

# ***Employee Handbook***

***of***

## ***Personnel Policies***

(Adopted by City Council Resolution No. 10-24-02)



*Amended December 2017*

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WELCOME

TO ALL EMPLOYEES OF THE CITY OF TAHLEQUAH:

The City Administration welcomes you to the organization and encourages you to read and become familiar with the contents of this Employee Handbook. You will find that it contains helpful and valuable information about the policies, rules, regulations, benefits, procedures and opportunities available to you as an employee of the City. It is also intended to be a guide in assisting you in performing your duties and responsibilities for the City to the best of your ability and in aiding you in developing and realizing your potential as a valued employee.

The policies in this Handbook are designed to serve as guidelines. They are not intended to and do not create any kind of contractual relationship and are subject to change at the discretion of the City Council, with or without notice. While the policies and procedures outlined in this Handbook should provide you with most answers to general questions you might have regarding your employment relationship with the City, it cannot cover every situation that might arise. If you have questions about these guidelines, or require further information, you should consult with your department head, with the Assistant City Administrator or with the Human Resources Director. The City welcomes your suggestions for improvement either to the policies and procedures included in this Handbook or to other job related areas and subjects.

Please read this Handbook carefully and retain it for future reference. It is important that you familiarize yourself with the contents of the Handbook as soon as possible. A well informed employee has the best potential for succeeding in his or her assigned position.

The City welcomes you and wishes you success.

## SECTION 100

### INTRODUCTION

#### 101 - PURPOSE

The purpose of this Handbook is to provide a working guide to the personnel policies, practices and benefits of employment with the City of Tahlequah. **The Handbook is not a legal document, does not constitute a contract of employment and does not give rise to a property right in continued employment with the City. The employment relationship with the City is terminable at will at any time with or without cause.** The City Council retains the right to revoke, modify, change, or amend any of the policies and procedures at any time. Any employee who has a question regarding any of the policies and procedures contained in the Handbook is encouraged to direct any inquiries to his Supervisor/Department Head, the Human Resources Director, or the Assistant City Administrator.

#### 102 - SCOPE

Except as set forth below, this handbook applies to all employees of the City of Tahlequah. The provisions of the City Charter and the City Ordinances will supersede any conflicting provisions contained herein. Any reference to the masculine form in these policies shall also be applicable to the feminine form.

#### 103 - EXCLUSIONS

The International Association of Firefighters Local 4099 and the Fraternal Order of Police Lodge 201 are recognized as the sole and exclusive bargaining agents for certain employees as described in Oklahoma law or as identified in the respective collective bargaining agreements. The provisions of this Handbook shall only apply to employees covered by the collective bargaining agreement/bargaining unit as provided for in any agreement negotiated by the bargaining agent with the City or as provided for by State law.

Further, the provisions of this Handbook will not apply to the Mayor or members of the City Council. Certain provisions of the Handbook will apply to the City Clerk, Police Chief, Street Commissioner, City Attorney and Municipal Judge. However, in the event of a conflict, state statutes and city ordinances related to elected officials will control. The provisions of the Handbook will not apply to volunteers, persons appointed to Boards and Commissions, and independent contractors.

#### 104 - GENERAL INFORMATION

1. Personnel Records - An employee has the right to review his personnel file during regular business hours only and only in the presence of the Human Resources Director. No item may be copied or removed from an employee's personnel file without the written authorization of the Human Resources Director with the concurrence of the Mayor.
2. Change of Address and/or Telephone Number - Employees are required within five (5) business days to report any change of address and/or telephone number to the Human Resources Director.
3. Secondary Employment - Employment with the City of Tahlequah is the primary employment for each person. Secondary employment is permissible provided it does not interfere, in any manner, with an employee's ability to perform assigned duties as a City employee. City

employees may not be engaged in secondary employment at any time while scheduled to work for the City and may not use any City property in the performance of such employment. An employee must obtain the approval of the Department Head for the secondary employment, which approval will not be unreasonably withheld.

4. Use of City Vehicles - Employees with City vehicles may use them for breaks and lunch hours but must stay within City limits. Employees may not use City vehicles and equipment for personal reasons or personal business. See Section 610.
5. Financial Interest - An employee may have no financial interest in any contract, service or other work performed by or for the City. Employees shall neither solicit nor accept money, free or preferred service, benefits, or consideration from any person, business, or organization in return for special interests or favors. An employee having any questions concerning what is encompassed within this section should direct such questions to the Department Head, Assistant City Administrator, or Human Resources Director.
6. Political Activity - Employees may attend and express their views and opinions at City Council meetings or any other public meetings of City Commissions and Boards. Subject to any provision of the City Charter, employees may participate in political activity; provided, the political activity shall occur only during off-duty hours, while not in uniform and not on City property. No employee will be forced, threatened, intimidated, or coerced into campaigning, making a financial contribution to, or obligating himself to contribute labor in support of any candidate for office.
7. News Release - Employees are to respect the confidentiality of City business. Any news release to the press or other media concerning City business shall be given only by persons designated by the Mayor or an appropriate Department Head.
8. Endorsements and Referrals - Employees shall not recommend or suggest, in any manner, except in the transaction of personal business, the employment, procurement, or patronizing of a particular product, professional service, commercial service or enterprise.
9. Solicitations and Collections - During working hours, employees may only solicit contributions, subscriptions, sell tickets, or collect donations for pre-approved charitable causes, provided that Departmental operations are not unduly impeded. Prior approval by the Mayor is required.
10. Use of Telephone - The use of City telephones for personal calls is to be kept to a minimum. When it is necessary to make or receive personal calls during working hours, they are to be kept as brief as possible. Abuse of telephone privileges for personal calls will result in disciplinary action.
11. Public Relations - Employees of the City are in a position of public trust and, as such, must be courteous and helpful, accepting their responsibilities as public servants, and be attentive to citizens who seek assistance, information, or desire to register a complaint. Employees are to keep in mind that their primary obligation is to render impartial, efficient, and effective service to the public in the discharge of their duties.
12. Smoking Policy - The City is committed to providing a healthy and safe working environment. In keeping with this commitment, smoking is not permitted in City buildings or in City vehicles.
13. Firearms - To insure the safety of employees and the public, no employee is allowed to carry a firearm, whether concealed or not, within City buildings unless the duties of the employee's position require the carrying of a weapon.

## **SECTION 200**

### **EMPLOYMENT PRACTICES**

#### **201 - EQUAL EMPLOYMENT OPPORTUNITY/NON-DISCRIMINATION POLICY**

The City of Tahlequah is committed to providing equal opportunity to all employees and applicants for employment. There shall be no discrimination against any employee or applicant on the basis of race, color, creed, religion, national origin, age, sex, disability, or veteran's status. This commitment extends to every aspect of employment, including recruitment, selection, placement, training, compensation, promotion, transfer, layoff, recall, and disciplinary action.

The Assistant City Administrator and the Human Resources Director have been assigned the responsibility of ensuring that all phases of personnel administration are in harmony with this policy. The responsibility for administering this policy is delegated to Department Heads and Supervisors.

#### **202 - PROFESSIONAL CONDUCT AND ANTI-HARASSMENT POLICY**

The City of Tahlequah desires to have a professional and congenial work environment and will take reasonable steps to insure that the work environment is pleasant for all who work here. All employees are expected to treat others with courtesy, consideration, and professionalism. The City of Tahlequah will not tolerate the harassment of any employee or customer by any other employee, supervisor, or customer. Employees may not use epithets, slurs or other terms or language designed to threaten, insult, intimidate, or show hostility to another. Employees are prohibited from posting or circulating in the workplace any written or graphic materials or other objects that attack, defame, belittle, degrade, or show hostility or aversion to any person or group of people. In an effort to avoid even the appearance of impropriety, this policy is more stringent than certain state and federal laws. Consequently, an employee may be found to have violated this policy even though his conduct would not give rise to a violation of state or federal law.

Harassment for any discriminatory reason, such as race, color, gender, national origin, disability, age, religion, or veteran status is prohibited not only by State and Federal laws but also by the policies of the City. The City of Tahlequah prohibits not only unlawful harassment but also other types of unprofessional and discourteous conduct. Accordingly, derogatory, racial, ethnic, religious, age, gender, sexual orientation, sexual or other inappropriate remarks, slurs, "jokes", written material, or actions will not be tolerated in the workplace.

Included in this prohibition is a prohibition against sexual harassment, which includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal or physical conduct of a sexual nature when:

1. Submission to the conduct is made either implicitly or explicitly a condition of the individual's employment;
2. Submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee; or
3. The harassment has the purpose or effect of unreasonably interfering with the employee's work performance or of creating an environment which is intimidating, hostile, or offensive to the employee.

Each employee must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of harassment include, but are not limited to:

1. Verbal: Sexual innuendos, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;
2. Visual/Non-Verbal: Derogatory posters, cartoons, telefaxes, e-mail, internet contacts, drawings, suggestive objects or pictures, graphic commentaries, leering or obscene gestures;
3. Physical: Unwanted physical contact including touching, interference with the individual's normal work movements or threatening gestures; and
4. Other: Making or threatening reprisals as a result of a negative response to a harassing action.

Any employee or applicant who feels that he or she has been subjected to harassment or otherwise has been discriminated against due to his or her race, color, religion, national origin, gender, sexual orientation, age, disability or veteran status, or who witnesses harassment of or discrimination against another employee, must promptly report the incident to the Assistant City Administrator or Human Resources Director. A complaint form is attached as Appendix A to the Handbook.

All complaints of harassment or discrimination will be investigated. In determining whether alleged conduct constitutes harassment or discrimination, the totality of the circumstances, the nature of the harassment and the context in which the alleged incidents occurred will be considered. Except as deemed necessary to investigate and remedy violations, management will keep any complaint and the information revealed in the investigation as confidential as possible.

If the employee believes that a supervisor or management employee has engaged in discrimination, harassment, or retaliation, the employee must use the supervisory by-pass procedure attached as Appendix B to the Handbook.

The initiation of a complaint or participation in an investigation, in good faith, will not be grounds for discipline. However, deliberately reporting false allegations may be considered as a form of harassment and may subject an employee to appropriate discipline.

If a person is determined to have violated this policy, the City will take appropriate action designed to prevent any further incidents of inappropriate behavior. If necessary, this could include disciplinary action up to and including termination. In addition, management and supervisory employees may face disciplinary action if they fail to take corrective action after becoming aware of the existence of harassment or discrimination, regardless of whether the victim has filed a formal complaint.

### **203 - THE AMERICANS WITH DISABILITIES ACT (ADA)**

The City will take all reasonable steps to insure that interview, hiring, and employment practices do not conflict with the provisions of the Americans with Disabilities Act. The City will provide accommodation to a person with a disclosed disability in terms of application, hiring, and job retention so long as such accommodation is reasonable and does not result in an undue hardship. If an employee requires accommodation in order to perform the essential functions of his or her job, the employee must notify the Human Resources Director. The City may require you to provide written certification from a qualified health care provider in support of the need for a specific accommodation. It is the responsibility of every employee to comply with the provisions of the ADA and to create a positive work environment.



## **204 - ALCOHOL AND CONTROLLED SUBSTANCES POLICY AND TESTING PROCEDURES**

The City requires a commitment from all employees to keep an alcohol and drug-free workplace. As a condition of employment, employees must abide by the terms of this policy. The manufacture, distribution, possession or use of an illegal substance or the use or possession of alcohol is prohibited anywhere in the workplace or on City property. Any employee found using, possessing, selling, distributing or being under the influence of an illegal chemical substance and/or alcohol during working hours or on City property or driving City vehicles will be subject to discipline up to and including termination. The immoderate use of alcohol is prohibited in all business-related situations.

Use of a controlled substance is not prohibited when prescribed by an authorized medical practitioner for treatment and when used as directed. In these circumstances, employees are to inform their supervisors that they are taking medicines which may result in side effects.

As a condition of employment, an employee must notify the Human Resources Director of any criminal drug statute conviction no later than five (5) days after such conviction. Criminal drug statute means a criminal statute involving manufacture, distribution, dispensation, use, or possession of a controlled substance. Upon conviction of any such violation, the City will take appropriate disciplinary action against the employee, up to and including termination, and/or requiring the employee to satisfactorily participate in an abuse rehabilitation program.

A copy of the City of Tahlequah's complete Alcohol and Controlled Substances Policy and Testing Procedures applicable to employees and applicants covered by this Handbook is attached as Appendix C to the Handbook.

## **205 - NEPOTISM**

Neither the Mayor, the City Council nor any other authority of the City government may appoint or elect any person related to the Mayor, any Council member, or himself, or in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the City Government. However, this shall not prohibit an officer or employee from continuing in the service of the City. This includes any spouse, child, brother, sister, parent, uncle, aunt, niece, nephew or cousin. In addition, it is the policy of the City not to employ persons related to one another within the third degree in the same department or in positions where one person might be in a supervisory position to a relative.

## **206 - HIRING PROCEDURE<sup>7</sup>**

Initial employment with the City will be based on merit (an applicant's qualifications, skills, aptitude, previous experience, and education as they relate to the essential functions of a particular position) and fitness.

1. Request to Fill Vacancy - The Supervisor/Department Head will notify the Mayor and the Human Resources Director of a position vacancy. All new positions must be approved by the City Council. All job vacancies at any level will be advertised internally and will be advertised externally as deemed appropriate on a case-by-case basis. Internal announcements will be distributed to each department for posting on bulletin boards.
2. Eligibility for Hire - Any person will be deemed eligible for initial employment in the City service who:
  - A. Meets the minimum requirements established for the position;

- B. Is able to perform the essential functions of the position with or without reasonable accommodation;
  - C. Has not been convicted of or plead guilty to a felony or to a misdemeanor which would indicate that the person is not fit for City employment.
  - D. Does not have a record of previous unsatisfactory service in City employment or elsewhere of such a nature as to demonstrate unsuitability for employment in the position for which he/she has applied.
  - E. Is otherwise qualified under the Personnel Policies.
3. Filling vacancies - When a vacancy occurs in a position that is eligible to be filled, the following procedures will be used.
- A. City Employees: City employees meeting the City's requirements may be given preference in filling vacancies. However, the City reserves the right to hire externally if deemed to be in the best interest of the City.
  - B. Application: All applications for employment will be filed on forms provided by the City. Current employees must submit statements bringing their applications up-to-date in order to make application for promotions.
  - C. Use of Commercial or State Employment Agencies: Applications may be accepted from commercial employment agencies or from the State Employment Services. The applicant will be required to complete the City's application form and go through the same testing requirements.
  - D. Interviews and Screening: The Department Head, with the assistance of the Human Resources Director, will screen job applications to ensure the applicants have the minimum qualifications of the position, that the responses are correct, and that references are indicative of a proper employment history. Employees' work histories may also be reviewed prior to any testing.
  - E. Competitive Examinations: Competitive examinations may be given if deemed necessary. They may be oral, written, physical agility, skills, rating of experience and training, psychological, polygraph, or any combination thereof.
  - F. Interviews: Job interviews will be conducted by the Supervisor/Department Head and the Human Resources Director. On completion of interviews, the Supervisor/Department Head shall submit his recommendation to the Human Resources Director, who shall forward the same to the Mayor and City Council.
  - G. When filling a position for employment, there must be three (3) applications presented to the Council for consideration to hire.
  - H. When filling positions, all job vacancies shall be advertised.
4. Disqualification from Consideration - Fraud, misrepresentation, concealment, or dishonesty on the part of an applicant on the application form or résumé, the examination process or any attempt to obtain special consideration will disqualify an applicant for employment. Further, an applicant will be disqualified if he tests positive on the post-offer drug and alcohol screening.

5. Post Offer Medical Examinations - Post offer pre-employment (physicals and drug/alcohol screening) will be required for every applicant to be hired for a permanent position. Certain temporary positions may also require physicals.
6. Hiring - Final hiring decisions for positions will be made by a vote of the City Council.

#### **207 - DEFINITION OF EMPLOYEES**

1. Introductory - An individual will be deemed to be in an introductory status for one (1) year from the date of initial employment. An introductory employee shall have no right to the disciplinary hearing procedures set out in Section 607.
2. Regular/Full Time - An employee who has satisfactorily completed an introductory period. Completion of the introductory period does not confer on any employee any status other than employment at will.
3. Temporary - Anyone employed for seasonal work or for a specific period of time or regularly for less than thirty (30) hours per week is considered temporary. A temporary employee is entitled to Workers' Compensation and Social Security benefits but is not eligible for any other City benefits.
4. Non-exempt - Employees who are not exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) as amended are paid by the hour and are entitled to compensatory time off at the rate of one and one-half (1-1/2) times their regular hourly rate for all overtime hours worked.
5. Exempt - Employees who are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) as amended are considered executive, administrative, and professional employees.

## **SECTION 300**

### **PAY ADMINISTRATION**

#### **301 - POSITION CLASSIFICATION & PAY PLAN AND JOB DESCRIPTIONS<sup>14</sup>**

The City of Tahlequah provides a position and pay plan for all regular, full time positions. Job descriptions are provided to assist with screening applications, for job restructuring, for pay administration and performance appraisal. The position classifications and job descriptions will be reviewed and adjusted as needed to take into account changes in job structures or duties and the addition or deletion of classifications and functions within the City. No base salary increase will be made while employee is in introductory status.

#### **302 - PAY PERIOD**

The pay period is semi-monthly with payroll periods ending on the 10<sup>th</sup> and 25<sup>th</sup> of each month. Pay checks will be issued on the 15<sup>th</sup> of the month and on the last working day of the month. If the 15<sup>th</sup> falls on a Saturday, paychecks will be issued on Friday; if the 15<sup>th</sup> falls on a Sunday, paychecks will be issued on Monday. Prior written authorization must be received in the Human Resources Director's Office before a pay check will be released to anyone other than the employee or the Department Head. If an authorized holiday falls on pay day, checks will be issued on the day preceding the holiday. The normal work week is eight hours per day - forty hours per week.

#### **303 – WELLNESS PROGRAM<sup>2</sup>**

Wellness Program may be approved by the Mayor and Council for employees during the budget process. Approval will depend upon availability of funds. If funds are not available, Wellness Program will not be budgeted.

1. Qualifying Employees
  - A. All full-time employees, and temporary employees, with one year of employment.
  - B. Elected Officials – Elected officials will be eligible.

#### **304 – WELLNESS INCENTIVE PROGRAM<sup>3</sup>**

1. Purpose – The purpose of this policy is to encourage the employee's participation in a wellness and fitness program that will promote healthy lifestyles.

Individual Incentive – If a full-time employee attends the City's designated fitness facility a minimum of three times a week for a continuous six-month period from his/her membership date, that employee will receive eight hours of annual leave.
2. The incentive leave will be verified by the Human Resources Director and approved by the Department Head, and shall be taken within six months following the period in which it was earned.
3. Eligibility – The City's designated fitness facility will provide a monthly report to the Human Resources Director that will determine the employee's eligibility.
4. Incentive Program Rules – It is the responsibility of the employees to notify the Human

Resources Director of their enrollment or termination of their participation in the Incentive Program.

5. Termination of Program – The Wellness Incentive Program will be re-evaluated each fiscal year, and the benefit of continuing program will be contingent upon the availability of funds.

**305 – LONGEVITY PAY<sup>1</sup>**

To encourage career service with the City, longevity pay is granted in addition to the base wages provided in the pay plan. After four (4) years of continuous employment with the City, a full time regular employee is entitled to longevity pay based on the total years of continuous service with the City computed on the following schedule:

<u>Continuous Years of Service</u>	<u>FULL TIME</u>	<u>PART TIME</u>
5	\$500.00	\$250.00
6	\$600.00	\$300.00
7	\$700.00	\$350.00
8	\$800.00	\$400.00
9	\$900.00	\$450.00
10	\$1000.00	\$500.00
11	\$1100.00	\$550.00
12	\$1200.00	\$600.00
13	\$1300.00	\$650.00
14	\$1400.00	\$700.00
15	\$1500.00	\$750.00
16	\$1600.00	\$800.00
17	\$1700.00	\$850.00
18	\$1800.00	\$900.00
19	\$1900.00	\$950.00
20	\$2000.00	\$1000.00
21	\$2100.00	\$1050.00
22	\$2200.00	\$1100.00
23	\$2300.00	\$1150.00
24	\$2400.00	\$1200.00
25	Max. \$2500.00	Max. \$1250.00

Longevity pay will be based on full years of service with the City computed from the employee’s last anniversary date of hire with the City, except that military service shall not be deemed to constitute a break in service. Longevity pay begins on the first day of the month following the employee’s eligibility. Longevity pay is dependent upon available funds. If funds are not available during a particular fiscal year, longevity pay will not be budgeted and will not be paid during that fiscal year.

Longevity pay may be approved by the Mayor and Council for employees during the budget process. Approval will depend upon availability of funds. The amount will also be determined by available funds. If funds are not available, longevity pay will not be budgeted. If funds are approved, the following policies will be used in calculating the longevity and disbursing the pay:

1. Qualifying Employees - Employees with five (5) years of service up to a maximum of twenty-five (25) years service will receive longevity pay. Service exceeding twenty-five (25) years will not receive additional longevity pay. Varying amounts may be approved based on full time or temporary employee status.
2. Elected Officials - Elected officials will not receive longevity pay.
3. Interruption of Service - Employees who have self-terminated, retired or been terminated by the City and then are rehired will be considered for the longevity at **their last date of hire except as required by law for individuals returning from military service.**

4. Date of Payment - Longevity pay will be calculated on the anniversary of the employee's **last date of hire** and will be issued on the last pay period in that month.
5. Terminated Employees - Any employee who is terminated prior to their anniversary date will **not** receive longevity pay.
6. Self-terminated Employees - Any employee who self-terminates prior to their anniversary date will **not** receive longevity pay.
7. Retiring Employees - Any employee who retires prior to their anniversary date **will** receive longevity pay based on a prorated number of years and months of service.
8. Employees on Occupational Injury Leave - Any employee on occupational injury leave and drawing workmen's compensation on their anniversary date will **not** receive longevity pay until they **return to work**.
9. Employees on Leave of Absence - Any employee on leave of absence on their anniversary date will **not** receive longevity pay until they are reinstated to the position vacated.
10. Employees on Family Medical Leave - Any employee on leave which is covered under the Family Medical Leave Act on their anniversary date will receive longevity pay.
11. Employees on Military Leave of Absence - Any employee on military leave of absence on their anniversary date will receive longevity pay.
12. Employees on Suspension - Any employee who is on suspension on their anniversary date will not receive longevity pay unless they are reinstated to their position. If the suspended employee is terminated, they will not receive longevity pay.

### **306 – EDUCATIONAL INCENTIVE PAY<sup>15</sup>**

Full-time employees who work at least 40 hours per week, and who have been employed with the City of Tahlequah for one (1) year are eligible to participate in the Educational Incentive Pay program.

Eligible employees may receive incentive compensation for completion of an Associate's (or 62 (sixty-two) accredited college hours), Bachelor's or Master's degree from an accredited college or university as follows:

Associate's Degree (or 62 (sixty-two) accredited college hours)	- \$15.00 (fifteen dollars) per pay period
Bachelor's Degree	- \$25.00 (twenty-five dollars) per pay period
Masters degree	- \$50.00 (fifty dollars) per pay period

The compensation will be paid in one lump sum amount each year on the anniversary of their hire date.

Request for educational pay may be approved at any time during the fiscal year and approved with submission of the college transcript confirming the degree completed. All pay increases are subject to budget availability.

1. Elected Officials - Elected officials will not receive educational pay.

2. Interruption of Service - Employees who have self-terminated, retired or been terminated by the City and then are rehired will be considered for the educational pay at **their last date of hire except as required.**
3. Date of Payment – educational pay will be calculated on the anniversary of the employee's **last date of hire** and will be issued on the last pay period in that month.
4. Terminated Employees - Any employee who is terminated prior to their anniversary date will **not** receive educational pay.
5. Self-terminated Employees - Any employee who self-terminates prior to their anniversary date will **not** receive educational pay.
6. Retiring Employees - Any employee who retires prior to their anniversary date **will** receive educational pay based on a prorated number of years and months of service.
7. Employees on Occupational Injury Leave - Any employee on occupational injury leave and drawing workmen's compensation on their anniversary date will **not** receive educational pay until they **return to work.**
8. Employees on Leave of Absence - Any employee on leave of absence on their anniversary date will **not** receive educational pay until they are reinstated to the position vacated.
9. Employees on Family Medical Leave - Any employee on leave which is covered under the Family Medical Leave Act on their anniversary date will receive educational pay.
10. Employees on Military Leave of Absence - Any employee on military leave of absence on their anniversary date will receive educational pay.
11. Employees on Suspension - Any employee who is on suspension on their anniversary date will not receive educational pay unless they are reinstated to their position. If the suspended employee is terminated, they will not receive educational pay.

## **SECTION 400**

### **EMPLOYEE BENEFITS**

The City provides certain benefits for eligible employees. The City reserves the right to amend, suspend, or terminate any of these benefits at its sole discretion. All statements contained herein are mere summaries of the plans. Details of certain plans are contained in individual plan summary booklets or documents. If any statement herein is in conflict with the official plan document, the official plan document will control.

#### **401 - GROUP INSURANCE<sup>12</sup>**

Health - The City provides for group health insurance coverage for regular full time employees and makes coverage available for their dependents. Employee contributions to the City health plan, if any, shall be taken as pre-tax payroll deductions and shall be in an amount as approved by the City Council. Employees shall be responsible for the payment of premiums for any dependent coverage.

#### **402 - HOLIDAYS<sup>8</sup>**

All employees are granted twelve (12) paid holidays per calendar year with the holiday calendar to be approved by the Council before December 15 of the preceding year.

If an employee is required to work on an authorized holiday, the employee shall be entitled to receive one day off in compensatory time to be taken within the fiscal year. In order to qualify for holiday compensation, the employee must work his entire shift the day before the holiday and the entire shift after the holiday unless the day off has been pre-approved. An employee on an authorized leave with pay on the day the holiday occurs shall be paid for the holiday rather than the authorized leave.

#### **403 - ANNUAL LEAVE<sup>13</sup>**

Full time employees will be eligible to accrue annual leave which may be used for vacations, time off to attend to business and for personal reasons. Accrual of annual leave is computed on a fiscal year basis from the anniversary date of employment (or July 1 of a given fiscal year). Annual leave may be taken after completion of the first six (6) months of service. Employees may carry forward no more than thirty (30) days into the next fiscal year. At the beginning of each fiscal year, employees are to designate, to the extent possible, the times when they wish to use annual leave during that fiscal year to allow Department Heads to plan work schedules and projects. Upon termination from employment, employees will be paid for accrued but unused annual leave up to thirty (30) days. Employees may take only the amount of leave time which has been accrued. Unearned annual leave will not be advanced to employees.

Employees may accrue ten (10) days of annual leave per year for 1-5 years of service to the City; twelve (12) days of annual leave per year for 6-10 years of service; fifteen (15) days of annual leave per year for 11-15 years of service; eighteen (18) days of annual leave per year for 16-20 years of service; twenty-one (21) days of annual leave per year for more than 20 years of service. For annual leave calculation purposes, one (1) day constitutes eight (8) hours.

All requests to use annual leave must be approved in advance by the Supervisor/Department Head and scheduled so as not to unduly disrupt the efficient operations of the Department. It is the responsibility of the Supervisor/Department Head to ensure that the employee's annual leave is scheduled within twelve (12) months of the employee's anniversary date of employment. Accrued annual leave may be scheduled in increments of a minimum of four (4) hours but not more than a maximum of eighty (80) hours. Requests for scheduling of accrued annual leave in excess of eighty (80) hours will require approval of the Supervisor/Department Head. The City will furnish forms for such requests.



An employee may voluntarily donate accrued annual leave or accrued compensatory time to another employee to be used for sick leave purposes pursuant to the following conditions:

1. The person requesting shared leave has exhausted, or will exhaust, all accrued annual leave, sick leave, compensatory time off and any other accrued leave due to illness, injury or a physical or mental impairment;
2. The condition of the person requesting shared leave has caused, or is likely to cause, the necessity of leave without pay or termination of employment;
3. The leave donated shall be credited at the actual hourly rate of the person requesting the leave in comparison to the hourly rate of the person donating the leave. No one employee may receive more than 160 hours of shared leave at his rate of pay during any twelve month period;
4. The person requesting the leave must provide the City with appropriate documentation, upon request, supporting the need for additional leave time, including verification of the need for leave by a health care professional and an estimate of when the employee may return to work; and
5. The request for shared leave shall be approved by the Assistant City Administrator.

Employees desiring to request shared leave should contact the Human Resources Director to obtain the necessary forms to request the leave. No employee is required to donate leave and, thus, the fact that a request for shared leave is submitted does not mean that the requesting party will be provided with shared leave.

#### **404 - FAMILY MEDICAL LEAVE ACT**

The City of Tahlequah has adopted a Family Medical Leave Act policy for all eligible employees as defined by the Act. A copy of the policy is attached as Appendix D to the Handbook.

#### **405 - ILLNESS AND INJURY**

Sick Leave - Regular, full time employees shall accrue sick leave at the rate of one day per month. A regular, full time employee shall be eligible to take paid sick leave after completion of the introductory period. An employee may accumulate a maximum of 1040 hours (130 days) of Sick leave, at any given time.

Sick Leave upon Retirement- An employee who retires from the City may elect to apply the maximum amount of hours of sick leave allowed by the Oklahoma Public Retirement System toward his or her retirement service credit provided the employee is eligible for retirement benefits. An employee who opts to add his or her unused sick leave to retirement service credit will not be eligible to receive payment for sick leave.

If an employee chooses not to apply his or her Sick Leave to retirement service credit, he or she may receive payment for accumulated sick leave at the rate of 1 day's pay for each 4 days of sick leave at the time of retirement, on his or her final pay check. (Maximum of 260 hours)

Sick Leave upon Separation- Unused sick leave benefits shall not be payable to the employee upon termination of employment or resignation.

Sick leave may be used: 1) when employees are incapacitated by illness or injury; 2) for medical, dental, or optical diagnosis or treatment; 3) after exposure to a contagious disease when the attendance at duty, in the opinion of the Department Head, would jeopardize the health of other employees; 4) illness of a member of the employee's immediate family; or 5) in compliance with the City's Family Medical Leave Act policy.

In cases of absences for more than four (4) days, an employee intending to take sick leave because of a planned medical treatment must submit an application for leave at least thirty (30) days before the leave is to begin. If sick leave is to begin within thirty (30) days, an employee must give notice to the department head as soon as the necessity for the leave arises. In all cases of absence for more than four (4) days, an employee requesting leave must submit, in writing, medical certification on a form prescribed by the City, no later than fifteen (15) days after the leave begins. Failure to submit the required medical certification may cause denial or delay of sick leave until certification is provided.

The City reserves the right to require the returning employee to submit to a fitness for duty examination by a physician selected by the City, which examination will be paid for by the City. A physician's report and the release for full duty must be received before the employee is allowed to return to work. If the employee is unable to return to work, and the leave does not otherwise qualify for Family and Medical Leave or workers compensation, he may be separated from employment. Such separation shall be considered a resignation in good standing. Employees may take only the amount of sick leave earned. Sick leave shall not be used for annual leave.

1. Excessive sick leave usage or continued illness may be cause for an employee to be placed on a Physical Report Status. Further, the Supervisor/Department Head may require a physician's release at any time should an illness be in question or if the employee's performance is hindered because of illness. Any employee discovered abusing sick leave privileges will be subject to disciplinary action.
2. An employee who uses sick leave the day before or after an annual leave day or holiday will be required to provide a written statement from a licensed physician establishing the basis for the need for sick leave. Failure to provide a physician's statement will result in the time being charged as leave without pay and may also result in disciplinary action.

#### **406 - ON THE JOB INJURIES**

1. Reporting Injuries:
  - A. An employee shall report as soon as possible to his Supervisor, Department Head, or to the Human Resources Director any on-the-job injury regardless of the extent of the injury. Without good cause, failure to report an injury immediately is a violation of City policy and the employee may be subject to disciplinary action.
  - B. The Supervisor/Department Head shall secure first aid and determine if the employee needs further medical attention. If any reasonable doubt exists, the employee should be examined by a medical doctor/medical facility selected by the City.
  - C. With the approval of the City, an employee may use his own personal physician. However, the City reserves the right to have the City's physician examine the employee prior to and during the treatment except for emergencies. The employee and his Supervisor must obtain a medical authorization form from the Human Resources Director prior to such alternative treatment. Exceptions to this procedure may be granted in the case of an emergency, but a telephone call must be made by the Department Head or his designee informing the Human Resources Director of the injury.
  - D. The Assistant City Administrator and the Human Resources Director must receive a full report of any injury, signed by the employee, if possible, and the immediate supervisor within three (3) working days. Employees will also be supplied with a copy of a form to be completed by the attending physician/health care provider in order for payment to be made to the physician and/or hospital.

2. Employees on injury leave must return to duty at the earliest practical date. Employees on injury leave may be required to submit proof of continuing disability to the Assistant City Administrator and the Human Resources Director. Employees returning to regular, non-restricted duty must submit a Release to Work without Restrictions form from the attending or City's physician to the Human Resources Director.
3. Fitness for Duty Exam: An employee may be required to undergo a fitness for duty examination by the City's physician to determine whether the employee is able to perform the essential functions of the position with or without accommodation. If an accommodation is not possible without an undue hardship to the City, the employee's services may be separated.
4. Nothing in this section shall be construed, deemed, or interpreted as abridging or interfering with an employee's rights under the Workers' Compensation Act, nor shall any provision of such laws abridge or interfere with the benefits provided under this section or the rights of the City reserved herein.
5. Employees unable to work due to a job related injury are not authorized to work any secondary job for compensation without the approval of the Mayor.

#### **407 - RETIREMENT**

1. Regular, full time employees are covered under one of three (3) retirement plans. All employee contributions to the retirement systems are handled through payroll deduction. Participation in one of the plans is mandatory.
2. Social Security - All employees are subject to Social Security FICA/Medicare deductions. City and employee contributions are made in accordance with the law.

#### **408 - ALLOWANCES**

1. Travel - All trips out of town for City business and training must be approved by the Department Head. All out-of-state trips must be approved by the Mayor or, at the Mayor's direction, the Assistant City Administrator. Employees who are on approved assignment for the City shall be eligible for reimbursement for lodging, conference/seminar registration fees, meals, and transportation (personal vehicle) expenses based upon the following criteria:
  - A. Original receipts will be required for lodging and meals. Between meal snacks and drinks will not be reimbursed. The City will not pay for any alcoholic beverages.
  - B. Current State of Oklahoma per diem rates will be allowed for in state and out of state travel.
  - C. Mileage will be reimbursed according to the current Internal Revenue Service allowances when a personal vehicle is used. If a commercial airline is used, economy fare must be used.
  - D. Charges for tolls and parking fees will be reimbursed.
  - E. All reimbursements for travel, lodging, and related expenses will be authorized in accordance with current State of Oklahoma guidelines for such expenses.

Claims for reimbursement are to be made on the City's travel forms and individual receipts are required.

2. Credit For Hours Worked - Employees attending approved official City business at the request of the City shall be given credit for hours worked based upon the following criteria:
  - A. Credit for attendance will be based upon the starting time of the function and the ending time of the function, less meal periods.
  - B. Credit for hours of travel will be based upon the total hours of travel from the point of departure and to return to the point of departure, when the hours of travel require leaving and returning outside the normal workday. When travel time is scheduled, consideration will be given to provide for the safety of the employee in relation to the number of hours spent driving to and returning from the official City assignment.
  - C. For official assignments that last more than one (1) day, the travel time outside the normal workday is figured from the point of departure on the first day and return to point of departure on the completion day.
  - D. Out of state functions will be considered on a case-by-case basis as far as travel time is concerned.

#### **409 - LEAVE PROVISIONS**

1. Military Leaves of Absence and Restoration of Position - The City is committed to complying with all aspects of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") regarding absence from work for military obligations. An employee who must be absent from work because of service in the uniformed military, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, or an examination to determine your fitness for any of these types of duty, must notify Human Resources as soon as he/she becomes aware of the need for leave, but in no event later than ten days prior to the date leave will commence, unless it is otherwise impossible or unreasonable. An employee returning from military leave after honorable discharge is entitled to re-employment to the same or an equivalent position, if the employee applies for reemployment within a certain length of time upon return, in accordance with State and Federal Laws. A copy of the employee's orders must accompany any request for time off.
2. Leave of Absence Without Pay - A non-FMLA leave without pay may be requested by a regular full time employee. The leave request must be submitted in writing to the Human Resources Director for consideration by the Mayor stating the reason for the leave and the approximate time. A leave of absence must not interfere with the normal operations of the Department. Any leave shall not exceed six (6) months. An extension of leave time may be requested due to an emergency or extenuating circumstances. Benefits will not accrue during this period. Health insurance benefits will only continue upon payment of full premiums by the Employee.
3. Voting - Any employee will be allowed a reasonable amount of time off up to the maximum required by state law in order to vote should the employee be unable to vote at any time other than working hours due to requirements of the City. The employee must request time off to vote at least one (1) day prior to the election. The City may either change your shift time or select a time for you to be excused for voting.
4. Absence Without Leave - Absence without leave means any absence of an employee from duty without specific authorization. Whenever an employee is absent from work without prior authorization, the employee shall not receive pay for such absence and may be subject to disciplinary action.

5. Abandonment of Position - An employee who is absent from work for two (2) consecutive working days without prior authorization shall be deemed to have abandoned and resigned his position effective at the beginning of the first day of unauthorized absence. The employee's separation will be reported as a resignation by abandonment of position.
6. Civil Leave - An employee will be given time off with pay when performing jury duty or when required to serve as a witness in any criminal or civil proceeding. The compensation paid by the Court to the employee for such duty is to be deposited to the General Fund of the City. If an employee is involved in a personal court action, he may be granted leave to attend to his business; however, the time off will be charged to his annual leave or compensatory time.
7. Bereavement Leave - An employee may be granted up to three (3) days off for funeral leave per occurrence. Such leave will be allowed for an employee to attend the funeral, make arrangements for or to perform related activities involving an immediate family member defined as spouse, children, parents, grandparents, grandchildren, brother or sister (all to include step, half or foster relationships). Funeral leave may also be used by an employee for situations involving an employee's spouse's immediate family.

#### **410 - LEAVE SHARING<sup>4</sup>**

An employee may voluntarily donate accrued annual leave or accrued compensatory time to another employee to be used for sick leave purposes pursuant to the following conditions:

1. The person requesting shared leave has exhausted, or will exhaust, all accrued annual leave, sick leave, compensatory time off and any other accrued leave due to illness, injury or a physical or mental impairment;
2. The condition of the person requesting shared leave has caused, or is likely to cause, the necessity of leave without pay or termination of employment;
3. The leave donated shall be credited at the actual hourly rate of the person requesting the leave in comparison to the hourly rate of the person donating the leave. No one employee may receive more than 160 hours of shared leave at his rate of pay during any twelve month period;
4. The person requesting the leave must provide the City with appropriate documentation, upon request, supporting the need for additional leave time, including verification of the need for leave by a health care professional and an estimate of when the employee may return to work; and
5. The request for shared leave shall be approved by the Assistant City Administrator.

Employees desiring to request shared leave should contact the Human Resources Director to obtain the necessary forms to request the leave. No employee is required to donate leave and, thus, the fact that a request for shared leave is submitted does not mean that the requesting party will be provided with shared leave. Employees donating leave must have a minimum balance of ninety-six (96) hours of annual leave following the donation.

#### **411 - LEAVE WHEN OFFICES ARE CLOSED OR SERVICES ARE REDUCED**

In the event of an imminent peril threatening the public health, safety, or welfare of city employees, including such perils represented by hazardous weather conditions, the Mayor may declare a need to close, or partially close, city offices. Employees who are scheduled to work and affected by any such

closure shall be placed on administrative leave or, if applicable, assigned to work in another location. During their normal duty hours, employees on administrative leave due to hazardous conditions are on stand-by or on-call status. The city may call employees to return to their normal duties or respond to the demands of the situation as necessary.

Administrative leave, as used in this section, shall be accorded to affected employees only when city offices are temporarily closed or services are temporarily reduced due to hazardous conditions. Upon its reopening, normal rules governing leave and city procedures shall apply. The granting of administrative leave applies only to employees scheduled to work during the time period of the closure or reduced services. It does not apply to employees who are absent during the closure or reduction on any previously approved leave. Employees do not accrue administrative leave for work performed during overtime hours or on a holiday. Employees who are not eligible to accrue leave, such as temporary employees, shall not be granted administrative leave under this section when city services are temporarily reduced due to hazardous conditions.

When the Mayor declares a full or partial closure of city offices, employees responsible for providing essential services shall report to work. The Assistant City Administrator and department heads shall be responsible for determining essential services and ensuring that employees who staff such functions are so informed.

Employees who are considered responsible for essential services and who are required to work when city offices are closed shall accrue administrative leave on a straight-time basis for the hours worked during their regularly-scheduled work period, up to a maximum of 8 hours per day in addition to being paid for the regular work period. Such leave must be taken within 180 days of its accrual or the employee shall be paid for the leave. An extension of the time period for taking the leave may be approved up to an additional 180 days, upon recommendation of the department head and with consent of the employee.

Employees not required to report to work as a provider of essential services will not be compensated for their absence from the workplace while city offices are temporarily closed. The use of administrative leave applied to such employees during the closure period will ensure that accumulated sick or annual leave will not be impacted by their absence from the workplace.

Employees who are responsible for essential services who do not report to work have the following options to account for leave:

- A. Charge the absence to accumulated compensatory time;
- B. Charge the absence to accumulated annual leave;
- C. Make up lost time in a manner consistent with the FLSA, if the city determines that office hours and schedules permit.

## **SECTION 500**

### **HOURS OF WORK AND ATTENDANCE**

#### **501 - WORK PERIOD**

The work period is a standard seven (7) day work week which begins Sunday morning at 0001 hours and ends the following Saturday at 2400 hours. When necessary, emergency and essential functions will operate 24 hours per day, seven days per week.

#### **502 - OVERTIME**

Non-exempt employees are entitled to receive compensatory time off at the rate of one and one-half (1-1/2) times for all hours actually worked over forty (40) in the standard work period as defined in Subsection 501. Except in an emergency, all overtime work must be pre-approved by the Supervisor/Department Head with final approval by the Mayor before the time records are turned in. Overtime pay is not authorized. Whenever possible, compensatory time off is to be taken in the same pay period in which it is earned. However, if this is not possible, the City reserves the right to schedule the compensatory time off at its discretion.

#### **503 - LUNCH PERIODS<sup>9</sup>**

Whenever possible, employees will be granted a non-paid one (1) hour lunch period each work day. Lunch periods may vary from department to department depending on daily work schedules. Supervisor/Department Head shall schedule lunch periods so that normal service to the public will not be interrupted during the work day.

Every employee shall take a lunch break except for emergency personnel (Law Enforcement Officers, Law Enforcement Dispatchers, and Fire Department Drivers). Each employee shall take one-half (1/2) hour up to one (1) hour lunch break. The amount of time taken for the lunch break shall be at the Department Head's discretion.

#### **504 – SCHEDULES**

Supervisors/Department Heads shall schedule shifts and working hours necessary for the efficient operations of their departments.

#### **505 – CALL BACK<sup>5</sup>**

Whenever an employee is called back to work after completion of his/her regular assigned work period,

he/she will be guaranteed a minimum of either two hours of compensation or compensation for the actual number of hours worked, whichever is greater.

#### **506 - ABSENTEEISM**

Except in an emergency, any employee absent from work shall be responsible for notifying his Supervisor/Department Head, or in his absence the Assistant City Administrator or Human Resources Director, two (2) hours in advance when he is to be off and when he will report back to work. Any employee who fails to comply with this rule may be subject to disciplinary action.

#### **507 - TARDINESS**

Each employee must be ready to work at the starting time and work up to the quitting time. Inexcusable or habitual tardiness will be grounds for disciplinary action up to and including termination.

#### **508 - RECORDING OF TIME WORKED<sup>10</sup>**

Supervisors are required to keep an accurate record of hours worked by each employee. The time sheet shall reflect only authorized hours of work unless an exception is made by the Mayor.

1. Mechanized record of time – Where available, employees are required to utilize time clocks at least four (4) times daily: when they report to work, leave for lunch, return from lunch, and leave work at the end of the shift. An employee may not clock in sooner than seven (7) minutes before the beginning of his shift. Exceptions must be approved by the Supervisor/Department Head and the Mayor. After-hours work and overtime must be authorized before such hours are worked. Employees will not tamper with the time clock or alter the timecard in any way. An employee found guilty of tampering with the time clock/cards or of clocking in or out for another employee will be subject to discipline up to and including termination.
2. Time Sheets – Time sheets will be maintained for each employee. An employee's wages are computed directly for this record which must be signed by the employee. Supervisors/Department Heads shall validate the hours worked and sign the time sheets before submitting them to the Payroll Clerk. The Supervisor/Department Head shall make all notations or alterations to the employee's timecard or time sheet. If the employee disagrees with any notation or alteration, the employee is required to sign a statement detailing the reason for refusing to certify the notation or alteration.



## **SECTION 600**

### **IN-SERVICE PROVISIONS**

#### **601 - TRAINING AND SAFETY**

Training is an important part of the success and efficiency of the City's services and is instrumental to employee development. It is viewed as a shared responsibility between the employee and management. The goal is to broaden the knowledge and skills of the employee in areas related to his job performance, to provide skills for enhanced career development and to ensure the best possible service to the public. Because degrees of training may differ between departments, the responsibility for the development of employee training programs is assigned to the Supervisors/Department Heads. They will review training needs at regular intervals to assure that effective training is accomplished within the department.

The City is committed to providing a safe and healthy workplace for all employees. Responsibility for observance of safe work practices is shared by each employee. Therefore, employees are required to attend safety training and apply the information provided by any in-service safety training manual. An employee is to immediately notify the Supervisor/Department Head of any unsafe condition in the workplace.

#### **602 - PROMOTION**

The City will attempt to promote from within the workforce when it is determined that it would be in the best interest of the City and public. However, the City reserves the right to hire from outside sources for any position. In considering a promotion from within the workplace, the City will consider the person's merit (the employee's qualifications, skills, aptitude, attitude, performance evaluations, and attendance) and fitness for the position. An employee may apply for a promotion after he has been in his current position for at least six (6) months.

If an employee is selected for promotion, he will receive a higher level of pay than what he is currently receiving, in accordance with the current pay resolution adopted by the City Council. If the employee fails to meet the standards set for the position within a six (6) month period, the employee may be returned to his previous job classification if possible and his pay decreased to that level.

No employee may be promoted or transferred to a position which will result in that person being in a supervisory role in relationship to a spouse or family member. For the purpose of this policy, a supervisory role is defined as one where the person has direct or indirect input over the subordinate employee's pay, job evaluations, disciplinary recommendations, promotions, demotions, or day-to-day

supervision. Further, no employee may transfer into a position which will result in the person being supervised by a spouse or family member. Family member is defined to include parent, child, brother, sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law or sister-in-law.

In the event a situation arises in conflict with this provision, the impacted persons will be given three (3) months to resolve the conflict by one of the parties transferring to another department, resigning, accepting a demotion to a non-supervisory position or the like.

### **603 - TRANSFER**

An employee may request a transfer after he has been in his position for at least six (6) months, or may be asked to transfer to a different Department if it is in the best interest of both Departments and if the employee can meet the qualifications for that position. The employee shall be placed in the pay step deemed appropriate by the Supervisor/Department Head and approved by the Mayor and City Council.

### **604 - DEMOTION/REASSIGNMENT**

An employee may be reassigned to another available open position for which he is qualified if his position has been abolished or if he is unable to perform the duties of his current position. An employee may be demoted for disciplinary purposes. The employee shall be placed in the pay step deemed appropriate by the Supervisor/Department Head and approved by the Mayor and City Council for the new position.

### **605 - PERFORMANCE EVALUATION**

The purpose of an evaluation is to:

1. Maintain or improve the employee's job satisfaction and morale;
2. Advise the employee of his strengths and weaknesses and what is expected of him in performing his duties;
3. Serve as a basis for promotion, demotions/reassignments and/or discipline; and;
4. Build and strengthen the Supervisor/Department Head and employee's work relationship; and
5. Determine the employee's possible merit pay for a given fiscal year.

All evaluations will be submitted to the Human Resources Director and maintained in the employee's personnel file.

1. Introductory Period Evaluation - During the twelve month introductory period, the immediate Supervisor/Department Head will monitor the employee's work habits, ability, and performance. If the Supervisor/Department Head considers the employee's overall performance to be satisfactory, regular full-time status will be recommended on completion of the introductory period. The Supervisor/Department Head shall keep the employee informed of his job performance throughout the introductory period.
2. Annual Performance Evaluation –Each employee will receive an Annual Performance Evaluation, in which the immediate Supervisor/Department Head will evaluate the employee's quality and quantity of work performed, and set yearly goals with the employee. If the performance

evaluation is satisfactory or better, and if the employee is not at the maximum of his pay range, the Supervisor/Department Head may submit a recommendation for a pay increase for the employee. The Supervisor/Department Head shall discuss the employee's job performance evaluation with the employee and provide opportunity for comments.

3. Mid-Year Performance Review- In addition to Annual Performance Evaluation, each employee will receive a Mid-Year Performance Review, in which the immediate Supervisor/Department Head will review the employee's quality and quantity of work performed and the progress on goals set during the annual evaluation. The Supervisor/Department Head shall discuss the review with the employee and provide opportunity for comments.

### **606 - DISCIPLINARY ACTION**

The regulation of acceptable conduct is necessary for the orderly and efficient operation of the City and for the benefit and protection of the rights and safety of all employees and citizens. The following guidelines and procedures are designed to promote understanding of what is considered unacceptable conduct.

1. Progressive Discipline: The City will attempt to follow a system of progressive discipline for those offenses that are not serious. Progressive discipline might include counseling, oral reprimand/admonishment, written reprimand, suspension, demotion or reassignment, disciplinary probation and discharge. However, progressive discipline is only a guideline and the City retains the right to impose whatever level of discipline it deems appropriate for any offense when deemed in the best interest of the City.
2. Disciplinary Procedures: While the express purpose of discipline is to correct inappropriate performance or behavior, discipline may be punitive in nature and will be based on an employee's status or classification, past performance and behavior, the severity of the circumstances and the evidence warranting any action. When reviewing the degree of discipline to be imposed, the areas to review may include, but are not limited to, the following:
  - Severity of the action;
  - Policy or procedure violated and the employee's knowledge thereof;
  - Past work history;
  - Degree of damage/injury to equipment, property or persons;
  - Length of service;
  - Degree of insubordination, if any;
  - Cover-up or false statements or records;
  - Prior safety record, if applicable;
  - Violation of a disciplinary probation agreement;
  - Cooperation during any investigation.

In order to insure that the employee understands the nature and reasons for the discipline and the expectations of the City for improvement in any areas of deficiency, all discipline, other than informal discussions, will be reflected on a "Notice of Counseling/Reprimand/Discipline" form. A copy of the form is attached as Appendix E.

Employment is at will and may be terminated when such action is deemed for the good of the service, subject to the provisions of the City Charter and Ordinances of the City. All matters involving proposed disciplinary action shall be reviewed by the Human Resources Director and are subject to approval by the Mayor.

To assist employees and supervisors in understanding the disciplinary philosophy of the City, the following factors may be considered in determining the appropriate level of discipline. These factors are designed to serve merely as guidelines and the City of Tahlequah reserves the right to impose discipline for any reason deemed necessary for the good of the service and to select the level of discipline it deems appropriate for any single offense up to and including termination.

3. Disciplinary Reasons: The following are examples of the type of infractions which warrant immediate termination. This list is not intended to be all inclusive.
  - A. Insubordination: Gross neglect of duty, refusal to comply with management's lawful instructions, excessive argumentativeness, or violation of or refusal or inciting others not to comply with departmental or City rules and regulations.
  - B. Negligent misuse, willful or malicious damage to, or destruction of, City property or property of others, including electronic resources.
  - C. Theft or misappropriation of City property.
  - D. Conviction of any felony, or any criminal misconduct on or off duty involving moral turpitude or conduct that brings the City's good name into disrepute or undermines public confidence in City administration because the conduct is public. A plea of nolo contendere will be considered tantamount to a conviction.
  - E. Disorderly or offensive conduct while on duty; disgraceful or offensive conduct while on or off duty, when such behavior threatens public respect for the City service, or the public order, safety, or health.
  - F. Deliberate discourtesy to the public.
  - G. Habitual tardiness, unauthorized or excessive absence, or abuse of sick leave, falsification of leave usage, sleeping on duty except when accepted as a normal portion of the job assignment.
  - H. Acceptance of a gift or fee or other valuable thing in the course of or in connection with work when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons in the performance of his official duties.
  - I. Improper use of Authority: Use of official position or authority for personal profit or advantage; inducing or attempting to induce any employee to commit an unlawful act or to act in violation of any lawful departmental regulations or professional ethics; discussing with unauthorized persons any confidential information gained through employment with the City.
  - J. Falsification of records, including application records or papers, time records, claims against the City, or falsification of any City record.
  - K. Being under the influence of intoxicants or drugs while on duty, or while in any City vehicle or possession, use or distribution of alcohol or illegal substances while at work or on City property.
  - L. Unreasonable failure to follow any safety policy, rule or regulation; gross negligence in the performance of duties; or any conduct that would place the employee, citizens or fellow employees or City property at risk.

- M. Smoking in unauthorized areas.
  - N. Vending, soliciting, or collecting contributions on City time or City premises without prior authorization.
  - O. Violation of the City's policy against discrimination, harassment, or retaliation.
  - P. Excessive garnishments, tax liens or wage assignments as regulated by State law.
  - Q. Loss of appropriate licenses or certificates necessary to the function of the job or requirements for original appointment to the job.
  - R. Job abandonment.
  - S. Fighting or gambling on duty or while on City property.
  - T. Use, possession or distribution of weapons.
  - U. Assaulting, threatening, or intimidating employees or customers;
  - V. Cumulative violations of less severe infractions;
  - W. Failure to maintain conditions of employment as outlined in any disciplinary probation agreement.
  - X. Consistent inability to perform assigned duties in an acceptable manner.
  - Y. Any behavior that impedes, interrupts, contradicts or jeopardizes the effective functioning of the City.
4. The following are examples of infractions which, if not repeated, would generally warrant less severe discipline. This list is not intended to be all inclusive. Repeated violations or cumulative violations would result in more severe discipline.
- A. Violations of policies or procedures when proof exists that the employee had no knowledge or reason to have knowledge of the infraction.
  - B. Minor first violations of a policy or procedure, not considered a safety violation and not involving damage to or loss of City equipment, property, material or supplies, or any injury to any person.
  - C. Initial substandard performance before the employee is placed on notice.
  - D. Minor attendance problems.
  - E. Initial non-conformance with acceptable dress codes or hygiene standards.
  - F. Failure to report known violations of policy or procedure.
  - G. Failure to become knowledgeable of policies, procedures or work routines/processes.
  - H. Conviction of a misdemeanor, including minor traffic offenses on the job. A plea of nolo contendere is tantamount to a conviction. A plea bargain from a felony may not fall within

this category based on the seriousness of the offense and conduct unbecoming definition.

- I. Violation of traffic laws, parking ordinance, or noncompliance with accepted traffic safety practices.
5. Authority to Suspend and Length of Suspension
- A. Summary Suspension: When it is deemed for the good of the service to immediately remove an employee from active service because he is a danger to the public, fellow employees, or to the City, a summary suspension with pay may be issued by the Mayor prior to finalizing the investigation. When the investigation is complete, the employee will be given a letter of charges and an opportunity to respond.

### **607 - DISCIPLINARY HEARING PROCEDURES**

Employees who are subject to potential disciplinary action involving reassignment with loss of pay, demotion, suspension without pay or termination will be offered an administrative hearing before the Personnel Review Board before any final action is taken. This hearing procedure is available only to regular, full time employees not covered by a collective bargaining agreement.

The Personnel Review Board shall be composed of three current city employees of supervisory rank or above who are not employed in the same department as the employee under consideration. A meeting of the Personnel Review Board shall be held at least three (3) days prior to the City Council meeting whenever possible. The Board shall hear testimony and evidence concerning the basis for the recommendation of discipline. The employee shall have the right to be present and to present evidence and testimony on his behalf. If the employee intends to be represented by counsel, he is to notify the Human Resources Director at least two (2) working days prior to the hearing. The procedures for initiating a hearing shall be as follows:

1. The Department Head will prepare a statement of charges with supporting facts and with a recommendation for discipline. A copy will be provided to the employee, the Assistant City Administrator and the Human Resources Director.
2. If the employee desires a hearing before the type of discipline enumerated above becomes final, he must submit a request for a hearing, in writing, with the Assistant City Administrator within three (3) business days of receipt of the statement of charges.
3. The employee will be notified, in writing, of the date, time and place for the hearing, which shall be scheduled no sooner than three business days after the employee's request for the hearing.
4. Following the hearing, the Board shall prepare written findings of facts and recommendations for discipline, if any, and present the same to the Mayor for consideration and possible action by the City Council. The employee shall be notified of the decision of the City Council in writing.
5. The findings and recommendations of the Board are advisory only and the final decision rests with the City Council, which decision shall be final and binding. An employee utilizing the right to a hearing before the Personnel Review Board waives all other grievance or arbitration rights or procedures.

## **608 - GRIEVANCE PROCEDURE**

The City's policy is to encourage employees to make grievances known in an appropriate manner without fear of reprisal. Employees are encouraged to discuss with their Supervisor/Department Head any problems or issues which have the potential to create a negative or adverse atmosphere and/or to impede an employee's performance. The intent of the City's grievance procedure is to fairly and expeditiously resolve problems through open, direct, honest, two-way communication and to ensure, to the extent possible, that such problems/issues do not continue.

An employee who feels aggrieved is to verbally discuss the situation with the Supervisor/Department Head in an effort to informally address potential problem areas. Should the grievance directly involve the Supervisor/Department Head, the employee may proceed to the Human Resources Director.

The Department Head is to investigate the matter and take appropriate action to resolve the problem in a fair and timely fashion. If the grievant is not satisfied with the results obtained, the employee may submit a written account of the problem/issue and any action taken to the Human Resources Director. Such statement must include:

1. A statement of the problem;
2. Names of the parties involved;
3. The employee's perception of the Supervisor's/Department Head's response to the problem;
4. Identification of the areas satisfied by the Supervisor's/Department Head's response and identification of the areas that remain unresolved.

The Human Resources Director, with the assistance of the Assistant City Administrator, may then consult with the parties in an effort to bring about a fair, expedient, equitable solution, and may further investigate the situation, if necessary.

## **609 - SEPARATIONS**

Upon separation from employment, the employee will be required to return all City property before his final pay check is issued. The separation date is the employee's last day to work except when an employee becomes disabled in which case the last day paid is the separation date. Upon separation, the Human Resources Director will conduct an exit interview. This provides the employee with an opportunity to receive any benefit forms, to have any questions answered and to provide information related to the reasons for leaving City employment, where applicable.

1. Resignation - All employees, except temporary employees, are expected to give at least ten (10) working days notice prior to their last day of work. Failure to do so may be cause for denying future employment with the City. An employee resigning in good standing may be considered for re-employment by complying with all requirements for a new employee.
2. Layoff - When there is a shortage of work or funds, or when the abolishment of a position becomes necessary, an employee(s) may be laid off. Recall of laid-off employee(s) may be considered at the discretion of the City when clearly in the best interest of the City if the position is re-established or if a vacancy becomes available for which the employee is qualified.
3. Retirement - Retirement as outlined in this handbook and the official applicable plan documents.

4. Disability - An employee who is unable to perform the essential functions of the position and where an accommodation would impose an undue hardship on the City may be separated as permitted by State and Federal law.
5. Death of Employee - In the event of the death of a City Employee, termination shall be effective as of the date of death. Compensation due will either be paid to the beneficiary as designated by the employee or to the estate of the employee.
6. Termination - Termination will be for the good of the service.

#### **610 - USE OF CITY PROPERTY**

All employees are expected to exercise care in the use of City property. Personal use of City property or equipment is prohibited. Negligence in the care and use of City property, personal use of such property, or unauthorized removal of City property, may result in discipline. City equipment and property may not be removed without prior authorization from the Mayor. Employees are prohibited from working on personal projects or outside businesses or activities during regular work hours. Employees violating these policies will be subject to discipline up to and including termination.

All employees are expected to exercise proper care in the use of all City property, tools and equipment. Any employee who loses City property or equipment, or who negligently damages the same, shall be responsible for the reasonable cost in replacing the items.

The City provides property and equipment to employees to assist them in carrying out their duties such as office equipment, computers, computer accounts, radios, voice mail, e-mail, fax machines, cellular telephones, furniture, lockers, vehicles and the like. All items remain the property of the City. These items are not for the exclusive use of any one employee. As these items are the property of the City, it reserves the right to inspect, review, audit, intercept, access, disclose and monitor such property, equipment and information systems at any time, with or without notice, and during or after regular work hours. All such items must be returned upon the request of the Supervisor/Department Head or the Mayor.

No employee is authorized to modify any such items without the prior written permission of the employee's supervisor. This includes, without limitation, a prohibition against loading floppy disks, software programs or CD-ROM operations onto the City's computers without prior permission. Employees are prohibited from removing City computers and software for use elsewhere. Computer games are prohibited on City equipment. No employee is authorized to change the lock on or use a personal lock on City owned equipment without specific written permission from the Department Head. An employee may only install and use a password on a City computer with the consent of the Mayor. All passwords, except those on law enforcement computers, must be provided to the Mayor and the Assistant City Administrator. All passwords on law enforcement computers must be provided to the Chief of Police.

The City strives to maintain a workplace free of harassment and is sensitive to the diversity of its employees. Therefore, the City prohibits the use of computers, e-mail systems, voice mail and all other communications and information systems in any manner which is disruptive, offensive, disrespectful or harmful to the morale of the employees. Fraudulent, harassing, obscene or unlawful messages and/or materials are not to be sent, printed or stored on City equipment.

All City provided property and equipment are to be used only in the furtherance of legitimate City business. The City's information system is not to be used to solicit or proselytize for personal, political, commercial or religious causes, outside organizations or other non-job related personal matters. This policy does not prevent brief personal communications between employees or between employees and family members so long as it does not become time consuming and does not detract from day-to-day operations.



All information regarding the business conducted by the City, including personnel information, is the property of the City. While the City is a public entity, and subject to laws regarding disclosure of information, this does not mean that each individual employee is authorized to make such disclosures. Requests for the disclosure of material, non-public City business information must be directed to the Office of the Assistant City Administrator. The unauthorized disclosure of non-public City information may be grounds for discipline, up to and including termination, subject to applicable law.

### **611 - VEHICLE OPERATION AND MAINTENANCE POLICY**

Certain positions require the use of a City vehicle. Only employees assigned by a Supervisor/Department Head to a vehicle are authorized to drive that vehicle. An employee using a City vehicle must maintain it in a clean and orderly condition and ensure that it is properly fueled at the end of each shift. If a vehicle becomes unsafe to drive for any reason, a written report must be prepared and delivered to the Supervisor/Department Head and the Assistant City Administrator.

Certain positions may require that a City vehicle be assigned to an employee on a long term basis. The employee holding that position is responsible for ensuring that all licenses and inspections are kept current, and that necessary servicing and repairs are performed.

The following conditions shall apply to the use of any City vehicle:

1. All employees utilizing a City vehicle must hold a valid appropriate driver's license as required by State law.
2. Traffic citations received while operating a vehicle are the responsibility of the driver operating the vehicle.
3. Smoking is not permitted in City vehicles.
4. City vehicles will be operated at all times in conformance with state and local laws. The driver and all passengers shall wear safety restraints at all times.

#### **Accidents:**

1. All vehicular accidents must be reported immediately to the police department, the Supervisor/Department Head and the Assistant City Administrator.
2. An *Accident Reporting Form* is contained in the glove compartment of each City vehicle. This form must be completed by the driver at the scene of the accident or as soon thereafter as possible.

City employees may be transported in City vehicles while on duty or while engaged in City business. In addition, elected City officials, members of City Boards and Commissions, City volunteers, persons in police custody and persons designated by the Mayor may ride in City vehicles. All other persons may only be transported in a City vehicle in the case of an emergency or with permission of the Mayor.

### **612 – REPLACEMENT OF DAMAGED ITEMS<sup>6</sup>**

The City recognizes that, from time to time, items of personal property may become damaged or destroyed while an employee is performing work for the City. The City agrees to replace or repair, at its discretion, certain personal items that may become damaged or destroyed while an employee is performing work within the course and scope of the duties assigned to him if, but only if, the loss or damage was not due to the negligence of the employee. An employee seeking repair or replacement of a personal item must

submit a written request to the Department Head, along with receipts reflecting the purchase price of the item whenever possible. If the request is approved by the Department Head, it will be forwarded to the Human Resources Director for consideration. If approved by the Human Resources Director, it will be placed in the normal claims administration for final consideration. Items that may qualify for repair or replacement include the following:

1. Eyeglasses-single lens not to exceed \$150.00; bifocal or other not to exceed \$250.00
2. Contact lenses not to exceed \$200.00
3. Dentures
4. Watches not to exceed \$50.00
5. Personal clothing

## **SECTION 700<sup>11</sup>**

### **CITY OF TAHLEQUAH POLICY FOR ACCEPTABLE USE OF COMPUTING AND ELECTRONIC INFORMATION SYSTEMS**

#### **701 - PURPOSE**

The purpose of this Acceptable Use Policy (AUP) is to establish guidelines that address the acceptable use of City-owned computing and electronic information systems. This policy applies to all City employees, officers, and agents of the City who use City-owned computing and electronic information equipment, devices, and systems. This AUP was established to protect each user as well as the City and to ensure that the use of City-owned computing and electronic information systems is safe and valuable for everyone.

#### **702 - OVERVIEW**

The City of Tahlequah strives to provide its employees, officers, and agents with the equipment, services, and resources needed to ensure the effective performance of duties. Computers, E-mail, Internet, Intranet, telephones, voice mail and FAX machines are provided to City employees and officials for the purpose of conducting City business. This policy sets guidelines for the use of City computers, E-mail, Internet, Intranet, telephones, cellular phones, voice mail and FAX machines to assure their appropriate use in conducting City business.

By using City-owned computing resources or information systems, you agree to accept and abide by this AUP and other applicable city policies, procedures and laws. Acceptable use of City-owned computing resources or information systems must be ethical, reflect professional honesty, and show responsible use in the consumption of shared resources. Acceptable use also demonstrates respect for intellectual property, ownership of data, system security mechanisms, and freedom from intimidation and harassment.

All users should be aware that the data, information, and records created through their use remains the property of the City of Tahlequah. **DO NOT EXPECT PRIVACY ON CITY-OWNED ELECTRONIC RESOURCES.** The City may inspect all electronic devices at any time, without prior notice to or the consent of the employee, for any legitimate business purpose. Except as otherwise may be protected or made confidential by statute, information and records created or stored through the use of City-owned computer and electronic information resources, devices, networks and systems may also be subject to public disclosure under the Oklahoma Open Records Act.

#### **703 - DEFINITIONS**

1. City computer systems include the PC's, laptops, hand holds, and software used to support these systems and Internet / Intranet services.
2. Mail (computer-generated electronic mail) is the sending of written messages through a system of computers or computer terminals. It includes messages sent within the City's central computer network and messages sent to other individuals and organizations through the Internet.
3. The City telephone system includes all telephones, cellular or wireless phones, voice mail and

FAX machines, and voice-recorder systems.

**704 - POLICY**

1. Access to the City's computers, E-mail, Internet, Intranet, telephones, cellular and wireless phones, voice mail and FAX machines exist for the purpose of conducting City business. Limited personal use of City-owned computing and electronic information resources is allowed provided that it does not interfere with legitimate City business and otherwise meets with these acceptable use guidelines.
2. All employees, officers, and agents of the City of Tahlequah are responsible for using computing and electronic information resources in an effective, ethical, and lawful manner. Each employee, officer and agent authorized to use the City's computers, E-mail, Internet, Intranet, telephones, voice mail and FAX machines is responsible for understanding and following these guidelines.
3. Unacceptable uses of the City's computers, E-mail, Internet, Intranet, telephones, voice mail and FAX machines shall include, but not be limited to, any activity that:
  - A. Impairs the City's business or the employee's performance.
  - B. Allows unauthorized use of City equipment, resources, systems, and accounts.
  - C. Solicits, displays, archives, stores, prints, distributes, or records any offensive materials which may include, but are not limited to, pornography, sexual comments or images, profanity, racial slurs, gender-specific comments, or any content that can reasonably offend someone on the basis of sex, race, color, religion, national origin, age, sexual orientation, gender identity, mental or physical disability.
  - D. Violates any state or federal law, municipal ordinance, or otherwise constitutes an illegal act.
  - E. Violates the City's professional conduct and anti-harassment policy.
  - F. Accesses vendor sites to purchase items for personal, non-business, use.
  - G. Violates copyright laws, licensing terms, patent laws, trademarks, trade secrets or contractual terms.
  - H. Is conducted for the exclusive private commercial gain or personal financial interest of the employee.
  - I. Degrades or disrupts City equipment or the performance of City systems and networks.
  - J. Promotes a political purpose.
  - K. Does not otherwise comply with applicable City policies and procedures, or applicable local, state, or federal law.
4. The City may audit and obtain detailed reports on the use of computing and electronic information resources by users as needed. Except as may be protected or made confidential by statute, such reports may be subject to public disclosure.

5. Each user of computing resources has a uniquely assigned user name and password for security purposes. While this cannot guarantee privacy, confidentiality or data security, it is an important component of the City's overall system protection. Employees are responsible for all computer, Internet and Intranet use under their user name and shall maintain the confidentiality of their password. Passwords are for the security of City information, not for the privacy of the employee.

Passwords must not be shared. Passwords control access to files, register a permanent record of the entries made, and are the means by which employees are held accountable for their system entries. If employees suspect their password has been compromised, they should immediately call the Information Technology Manager for assistance with changing their password.

Computers should be secured when employees leave their desks for any period of time and logged off at the end of each workday. This protects employees and the security of the system from someone else accessing the system using a valid user name and password.

6. All electronic storage media, data files, records, logs and programs used on City-owned computer or telephone equipment is the property of the City and is subject to inspection by the City.
7. No software or hardware shall be installed without the consent of the City.
8. No person, without proper authorization as provided herein, may intercept, obtain, or examine information intended for any system user other than themselves, nor may they monitor the use of City computing or network resources by any other individual, or perform any probing, scanning, "sniffing," or vulnerability testing, except as otherwise provided by City policies or by law.
9. Authorization For External Examination -- In cases of administrative or judicial proceedings, information stored electronically may be authorized for release to outside parties. Users should recognize that although access to their files and data is normally avoided, situations may arise where legitimate business purposes may required the viewing of email or other electronic information or monitor user activity on the City's computer network. Causes for access may include, but are not limited to the health or safety of individuals or property; violations of City policies, or local, state or federal laws; and the need to locate information required for the conduct of City business. All requests for such access shall be directed to the City Clerk; no such request shall be granted without confirmation by the Mayor.  
Nothing in this policy shall be construed as preventing the City and its authorized employees or agents from monitoring any equipment, use, or other component of the City's computing and electronic information systems for system security, maintenance, or user compliance purposes.
10. Unauthorized or improper use of the City's computing and electronic information systems or other infractions of the provisions of this policy constitutes misuse of City property and therefore are considered violations of the City of Tahlequah Personnel Policies. Such violations may result in termination of use privileges and depending upon the severity of the outcome of unauthorized or improper use, may result in disciplinary action, up to and including termination of employment in accordance with the provisions of the City's Personnel Policies.

**705 – CELL PHONE POLICY**

City of Tahlequah issues individual cellular phones to city employees who are required to be in close contact with the city at all times. While cell phones are a necessary convenience of the business world, we require that City employees follow the guidelines listed below.

All employees are required to be professional and conscientious at all times when using company phones.

**Usage:**

It is the City of Tahlequah’s policy that representatives of our organization who are issued a cellular phone understand the phones are intended for business use. Employees are expected to make every effort to not exceed the current contracted allowed minutes.

Cellular phone bills are reviewed when they arrive, any employee who exceeds their contracted allowed minutes is subject to additional usage review.

**Driving:**

While driving a city vehicle or while driving on city business, employees may:

- Talk on their phone using a hands-free device
- View GPS or navigation coordinates
- Use voice commands
- Use the phone during a medical, fire or police emergency, or
- Report a safety hazard or criminal activity

While driving a city vehicle or while driving on city business, employees may not:

- Send, write or read text messages, instant messages or emails
- Dial a phone number; unless stopped
- View or record a video
- Enter data into a handheld device

The City of Tahlequah reserves the right to amend or alter the terms of this policy.

**Acknowledgment of Cell Phone Policy**

I, \_\_\_\_\_, have received, read and understand the City of Tahlequah Cell Phone Usage Policy.

\_\_\_\_\_

Employee Signature Date

# APPENDIX A

## COMPLAINT FORM

Name of Complainant: \_\_\_\_\_

Position with City: \_\_\_\_\_

Name and Position of Person allegedly violating company policies, including any claims of discrimination and/or harassment: \_\_\_\_\_

Date and Place of Occurrence: \_\_\_\_\_

Description of the event giving rise to the Complaint (Please use additional sheets as needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name, address or position of any potential witnesses to the events:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employer

## **APPENDIX B**

### **SUPERVISORY BY-PASS PROCEDURES**

#### **Purpose:**

This policy is designed to provide a procedure whereby employees may, in good faith, report suspected violations of City policies and/or state or federal laws by supervisory or management personnel without fear of retaliation. However, abuse of this procedure by knowingly reporting false information will result in disciplinary action up to and including termination. For the purpose of this policy, an “immediate supervisor” is defined as a person in the employee’s immediate chain of command who generally performs evaluations as well as persons in the chain of command who may recommend discipline and who provide direct supervisory or management control over the employee’s employment welfare.

#### **Procedures:**

1. In the event that an immediate supervisor is violating a City policy or in violation of a state or federal law, the employee witnessing the violation may utilize this by-pass procedure and report the incident to the Assistant City Administrator or Human Resources Director utilizing the Complaint Form attached as Appendix “A”.
2. In the event that the Assistant City Administrator or Human Resources Director is also suspected to be involved in the alleged violation, the employee may report the incident directly to the Mayor utilizing the same form. The Mayor may directly investigate the allegations or may assign the investigation to some other Department Head.
3. If the event that the Mayor is suspected of being involved in the alleged violation, the employee may report the allegations to the City Council on the Complaint Form. The City Council will determine the best method of investigating the allegations.
4. All complaints will be handled in as confidential a manner as possible under the totality of the circumstances recognizing that witnesses may have to be interviewed and the allegations discussed with them. Any findings of fact will be reduced to writing and the complainant will be informed of the ultimate determination of the fact finder(s). However, due to the need to protect the privacy interests of all employees, the complainant may or may not be informed of any final act of discipline, if any.



## APPENDIX C

### ALCOHOL & CONTROLLED SUBSTANCE TESTING POLICY AND PROCEDURES

#### **Section 1. Policy Statement:**

The City of Tahlequah recognizes the importance of having a drug and alcohol free workplace. The abuse of alcohol, drugs, or other chemical substances endangers the safety of the public, the employee, and coworkers. The City of Tahlequah believes that it is in the best interest of the employees to prevent, treat and eliminate drug, alcohol, and chemical substance abuse in the work place. Any employee found using, possessing, selling, distributing or being under the influence of an illegal chemical substance and/or alcohol during working hours or on City property or driving City vehicles will be subject to discipline up to and including termination. The immoderate use of alcohol is prohibited in all business-related situations.

Nothing in this policy shall be interpreted as a waiver of management's right to take other measures to maintain discipline and a safe environment or to respond to unsatisfactory job performance, misconduct or excessive absenteeism under other provisions of the Employee Handbook of Personnel Policies of the City of Tahlequah.

For purposes of this Policy, an "illegal" substance is any substance or drug (a) which is not legally obtainable; (b) which may be legally obtainable but has not been legally obtained by the employee; or (c) which is being used in a manner or for a purpose other than as prescribed for the employee.

Use of a controlled substance is not prohibited when prescribed by an authorized medical practitioner for treatment and when used as directed. In these circumstances, employees are to inform their supervisors that they are taking medicines which may result in side effects.

#### **Section 2. Effective Date:**

This amended policy will be effective thirty (30) days after official posting in a prominent place at City Hall and following distribution of the policy to all employees. In addition, a copy will be given to each applicant for employment upon receiving a conditional offer of employment.

#### **Section 3. Application:**

This policy shall apply to all employees as well as all applicants for employment once they have received a conditional offer of employment other than employees covered by the terms of a current collective bargaining agreement.

#### **Section 4. Pre-Employment Testing:**

All applicants for positions with the City of Tahlequah shall undergo drug and/or alcohol testing following a condition offer of employment but prior to final hiring and assignment. Refusal to undergo a test, or a confirmed positive test, shall be the basis for withdrawing a conditional offer of employment.

#### **Section 5. Reasonable Suspicion Testing:**

Drug or alcohol testing may be conducted on any member when objective evidence exists establishing reasonable suspicion of substance abuse in the workplace. Reasonable suspicion may be based upon, among other things:

5.1 Observable phenomena, such as physical symptoms or manifestations of being under the

- influence of drugs or alcohol while at work or on duty or the direct observation of such use while at work or on duty;
- 5.2 Reports of drug or alcohol use from reliable and credible sources, which are independently corroborated;
  - 5.3 Evidence that an individual has tampered with a drug or alcohol test; or
  - 5.4 Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while on duty or while on the City's premises or operating a City vehicle, machinery, or equipment.
  - 5.5 No testing under "Reasonable Suspicion" shall be initiated unless the circumstances are properly reviewed and agreed upon by two management/supervisory representatives. However, only one management/supervisory representative is necessary to require an employee to submit to drug/alcohol testing if the supervisor observes the employee ingest, smoke, or use a controlled substance or alcohol.
  - 5.6 The supervisor shall verbally inform the employee the reason for the suspicion. Additionally, a written record of the observations leading to the test shall be created and signed by the supervisor(s) who made such observations within 24 hours of the observed behavior. A copy of the report shall be forwarded to the Assistant City Administrator with a copy to the Human Resources Director.
  - 5.7 The employee involved must stop work immediately and shall be transported as soon as possible to the designated testing facility by a management/supervisory employee. Prior to testing, the employee will be required to sign a drug/alcohol testing consent form. Failure or refusal to sign the form and to submit to testing will be cause for an adverse inference that the employee was under the influence, as well as a charge of insubordination, and appropriate disciplinary action, up to and including termination, will be initiated.
  - 5.8. The employee will not be allowed back to work until the results of the test are known. A management/supervisory employee will make arrangements for the safe transportation of the employee to his/her home. If the results of the test prove negative, any time off will be deemed to be with pay.

#### **Section 6. Post Accident Testing:**

Post-Accident drug or alcohol testing may be conducted on employees where there has been \$500 or more damage to City property, or injury to an employee or third party, or where there exists reasonable suspicion (as defined in Section 5) that the accident, injury or damage was a direct result of the employee's use of drugs or alcohol. The post accident test shall be administered while the employee is on duty or prior to going off duty, or as close to as possible. If testing cannot be done within two (2) hours of an accident, the manager/supervisor shall prepare and maintain a written record of the reasons. After eight (8) hours, such efforts to administer testing shall cease and a copy of the written record shall be forwarded to the Assistant City Administrator and Human Resources Director. No employee required to take a post accident alcohol or drug test shall use any alcohol or drugs, of any kind, following the accident until he/she undergoes the post accident testing.

#### **Section 7. Post Rehabilitation Testing:**

The City of Tahlequah may require an employee to undergo drug or alcohol tests without prior notice for a period of two (2) years after the employee's return to work following a confirmed positive test, and following participation in drug or alcohol dependency program under a City benefit plan or attended at the request of

the City of Tahlequah. Post-rehabilitation testing shall be conducted in addition to any other testing the employee is subject to under this policy.

### **Section 8. Random Testing:**

The City of Tahlequah will require random drug and alcohol testing to the extent authorized or required by state and federal law of employees who perform safety sensitive functions in the following classifications and/or positions:

- 8.1 Vehicle and equipment operators who are required to maintain a Commercial Drivers License (ACDL) and who operate vehicles and/or equipment in excess of 26, 001 pounds.
- 8.2 Mechanic employees;
- 8.3 Any employees involved in the repair, operation or dispatching of vehicles and equipment as required by federal law; and
- 8.4 Police Officers and other employees engaged in safety sensitive positions.

The City of Tahlequah will randomly select employees in these categories for testing at the level established for the calendar year by the Department of Transportation (DOT). It will use a valid method of random selection which is matched to employees' social security numbers. Any random testing will be unannounced and spread reasonably over the year. No employee shall report for safety sensitive duties or perform such duties while having a breath alcohol concentration of 0.02 or greater. Further no employee in this category shall perform any safety sensitive duties within four (4) hours of consuming alcohol. No employee in this category may report for work or perform safety sensitive work when the employee has used a controlled substance except when the use is pursuant to instructions of a physician who has advised the employee that the use of such substance will not adversely impact the performance of the safety sensitive functions.

For the purpose of this section, a safety sensitive function includes, but is not limited to, time waiting to be dispatched, time spent in inspecting or servicing equipment, time spent driving equipment, time spent loading and unloading such equipment, time spent performing requirements associated with an accident and time spent repairing, obtaining assistance or remaining in attendance on a disabled vehicle.

### **Section 9. Substances for which Tests May Be Given:**

The substances tested shall be for drugs and alcohol as defined in the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, including controlled substances approved for testing by the Rules of the State Commissioner of Health.

### **Section 10. Methods and Documentation:**

The collection, storage, transportation, and testing procedures shall be conducted in accordance with rules, regulations, standards and procedures established by the Oklahoma State Board of Health and the Substance Abuse and Mental Health Administration. All collection and testing facilities will be performed by companies that meet the requirements of the Oklahoma Department of Health for such facilities. Testing shall include both an initial and a confirmation test of blood, urine, or saliva for drugs and blood, saliva or breath for alcohol. A test for alcohol will be considered a confirmed positive if the sample

contains the equivalent of 0.02% alcohol; initial and confirmed positive levels for other substances will be the same as those prescribed in Department of Health regulations. Sample collection shall be documented, and sample collection, storage, and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by Department of Health rule, at the cutoff levels as determined by the rule. Samples shall be collected with due regard to the privacy of the individual being tested. A written record of the chain of custody of the sample shall be maintained until the sample is no longer required. An applicant or employee shall be given the opportunity to provide notification of any information which he/she considers relevant to the test, including currently or recently used drugs or other relevant information. In the event that an employee wishes to challenge the results of the City's test, he/she may do so as provided in this policy. The employee must have had the sample collected within one hour of the City's sample and such retest must be in accordance with the standards set forth by the State Department of Health and this policy.

#### **Section 11. Costs:**

The City of Tahlequah is responsible for all costs associated with drug or alcohol testing. However, if an employee requests a retest to challenge the findings of a confirmed positive test, the employee is responsible for the cost of the test unless that test reverses the findings of the previous positive test, in which case the City of Tahlequah is responsible for the cost.

#### **Section 12. Refusing to Undergo Testing or Tampering with Sample:**

Employees refusing to undergo testing according to the terms of this policy will be subject to disciplinary action up to and including termination. Employees found supplying or attempting to supply an altered sample or a substitute sample, not their own, by whatever means, shall be subject to disciplinary action up to and including termination. An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a confirmed positive drug or alcohol test conducted in accordance with the provisions of this act shall be considered to have been discharged for misconduct for purposes of unemployment compensation benefits.

#### **Section 13. Medical Review Officer:**

The City of Tahlequah shall contract with a Medical Review Officer who shall receive confirmed positive test results from the testing facility and evaluate those results in conjunction with the subject employee and/or applicant. Upon receiving a confirmed positive test result, the Medical Review Officer shall contact the applicant or employee prior to notification of City of Tahlequah officials. The applicant or employee shall be given the opportunity to explain the test results in confidence.

#### **Section 14. Confidentiality:**

The City of Tahlequah will treat all test and all information related to such test as confidential. All records relating to drug testing shall be kept separated from personnel records. Such records may not be used in any criminal proceeding or civil or administrative action except in actions taken by or against the City of Tahlequah or otherwise involving the subject employee and the City of Tahlequah, unless there is a valid court order authorizing the release of such records or unless required by state or federal laws and regulations. Records shall be the property of the City and will be made available to the affected applicant or employee for inspection and copying upon request. The City will not release such records to any person other than the applicant, employee or the Medical Review Officer, unless the applicant or employee, in writing following receipt of the test results, has expressly granted permission for the employer to release such records or pursuant to a valid court order.

## **Section 15. Disciplinary Action:**

The City of Tahlequah recognizes that substance abuse is treatable and that appropriate responses to these problems include education, treatment and rehabilitation. It will not take disciplinary action against an employee who tests positive for drugs or alcohol unless the test is confirmed by a second test performed on the same sample. However, this shall not preclude the use of administrative leave in cases involving reasonable suspicion.

- 15.1 **Voluntary Disclosure:** In order to help and assist employees, the City of Tahlequah will permit an employee who voluntarily comes forward admitting a substance abuse problem at least two hours prior to any testing provided for in this policy to initiate rehabilitation through its Employee's Assistance Program (EAP). The employee shall not be considered to have suffered a violation of this policy or be subject to discipline under this section. However, those employees in safety sensitive positions may be assigned to non-safety sensitive positions, until a verified negative drug or alcohol test can be obtained from an appropriate testing facility. The affected member may only be assigned to that position for a maximum of 60 calendar days. At the end of the 60 day period, if the employee can not be assigned back to their normal position, then the employee may be required to enter into a signed agreement for continued required drug or alcohol testing and E.A.P. compliance if a problem is determined to exist, (Available vacation, compensatory or sick leave accruals may be utilized by employees in such situations.
- 15.2 **Positive Test Results:** In light of its recognition that substance abuse is a treatable condition, the City will evaluate the employment history of any employee who tests positive for drugs or alcohol after a positive test under reasonable suspicion criteria, post accident scenario or random testing, where authorized. The appropriate course of action will be determined based on the employee's total work record including, but not limited to, any prior documented drug or alcohol problems. Whenever reasonable under the totality of the circumstances, the employee will be offered the opportunity to enter into a rehabilitation program. Continued employment shall be contingent upon the successful completion of a rehabilitation program and an agreement to undergo random or periodic drug and/or alcohol post-rehabilitation testing for two (2) years. However, the City of Tahlequah reserves the right to initiate disciplinary action for a confirmed positive test result when reasonable and appropriate under the totality of the circumstances, including the degree of damage to property or injuries to persons. Any termination under this section will be considered as having been for misconduct for the purpose of unemployment compensation benefits.
- 15.3 Employees who have tested positive shall not be allowed to return to work until they can provide a verified negative "return to work" test from a City approved facility which meets the requirements of this policy. An employee may be allowed a maximum of 12 weeks to provide a verified negative "return to work" drug or alcohol test. If a negative test is not provided within 12 weeks, the employee may be suspended, demoted, or terminated. Until a negative "return to work" test is supplied, the employee will be on administrative leave without pay. However, the employee may use accumulated sick leave, annual leave and compensatory leave during this period of time. An employee may request a "return to work" test no sooner than two weeks from a positive test result, and subsequently every other week thereafter, until a negative "return to work" test is obtained. Employees refusing to seek help or submit to testing in accordance with this policy shall be subject to disciplinary action.
- 15.4 Employees entering into the E.A.P. or other program, after testing positive for drugs and/or alcohol, shall be permitted to do so only once. Any future recurrence for abuse with the same or any other substance will result in disciplinary action up to and including termination.
- 15.5 Other than as stated above, there are no available appeal procedures, remedies or sanctions available to an employee who has tested positive or who has refused to test.

### **Section 16. Testing Procedures:**

Except in the case of pre-employment testing, when a drug or alcohol test is deemed appropriate under this policy, the employee's supervisor shall transport or arrange for an employee to be transported to the City of Tahlequah designated testing facility for testing.

- 16.1 Employees must present a picture ID (Oklahoma Driver's License or City I.D. etc.) or be accompanied by a supervisor who can provide identification as the employer representative to the testing personnel prior to testing and as required by NIDA procedure.
- 16.2 The supervisor shall make a reasonable effort to ensure that the employee is safely transported to their place of residence after any drug or alcohol testing is completed under criteria of reasonable suspicion or post accident testing.

### **Section 17. Employee Assistance Program (E.A.P.):**

The City of Tahlequah shall maintain an "Employee Assistance Program". The E.A.P. provided by the City shall, at a minimum, provide drug and alcohol dependency evaluation and referral services for substance abuse counseling, treatment or rehabilitation. Employees who voluntarily come forward admitting to alcohol or drug problems and who initiate E.A.P. rehabilitation through the City of Tahlequah's program shall not be considered to have suffered a violation of this policy or be subject to discipline. However, those employees in safety sensitive positions may be assigned to non-safety sensitive positions until a verified negative drug or alcohol test can be obtained from an appropriate testing facility.

### **Section 18. Penalties and Remedies:**

The parties are hereby advised that there are certain criminal sanctions and civil remedies for violations of Oklahoma's Standards for Workplace Drug and Alcohol Testing Act contained in 40 O.S. 551 *et. seq.*

### **Section 19. Prohibitions:**

No employee shall report for duty within four hours after using alcohol or remain on duty while having an alcohol concentration of 0.02 or greater, and no supervisor shall permit any employee to perform any work duties if the supervisor is aware the employee has an alcohol concentration of 0.02 or greater. No employee shall be on duty or operate a City vehicle or perform job duties while in possession of alcohol nor use alcohol during such duty time. Further, no employee shall report for duty, drive a City owned vehicle or remain on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician and/or when the physician has advised an employee the substance will not adversely affect an employee's ability to drive a vehicle. No supervisor having knowledge that an employee has used a controlled substance shall permit an employee to be on duty or drive/operate any City vehicle.

### **Section 20. Responsibilities of Individuals:**

In order to comply with the provisions of this policy, each individual must assume the following responsibilities:

- 20.1 Working Under the Influence of Performance Impairing Medication: Employees who have been prescribed legal medications that might affect the safe performance of their duties are required to notify their supervisors prior to performing any hazardous or dangerous tasks. This could include the operation of a motor vehicle, heavy equipment or machinery, working around or near hazardous chemicals or substances or working in any dangerous environment.

- 20.2 Reporting to Work or Working While Impaired: Employees may not report to work and may not continue working while impaired by any restricted substance identified in this policy.
- 20.3 Reporting Violations: Many of the services provided by the City are performed under hazardous or dangerous conditions. Thus, employees are encouraged to come forward and report any violations of this policy to management. This information may be instrumental in the prevention of serious accidents and injuries tied to substance or alcohol abuse on the job.
- 20.4 As a condition of employment, an employee must notify the Human Resources Director of any criminal drug statute conviction no later than five (5) days after such conviction. Criminal drug statute means a criminal statute involving manufacture, distribution, dispensation, use, or possession of a controlled substance. Upon conviction of any such violation, the City will take appropriate disciplinary action against the employee, up to and including termination, and/or requiring the employee to satisfactorily participate in an abuse rehabilitation program.

DRUG and/or ALCOHOL TESTING CONSENT FORM

Employee/Applicant Name: \_\_\_\_\_ Date: \_\_\_\_\_

City Representative Requesting Test: \_\_\_\_\_

\*\*\*\*\*

CONSENT AND AUTHORIZATION TO RELEASE INFORMATION:

The undersigned hereby consents to a drug screen/alcohol test as requested by the City of Tahlequah and in conformance with its drug and alcohol testing policy. I further authorize the results of the drug screen and/or alcohol test, whether negative or positive, to be released to the Assistant City Administrator and/or Human Resources Director.

\_\_\_\_\_ Applicant: I understand that refusal to consent to a drug screen and/or alcohol test will be sufficient reason to withdraw any conditional offer of employment and that I will not be employed by the City of Tahlequah I also understand that a positive result on the drug screen and/or alcohol test will result in my application for employment with the City of Tahlequah being deemed withdrawn.

\_\_\_\_\_ Employee: I understand that refusal to consent to a drug screen and/or alcohol test will be grounds for discipline, up to and including termination. I further understand that a positive result on a drug screen and/or alcohol test will be grounds for termination, up to and including termination, as provided and in conformance with the drug and alcohol testing policy.

The undersigned gives my consent to the drug screen and/or alcohol test with the understanding that the results will be reported to the Assistant City Administrator and/or Human Resources Director and that the results will be kept as confidential as possible under state and federal laws.

Date: \_\_\_\_\_

\_\_\_\_\_  
Employee/Applicant

\_\_\_\_\_  
Witness



## APPENDIX D

### FAMILY AND MEDICAL LEAVE ACT (FMLA) POLICY

#### 1. APPLICATION

This policy applies to individuals who have been employed by the City for at least one (1) year during the last seven years (excluding military service), and have worked at least 1,250 hours during the preceding twelve (12) month period.

#### 2. DEFINITIONS

A. For FMLA purposes, a “son” or “daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person who has day-to-day responsibilities to care for and financially support him/her. For FMLA arising from a serious health condition, a son/daughter/child must either be under age 18 or, if over age 18, incapable of self-care because of a mental or physical disability. It does not include other adult children, or grandchildren. For military caregiver FMLA, a son or daughter may be of any age.

B. “Parent” is the biological parent of the employee or an individual who stood in place of the biological parent when the employee was a son or daughter.

C. “Spouse” is a husband or wife. The term does not include an unmarried domestic partner.

D. A “serious health condition” generally means an illness, injury, or condition that causes either hospitalization or incapacity for at least three full calendar days plus continuing treatment by a health care provider. Continuing treatment requires an in-office visit to a health care provider within seven days of the first day of incapacity, and either two visits within the thirty days following the first day of incapacity, unless extenuating circumstances exist, or one visit along with a prescribed regiment of continuing treatment under the supervision of the provider. Whether additional visits or treatment are necessary within the 30-day period shall be determined by the health care provider. Incapacity due to other chronic or permanent conditions, or conditions requiring multiple treatments, may also qualify as serious health conditions for FMLA purposes, as well as incapacity due to pregnancy or prenatal medical care. To maintain FMLA eligibility for chronic serious health conditions, the employee must visit the medical provider at least twice a year.

#### 3. REASONS FOR LEAVE.

An employee who is eligible for FMLA leave may be granted leave for the following reasons:

- A. The birth of the employee's child and in order to care for the child;
- B. The placement of a child with the employee by adoption or foster care;
- C. When an employee is needed to care for the employee's spouse, child or parent who has a serious health condition;
- D. The employee's own "serious health condition" that renders the employee incapable of performing the functions of his or her job;
- E. Any qualifying exigency arising out of the fact that the employee's spouse, son or daughter, or parent is on active duty status or has been notified of an impending call or order to active duty in support of a contingency operation as a member of the National Guard or Reserves. Qualifying exigencies include leave:
  - i. To address any issue that arises from the fact that a covered military member is notified of an impending call or order to duty seven or less calendar days prior to the date of deployment;
  - ii. To arrange for alternative childcare; provide childcare on an urgent, immediate need basis; enroll in or transfer to a new school or day care; or to attend meetings with staff at a school or day care facility;
  - iii. To make financial or legal arrangements;
  - iv. To attend counseling;
  - v. To spend up to five days of rest and recuperation leave with the covered service member;
  - vi. For certain post-deployment activities; or
  - vii. By agreement between The City and the employee; or
- F. Leave to care for a spouse, son or daughter, parent, or nearest blood relative who is a member of the Armed Forces (including a member of the National Guard or Reserves) who is:
  - i. undergoing medical treatment, recuperation, or therapy;
  - ii. is in a military medical treatment facility as an outpatient, or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients; or
  - iii. is on the temporary disability retired list for an injury or illness incurred by the service member in the line of duty on active

duty that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating.

For all of the above reasons except for military caregiver leave, an employee may take 12 weeks of unpaid leave during a 12-month period. In the case of military caregiver leave, an employee may take up to 26 work weeks of leave during a single 12-month period; however, the combined total of FMLA-qualifying leave (for example, for military caregiver leave plus leave for the employee's own serious health condition) during the single 12-month period may not exceed 26 work weeks.

4. BOTH SPOUSES WORKING FOR THE CITY.

The total family leave that may be taken by spouses who are both employees of the City shall not exceed a total of twelve (12) weeks if the leave is taken for birth, adoption or care of a sick child or parent, or a combined 26 weeks in the case of military caregiver leave. This section does not apply to the employee's own illness, where both employees would each be entitled to a total of twelve (12) weeks leave.

5. BIRTH/PLACEMENT OF A CHILD.

The entitlement to leave for the birth or placement of a child by adoption or foster care will expire twelve (12) months from the date of the birth or placement.

6. NOTICE OF LEAVE.

An employee intending to take family or medical leave because of an expected birth or placement, or because of a planned medical treatment for the employee or family member, must submit an application for leave at least thirty (30) days before the leave is to begin. If leave is to begin within thirty (30) days, an employee must give notice to the department head as soon as the necessity for the leave arises.

In all cases, an employee requesting leave must complete an "Application for Family and Medical Leave" form. The completed application must state the reason for the leave, the duration of the leave, and the estimated starting and ending dates of the leave. The completed application must be submitted to the Mayor or his designee for approval.

7. MEDICAL CERTIFICATION OF LEAVE.

An application for leave, based on the seriousness of the health condition of the employee or the employee's spouse, child or parent, must also be accompanied by a "Medical Certification Statement" completed by the applicable health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition.

If the leave is needed to care for a spouse, child, or parent of the employee, the certification must so state, along with an estimate of the amount of time the employee will need. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job. The City may request a second opinion, at the City's expense. If the original opinion and the second opinion conflict, the City may require a third opinion by a physician jointly selected by the City and the employee. The City will bear the cost of the third opinion, which is final and binding on the employee and the City, as to the necessity of the medical leave. The City may require subsequent re-certification "on a reasonable basis", such as every thirty (30) days.

8. PAID/UNPAID LEAVE.

If an employee is taking leave because of the employee's own serious health condition, the employee must first use his/her accrued annual leave and sick leave as part of the twelve (12) weeks and may request to use any accrued compensatory time. After all annual and sick leave has expired, the remaining part of the twelve weeks will be without pay. If the leave is due to any of the other reasons set forth in paragraph C above, the employee must first use all accrued annual leave and may request to use any accrued compensatory time off. Thereafter, the remaining twelve (12) weeks will be without pay.

9. BENEFITS COVERAGE DURING LEAVE.

During a period of family or medical leave, an employee will be retained on the City's health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she was making to the plan before taking leave.

If the employee fails to return to work after the expiration of the leave, the employee may be required to reimburse the City for payment of all health insurance premiums made by the City during the family or medical leave as provided by the Family and Medical Leave Act.

An employee is not entitled to the accrual of any seniority or any other employment benefits that would otherwise have accrued during the period of leave. An employee who takes family or

medical leave will not lose any seniority or employment benefits that accrued before the date leave began.

11. RETURN FROM LEAVE.

An employee must complete and submit to the department head, a "Notice of Intention to Return From Family or Medical Leave" form, before he or she can be returned to active status. If an employee wishes to return to work prior to the expiration of an approved family or medical leave of absence, notification must be given to the employee's department head at least five (5) working days prior to the employee's planned return. An employee must also submit a certificate from the employee's health care provider indicating that the employee is able to resume work where the leave is due to the employee's serious health condition.

Upon return to work, an employee will be restored to his or her old position or to a position with equivalent pay, benefits and other terms and conditions of employment. The City cannot guarantee that an employee will be returned to his or her original job.

12. FAILURE TO RETURN FROM LEAVE.

The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted by the Mayor. An employee who requests an extension of family leave or medical leave due to the continuation, recurrence or onset of her or his own serious health condition, or of the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to the Mayor. The request must be accompanied by a physician's statement as to the necessity for the continued leave. The written request should be made as soon as the employee realizes that he or she will not be able to return at the expiration of the leave period. The extension must be approved by the Mayor or his designee.

**APPENDIX E**

**NOTICE OF COUNSELING /REPRIMAND/DISCIPLINE**

**Employee:** \_\_\_\_\_

**Department/Position:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Supervisor:** \_\_\_\_\_

\*\*\*\*\*  
**Statement of Violation and Policies and Procedure Involved:**

\*\*\*\*\*  
**Corrective action:**

\*\*\*\*\*  
**Previous Discipline Still in Effect:**

\*\*\*\*\*  
**Discipline Imposed:**

**Verbal Counseling:** \_\_\_\_\_

**Written Reprimand:** \_\_\_\_\_

**Suspension (With or without pay):** \_\_\_\_\_

**Demotion (Position):** \_\_\_\_\_

**Recommendation for dismissal:** \_\_\_\_\_

**Maximum Date for Discipline (if any)** \_\_\_\_\_

**Employee:** \_\_\_\_\_ **Title** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Supervisor:** \_\_\_\_\_ **Title** \_\_\_\_\_ **Date:** \_\_\_\_\_

**HR Director:** \_\_\_\_\_ **Title** \_\_\_\_\_ **Date:** \_\_\_\_\_

**REVISIONS REFERENCE**  
**to**  
**EMPLOYEE HANDBOOK OF PERSONNEL POLICIES**

<u>Reference No.</u>	<u>Policy</u>	<u>Revision Date</u>
1	305 – Longevity Pay	June 22, 2000
2	303 – Wellness Program	January 24, 2002
3	304 – Wellness Incentive Program	January 24, 2002
4	410 – Leave Sharing	August 4, 2003
5	505 – Call Back	August 4, 2003
6	612 – Replacement of Damaged Items	August 4, 2003
7	206 – Hiring Procedure	September 18, 2003
8	402 – Holidays	November 20, 2003
9	503 – Lunch Periods	March 25, 2004
10	508 – Recording of Time Worked	March 25, 2004
11	700 – City of Tahlequah Policy for Acceptable Use of Computing and Electronic Information Systems	February 7, 2005
12	401 – Group Insurance	May 15, 2006
13	403 – Annual Leave	May 15, 2006
14	301 – Position Classification & Pay Plan and Job Descriptions	June 12, 2006
15	306 – Educational Incentive Pay	September 3, 2013
16	700 – Cell Phone Policy	March 6, 2017
17	Appendix E – Counseling form	March 6, 2017