduled or not. An absence charged to sick leave for a sworn employee of the emergency response [~~fire control and rescue operation~~] bureau of the fire department will be made on the basis of 24 hours for each scheduled work shift.

(g) Increments. Sick leave may be taken in increments of six hours by a nonexempt sworn employee of the emergency response [~~fire control and rescue operations~~] bureau of the fire department, or in lesser increments subject to departmental approval, and in increments of one-tenth hour for every other nonexempt city employee. An exempt employee must take sick leave in one-hour increments.

(h) Sick leave usage. Sick leave may only be granted or taken when:

(1) an employee is incapacitated for the performance of duties due to an illness, surgical procedure, or off-job injury;

(2) a medical, dental, or optical examination or treatment is necessary, provided that prior approval of the supervisor is obtained;

(3) an employee is incapacitated by or recovering from pregnancy, miscarriage, abortion, or childbirth;

(4) it is necessary to care for an immediate family member who is ill or incapacitated;

(5) an employee has been exposed to a contagious disease, meaning one that would warrant quarantine by a health officer, and the employee's presence on the job would jeopardize the health of others;

(6) it is allowed under the city's wage supplementation plan; or

(7) it is allowed under the city's administrative directives governing the administration of the Family and Medical Leave Act.

(i) Notice of unexpected absence.

(1) Notice of absence due to an illness, injury, or any other unexpected reason must be given in the following manner:

(A) Every employee, except one covered by Paragraph (1)(B) of this subsection, must give notice to the employee's supervisor from within two hours before to within 30 minutes after starting time, depending upon departmental procedures. The supervisor may require the employee to report on each succeeding day of absence.

(B) An employee in a department with a 24-hour, seven-day work schedule must give notice to the employee's supervisor at least one hour before reporting time on the first day of the absence and, if required by the supervisor, on each succeeding day of absence.

(2) Failure to give the notice required in this subsection may result in the employee being declared absent without leave and subject to disciplinary action.

(j) Physician's statement. Upon request by a supervisor, a department director, or the director of human resources, an employee may be required to:

(1) furnish a statement from an attending physician demonstrating the existence of circumstances described in Subsection (h)(1), (2), (3), (4), or (5) of this section; or

(2) submit to a physical or mental examination by a health care provider (including but not limited to a physician or psychologist) selected by the city.

(k) Refusal to return from sick leave. An employee who is released by the treating physician to return to regular or limited duty and who refuses to report for work or perform assigned duties is subject to disciplinary action.

(l) Holidays. If an official holiday occurs during a period of illness, an employee will be charged for the holiday instead of for sick leave.

(m) Illness during vacation. If an employee becomes ill while taking vacation leave, the period of illness may be charged as sick leave and the charge against vacation leave will be reduced accordingly. A request for this substitution must be made within two days after the employee's return to work and must be supported by a medical statement.

(n) Sick leave during suspension. An employee on suspension forfeits use and accrual of sick leave for the duration of the suspension. Upon completion of the suspension, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before sick leave credit and accrual may be restored.

(o) Sick leave during leave without pay. An employee on leave without pay forfeits use and accrual of sick leave for the duration of the leave without pay, except to the extent that the leave without pay is authorized by the Family and Medical Leave Act. Upon completion of the leave without pay, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before sick leave credit and accrual may be restored.

(p) Military service. Sick leave for an employee performing duties in the military service is governed by Section 34-30 of this chapter and administrative directives established pursuant to that section.

(q) Sick leave adjustment for changes in work schedules. A sworn employee of the fire department will have any sick leave balance adjusted proportionately to reflect differences in work schedules when:

(1) the employee transfers to or from the emergency response [~~fire control and rescue operations~~] bureau of the fire department; or

(2) the employee's full-time regular work schedule is increased or decreased.

(r) Use of vacation leave when sick leave is exhausted. If an employee's sick leave balance is exhausted, the employee may use available vacation leave in cases of illness or injury.

(s) Advance sick leave. The director of a department [~~human resources~~] may approve a request for advance sick leave for an employee who has completed three consecutive years [~~the initial six months~~] of city employment and accumulated a minimum of 96 hours of sick leave prior to the occurrence of the condition for which the advance sick leave is needed. The employee shall provide an anticipated return to work date when making the request. The maximum advance of sick leave that may be granted may not exceed 120 hours for a sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department or 80 hours for any other employee. A request for advance sick leave will not be approved [~~considered~~] until all expendable paid leave is exhausted and the employee has no outstanding balance of previously-granted advance sick leave. If an employee who is indebted for unearned sick leave terminates, the employee shall refund the amount paid for the period of the advanced sick leave. No refund is required in cases of death or retirement for disability.

(t) Lump sum payment of sick leave.

(1) Retirement or 20 years' service. An employee shall be granted lump sum payment of sick leave remaining to the employee's credit in any amount that does not exceed 1,080 hours for a sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department or 720 hours for any other employee when the employee:

(A) retires from city employment and is immediately eligible to receive retirement payments; or

(B) terminates for any reason with 20 or more years of continuous full-time service, including any continuous full-time service retrieved under Section 34-10(a).

(2) Disability. Any employee who is placed on a disability pension shall be granted lump sum payment of any sick leave remaining to the employee's credit in any amount that does not exceed 1,080 hours for a sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department and 720 hours for any other employee. The appropriate pension board will determine the date of permanent disability. Use of sick leave will be discontinued and lump sum payment made effective on that date.

(3) Death. If an employee dies, the total accumulated sick leave in any amount that does not exceed 1,080 hours for a sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department and 720 hours for any other employee shall be computed with the final settlement of the employee's wages and paid in a lump sum to the employee's beneficiary or estate.

(4) Computation. Lump sum payment of sick leave is computed by multiplying the number of hours of sick leave to which an employee is entitled by the employee's regular rate of pay on the date of termination. An employee who elects to receive lump sum payment of sick leave upon termination and who is later reemployed with the city may not receive another lump sum payment of sick leave.

(5) Eligibility. An employee hired or rehired by the city on or after October 1, 2003 is not eligible for any lump sum payment of sick leave under this subsection.

(u) Family leave. An employee who is eligible for family leave under Section 34-24.1(b) may be required to deduct hours from the employee's sick leave balance to cover all or part of any absence from work for a family leave purpose described in Section 34-24.1(c) [(e)]."

SECTION 14. That Section 34-23, "Vacation Leave," of Article III, "Leave Policies," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 34-23. VACATION LEAVE.**

(a) Eligibility. Every permanent employee accrues vacation leave during the initial six months of city employment, but vacation leave may not be used until the initial six months of employment are completed. All vacation leave is forfeited if the employee terminates employment before completing the initial six months of employment.

(b) Reappointments. A person reappointed under conditions described in Section 34-10(a)(1) or (a)(2) accrues vacation leave at a rate determined by the number of years of continuous full-time service retrieved and may both accrue and use vacation leave during the initial six months of employment after reappointment.

(c) Accrual. Vacation leave accrues as follows:

(1) Every permanent employee with less than five years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response [~~fire control and rescue operation~~] bureau of the fire department accrues nine hours each bi-weekly pay period, to a maximum of 180 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues six hours each bi-weekly pay period, to a maximum of 120 hours annually.

(C) A sworn employee of the police department accrues 7.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 120 hours annually.

(D) Every other bi-weekly paid employee accrues 6.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 104 hours annually.

(E) A weekly paid employee accrues 6.5 percent of hours paid up to 40 in each weekly pay period, to a maximum of 104 hours annually.

(2) Every permanent employee with five years of service but less than nine years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response [~~fire control and rescue operation~~] bureau of the fire department accrues 10.2 hours each bi-weekly pay period, to a maximum of 204 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues 6.8 hours each bi-weekly pay period, to a maximum of 136 hours annually.

(C) A sworn employee of the police department accrues 8.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 136 hours annually.

(D) Every other bi-weekly paid employee accrues 7.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 120 hours annually.

(E) A weekly paid employee accrues 7.5 percent of hours paid up to 40 in each weekly pay period, to a maximum of 120 hours annually.

(3) Every permanent employee with nine years of service but less than 15 years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department accrues 10.8 hours each bi-weekly pay period, to a maximum of 216 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues 7.2 hours each bi-weekly pay period, to a maximum of 144 hours annually.

(C) Every other bi-weekly paid employee accrues nine percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 144 hours annually.

(D) A weekly paid employee accrues nine percent of hours paid up to 40 in each weekly pay period, to a maximum of 144 hours annually.

(4) Every permanent employee with 15 years of service but less than 19 years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department accrues 12 hours each bi-weekly pay period, to a maximum of 240 hours annually.

(B) A sworn employee in the communications bureau of the fire department accrues eight hours each bi-weekly pay period, to a maximum of 160 hours annually.

(C) Every other bi-weekly paid employee accrues 10 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 160 hours annually.

(D) A weekly paid employee accrues 10 percent of hours paid up to 40 in each weekly pay period, to a maximum of 160 hours annually.

(5) Every permanent employee with 19 or more years of service accumulates vacation leave as follows:

(A) A sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department accrues 13.8 hours each bi-weekly pay period, to a maximum of 276 hours annually.

(B) A sworn employee in communication bureau of the fire department accrues 9.2 hours each bi-weekly pay period, to a maximum of 184 hours annually.

(C) Every other bi-weekly paid employee accrues 11.5 percent of hours paid up to 80 in each bi-weekly pay period, to a maximum of 184 hours annually.

(D) A weekly paid employee accrues 11.5 percent of hours paid up to 40 in each weekly pay period, to a maximum of 184 hours annually.

(d) Maximum accumulation. An employee may accumulate vacation leave up to an amount equal to the employee's vacation leave entitlement for a two-year period. When accumulated vacation leave reaches the maximum allowed, the accrual ceases until vacation leave is taken.

(e) Acceleration and increased accrual limits. Upon the date of an employee's 5th, 9th, 15th and 19th service anniversary:

- (1) accrual of vacation leave will be accelerated; and
- (2) annual accrual limits of vacation leave will be increased.

(f) Incentive programs. In addition to vacation leave earned under this section, an employee may earn vacation leave under incentive programs approved by the city manager and adopted by the city council. ~~[If total vacation leave entitlement exceeds the maximum accumulation limitation of Subsection (d) as a result of vacation earned under an incentive program, further vacation accrual will cease until vacation leave is taken sufficient to reduce the total accrual below the maximum allowed.]~~

(g) Vacation usage [pay]. Vacation use [pay] is based on the employee's regular work day and the number of ~~[straight time]~~ hours the employee would have worked that day. If the employee is assigned to a standard work week, no more than [maximum of] 40 hours paid leave may be charged in one work [any payroll] week. If the employee is assigned to an approved alternate work schedule, the hours charged in one work week as paid leave may not exceed the maximum hours contained in the alternate work week during which the leave was taken. This subsection does not apply to sworn fire department shift personnel.

(h) Increments. With departmental approval, vacation leave may be taken in increments of six hours by a sworn employee in the emergency response ~~[fire control and rescue operations]~~ bureau of the fire department and in increments of one-tenth hour by any nonexempt city employee. An exempt employee must take vacation leave in one-hour increments.

(i) Selection of vacation time. A supervisor may grant vacation leave at a time during the year that will best serve the public interest. Preference may be given to an employee on the basis of length of service.

(j) Holidays. If an official holiday occurs during vacation leave, an employee will be charged for holiday leave instead of vacation leave. This subsection does not apply to a sworn employee of the emergency response ~~[fire control and rescue operations]~~ bureau or communications bureau of the fire department who is assigned to a 12-hour or 24-hour work shift.



(k) Death in family. An appropriate extension of death-in-family leave may be given for a death in an employee's family occurring while the employee is taking vacation leave.

(l) Vacation leave during suspension. An employee on suspension forfeits use and accrual of vacation leave for the duration of the suspension. Upon completion of the suspension, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before vacation leave credit and accrual may be restored.

(m) Vacation leave during leave without pay. An employee on leave without pay forfeits use and accrual of vacation leave for the duration of the leave without pay, except to the extent that the leave without pay is authorized by the Family and Medical Leave Act. Upon completion of the leave without pay, the employee must either physically return to work or, if ill, submit an approved doctor's statement justifying inability to return to work before vacation leave credit and accrual may be restored.

(n) Vacation leave in conjunction with leave without pay. Prior departmental approval must be obtained for any period of leave without pay taken in conjunction with a normal vacation. Favorable consideration will be given only to exceptional reasons.

(o) Pay in lieu of vacation leave. Vacation leave is provided for the specific purpose of allowing an employee a period of rest and recreation, and the practice of "selling" vacation leave is contrary to this purpose. Pay in lieu of vacation leave may only be granted in cases of extreme emergency and must be approved by the city council or city manager.

(p) Lump sum payment of vacation leave.

(1) Payment upon termination. An employee who terminates employment after the initial six months of employment shall be paid for vacation leave accrued but not taken.

(2) Retirement. An employee who retires will be paid in a lump sum for the period of vacation leave due the employee.

(3) Discharge. A discharged employee who has completed the initial six months of city employment will be paid for all accrued vacation leave in a lump sum at the end of the next complete pay period following the date of discharge. No credit will be given for a holiday that may have fallen within the vacation period had the vacation period been extended on the payroll.

(4) Death. Vacation leave accrued to the credit of an employee who dies will automatically be paid in a lump sum. Holidays occurring after the date of death will not be paid. Upon instructions from the city attorney's office, monies due the deceased employee will be delivered to the employee's beneficiary or estate.

(5) Computation. Lump sum payment of vacation leave is computed by multiplying the number of hours of vacation leave to which an employee is entitled by the employee's regular rate of pay on the date of termination from city employment.

(q) Vacation leave adjustment for changes in work schedules. A sworn employee of the fire department will have any vacation leave balance adjusted proportionately to reflect differences in work schedules when:

(1) the employee transfers to or from the emergency response [~~fire control and rescue operations~~] bureau of the fire department; or

(2) the employee's full-time regular work schedule is increased or decreased.

(r) Family leave. An employee who is eligible for family leave under Section 34-24.1(b) may be required to deduct hours from the employee's vacation leave balance to cover all or part of any absence from work for a family leave purpose described in Section 34-24.1(c) [(e)]."

SECTION 15. That Section 34-24.1, "Family Leave," of Article III, "Leave Policies," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-24.1. FAMILY LEAVE.**

(a) Federal regulations. The terms used in this section that are not defined in Section 34-4 of this chapter have the meanings given them in the Family and Medical Leave Act and Part 825, Title [Volume] 29 of the Code of Federal Regulations, as amended. All interpretations and applications of this section must be made in compliance with the minimum requirements of the Family and Medical Leave Act and Part 825, Title [Volume] 29 of the Code of Federal Regulations, as amended. If any provision of this section conflicts with a provision of the federal law governing family leave, the federal law prevails.

(b) Eligibility. Every employee is eligible for family leave if the employee has:

(1) been [~~continuously~~] employed by the city for at least 12 months; and

(2) worked at least 1,250 hours during [(~~excluding paid and unpaid leave~~) in] the 12-month[s] period immediately preceding the commencement [~~use~~] of family leave.

(c) [~~Amount of family leave. Except as provided in Subsection (d), every eligible employee may take up to 12 work weeks of paid or unpaid family leave during a 12-month period. The 12-month period is measured forward from the date the employee takes the first day of family leave.~~

(d) ~~When a husband and wife both work for the city.~~

(1) ~~A husband and wife who are employed by the city and eligible for family leave are limited to a combined total of 12 weeks of leave during any 12-month period when the leave is taken:~~

~~(A) for the birth of the employee's son or daughter or to care for the child after birth;~~

~~(B) for the placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement; or~~

~~(C) to care for the employee's parent with a serious health condition.~~

~~(2) When the husband and wife both use a portion of the combined total 12-week family leave for one of the purposes in Paragraph (1) of this subsection, the husband and wife are each eligible for an amount of family leave equal to the difference between 12 weeks and the time each took individually under Paragraph (1), which remaining family leave may be used for a purpose other than one contained in Paragraph (1).~~

~~(e)]~~ When family leave may be taken. An eligible employee may take family leave only in the following circumstances:

(1) for the birth of the employee's son or daughter or to care for the child after its birth;

(2) for the placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement;

(3) to care for a spouse, son, daughter, or parent of the employee, if the spouse, son, daughter, or parent has a serious health condition; ~~[or]~~

(4) for a serious health condition that makes the employee unable to perform the functions of the employee's position;

(5) for any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member who is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation; or

(6) to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

~~(d) [(f)]~~ Administration of family leave. Specific procedures and requirements for the administration of the Family and Medical Leave Act are outlined in the administrative directives of the city. No procedure or requirement adopted by administrative directive may conflict with the Family and Medical Leave Act or Part 825, Title 29 of the Code of Federal Regulations, as amended.

~~(e) [(g)]~~ Disciplinary action. Disciplinary action, up to and including discharge from city employment, may be taken against an employee who:

(1) falsifies or misrepresents any facts in order to obtain family leave; or

(2) shares confidential medical information relating to a request for family leave with any person not authorized to receive the information.”

SECTION 16. That Section 34-25, “Holidays,” of Article III, “Leave Policies,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 34-25. HOLIDAYS.**

(a) Days designated.

(1) The following official holidays will be observed:

(A) [(+)] New Years Day (January 1);

(B) [(2)] Martin Luther King's Birthday (third Monday in January);

(C) [(3)] President's Day (third Monday in February)

(D) [(4)] Memorial Day (last Monday in May);

(E) [(5)] Independence Day (July 4);

(F) [(6)] Labor Day/Cesar E. Chavez Day (first Monday in September);

(G) [(7)] Thanksgiving Day (fourth Thursday in November);

(H) [(8)] Day after Thanksgiving/September 11<sup>th</sup> Remembrance Day [(fourth Friday in November)]; and

(I) [(9)] Christmas Day (December 25).

(2) Additional holidays may be granted by ordinance or resolution [~~upon approval~~] of the city council at the recommendation of the city manager.

(b) Holiday pay. Paid holidays are extended to every permanent employee. A temporary employee is extended the official holiday, but without pay, except that a temporary employee who is assigned to work on the official holiday will be paid for the hours worked. A full-time employee receives holiday pay equal to the employee's standard work day. A part-time employee receives holiday pay prorated on the basis of the average number of paid hours credited to the employee in the four payroll weeks preceding the holiday. For the purpose of calculating overtime, holidays are included as hours worked.

(c) Fire department. A sworn employee in the emergency response [~~fire control and rescue operations~~] bureau of the fire department will receive the equivalent of nine holidays a year in accordance with departmental regulations.

(d) Weekend holidays. When an official holiday falls on a weekend, the following alternative schedule applies:

(1) A holiday that falls on a Saturday will be taken the Friday before the holiday.

(2) A holiday that falls on a Sunday will be taken the Monday after the holiday.

(e) Worked holidays. In a department in which employees regularly work on holidays, the department shall arrange schedules to allow each employee who works on the holiday a substitute holiday either before or after the holiday, but within a reasonable period of time. If the department cannot arrange a substitute holiday, the employee will be paid for hours equal to the employee's standard workday. This subsection does not apply to sworn fire department shift personnel.

(f) Loss of holiday pay. An employee will not receive pay for a holiday if the employee is:

(1) on unapproved leave without pay either the day before or the day following an official holiday;

(2) on unapproved leave without pay on a holiday on which the employee is normally scheduled to work; or

(3) on approved leave without pay the day before and the day following an official holiday, except to the extent the leave is authorized by the Family and Medical Leave Act.

(g) Holiday during vacation or sick leave. When an official holiday occurs during an employee's vacation leave or sick leave, the employee will be charged for the holiday and no deduction from the employee's vacation or sick leave balance will be made for the holiday.

(h) Holiday during injury leave. Any employee who is on [~~wage supplementation for an~~] injury leave when a holiday occurs will be paid workers' compensation and will be charged for the holiday up to the number of hours needed to supplement the employee's pay. If the employee is on [5] wage supplementation, no wage supplementation payments will be received for the [or both in lieu of] holiday [pay]. No compensation will be provided for unused holiday time.

(i) Holiday during other leave. An employee on military leave, court leave, or death-in-family leave when a holiday occurs may take the holiday at a subsequent date convenient to the department.

(j) Death or discharge. Since final settlement of monies due an employee separated from the payroll because of death or discharge is paid in a lump sum, no holiday occurring after the date of death or discharge will be included in the determination of the settlement."

SECTION 17. That Article III, "Leave Policies," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended by adding Section 34-31.1, "Mandatory City Leave," to read as follows:

**"SEC. 34-31.1 MANDATORY CITY LEAVE**

(a) Eligibility. In a fiscal year in which mandatory city leave is authorized, every permanent employee will receive a bank of paid leave in accordance with policies approved by city council ordinance or resolution. This leave will be provided to and may be used by all permanent employees, including those in the initial six months of city employment.

(b) Carry-over provisions. Mandatory city leave must be used in the fiscal year in which it is established. Any mandatory city leave that is not used by the end of the fiscal year will be forfeited, and no compensation will be provided for the unused leave.

(c) Mandatory city leave usage. Mandatory city leave use is based on an employee's regular work day and the number of hours the employee would have worked that day. For the purpose of calculating overtime, mandatory city leave hours are included as hours worked.

(d) Increments. With departmental approval, a city employee may take mandatory city leave in one-hour increments.

(e) Official mandatory city leave days.

(1) Official mandatory city leave days established. At the recommendation of the city manager, the city council may, by ordinance or resolution, establish fixed official mandatory city leave days when city offices are officially closed. Except as specifically provided otherwise in this subsection, an employee must use mandatory city leave on these days.

(2) Worked official mandatory city leave days. In a department in which employees regularly work on an official mandatory city leave day, the department shall arrange schedules to allow each employee who works on an official mandatory city leave day a substitute day either before or after the official mandatory city leave day, but within a reasonable period of time. This subsection does not apply to sworn fire department shift personnel.

(3) Official mandatory city leave day during vacation or sick leave. When an official mandatory city leave day occurs during an employee's vacation leave or sick leave, the employee will be charged for mandatory city leave and no deduction from the employee's vacation or sick leave balance will be made for the official mandatory city leave day.

(4) Official mandatory city leave day during injury leave. Any employee who is on injury leave when an official mandatory city leave day occurs will be paid workers' compensation and will be charged for mandatory city leave up to the number of hours needed to supplement the employee's pay. If the employee is on wage supplementation, no wage supplementation payments will be received for the official mandatory city leave day. Any unused mandatory city leave hours may be taken on a subsequent date convenient to the department.

(5) Official mandatory city leave day during other leave. An employee on military leave, court leave, or death-in-family leave when an official mandatory city leave day occurs may take the mandatory city leave on a subsequent date convenient to the department.

(6) Official mandatory city leave during suspension. An employee on suspension when an official mandatory city leave day occurs will not be paid for the official mandatory city leave day but may take the mandatory city leave on a subsequent date convenient to the department.

(7) Official mandatory city leave during leave without pay. An employee on leave without pay when an official mandatory city leave day occurs may take the mandatory city leave on a subsequent date convenient to the department.

(f) Floating mandatory city leave days.

(1) At the recommendation of the city manager, the city council may, by ordinance or resolution, establish floating mandatory city leave days that may be used at an employee's discretion with a supervisor's approval. These days are in addition to any official mandatory city leave days established for the fiscal year.

(2) A supervisor may grant floating mandatory city leave at a time during the year that will best serve the public interest. Preference may be given to an employee on the basis of length of service.

(3) An employee on injury leave who is not receiving wage supplementation may use mandatory city leave like other paid leave to supplement the employee's pay.

(g) Lump sum payment of mandatory city leave. No payment will be provided for unused mandatory city leave when an employee terminates employment, regardless of the reason for the termination.

(h) Mandatory city leave adjustment for changes in work schedules. A sworn employee of the fire department will have any mandatory city leave balance adjusted proportionately to reflect differences in work schedules when:

(1) the employee transfers to or from the emergency response bureau of the fire department; or

(2) the employee's full-time regular work schedule is increased or decreased.

(i) Family leave. An employee who is eligible for family leave under Section 34-24.1(b) may be required to deduct hours from the employee's mandatory city leave balance to cover all or part of any absence from work for a family leave purpose described in Section 34-24.1(c).

SECTION 18. That Section 34-32, "Health Benefits," of Article IV, "Benefits," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-32. HEALTH BENEFITS.**

(a) The city extends participation in a health benefit program to every permanent full-time and permanent part-time employee and to every city council member. A temporary employee is not eligible to participate in the health benefit program.

(b) Eligibility, premium rates, and procedures for participation in the health benefit program for active and retired employees are defined in master plans adopted by the city council and on file with the department of human resources. The city may change the health benefit program at any time, subject to applicable law.

(c) Notice of retirees' rights to purchase continued health benefits.

(1) Under Chapter 175 of the Texas Local Government Code, as amended, a person who retires from the city and is entitled to receive city retirement benefits is entitled to purchase continued health benefits coverage from the city for the person and any eligible dependents, unless the person is eligible for group health benefits coverage through another employer.

(2) To receive continued health benefits coverage, the person must inform the city, not later than the day on which the person retires, of the election to continue coverage.

(3) If the person elects to continue health benefits coverage for the person and/or any dependents and on any subsequent date elects to discontinue that coverage, then the person is no longer eligible for coverage from the city.

(4) If a person is not participating in the city's health benefit program at the time the person retires from the city, the person is not eligible for continued health benefits coverage.

(5) A person hired as a city employee on or after January 1, 2010 who retires from the city may participate in the retiree health benefit program but the cost of the continued health benefits coverage must be paid entirely by the person.



SECTION 19. That Section 34-36, "Rules of Conduct," of Article V, "Rules of Conduct," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-36. RULES OF CONDUCT.**

(a) Performance standards.

(1) Every employee is expected to consistently maintain satisfactory performance standards. Continuing performance deficiencies, unlike the isolated rule violations noted in Subsections (b) and (c) of this section, should first be addressed by the mutually cooperative efforts of the supervisor and the employee.

(2) If performance standards are not met, the employee is subject to a formal disciplinary action of reprimand, suspension, demotion, or discharge. The specific action taken determines what, if any, appeal rights are available to the employee.

(b) Unacceptable conduct. The following types of conduct are unacceptable and may be cause for corrective discipline in the form of reprimand, suspension, demotion, or discharge depending upon the facts and circumstances of each case. The examples given are typical but not all-inclusive.

(1) Unsatisfactory attendance is exemplified by, but is not limited to, the following violations:

(A) unexcused absence or tardiness;

(B) failure to give notice of an absence or tardiness to the supervisor from within two hours before to within 30 minutes after starting time, as prescribed by departmental procedure;

(C) excessive separate absences or tardiness;

(D) absence or tardiness that causes service reduction or disruption; or

(E) excessive amounts of time off the job, regardless of the reason.

(2) Position abandonment occurs when an employee is absent from a position for three consecutive work days without authorization, or refuses an order to report to work. The employee is deemed to have abandoned the position and may be discharged.

(3) Inability to come to work occurs when an employee is absent due to an extended illness or injury after sick leave and wage supplementation have been exhausted.

(4) Inability or unwillingness to perform assigned work satisfactorily is exemplified by, but is not limited to, the following violations:

- (A) failure to follow written or verbal instructions;
- (B) arguing over assignments or instructions; or
- (C) other deficiencies indicating the employee's failure to adequately perform the responsibilities of the position.

(5) Indifference towards work is exemplified by, but is not limited to, the following violations:

- (A) inattention, inefficiency, loafing, sleeping, carelessness, or negligence;
- (B) failure to remain at one's work station, leaving work without permission, or taking excessive time for eating or break periods;
- (C) performance of personal business, including but not limited to excessive use of personal cell phones, blackberries, PDAs, or other electronic devices while on duty;
- (D) interference with the work of others; or
- (E) discourteous or irresponsible treatment of the public or other employees.

(6) Sabotage is exemplified by, but is not limited to, the following violations:

- (A) deliberate damage to or destruction of city equipment or property;
- (B) defacing of city property;
- (C) unauthorized alteration, removal, destruction, or disclosure of city records;
- (D) advocacy of or participation in unlawful trespass or seizure of city property;
- (E) encouraging or engaging in slowdowns, sit-ins, strikes, or other concerted actions or efforts to limit or restrict employees from working;
- (F) refusal to cross picket lines;
- (G) interference with the public use of or access to city services, properties, or buildings; or

(H) threats to commit any act of sabotage as defined in this paragraph.

violations: (7) Safety violations are exemplified by, but are not limited to, the following

(A) failure to follow city or departmental safety rules and regulations;

(B) failure to use required safety apparel;

(C) removal or circumvention of a safety device;

(D) lifting in an unsafe manner;

(E) operation of a vehicle or other equipment in an unsafe manner;

(F) smoking in a prohibited area;

(G) endangering of one's own safety or that of others by careless or irresponsible actions or negligence;

(H) failure to report an on-the-job injury, vehicle accident, or unsafe work conditions; [or]

(I) failure of a supervisor to remove from the workplace or to assist to a safe location an employee whose mental capabilities are impaired due to injury, illness, alcohol or drug use, or emotional distress;

(J) failing a city-required drug or alcohol test; or

(K) texting or emailing while operating a motor vehicle on city business.

violations: (8) Dishonesty is exemplified by, but is not limited to, the following

(A) acceptance of money or anything of value from a person subject to the regulatory decision or supervision of the employee;

(B) cheating, forging, or willful falsification of official city reports or records;

(C) false reporting of the reason for paid leave of absence; or

(D) any other falsifying action detrimental to the city or fellow employees.

(9) Theft, regardless of item value, is exemplified by, but is not limited to, the following violations:

- (A) unauthorized taking of city property or the property of others;
- (B) unauthorized use of city or employee funds;
- (C) using or authorizing the use of city equipment or employee services for other than official city business; or
- (D) using or authorizing the use of city equipment or employee services without proper authority.

(10) Insubordination is exemplified by, but is not limited to, the following violations:

(A) willful failure or refusal to follow the specific orders or instructions of a supervisor or higher authority; provided that:

(i) if the employee believes an instruction or order is improper, the employee should obey the instruction or order and file a grievance later; or

(ii) if the employee believes the instruction or order, if followed, would result in physical injury to the employee or others or damage to city equipment, the employee should request approval by the next higher level of supervision before performing the work, unless the danger complained about is inherent to the job;

(B) pursuit of a denied request to a higher authority without revealing the lower level disposition[; provided that:

~~(i) if the employee believes an instruction or order is improper, the employee should obey the instruction or order and file a grievance later; or~~

~~(ii) if the employee believes the instruction or order, if followed, would result in physical injury to the employee or others or damage to city equipment, the employee should request approval by the next higher level of supervision before performing the work, unless the danger complained about is inherent to the job]; or~~

(C) failure to submit to a drug and/or alcohol test when ordered to do so.

(11) Abuse of drugs or alcohol.

(A) Abuse of drugs or alcohol is exemplified by, but is not limited to, the following violations:

(i) an employee is unable to perform duties in an effective and safe manner due to:

- (aa) ingestion, inhalation, or injection of a drug; or
- (bb) ingestion of an alcoholic beverage;
- (ii) an employee possesses, ingests, inhales, or injects into the employee's body a drug:
  - (aa) during working hours;
  - (bb) in a city vehicle; or
  - (cc) on city property;
- (iii) an employee possesses or ingests an alcoholic beverage:
  - (aa) during working hours;
  - (bb) in a city vehicle; or
  - (cc) on city property, except at an authorized city event;
- or
- (iv) an employee tests positive on a drug or alcohol test.

(B) In this paragraph:

(i) "Drug" means a controlled substance as defined by Chapter 481 [Section 1.02] of the Texas Health and Safety Code [~~Controlled Substances Act~~].

(ii) "Alcoholic beverage" means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, that is capable of use for beverage purposes, either alone or when diluted.

(C) An employee or a city council member may be required to take a drug or alcohol test, administered in accordance with directives established by the city manager and reviewed by the city attorney, if there is reasonable suspicion that:

- (i) the employee or city council member has ingested, inhaled, or injected a drug into the employee's or city council member's body or ingested an alcoholic beverage; and
- (ii) the presence of the drug or alcoholic beverage in the body of the employee or city council member has made the employee or city council member unfit for work, compromised the performance of the job duties of the employee or city council member, or created a safety hazard.

(D) An employee who is ordered to submit to a drug and/or alcohol test and refuses to do so, or submits a false specimen for testing, will be discharged for insubordination.

(E) An employee who tests positive for drugs or alcohol may be discharged.

(12) Disturbance is exemplified by, but is not limited to, the following violations:

- (A) fighting or boisterous conduct;
- (B) deliberate causing of physical injury to another employee or citizen;
- (C) intimidation;
- (D) unnecessary disruption of the work area;
- (E) use of profane, obscene, abusive, threatening, or loud and boisterous language;
- (F) [~~sexual~~] harassment as defined in the administrative directives of the city;
- (G) spreading of false reports; or
- (H) other disruption of the harmonious relations among employees or between employees and the public.

(13) Abuse of city property.

(A) Abuse of city property is exemplified by, but is not limited to, the following violations:

- (i) negligent damage or destruction of city equipment or property;
- (ii) waste of materials or negligent loss of tools or materials;
- (iii) improper maintenance of equipment; or
- (iv) damage caused by use of tools or equipment for purposes other than that for which the tool or equipment was intended.

(B) In addition to being subject to appropriate disciplinary action, an employee shall be responsible for the repair or replacement of any item willfully or recklessly damaged by the employee. Failure to reimburse the city is cause for discharge.

(14) Misconduct is any conduct or criminal offense, during or off working hours, that, on becoming public knowledge, could have an adverse effect on the city or on the confidence of the public in city government.

(15) Disregard of public trust is any conduct, during or off working hours, that, on becoming public knowledge, could impair the public's confidence or trust in the operation of city government.

(16) Possession of weapons.

(A) Possession of a weapon capable of causing serious bodily injury is prohibited on city property, unless specifically authorized and work related.

(B) In this paragraph, a weapon capable of causing serious bodily injury means, but is not limited to:

- (i) any firearm;
- (ii) any illegal knife, including but not limited to:
  - (aa) a knife with a blade over five and one-half inches;
  - (bb) a hand instrument designed to cut or stab another by being thrown;
  - (cc) a dagger, including but not limited to a dirk, stiletto, or poniard;
  - (dd) a bowie knife;
  - (ee) a sword; and
  - (ff) a spear;
- (iii) a switchblade knife;
- (iv) any club, including but not limited to:
  - (aa) a blackjack;
  - (bb) a nightstick;
  - (cc) a mace; and

- (dd) a tomahawk;
- (v) any explosive weapon or device;
- (vi) a firearm silencer;
- (vii) knuckles;
- (viii) ammunition;
- (ix) a zip gun;
- (x) any chemical dispensing device; ~~and~~
- (xi) any caustic or corrosive liquid, such as acid or lye, capable of causing serious bodily harm; and
- (xii) a taser.

(C) All other terms used in this paragraph have the meanings respectively given to them in the Texas Penal Code, as amended.

(D) An employee's personal belongings located on city property may be searched if there is reasonable suspicion that the employee is in possession of a weapon capable of causing serious bodily injury on city property.

(E) Small personal canisters of pepper spray are permitted.

(F) Every employee should refer to specific procedures, requirements, and definitions regarding possession of weapons that are additionally outlined in the administrative directives of the city.

(17) Failure to maintain dress, grooming, and personal hygiene standards appropriate to the employee's work situation.

(18) Violation of an administrative directive of the city or a departmental rule or procedure.

(19) Failure to report a violation is exemplified by, but not limited to, failure to report to the proper authority any known violation described in this subsection within 10 working days after obtaining knowledge of the violation.

(c) Conflict of interest and undue political influence.

(1) Conflict of interest rules. Conflict of interest rules prohibit activities that tend to compromise an employee's allegiance to the city. These rules are set forth in Chapter 12A, "Code of Ethics," of this code and in Section 11, Chapter XXII of the city charter.



(2) Undue political influence in a city council election. To avoid undue influence of a city employee on the outcome of a Dallas city council election, and to avoid undue influence of city council members or candidates on a city employee, an employee or employee association shall comply with the regulations set forth in Chapter 12A, "Code of Ethics," of this code, Section 16(b), Chapter XVI of the city charter, and any applicable court decisions.

(3) Non-city council elections. In an election other than a Dallas city council election, an employee shall comply with the regulations set forth in Chapter 12A, "Code of Ethics," of this code, Section 16(c), Chapter XVI of the city charter, and any applicable court decisions.

(d) Disciplinary and legal actions. Where the evidence supports a violation of this section, disciplinary action may be taken independently of and prior to any legal action or conviction."

SECTION 20. That Subsection (c) of Section 34-38, "Grievance and Appeal Procedures," of Article VI, "Discipline, Grievance, and Appeal Procedures," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

"(c) Terms and conditions.

(1) An employee who may appeal a grievance or disciplinary action may have two levels of appeal hearings but no more than a total of four hearings. Appeals of demotions or terminations to the civil service trial board or an administrative law judge are counted as one level of appeal hearing.

(2) A grievance or a disciplinary appeal may be heard during regularly scheduled working hours without loss of pay to the employee, provided the privilege is not abused.

(3) Preparation of a grievance or a disciplinary appeal, except for seeking assistance from the department of human resources, is not permitted during the employee's working hours.

(4) A sworn member of the police department or fire department may appeal a grievance only through Step 3, except that the grievance may be appealed beyond Step 3 if it involves:

(A) a claim of discrimination because of the employee's race, color, religion, sex, sexual orientation, national origin, age, or disability as it affects the employee's training, promotion, advancement, or transfer; or

(B) a claim relating to an interpretation or application of a civil service rule.

(5) Except for the final step in appealing a suspension, demotion, or discharge, a hearing under these procedures is an informal discussion held without the taking of a written record. An employee must be willing to discuss the evidence and answer questions concerning the grievance or appeal at each step. Failure to discuss the facts of the case at any informal level of these procedures will constitute withdrawal of the grievance or appeal and will cause the last decision rendered to become nonappealable.

(6) An employee may seek assistance or representation in presenting a grievance or an appeal at any step. Guidance and assistance on the grievance or appeal procedures may be obtained from the department of human resources. If another employee is selected to provide assistance or representation on the grievance or appeal, that employee is not eligible for regular pay but may be released on vacation leave or leave without pay, depending upon departmental procedure. The supervisor may also obtain assistance or representation.

(7) The days used to establish time limits in this section are working days. Time limits begin to run the working day following the incident, event, hearing, or notice. Unless otherwise provided, the time limits for grievance or appeal requests require that the grievance or appeal request actually be received within that time period by the office designated as the next step for the grievance or appeal.

(8) Unless due to reasons beyond the employee's control, if an employee fails to file a grievance or an appeal within the time limits prescribed in Subsection (f) of this section or fails to personally appear at a hearing, the matter will be considered as having been accepted and the last decision rendered will be nonappealable.

(9) If the hearing of a grievance or an appeal is not held within 20 working days after the date the request is received (unless the hearing date is extended by mutual agreement or for extraordinary circumstances such as a death in the family or documented illness), the employee requesting the hearing may proceed to the next level of appeal. The city manager, park board, civil service board, trial board, and administrative law judge hearing processes are excluded from this time limitation.

(10) If a disposition of a grievance or an appeal is not issued within the specified time limit, the employee may proceed to the next step, if applicable, by filing a grievance or appeal request to the next step within 20 working days after the date of the last hearing in the grievance or appeal process. If the employee fails to timely file a grievance or appeal request to the next step, the last disposition of the grievance or appeal is nonappealable.

(11) Any time limit specified in the procedures under this section may be extended by mutual agreement.

(12) A grievance filed against a department other than the employee's own department must be brought to the director of the charged department and is initiated at Step 3 of these procedures. The charged department is responsible for keeping the employee's own department informed of progress at each step of the grievance or appeal and for supplying the employee's department with copies of the findings.

(13) An employee who has not completed probation, when required, after appointment or reappointment to city employment may not file an appeal of a disciplinary action. An employee who has not completed probation, when required, after a promotion may not appeal a demotion.

(14) An employee shall not be subject to retaliation for using the grievance or appeal procedures.

(15) An appeal concerning a job performance rating, efficiency rating, or merit rating may not proceed beyond Step 3 unless the person issuing the job performance rating is a department director. In that case, the employee may appeal to an assistant city manager or, if the department reports to a board or commission, to a designated board or commission member.

(16) An appeal of a reprimand may not proceed beyond Step 3 unless the person issuing the reprimand is a department director. In that case, the employee may appeal to an assistant city manager or, if the department reports to a board or commission, to a designated board or commission member.

(17) The right to grieve ends if the employee terminates employment with the city.

(18) An employee may not grieve a position classification.

(19) ~~[When the same issues that are being appealed or grieved are the subject of federal or state litigation or a charge filed with the Equal Employment Opportunity Commission or the Texas Commission on Human Rights, the hearing officer has the discretion to postpone the hearing until the court or agency determines the issues.]~~

~~(20)~~ The city vehicle collision appeal process will be administered in accordance with any applicable provisions of this chapter and with specific procedures and requirements outlined in the administrative directives of the city.

(20) An employee who files a grievance and subsequently files an appeal of the disposition of that grievance shall submit a copy of the original grievance at all levels of appeal."

SECTION 21. That Subsection (f)(1) of Section 34-38, "Grievance and Appeal Procedures," of Article VI, "Discipline, Grievance, and Appeal Procedures," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

"(1) Step 1. An employee who has a grievance shall, within 10 working days from the date of the occurrence that caused the grievance, or from the date the employee first had knowledge of the occurrence, request in writing a discussion of the grievance with the employee's immediate supervisor. The employee must also send a copy of the grievance to the department of human resources. A careful review of the charges and evidence or of the action or

omission will be conducted. The supervisor shall respond in writing to the employee, stating the disposition of the grievance, within 10 working days after the discussion. If the grievance alleges a violation of the administrative directives on harassment and/or workplace violence and the immediate supervisor is a direct party in the alleged incident, the employee may file the grievance with the next higher level of supervision above the immediate supervisor. This step does not apply to the appeal of a disciplinary action.”

SECTION 22. That Subsection (b)(5) of Section 34-39, “Appeals to the Civil Service Board,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended to read as follows:

“(5) Request for subpoenas. At least 20 [10] working days before the hearing, each party may file with the secretary a request for subpoena of witnesses and documents, in accordance with the following:

(A) The request for subpoena of witnesses and documents must include:

- (i) the name and address of each witness to be subpoenaed;
- (ii) if a witness is a city employee, the name of the employee's department; and
- (iii) the specific identification of books, papers, documents, or other tangible things sought to be subpoenaed.

(B) The party requesting the subpoena shall notify the subpoenaed witness of postponements, rescheduling, and appearance times.

(C) The board has the power to compel the attendance of witnesses and the production of testimony and evidence, to administer oaths, and to punish for contempt in the same manner as provided for municipal judges.”

SECTION 23. That Subsection (f) of Section 34-39, “Appeals to the Civil Service Board,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended to read as follows:

“(f) Other matters.

(1) ~~[If litigation in state or federal court that involves an issue in the grievance or complaint is commenced before, during, or after the civil service board hearing, the board's jurisdiction is suspended until judgment has been entered, and all time periods specified in this section are tolled during the suspension.]~~

~~(2)~~ If a court of law rules on an issue involved in the grievance or complaint, the board's order must conform with the court's ruling or must be vacated in deference to the court's ruling, whichever is applicable.

(2) ~~(3)~~ The board may order, with the consent of the parties, that any matters having common issues of fact be consolidated.

~~[(4)]~~ ~~Reserved.~~

(3) ~~(5)~~ No party or party representative shall communicate with any board member regarding the issues involved in the grievance or complaint except at the hearing.

(4) ~~(6)~~ The board, by majority vote, may seek advice regarding its jurisdiction or the nature and extent of its authority from the city attorney.

(5) ~~(7)~~ A party may be heard through a representative if that representative is designated:

(A) in writing filed with the secretary and served on all parties;

(B) on the record at the hearing before evidence is accepted; or

(C) through the signature of the representative on any paper filed with the secretary on behalf of the party.

(6) ~~(8)~~ The secretary shall ensure that the board receives any materials filed by the parties.

(7) ~~(9)~~ Any paper served by a party on the secretary must include a certificate showing service to all other parties.

(8) ~~(10)~~ Service upon the city must be accomplished by serving the assistant city attorney assigned to the hearing.

(9) ~~(11)~~ Nothing in this section may be construed to authorize the practice of law except as permitted by the Supreme Court of Texas.

(10) ~~(12)~~ By presenting to the board (whether by signing, submitting, or later advocating) a request for a hearing, a complaint, a written or oral motion, or any other document, the party is certifying that it is acting in good faith."

SECTION 24. That Subsection (c)(5) of Section 34-40, "Appeals to the Trial Board or Administrative Law Judge," of Article VI, "Discipline, Grievance, and Appeal Procedures," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

“(5) Request for subpoenas. At least 20 [40] working days before the hearing, each party may file with the secretary a request for subpoena of witnesses and documents, in accordance with the following:

(A) The request for subpoena of witnesses and documents must include:

- (i) the name and address of each witness to be subpoenaed;
- (ii) if a witness is a city employee, the name of the employee's department; and
- (iii) the specific identification of books, papers, documents, or other tangible things sought to be subpoenaed.

(B) The party requesting the subpoena shall notify the subpoenaed witness of postponements, rescheduling, and appearance times.

(C) The trial board or the administrative law judge has the power to compel the attendance of witnesses and the production of testimony and evidence, to administer oaths, and to punish for contempt in the same manner as provided for municipal judges.”

SECTION 25. That Subsection (f)(2) of Section 34-40, “Appeals to the Trial Board or Administrative Law Judge,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of CHAPTER 34, “PERSONNEL RULES,” of the Dallas City Code, as amended, is amended to read as follows:

“(2) Appeals to state district court.

(A) Either party may appeal the order of the trial board or administrative law judge to state district court within one year [~~the time period provided in the Section 12, Chapter XVI of the Dallas City Charter~~] after:

- (i) the date on the last written order, if no rehearing is requested;
- (ii) the date on the written order denying the rehearing, if a rehearing is requested and denied; or
- (iii) the date on the written order issued after the rehearing, if a rehearing is requested and granted.

(B) The appeal to the district court must be decided upon review of the record of the hearing.

(C) An appeal by the city must be approved by the city manager and the city attorney.

(D) The appealing party shall, at its expense, furnish to the court a copy of the complete hearing record presented to the trial board or the administrative law judge, including but not limited to pleadings, hearing transcripts, exhibits, orders, and all evidence admitted during the hearing ~~[and pay the fee for the transcript]~~.

(E) If the appealing party fails to provide the court with any material required by Paragraph (2)(D) of this subsection ~~[a transcript]~~, the appeal must be dismissed."

SECTION 26. That Section 34-43, "Wage Supplementation Plan," of Article VII, "Wage Supplementation," of CHAPTER 34, "PERSONNEL RULES," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 34-43. WAGE SUPPLEMENTATION PLAN.**

(a) Administration. The director of human resources is authorized and directed to develop and distribute necessary administrative directives for the fair and efficient administration of the injured employees' wage supplementation plan. Department directors shall authorize wage supplementation for their employees in accordance with the administrative directives. Determinations and decisions made by department directors are final, conclusive, and binding on all parties.

(b) Eligibility.

(1) A permanent employee who, as the result of an injury sustained in the course of employment with the city, is being paid weekly workers' compensation payments, or would be paid workers' compensation payments if the disability continued for a period of more than seven days, may receive payments, as injured employee wage supplementation, separate and distinct from and in addition to the weekly workers' compensation payments. An injured employee must complete an "Initiation of Wage Supplementation Form" provided by the city before being granted partial or full-day injury leave. An injured employee has 60 days from the receipt of the "Initiation of Wage Supplementation Form" to make any final election to accept or reject wage supplementation.

(2) To be eligible for wage supplementation payments, an injured employee who lives within the city's certified worker's compensation network service area must choose [as] a treating [doctor-a] physician who is a member of the [city's workers' compensation preferred provider] network. An [Although-an] injured employee who lives outside the city's certified worker's compensation network service area has the right to treatment by a physician of the employee's choice under Section 408.022 [408.021] of the Workers' Compensation Act, as amended, and treatment by a physician outside of the network will not disqualify that employee from receiving [the city is not obligated to provide] wage supplementation payments [benefits to injured employees who are treated outside of the compensation network].

(c) Amount. The employee may receive full wage supplementation for the first seven days of time lost from the employee's position. After seven days, the wage supplementation will be in an amount that is approximately equal to the difference between any workers' compensation payments and the employee's regular pay.

(d) Discontinuation. In no event may wage supplementation to any employee be continued:

- (1) after a compromise settlement agreement or an agreed judgment has been effected;
- (2) after weekly indemnity workers' compensation payments have ceased;
- (3) after 52 weeks of payments for each occurrence of an injury for which an employee received, or was eligible to receive, wage supplementation payments on or after October 1, 2003;
- (4) after an impairment rating has been assessed; or
- (5) whenever the employee owes the city reimbursement for overpaid wage supplementation.

(e) Medical statement required. Wage supplementation must be supported by appropriate medical statements from a treating physician, whether partial or full-day leave is granted. A request for an extension of wage supplementation beyond four weeks must be accompanied by a current medical narrative or report.

(f) Grounds for denial and termination. Wage supplementation benefits may not be paid to any injured employee who:

- (1) is assigned a preventable classification for the cause of the injury;
- (2) engages in any work, whether for pay or as a volunteer, while off work due to an injury for which the employee is requesting or receiving wage supplementation;
- (3) after being injured, terminates employment or is involuntarily terminated from employment for any reason;
- (4) fails or refuses to comply with the instructions or advice of a treating physician or other physician performing an independent medical examination for the city regarding treatment of the injured condition;
- (5) fails to act in a manner that is conducive to or consistent with being off work convalescing from a job-related injury;
- (6) refuses to perform limited, partial, or part-time duty when authorized by a treating physician or other physician performing an independent medical examination for the city;



(7) refuses to accept or perform a different job with the city that, in the opinion of a treating physician or other physician performing an independent medical examination for the city, is within the employee's physical capacity and for which the employee is qualified or will be trained;

(8) refuses to submit to any independent medical examination or treatment required by the city in accordance with workers' compensation laws;

(9) refuses to return to regular duty after being released for regular duty by a treating physician or other physician performing an independent medical examination for the city;

(10) is injured as the result of:

(A) the breaking of rules, regulations, or laws by the employee; or

(B) the gross negligence of the employee.

(11) fails to use city or department-mandated safety equipment or follow city or department-mandated safety procedures when the injury was sustained;

(12) fails to report the injury within 24 hours after its occurrence, unless the employee can show good cause for the delay;

(13) fails to keep the employee's immediate supervisor and workers' compensation representative informed, on a monthly basis [~~every two weeks~~] and in accordance with departmental procedure, of medical examinations and treatments and related dates, future medical treatments, status regarding return to limited and full duty, and changes in the employee's ability to work;

(14) submits a workers' compensation claim that is denied; or

(15) sustains an injury while participating in any sports activity, regardless of whether the activity was organized or unorganized or sanctioned or unsanctioned by the department.

(g) Use of vacation and sick leave. An employee who is denied, has refused, or has exhausted wage supplementation while receiving workers' compensation payments may take accrued sick leave or vacation leave, but only in an amount necessary to make up the difference between workers' compensation payments and the employee's regular rate of pay.

(h) Leave without pay. An employee who has used all of the employee's accrued sick leave and wage supplementation payments, while still off work and receiving workers' compensation payments, may be granted leave of absence without pay in accordance with Section 34-28 of this chapter."

SECTION 27. Any employee who terminates city employment during the 2010-2011 fiscal year and who is eligible to receive any lump sum payment of sick leave, vacation leave, compensatory leave, or attendance incentive leave, or any combination of those leaves, will be paid the lump sum at the employee's regular rate of pay in effect on September 30, 2010.

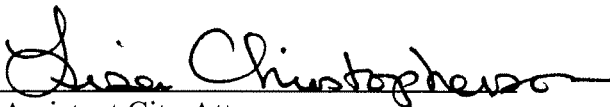
SECTION 28. That CHAPTER 34 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 29. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 30. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By   
Assistant City Attorney

Passed SEP 22 2010

LC/DCC/00488A