

NONDISCIPLINARY SEPARATION

I. PURPOSE

To provide employees with various types of separation from City service in good standing.

II. POLICIES AND PROCEDURES

This policy provides good-standing separation procedures for resignations, retirements, long term absence, layoffs and military service.

A. RESIGNATION

Employees may resign from City service in good standing by submitting their written resignations at least two weeks before their termination date.

B. RETIREMENT

Eligible employees may retire from City service in accordance with applicable programs.

C. INCAPACITY- Non Civil Service Employees

Incapacity can result from on-the-job injuries or from injuries or illnesses not related to the job or workplace. Incapacity occurs when an employee, for medical or psychological reasons, is unable to perform his/her essential job functions.

Should an employee's ability to physically or mentally perform his or her job duties be questioned, the Department Director may require the employee to submit medical or psychological information from the employee's physician or mental health care provider which evaluates fitness to perform essential

job duties, as established in the employee's job description.

Incapacity policies are discussed below:

1. Work-Related Incapacity

An employee may be terminated for work-related incapacity after one year, or at the expiration of the employee's paid sick leave, whichever is later. In addition to collecting benefits under Texas Workers Compensation Act, the employee may utilize accrued paid leave (comp time, vacation and sick leave) to supplement his/her temporary income benefit. In order to ensure adequate staffing, the City will elect to pay an employee his/her remaining unused sick leave after one year's absence from employment (remaining unused sick leave period). Nothing in this section precludes the City from hiring an employee to perform the duties previously performed by the injured employee. Employees who are off on work-related incapacity shall be placed on FMLA leave immediately following the injury.

2. Non-Work-Related Incapacity

An employee may be terminated due to non-work-related incapacity after one year, or at the expiration of the employee's paid sick leave, whichever is later. For employees who have accrued less than one year's paid sick leave, vacation and other paid leave, the one year's leave of absence may be a combination of paid and unpaid time off. In order to ensure adequate staffing, the City may elect to pay an employee his/her remaining un-

NONDISCIPLINARY SEPARATION

used sick leave after one year's absence from employment. Nothing in this section precludes the City from hiring an employee to perform the duties previously performed by the incapacitated employee. Employees who are off work due to non-work-related incapacity shall be placed on FMLA leave immediately upon the occurrence of the incapacity.

3. Benefits During Incapacity

During the time that an employee is off work due to a work or non-work related incapacity, the employee will be able to continue his/her coverage under the City's medical insurance. The employee's share of the insurance shall be paid by the City during the period in which the employee has accrued sick leave; however, once accrued sick leave is exhausted or bought out, the employee is responsible for paying the premiums for his/her dependent coverage. At all times, the employee remains responsible for paying the employee's share of the premiums for dependents, if they are covered under the City's plan.

4. Incapacity Determination

Once an employee has exhausted the one year period, or all of his/her sick leave (unless the City has paid the employee for his unused sick leave in excess of one year), whichever period is longer, the City will determine whether the employee is qualified to return to work or will be separated from the City's employment. In making this determination, the supervisor and Department Director must determine whether the employee can then perform the essential functions of his/her position.

The employee will be required to submit a doctor's report detailing the employee's ability to perform those essential functions.

The City may require a second opinion from a health care provider of the City's choice. If there is a conflict between the employee's physician's report and the opinion from the second health care provider, then the City may require a third medical opinion from a health care provider selected by the City. All costs associated with obtaining the second and third opinions shall be paid by the City.

In determining whether the employee will be separated from the City's service at the expiration of the leave period, the City will also consider whether the employee has a disability for which an accommodation may be made.

D. LONG TERM ABSENCE/TERMINATION

Brief appearances at work during a long term absence will not prevent the City from terminating the employee under this policy if it is determined to be in the City's best interest. Likewise, any employee who reports to work (e.g., in a light duty capacity) but is unable to perform the duties of his or her actual position for a one year period will be terminated. (Refer to limited duty policy in Health and Safety and Loss Control Manual).

This policy will be administered consistently with the City's obligations under the Americans With Disabilities Act and FMLA.

NONDISCIPLINARY SEPARATION

E. LAYOFFS

Layoffs may be necessitated in the best interests of the citizens and the organization. Criteria for layoffs associated with a reduction in work, service level or funding will be different from those associated with a change in duties or organization. Layoff criteria will be prepared and layoffs must be approved by the City Manager.

Layoff lists will be determined from demonstrated employee job performance; an employee's unique qualifications, knowledge and skills; disciplinary history. Layoffs shall not be considered disciplinary actions.

Laid-off employees, including temporary employees separated upon completion of duties, may be routinely recalled at any time, provided they remain qualified to perform the essential job functions.

F. MILITARY SEPARATION

Employees leaving City service in good standing to enter active duty or for active-duty training with the armed forces of the United States shall be eligible for reinstatement in accordance with applicable state and federal laws.