

CHAPTER 9

PERSONNEL

ARTICLE 9.01 GENERAL PROVISIONS

Sec. 9.01.001 Personnel policies adopted

Eligible employees shall be governed in accordance with the city personnel policies as adopted by Ordinance No. 1061, adopted June 22, 1987, and as amended from time to time. Such ordinances are on file in the city offices and are specifically saved from repeal. (Ordinance adopting Code)

Sec. 9.01.002 Civil service rules for firefighters and police officers

Eligible employees shall be governed in accordance with the civil service rules of the civil service commission for firefighters and police officers as adopted by Ordinance No. 2030, adopted October 31, 1991, and by Ordinance No. 2063, adopted June 30, 1993. Such ordinances are on file in the city offices and are specifically saved from repeal. (Ordinance adopting Code)

State law reference—Firefighters' and police officers' civil service, V.T.C.A., Local Government Code, ch. 143.

ARTICLE 9.02 DRUG AND ALCOHOL POLICY FOR CITY EMPLOYEES

Sec. 9.02.001 Purpose

(a) The purpose of this policy is to identify and remove the adverse effects of alcohol and drugs on job performance, and to protect the health and safety of our employees.

(b) Use and misuse of alcohol or drugs can and does impair the ability of an employee to perform his or her duties and may endanger the employee, his or her coworkers, and the public, as well as public property. The city seeks to prevent the use/misuse of drugs and alcohol by employees in any way which impairs their ability to perform their duties.

(Ordinance 2088, sec. I, adopted 8/16/94)

Sec. 9.02.002 General policy

(a) Alcoholism and other drug addictions are recognized as diseases responsive to proper treatment.

(b) The manufacture, distribution, dispensing, possession, sale, purchase, or use of a controlled

substance on city property is prohibited.

(c) Being under the influence of alcohol or illegal drugs on city property is prohibited. The unauthorized use or possession of prescription drugs or over-the-counter drugs on city property is prohibited.

(d) Employees who violate this policy are subject to appropriate disciplinary action, including termination.

(e) The city may provide information, if requested by the employee, regarding where addiction treatment services may be available.

(f) This policy applies to all employees of the city regardless of rank or position and includes temporary and part-time employees.

(Ordinance 2088, sec. II, adopted 8/16/94)

Sec. 9.02.003 Definitions

City premises. All city property including vehicles, lockers, and parking lots.

City property. All city-owned or -leased property used by employees such as vehicles, lockers, desks, closets, etc.

Controlled substance. Any substance listed in schedules I–V of section 202 of the Controlled Substance Act (21 USC 812), as amended. Copies are maintained for employee review by personnel and health services.

Drug. Any chemical substance that produces a physical, mental, emotional, or behavioral change in the user.

Drug paraphernalia. Equipment, a product or material that is used or intended for use in concealing an illegal drug or for use in injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug or controlled substance.

Fitness for duty. To work in a manner suitable for the job. To determine “fitness,” a medical evaluation may include drug and/or alcohol testing.

Illegal drug. Any drug or derivative thereof for which the use, possession, sale, transfer, attempted sale or transfer, manufacture or storage is illegal or regulated under federal, state, or local law or regulation and any other drug, including (but not limited to) a prescription drug, used for any reason other than a legitimate medical reason and inhalants used illegally. Included is marijuana or cannabis in all forms.

Negative test results. Results that indicate no alcohol or drugs in the employee’s system other than properly used prescription medication.

Reasonable cause; reasonable suspicion. Supported by evidence strong enough to establish that a policy violation has occurred.

Testing. Generally defined as a urine, blood, or breath test to determine chemical or drug content. Testing can occur in the following instances:

- (1) Preemployment process;
- (2) Routine physical examination as required by the city;
- (3) Reasonable cause to suspect use;
- (4) Injury involving employee(s) causing or contribution to the injury; or
- (5) On-the-job accident.

Testing results will remain confidential.

Under the influence. A state of having a blood alcohol concentration of ten (10) or more, or the state of not having normal use of mental or physical faculties resulting from the voluntary introduction into the body of an alcoholic beverage or a controlled substance.

(Ordinance 2088, sec. III, adopted 8/16/94)

Sec. 9.02.004 Violations

Any of the following actions constitutes a violation of this policy and may subject an employee to disciplinary action, including immediate termination:

- (1) Using, selling, purchasing, transferring, possessing, manufacturing, or storing an illegal drug or drug paraphernalia, or attempting or assisting another to do so, while in the course of employment or engaged in the city-sponsored activity, on premises, in owned, leased or rented vehicles, or on business.
- (2) Working or reporting to work, conducting city business or being on city premises or in a city-owned, -leased or -rented vehicle while under the influence of an illegal drug, alcohol or in an impaired condition.
- (3) Switching, adulterating or attempting to tamper with any sample submitted for medical testing, or otherwise interfering or attempting to interfere with the testing process.

(Ordinance 2088, sec. IV, adopted 8/16/94)

Sec. 9.02.005 Preventive acts

(a) Employees taking drugs prescribed by an attending physician must advise their direct supervisor in writing of the possible effects of such medication regarding their job performance and physical/mental capabilities. This written information must be kept confidential and communicated to the direct supervisor prior to the employee commencing work. All medical information will be kept confidential and the employer, without exception, will punish any breach of privacy and confidentiality in this regard. All prescription drugs must be kept in their original container.

(b) Any employee involved in a work-related accident where alcohol or drugs are believed to be a contributing factor may be referred to an assistance counselor, to be paid at the expense of the employee, in addition to any other accident investigation activities.

(Ordinance 2088, sec. V, adopted 8/16/94)

Sec. 9.02.006 Corrective act

Although employees will not be subjected to random fitness-for-duty examinations as a result of this policy, any employee involved in a work-related accident may be subject to testing.

(Ordinance 2088, sec. VI, adopted 8/16/94)

Sec. 9.02.007 Applicant testing

Refusal to give written consent for a drug screening test will disqualify the candidate from consideration for employment.

(1) Objectives. To maintain the high professional standards of the city's workforce, it is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are placed on the employment rolls of the city. This procedure will have a positive effect by reducing instances of illegal drug use by employees working for the city, and will provide for a safer work environment. For these reasons, drug testing shall be required of all prospective employees.

(2) Vacancy announcements. Every vacancy announcement for positions designated for applicant testing shall state:

“Any applicant tentatively selected for this position will be required to submit to testing to screen for illegal drug use prior to employment with the city.”

In addition each applicant will be notified that employment in the position will be contingent upon a negative drug test result. Failure of the vacancy announcement to contain this statement/notice will not preclude applicant testing if advance written notice is provided to applicants in some other manner.

(3) Consequences. The city will decline to extend a final offer of employment to any applicant with a verified positive test result, and such applicant will not be considered

for employment by the city for a period of one year. The city manager shall be directed to object to the applicant on the basis of failure to pass the drug test and a failure to support the overall goals of the city. The city shall inform such applicant that a confirmed presence of an illegal drug in the applicant's urine precludes the city from hiring the applicant.

(Ordinance 2088, sec. VII, adopted 8/16/94)

Sec. 9.02.008 Employee testing

Refusal by an employee to submit to screen testing will be considered cause for discharge.

- (1) Objective. The city's objective is to provide a safe, drug-free environment for employees.
- (2) When required.
 - (A) Testing may be required during routine physical examinations such as annual physical or return-to-work physical.
 - (B) Any employee suspected of having caused or contributed to an on-the-job accident will be tested.
 - (C) Individual testing shall be required when there is reasonable suspicion that drugs and/or alcohol are affecting job performance and conduct in the workplace.
- (3) Immediate fitness examination. When, as determined by the immediate supervisor and the next higher level of management, reasonable grounds exist to believe that an employee is impaired or an employee's unsatisfactory behavior or job performance reasonably suggests to management that substance abuse may be a contributing factor, the city reserves the right to require an immediate fitness-for-duty examination such as a medical evaluation, which may include drug and/or alcohol testing. Refusal to participate in such evaluation shall be considered equivalent to a positive result and shall result in immediate dismissal.
- (4) Consequences.
 - (A) A positive test shall mean either the presence of a drug and/or alcohol. Sample testing procedures shall conform to scientifically accepted analytical methods and procedures and shall include confirmation of any positive test result by gas chromatography, mass spectroscopy, or other comparably reliable analytical method, before the results of any test may be used as a basis for any action. Both screening and confirmatory urine testing will follow the guidelines adopted by the United States Department of Health and Human Services.

- (i) When a screen test is positive for the first time but no evidence of drug or alcohol use on the job exists, the employee will be suspended with pay until all city-required testing and treatment is completed. The employee will be required to obtain a written evaluation for drug abuse from a recognized professional and/or institution (this will be at the employee's expense). If there is evidence of drug or alcohol use on the job, the employee may be disciplined or discharged and not be eligible for reinstatement.
 - (ii) To be reinstated to a job, an employee must have a signed release from a medical doctor stating that he/she is fit for work. The employee must submit to another screen test and have a negative result within six weeks from the date he/she was suspended; otherwise the employee will be discharged. The city will decide when the test will be administered. Before the employee returns to work he/she will be required to sign a reinstatement agreement that states under what conditions the employee will be reinstated and that random drug testing may be conducted for one year.
- (B) An employee who has been suspended for a positive drug test and allowed to return to work will be discharged for a positive result on any confirmatory drug test.
- (5) Policy parameters.
- (A) For confidentiality, only the city manager and department heads who have a need to know will be informed of positive results of fitness-for-duty examinations. Employee's privacy will be protected and the employer, without exception, will punish any breach of the worker's privacy and confidentiality.
 - (B) The city will use only laboratories that are certified under appropriate federal and/or state regulations. The laboratories shall follow the guidelines adopted by the United States Department of Health and Human Services for workplace urinalysis.
 - (C) Only conclusive results are to be reported to the city. A positive urinalysis test will be confirmed by a second test using gas chromatography or mass spectroscopy. Both tests must be positive or the results are considered inconclusive, thereby causing a negative presence of substances to be reported to the city.

(Ordinance 2088, sec. VIII, adopted 8/16/94)

Sec. 9.02.009 Supervisory and employee training

The city manager and all department heads will receive training regarding the drug and alcohol

policy. All employees will receive copies of the drug and alcohol policy. (Ordinance 2088, sec. IX, adopted 8/16/94)

Sec. 9.02.010 Disciplinary action

Any employee suspected of violating this policy may be immediately suspended without pay pending completion of an investigation. During the course of an investigation, the suspected employee shall have the opportunity to provide an explanation. In the event that a determination is made by the city that the employee violated the policy, the employee shall be terminated. Should the determination be made that no violation occurred, the employee will be reinstated without penalty and will be paid any lost wages. (Ordinance 2088, sec. X, adopted 8/16/94)

Sec. 9.02.011 Coordination with law enforcement agencies

The sale, use, purchase, transfer or possession of an illegal drug or drug paraphernalia is a violation of the law. The city will report information concerning possession, distribution, or use of any illegal drug to the city's police department or any other local law enforcement agency as appropriate. Any confiscated illegal drugs or paraphernalia will be turned over to the city's police department or other appropriate law enforcement agency. The city will cooperate fully in the prosecution and/or conviction of any violation of the law. (Ordinance 2088, sec. XI, adopted 8/16/94)

Sec. 9.02.012 Reservation of rights

(a) The city reserves the right to interpret, change, suspend, cancel or dispute, with or without notice, all or any part of this policy or procedures or benefits discussed herein. Employees will be notified before implementation of any change.

(b) Although adherence to this policy is considered a condition of continued employment, nothing in this policy alters an employee's status and shall not constitute nor be deemed a contract or promise of employment. Employees remain free to resign their employment at any time for any or no reason, without notice, and the city retains the right to terminate any employee at any time, for any or no reason, without notice.

(Ordinance 2088, sec. XII, adopted 8/16/94)

Sec. 9.02.013 Other laws and regulations

The provisions of this policy shall apply in addition to, and shall be subordinate to, any requirements imposed by applicable federal, state or local laws, regulations or judicial decisions. Unenforceable provisions of this policy shall be deemed to be deleted. (Ordinance 2088, sec. XIII, adopted 8/16/94)

ARTICLE 9.03 TEXAS MUNICIPAL RETIREMENT SYSTEM^{i*}

Sec. 9.03.001 Ordinances on file

The specific ordinances providing for participation in the Texas Municipal Retirement System, as adopted by the city, are not included in this article, but they are hereby specifically saved from repeal and shall be maintained on file in the office of the city secretary. (Ordinance adopting Code)

ARTICLE 9.04 HEALTH BENEFITS FOR CITY RETIREES

Sec. 9.04.001 Findings

- (a) The city desires to provide health benefits coverage to its retirees.
- (b) Texas Municipal League Group Benefits Risk Pool is a health risk pool established pursuant to Texas Local Government Code chapter 172, Texas Government Code chapter 791, and the Texas Trust Code to provide health benefits coverage for employees and retirees and dependents of employees and retirees, of political subdivisions of this state under an interlocal agreement.
- (c) The city is currently offering health benefits coverage through the Texas Municipal League Group Benefits Risk Pool pursuant to interlocal agreement and chapter 172 of the Texas Local Government Code, both of which would allow the extension of benefits to retirees of the city.
- (d) The city desires to provide health benefits coverage to its retirees through the Texas Municipal League Group Benefits Risk Pool and that the cost for such coverage be paid for by the individual retiree.
- (e) The city desires to select a plan of benefits for its retirees to be provided by the Texas Municipal League Group Benefits Risk Pool.
- (f) Providing retiree coverage under the Texas Municipal League Group Benefits Risk Pool interlocal agreement is in the best interest of the city, its retirees, and the public generally.

(Ordinance 2194, sec. 1, adopted 9/15/98)

Sec. 9.04.002 Provision of coverage

The city hereby elects to provide health benefits coverage to its retirees through Texas Municipal League Group Benefits Risk Pool under the pool's interlocal agreement. (Ordinance 2194, sec. 2, adopted 9/15/98)

Sec. 9.04.003 Definition of retiree

The city hereby adopts the following definition of "retiree" for purposes of this article:

“A person who has completed at least 10 years of service with the city and wishes to withdraw from active employment from the city.”

(Ordinance 2194, sec. 3, adopted 9/15/98)

Sec. 9.04.004 Benefit plans

The city hereby adopts the following benefit plans to be provided to its retirees through the Texas Municipal League Group Benefits Risk Pool:

- (1) Medicare supplement for over age 65 retirees.
- (2) For under 65 years of age, the same Medicaid plan offered to active employees at 150% of the rate.

(Ordinance 2194, sec. 4, adopted 9/15/98)

Sec. 9.04.005 Amount of coverage

The interlocal agreement in effect between the city and the Texas Municipal League Group Benefits Risk Pool provides that the board of trustees may adopt rules and regulations. The rules and regulations of the Texas Municipal League Group Benefits Risk Pool allow the participating member entity to provide retiree medical coverage at the same contribution as charged to active employees, to select a contribution level of which is 150% of the active employee contribution or to offer over age 65 retirees a Medicare supplement. The city elects to have the retiree medical contribution for under age 65 retirees be 150% for as long as TML-GBRP offers this rate structure for retiree medical coverage. The city elects to have the retiree medical contribution for over age 65 retirees be Medicare supplement rate. (Ordinance 2194, sec. 5, adopted 9/15/98)

Sec. 9.04.006 Applicability

This article will only apply to individuals retiring after its effective date or to employees who retired under a previous ordinance. For individuals retiring after the effective date of this article to qualify they must enroll for this coverage within thirty (30) days of their retirement.

(Ordinance 2194, sec. 6, adopted 9/15/98)

Sec. 9.04.007 Effect of repeal or modification of article

This article may be repealed or modified at any time, but will remain in effect for any employee retiring while it is in effect. (Ordinance 2194, sec. 7, adopted 9/15/98)

ARTICLE 9.05 POLICE DEPARTMENT^{ii*}

Division 1. Generally

Secs. 9.05.001–9.05.030 Reserved

Division 2. Police Reserve Forceⁱⁱⁱ†

Sec. 9.05.031 Established

There is hereby established a police reserve force for the city.

Sec. 9.05.032 Appointment; discharge

Members of the police reserve force shall be appointed and/or relieved at the discretion of the chief of police and shall serve as police officers during the actual discharge of official duties.

Sec. 9.05.033 Total number

The police reserve force shall not exceed in number the total number of regular officers authorized.

Sec. 9.05.034 Duties generally

Members of the police reserve force shall serve at the discretion of the chief of police and may be called into active service at any time the chief of police considers it necessary to have additional police officers to preserve the peace and enforce the law.

Sec. 9.05.035 Compensation; benefits; hours

Members of the police reserve force may serve without compensation. Uniform and accessories will be provided to the reserve police officers at the discretion of the chief of police. The city will provide worker's compensation benefits for those police reserve officers who sustain injury in the course of performing official duties, in the same manner as provided by the city, for its full-time public officers. Reserve police officers shall be eligible for death benefits as set out in chapter 86, Acts of 60th Legislature, Regular Session 1967, as amended (V.T.C.A., Government Code, chapter 615); provided, however, that nothing in this division shall be construed to authorize or permit a member of the police reserve force to become eligible for participation in any pension fund created pursuant to state statute, to which regular officers may become a member by payroll deduction or otherwise. Reserve officers shall act only in a supplementary capacity to the regular police force and shall in no case assume full-time duties of regular police officers, eight (8) hours per day, forty (40) hours per week.

Sec. 9.05.036 Mayor's authority to summon special police

This action does not limit the power of the mayor to summon into service a special police force as provided by V.T.C.A., Local Government Code, section 341.011.

Sec. 9.05.037 Qualifications and training

All reserve police officers must comply with the minimum qualification and training standards established by the state commission on law enforcement officer standards and education for reserve police officers. These standards must be fulfilled before a person appointed as a reserve law enforcement officer may carry a weapon or otherwise act as a peace officer. Each applicant for appointment as a reserve police officer must also pass an entrance examination, background investigation, physical and mental examination, drug screening and meet the selection standards established by the chief of police. The chief of police shall establish standards of training, rules and regulations governing reserve police officers.

Sec. 9.05.038 Minimum standards

The chief of police may establish minimum physical, mental, education, moral and police reserve officer participation standards for reserve police officers. In no case shall the standards set for reserve police officers be less than those established by the state commission on law enforcement officer standards and education.

(Ordinance 1082 adopted 7/19/88)

^{i*} State law reference—Texas Municipal Retirement System generally, V.T.C.A., Government Code, ch. 851 et seq.

^{ii*} State law reference—Police force in home-rule municipality, V.T.C.A., Local Government Code, sec. 341.003.

^{iii†} State law reference—Authority to provide for police reserve force, V.T.C.A., Local Government Code, sec. 341.012.