
PERSONNEL POLICY HANDBOOK

Adopted by City Council January 31, 2002

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CHAPTER ONE

GENERAL CONDITIONS

1.01 Definitions

As used in this policy the following terms shall have the following meanings:

“Alcoholic Beverage” means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable to use for beverage purposes, either alone or when diluted.

“City” means the City of Clute, in Brazoria County, Texas.

“City Manager” means, in the case of department of police personnel, the Chief of Police; and, in the case of municipal court personnel, the Municipal Court Judge.

“City Premises” means any real property, including but not limited to buildings and parking lots, any interest in which is owned, rented or leased by the City.

“Controlled Substance” means any substance listed in Schedules I through V of Section 202 of the Controlled Substance act codified as 21 U.S.C. Section 812, as amended.

“Drug” means any chemical substance that produces a physical, mental, emotional or behavioral change in the user including but not limited to marijuana or cannabis in all forms.

“Drug Paraphernalia” means any equipment, product or material that is used or intended for use in concealing an illegal drug or for use in injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug or controlled substance.

“Employee” means any person receiving compensation from the City for services rendered or labor performed whether or not such person is appointed by the City Council or the City Manager, but excludes the Mayor or city Councilmen, the Judge and any Alternate Judge or the Municipal Court, the City Manager, the Chief of Police and all persons providing legal, engineering, accounting or other professional services to the City on a part-time basis.

“Fit for Duty” means the ability to work in a manner suitable for the job as described in this personnel policy handbook.

“Full-time Employee” shall be defined as any employee who has a normal work schedule of forty (40) hours per week. This position may be either regular or temporary.

“Illegal drug” means any drug or derivative thereof the use, possession, sale, transfer, attempted sale or transfer, manufacture or storage of which is illegal or regulated under any federal, state or local law or regulation; and any other drug, including but not limited to a prescription drug or inhalant used for any reason other than a legitimate medical reason by the person for whom such drug or inhalant used prescribed by a practitioner of a health science profession authorized by law to prescribe such drug or inhalant for the person for whom it was prescribed.

“Immediate family” means, spouse, child, brother, sister, parents, grandparents, mother-in-law, father-in-law, stepchildren, grandchildren, grandparents-in-law, or foster parents.

"Incompetence" shall be defined as the inability to perform the employee's assigned tasks.

"Insubordination" shall be defined as the willful disobedience to any proper order issued by a supervisor, or any disrespectful, mutinous, insolent or abusive language or action toward a supervisor.

"Part-time Employee" shall be defined as any employee whose normal work schedule is less than forty (40) hours per week. This position may be either regular or temporary.

"Public Safety Position" means an employee in the department of Police or the department of emergency medical services of the City. These employees may have additional and more stringent requirements listed in their rules, regulations and procedures manuals.

"Regular Employee" is an employee who has completed his/her probationary period and is in a position that is expected to continue indefinitely, subject to the provisions of Section 1.04 hereof.

"Reasonable Cause/Reasonable Suspicion" means evidence strong enough to lead a reasonable person to believe a person accused is guilty of the accusation against him/her.

"Supervisor" means the City Manager, Chief of Police or Department Head or their respective designees.

"Temporary Employee" shall be defined as any employee in a position that is established for a specific limited time or until a specific project is completed.

"Testing" and "Tested" means the use of a blood, urine or breath test to determine the presence of alcohol or drugs in the body of a City employee.

1.2 Purpose of Personnel Policy Handbook

The City Council of the City of Clute deems it advisable to formulate a policy governing the relationship of the City with its employees. Policies in this handbook are guidelines only and do not constitute any type of employment contract with any employee, nor are they intended to make any commitment to any employee concerning how individual employment action will be handled.

This policy represents an effort to establish governing principles upon which a progressive program of employee relationship may be based and is not intended to be all-inclusive and cover every conceivable personnel situation that might arise. It should not be regarded as fixed or unchangeable, but subject to growth and change.

1.03 Conditions and Amendments

These policies shall become part of the employment conditions of each employee. Employment with the City shall be contingent upon the employee's compliance with all of the provisions of these policies applicable to such employee.

"The City of Clute Personnel Policy Handbook" shall be provided to each employee, who will acknowledge receipt by signing the form entitled Acknowledgment of Receipt of the Personnel Policy Handbook which shall become part of the employee's permanent personnel record.

Amendments to these policies may be recommended when deemed necessary. The City Manager has the sole authority to change these policies and regulations, subject to the approval of the City Council.

1.4 Intent Not to Discriminate

The City will comply with the Civic Rights Act of 1964 (P.L. 88-352) and subsequent amendments thereto, and will not discriminate in its policies because of handicap, race, color, creed, national origin, religion, sex or age. However, it must be recognized that in certain job classifications and

performance of the duties of certain positions, qualifications must be set that may direct or restrict, in certain cases, the field of applicants to those who qualify for that particular position. It is also recognized that, by virtue of certain state laws, restrictions will be placed on positions that require certain educational and experience qualifications.

It is also the policy of the City to comply with the Equal Opportunity Legislation and the City shall be cited as an Equal Opportunity Employer.

1.05 At-Will Employment

The City of Clute is an employment-at-will employer as defined under Texas common law. As such, the employment relationship between the employee and the City is TERMINABLE AT THE WILL OF EITHER THE CITY OR THE EMPLOYEE, WITH OR WITHOUT CAUSE, AT ANY TIME WITHOUT NOTICE, AND FOR ANY REASON. The City may set rules and regulations governing the conduct of the employees, but no communication or practice shall limit or modify the employment-at-will relationship. Additionally, this handbook is not intended to create contract of employment, and no agreement or promise regarding an individual's employment is binding on the City unless it is in writing and signed by the City Manager. The provisions of the handbook control over any conflicting statements made by supervisors, and the City has the right to change the policies at any time without notice.

CHAPTER TWO

ORGANIZATION AND PERSONNEL

2.01 Role of Mayor and City Council

The City Council, comprised of five council members, is the policy making body of the City and the Mayor is its presiding officer, as well as the person who normally represents the City on ceremonial occasions.

2.02 Role of City Manager

Under the Charter of the City, the City Manager is the Chief Executive Officer of the City and the person appointed by the City Council to provide general superintendence over the supervision of all the employees of the City except those appointed by the Chief of Police. Accordingly, except for the purposes of inquiry and oversight, the Mayor and City Council shall not deal directly with such employees of the City and shall not publicly or privately give any orders to such employees of the City. Provided, however, when the City Manager is unable to perform the duties of his/her office for any reason or if such office becomes vacant, until an Acting City Manager is appointed, the Mayor or, in his/her absence the Mayor Pro Tem shall perform the duties of the City Manager hereunder.

2.03 Role of the Chief of Police

Under the Charter of the City, the Chief of Police is the Chief Administrative Officer of the Department of Police and is appointed by the City Council to provide general superintendence over and supervision of all the employees of the department of police. Accordingly, except for the purpose of inquiry and oversight, the Mayor and the City Council shall not deal directly with such employees of the City and shall not publicly or privately give any order to such employees of the City.

2.04 Role of Municipal Court Judge

Under the Charter of the City, the Municipal Court Judge appoints and may remove at his pleasure the municipal court clerk and all deputy

municipal court clerk. The number of deputies and salary of the clerk and all deputies shall be fixed by the City Council. The clerk and each deputy shall be subject to the manual of policies issued by the City Manager.

2.05 Role of Employees

Employees who are responsible for the day to day operation of City services and administrative duties shall have a general job description and will be assigned to a particular department of the City. However, each employee works for the City of Clute and as a City employee, may from time to time, at the discretion of the employee's supervisor, be assigned to jobs outside of his/her regular department and/or outside of the duties of his/her general job description.

CHAPTER THREE

EMPLOYEE APPOINTMENTS

3.01 Equal Employment Opportunity

The City of Clute is an Equal Opportunity Employer. No hiring or employment decision shall be based upon race, color, religion, sex, national origin, age or disability. However, it must be recognized that in certain job classifications and performance of the duties of certain positions, qualifications must be set that direct or restrict, in certain cases, the field of applications to those who qualify for that particular position.

3.02 Citizenship & Social Security Number

The City is committed to employing only those individuals who are authorized to work in the United States and who comply with the Immigration Reform and Control Act of 1986. New employees must complete Section 1 of Form I-9 and provide the City with specific documents to establish their identity and employment eligibility prior to commencing employment. Each employee of the City of Clute shall have a social security number as a condition of employment.

3.03 Application Process

When a vacancy occurs in a current job classification or a newly authorized classification, the respective Department Supervisor and/or Public Services Director will request a job opportunity announcement be posted and advertised. All recruitment shall be limited to authorized, budgeted positions only, unless expressly approved by City Council. The City Manager shall direct all recruitment, advertising, screening, interviewing and shall have final approval before any commitment to a potential employee is made.

Any vacancy announcement shall state the City's commitment as an Equal Employment Opportunity Employer and shall specify the position title,

required and preferential qualifications, and the deadline for the method of application. Such announcement shall also specify the location of a written job description for applicants.

Applications for employment with the City of Clute shall be provided by the City Manager's office. Resumes may be utilized for initial screening of applicants. However, no person shall be employed by the City of Clute without having a formal application on file with the City.

All applicants for temporary, probationary or regular employment will be required to meet the qualifications listed in the job description for the position they seek. Additionally, applicants shall be required to furnish information that demonstrates compliance with the standards for employment prescribed in the job descriptions.

3.04 Membership in Subversive Organizations

The City will not employ or retain in service any employee who is or becomes a member of a subversive organization advocating the overthrow of the United States Government by force.

3.5 Nepotism

No applicant related to the Mayor, any member of City Council, the Municipal Court Judge, or the City Manager, within the first and second degree of affinity (related by marriage) or the first, second and third degree of consanguinity (blood relation) shall be appointed to any position of employment in the City of Clute. This prohibition shall not apply to persons who have been continuously employed by the City for a period of one year prior to the election of Mayor, Council member, or Municipal Court Judge.

No applicant related to an employee of the City, within the first degree of affinity or the first and second degree of consanguinity, shall be appointed to any position in the City of Clute which would involve the employee being supervised by a member of his/her immediate family or would involve being appointed to a position in the same department with the related employee.

Consanguinity (Blood Relationships)1st Degree

Father
 Mother
 Son
 Daughter
 Brother
 Sister
 Half Brother
 Half Sister

2nd Degree

Grandfather
 Grandmother
 Grandson
 Granddaughter
 Uncle
 Aunt
 Nephew
 Niece
 Cousin

3rd Degree

Great Grandfather
 Great Grandmother
 Great Grandson
 Great Granddaughter
 Great Uncle
 Great Aunt
 Great Nephew
 Great Niece
 Great Cousin

Affinity (Marriage Relationship)1st Degree

Mother-in-law
 Father-in-law
 Brother-in-law
 Sister-in-law
 Son-in-law
 Daughter-in-law
 Spouse
 Step Father
 Step Mother
 Step Son
 Step Daughter

2nd Degree

Grandfather-in-law
 Grandmother-in-law
 Grandson-in-law
 Granddaughter-in-law
 Uncle-in-law
 Aunt-in-law
 Nephew-in-law
 Niece-in-law
 1st Cousin-in-law

3.06 Physical Examinations/Drug Testing

Before being appointed, and after conditional offer of employment, all applicants shall be required to have a physical examination and drug and alcohol testing as provided in Sec. 5-08 of this policy. The City shall have the right to approve the physician used for such examination and such examination shall be at the expense of the City. Physical irregularities not of an infectious nature may be allowed provided such irregularity is not of such nature as to prevent the applicant from fully performing the duties of the position for which he/she has applied. The supervisor may specify physical fitness requirements and shall be the sole judge as to the physical fitness of the applicant for any position with the City.

3.07 Eligibility for Rehire

Former employees, except those terminated for cause, shall be eligible for rehire, but shall not receive preference over other applicants on the basis that they were formerly employed by the City. If a former employee is rehired, he/she will be subject to all probationary periods as set forth in this policy.

3.08 Change in Status

An employee who changes from full-time status to part-time shall no longer be eligible for benefits reserved only for full-time employees. An employee changing from part-time to full-time, even if the employee has previously been full-time, shall be subject to the provisions of the probationary period and any waiting period for benefits which apply to new full-time employees.

Employees changing from full-time temporary to full-time status without an interruption in service, shall have vacation and sick leave accrued from the time of their initial employment upon completion of the probationary period.

3.09 Transfers

Upon approval of the City Manager, the department head may transfer an employee from one job classification to another within a department. Employees may also be transferred from one department to another with approval of both department heads and the City Manager. The City Manager may also transfer an employee between departments to facilitate an efficient use of City personnel either on a temporary basis or permanent basis.

3.10 Promotions

The City of Clute is committed to a policy of hiring and rewarding qualified employees and shall make every effort to fill vacant positions by promotion of current personnel. When a position becomes vacant, a determination by the City Manager shall be made as to whether any

current personnel making application for the position are qualified for such position. The selection process to fill the position internally shall begin. All promotions must first be approved by the City Manager.

3.11 Supervision & Hiring of Relatives

No applicant shall be appointed to a paid position whether full-time or part-time with the City which would involve being supervised by a member of the applicant's immediate family.

Individuals from the same immediate family may work for the City other than above if such employment does not create a situation which the City Manager determines would be detrimental to goals and operation of the City.

3.12 Minimum Age Requirements

The City of Clute's minimum age for regular employment will be eighteen (18) years of age. The only exception will be for selected seasonal and/or temporary positions when prescribed differently by federal or state law. In no case are individuals younger than fifteen (15) years of age eligible for employment.

3.13 Texas Driver's License & Driving Records

The City of Clute requires all employees driving and/or operating a City vehicle to have the appropriate valid driver's license with any endorsements as required by the City and/or the State of Texas.

Persons that apply for positions and/or transfers which required a valid Texas Class B license must obtain said license within three (3) months of appointment, and shall not be permitted to operate any vehicle until the appropriate license is obtained. Failure to obtain the appropriate license as outlined above will result in immediate termination.

Employees shall be obligated to report any DWI violation(s) or their suspension of driver's license to their supervisor immediately. A driver's license check may be conducted every six (6) months by the City to

insure that employees maintain any required valid driver's license and a safe driving record. Employees who are convicted of at least three (3) moving violations and/or one DWI violation within the last three (3) years may be subject to disciplinary action up to reassignment or termination. In the event an employees' drivers license is suspended and the need to be able to drive is an essential job function for his/her position, the employee shall be terminated. If the employee is reassigned to a different position at a lower pay rate, the lower pay rate will be effective until the employee is allowed to return to his/her former position.

3.14 Performance Evaluation

Performance Evaluations shall occur at the end of the probation period and annually thereafter. All evaluations shall be executed by the employee's direct supervisor and subsequently approved by the next higher level of supervision before being reviewed by the City Manager. The evaluation will not be discussed with the employee until after being discussed with the next level of supervision and approved by the City Manager.

CHAPTER FOUR

PROBATION

4.01 Purpose of Probation

The probationary employment period is utilized to secure the most effective adjustment of the employee to his/her new job responsibilities. During this time, the employee is closely observed by their supervisors to make sure they are fulfilling his/her job duties effectively and in a positive manner. The skills and attitudes identified during the selection process are evaluated and improvements made as needed.

4.02 Length of Probation

During the first six (6) months after original, rehire or promotional employment, each employee shall be considered a probationary employee. The probationary period may be extended by the City Manager at the recommendation of the supervisor for not more than three (3) additional months.

4.03 Benefits During Probation

Full-time, regular employee positions shall earn vacation and sick leave during probation, but time cannot be taken in accordance with the provisions of the policies on vacation and sick leave until completion of the probation period.

Enrollment in the medical insurance and retirement programs during the probationary period shall be in accordance with the provisions of the plan in effect at the time the employee is hired.

Full-time, regular employees shall be paid holiday pay during their probationary period.

4.04 Completion of Probation

Once the probationary period is complete, the employee's supervisor must execute an evaluation of the employee to determine whether the

employee exhibits the qualifications necessary for success in the position. The City Manager shall then appoint the employee to the position with regular status or remove the individual from employment with the City.

An appointment to regular status should not be construed as a guarantee of permanent employment by the City of Clute. Regular status indicates that an individual has successfully completed the probationary period. Employment with the City is "at-will" and the City reserves the right to remove any individual from employment at any time with or without cause. Likewise, an employee of the City is free to resign from employment with the City at any time.

4.05 Removal During Probation

During the probationary period, an employee may elect to resign without giving reason, or the City Manager may elect to terminate the individual without giving any reason and without any hearing. Resignation or termination of employment during the probationary period shall not reflect negatively on an individual's work record.

Removal of a probational employee who was promoted to such position shall not result in or entitle such employee to reinstatement to the position from which such employee was promoted.

CHAPTER FIVE

STANDARDS OF CONDUCT

5.01 Personal Appearance

Employees of the City of Clute shall report for work in clothing that is clean, in good repair and suitable for the type of work required in their job. Department Heads may set their own dress policy with approval of the City Manager.

Employees required to wear uniforms in their position shall wear all parts of the uniform in the manner prescribed by their department head.

During off duty hours, employees shall not wear City uniforms to bars or other establishments which might bring negative attention to the City.

5.02 Ethics

Personal conduct of employees should be such that it is a credit to themselves and the City. In matters of general conduct, within the scope of these policies, employees will be governed by the precepts of good moral behavior observed by law-abiding citizens.

Employees are expected to render efficient and steady service to the City and recognize, through their compliance, the right of the City to establish rules and regulations governing the work and conduct of its employees. All employees are expected to deal with the public in a courteous and professional manner. Each citizen is to receive the employee's prompt attention to his/her request and problems. When an employee is away from the City representing the City in an official capacity, he/she will act in accordance with his/her position to bring respect and honor to the City.

5.03 Conflict of Interest

Employees shall not engage in any outside employment, relationship or activity which would affect his/her job efficiency or which would reduce his/her ability to make objective decisions in regard to his/her work and responsibility as a City of Clute employee.

Conflict of interest shall include, but not be limited to:

- ❑ Soliciting, accepting or agreeing to accept a financial benefit, other than from the City that might tend to influence the employee's performance of duties for the City of that which the employee knows or should know is offered with intent to influence the employee's performance.
- ❑ Accepting other outside employment or compensation that might reasonably induce the employee to disclose confidential information acquired in the performance of official duties.
- ❑ Accepting outside employment or compensation that might reasonably tend to impair independence of judgment in performance of the duties for the employee.
- ❑ Making any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and duties for the City.
- ❑ Soliciting, accepting or agreeing to accept a financial benefit from another person in exchange for having performed duties as a City employee as a favor to that person.

5.04 Outside Employment

An employee of the City of Clute is not permitted to engage in outside employment where such employment would bring the City in disrepute, reflect discredit upon the employee as an employee of the City, interfere with the performance of the employee's City duties, present a conflict of interest, result in misuse of City property or funds, or result in use of the City position for personal gain. Personnel who work full-time for the City are not encouraged to accept additional employment or engage in outside business.

Occasional and part-time outside employment, which does not constitute a conflict of interest, interfere in the performance of their normal duties, nor involve the use of City time or equipment, may be permitted with the written approval of the Department Head, Director and City Manager.

The City of Clute is the primary employer of all employees and the permission to have occasional and part-time outside employment is a privilege which is subject to revocation at any time in the sole discretion of the City Manager or Chief of Police.

In the event an employee to whom permission for outside employment has been granted is needed for overtime or as a substitute for another employee who has taken vacation or sick leave, the employee shall report for work for the City of Clute within a reasonable time after being notified by his/her supervisor or department head. Failure to timely report after notice may, in the discretion of the City Manager or Chief of Police, result in revocation of the privilege of having outside employment.

In selecting which employee to notify to report for work from among those to whom permission for part-time outside employment has been granted, the supervisor or department head shall take into consideration the length of time and the employee being called back has worked and the level of skill required.

Request for approval of outside employment must be made in writing in advance of accepting outside employment, and in each case, approval by the Department Head, Director and City Manager must be received in writing before the employee accepts outside employment. A copy of any written approval for outside employment will be placed in the employee's personnel file.

Adopted by City Council 11/9/06

5.05 Public Office & Participation in City Elections

No employee shall continue in his position with the City after becoming a candidate for nomination or election to any City office. Additionally, no employee will be permitted to take an active part in any political campaign for an elective position in the City. "Active Part" means making political speeches, passing out literature, writing letters, signing petitions, soliciting votes, and make public remarks about candidates for such elective positions. Any employee who violates the provisions of this section will be subject to disciplinary action up to and including termination.

City employees are not required to contribute, directly or indirectly, to any political fund or offer any political service to any person or party. No employee shall be removed, reduced in classification or salary or otherwise prejudiced for refusing to do so. Any personnel employed with the City of Clute, who attempts to require such contribution will be subject to disciplinary action up to and including termination.

5.06 Use of Smoking & Smoking Tobacco

In an effort to met the needs of smokers and non-smokers, and to provide a pleasant and productive working atmosphere for all employees, the use of smoking and smokeless tobacco shall be confined to designated areas as determined by the principal facility department director. Department directors may also prohibit the use of smoking and smokeless tobacco in any area under his/her supervision.

In General – The following guidelines shall be followed:

- No use of smoking tobacco shall be allowed in fueling areas for vehicles or during the fueling of vehicles and equipment in the field.

- ❑ Areas where the use of smoking and smokeless tobacco is permitted shall be maintained in a clean and sanitary condition. The accumulation of cigarette butts shall be controlled, and supervisors responsible for those areas where the use of tobacco is allowed shall insure that clean and sanitary conditions are maintained.
- ❑ Employees using smokeless tobacco shall not spit their waste in areas where other employees may walk or work.

City Vehicles – The use of smoking and smokeless tobacco shall be permitted in city vehicles if the following guidelines are met:

- ❑ No wastes from use of smoking and smokeless tobacco shall be discarded or expectorated from city vehicles. Smokers shall use ash trays, and users of smokeless tobacco shall provide such containers necessary to properly contain wastes produced from using smokeless tobacco.
- ❑ When more than one person is riding in a city vehicle, all employees must agree to allow the use of smoking and smokeless tobacco by any individual(s). Whenever a mutual agreement concerning the use of smoking and smokeless tobacco cannot be reached, the preference of the non-user of tobacco shall be considered controlling.
- ❑ All vehicle ash trays or containers holding smokeless wastes shall be emptied at the end of each shift.

5.07 Use of City Vehicles/Equipment

Use of City Vehicles/Equipment is limited to City business and is subject to the following rules:

- ❑ Accidents involving city vehicles must be reported immediately to the Police Department and to the supervisor of the person responsible for operating the vehicle.
- ❑ City vehicles are not to be used at any time for personal uses.

- ❑ No City vehicle will be operated by an employee who does not have proper licenses to operate such vehicle.
- ❑ The City Manager, Asst. City Manager, Public Services Director, Department Supervisors, Building Official/Code Enforcement Officer, and employees on emergency call are eligible to take city vehicles to their residences after work hours for the expressed purpose of responding to emergency calls; provided, however, these employees agree to adhere to the IRS Vehicle Use Regulations regarding non-cash fringe benefits. Other than those employees listed, no employees will be permitted to take city-provided vehicles to their residences after work hours.
- ❑ The use of City equipment by a City employee will be limited and its use will be governed, controlled and approved by the employee's supervisor.
- ❑ Any equipment damaged or broken due to negligence by the employee may subject the employee to disciplinary action up to and including termination.

Beyond these basic rules, it is the operating employee's responsibility to operate assigned vehicles in a safe and courteous manner, and obey all traffic laws. City vehicles are constantly under observation of the citizens and must be operated in a safe and sane manner.

5.08 Drug Abuse Policy

A. Purpose

The use and misuse of drugs can and does impair the ability of an employee to perform his/her duties and may endanger the employee, his/her co-workers and the general public as well as the property of the City and others. The purpose of this policy is to prevent the use/abuse/misuse of drugs by its employees in any way in which the ability of the employee to perform his/her duties is impaired and to identify and remove the adverse affects of drugs on job performance in order to protect the health and safety of the employees of the City and the general public.

B. Scope

Section 1 contains the general policy provisions by which all employees are covered.

Section II contains drug testing provisions required by the City of Clute on which employees in non-safety sensitive positions are covered.

Section III contains the drug testing provisions required by the Department of Transportation Anti-Drug Rule by which employees in safety sensitive positions are covered and the drug testing provisions by which employees in public safety positions are covered.

C. Section 1 – General Policy Provisions

The City of Clute prohibits the following relative to all employees and contractors:

1. Use, possession, manufacture, sale or distribution of illegal drugs, controlled substances or drug paraphernalia on city property or city business, in city supplied vehicles, or during working hours.

2. Use, possession, manufacture, sale or distribution of illegal drugs or controlled substances off-premises that may adversely affect work performance, safety, or the city's reputation.

3. Employees taking over-the-counter medication or prescribed drugs that could pose a danger or affect judgment without informing his/her supervisor or the use.

4. Criminal drug activity which may result in an arrest and/or conviction of a criminal drug statute, law or regulation on or off city premises.

Inspections:

When reasonable cause exists to believe that an employee or contractor is violating the provisions of this policy, the City reserves the right to inspect all employee or contractor work areas, which could include city vehicles, desks, lockers, and any personal items brought onto city premises including personal vehicles.

Refusal to allow inspection or drug test:

Any employee refusing to submit to a required drug test or inspection under any of the Sections of this policy shall be removed from his/her position and be subject to discipline up to and including termination.

Employees notified of selection will be required to report within 30 minutes (to include travel time) to the appropriate collection site for testing. If unable to provide 45 milliliters of urine, instructions will be given to consume not more than 24 ounces of fluids and after a period of up to two hours, again attempt to provide a complete sample. If the employee is still unable to provide an adequate specimen, management will be notified. In cases of medical difficulty, the Medical Review Officer will develop pertinent information concerning whether the individual's inability to provide a sample is genuine or constitutes a refusal to test.

Violation of policy provision:

Any Violation of the provisions of the City's Drug Abuse Policy by an employee will result in disciplinary action up to and including termination. Any violation of the provisions of the City's Drug Abuse Policy by a contractor or contract employee will result in the immediate removal from the work site.

Failure of a drug screen:

Any employee testing positive for a prohibited substance will be removed from his/her position, provided referral for assistance through the Employee Assistance Program (EAP), and will be subject to discipline up to and including termination. An employee may request in writing that a second analysis be performed on the original urine specimen within 72 hours of notification of the positive result. The employee will be required to pay for the cost of any re-analysis.

Rehabilitation:

Any employee seeking rehabilitation may be offered a one time opportunity to rehabilitation at the discretion of the City Manager. If offered, rehabilitation will be covered by the City's medical plan and the employee will be responsible for any required deductibles and co-payments. Upon acceptance of the offer of rehabilitation the employee must adhere to the rehabilitation program. Any failure to adhere will result in discipline up to and including termination.

Self referral by employees is strongly encouraged. The earlier a problem is addressed, the easier it is to deal with and the higher the success rate. While self referral is itself does not preclude the City's use of disciplinary actions, the supervisor may allow time for completion of participation in an EAP directed program before initiating or determining additional corrective actions.

EAP related activities, such as referral appointments, will be treated on the same basis as other personal business or health matters with regard to use of vacation or sick leave.

Notification:

All City employees are so notified by dissemination of this document that as a condition of employment, the employee will; 1) abide by the terms of this policy, and 2) notify the city of any arrest for a violation of any criminal drug law or regulation occurring in or outside the workplace immediately. Any failure to notify the city of an arrest or conviction will result in discipline up to and including termination. This does not infer a contract, nor change at-will status.

Confidentiality:

Individual expectations of privacy and confidentiality must be carefully considered in establishing a record retention program. With the exception of the testing laboratory, MRO (Medical Review Officer) and designated city representatives with the need to know, the result of individual tests may not be released to anyone without the express written authorization of the tested individual.

Definitions:

"Safety Sensitive Position" – An employee holding a Commercial Drivers License (CDL) who drives city vehicles (either on a regular basis or as a backup or substitute in the absence of another employee), with a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds, or vehicle issued in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Material Transportation Act. For the purposes of DOT testing, "employee" includes an applicant or employment.

"Use of Prohibited Substances" – Testing positive for an unauthorized drug or drug metabolite in the urine or blood at or above a specified ng/ml level as listed below:

<u>Drug Groups</u>	<u>Level *</u> Initial Test (ng/ml)	<u>Level **</u> Confirmatory Test (ng/ml)
Marijuana metabolites	50	15 ¹
Cocaine metabolites	300	150 ²
Opiate		
Metabolites	300 ³	300
Codeine	300	300
Phencyclidine (PCP)	25	25
Amphetamines	1,000	
Amphetamine		500
Methamphetamine		500

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid. ² Benzoyl ecgonine.

³ 25 bg/ml if immunoassay-specific for free morphine.

City Premises - Any city owned, operated, leased or otherwise controlled land, buildings or vehicles or on any site of city operations.

Drug Testing Procedures - All collection, transportation, testing procedures, test evaluation measures, quality control measures applicable to laboratories, record keeping and reporting of urine samples will conform to Health and Human Services' "Mandatory Guidelines for Federal Workplace Programs", 49 CFR Part 40.

* **Drug screening levels and drug confirmation levels are subject to change without notice if the Department of Transportation adopts stricter levels for testing requirements. DOT testing measures at the time of employee testing shall be the rule.

¹ Delta-9-tetrahydrocannabinol-9carboxylic acid.

² Benzoyl ecgonine

³ 25 bg/ml if innunoassary-specific for free morphine

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D. Section II - Drug Testing Provisions for Employees in Non-Safety Sensitive Positions

The following are drug testing provisions of the City of Clute's Drug Abuse Policy which affect the employees not considered safety sensitive under the U.S. Department of Transportation's Anti-Drug Regulation. The following drug tests are required under the authority of the City of Clute.

1. Pre-Employment Drug Testing - All applicants receiving job offers are subject to testing for prohibited substances during the pre-employment physical.

2. Reasonable Suspicion Testing - The City of Clute may require a current employee to undergo drug testing if there is reasonable suspicion that the employee is under the influence of drugs during work hours. "Reasonable Suspicion" means a belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs and may require the employee to submit a urine sample for drug testing. Supervisors will be trained to recognize the effects of drug use. Before a reasonable cause test is administered, two supervisors must substantiate and concur in the decision to test. Normally the two supervisors are in the employee's chain of command; however, if that is not reasonably available, another supervisor may be consulted. The supervisor must drive the employee to the collection site.

3. Post-Accident Testing - An employee whose performance either contributed to an accident, or cannot be completely discounted as a contributing factor to an accident will be tested for prohibited substances within 24 hours of the event.

4. Return-to-Duty Testing - All employees referred through administrative channels who undergo a counseling or rehabilitation program for drug use through the EAP will be subject to unannounced random testing following completion of such a program for a period of one (1) year. There shall be at least six unannounced tests within the first 12 months following an employees return to duty. Such testing is distinct from testing which may be imposed as a component of the EAP. Any failed drug screen subsequent to completion of rehabilitation will result in immediate termination.

E. Section III - Drug Testing Provisions for Employees in Safety Sensitive Positions

The following drug testing provisions have been adopted in order to comply with the Department of Transportation Federal Highway Administration's (FHWA) rule regarding controlled substances testing, 49 CFR Part 391 and 394. These regulations are available for review during normal work hours in the Personnel Department.

1. Pre-Employment and Pre-Assignment Testing - Applicants receiving job offers in safety sensitive positions and applicants being reassigned to safety-sensitive positions must pass a test for prohibited substances as a condition of employment or assignment.

2. Post-Accident Testing - Any employee in a safety sensitive position whose performance either contributed to an accident, or cannot be completely discounted as a contributing factor to an accident will be tested for prohibited substances within 24 hours of the event.

3. Random Testing - Employees in safety sensitive positions will be subject at any time to testing for prohibited substances on a random basis. The total number of random tests conducted each year will equal at least 50% of the employees in safety sensitive positions. Violations will be handled as stated in the above "Violation of Policy Provision".

4. Reasonable Suspicion Testing - The City may require a current employee to undergo drug testing if there is reasonable suspicion that the employee is under the influence of drugs during work hours. "Reasonable Suspicion" means a belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs and may require the employee to submit a urine sample for drug testing. Supervisors will be trained to recognize the effects of drug use. Before a reasonable suspicion test is administered, two supervisors must substantiate and concur in the decision to test. Normally the two supervisors are in the employee's chain of command; however, if that is not reasonably available, another supervisor may be consulted. The supervisor must drive the employee to the collection site.

5. Return-to-Duty Testing - An employee testing positive for a prohibited substance or seeking rehabilitation for the first time, may be

5. Return-to-Duty Testing - An employee testing positive for a prohibited substance or seeking rehabilitation for the first time, may be returned to his/her position only after having successfully completed a rehabilitation program, passed a return-to-duty drug test and upon approval by the City Manager. Any failed drug screen subsequent to completion of rehabilitation will result in immediate termination.

6. Post-Rehabilitation Drug Test - All employees referred through administrative channels who undergo a counseling or rehabilitation program for drug use through the EAP will be subject to unannounced random testing following completion of such a program for a period of one (1) year. There shall be at least six unannounced tests within the first 12 months following an employee's return to duty. Such testing is distinct from testing which may be imposed as a component of the EAP.

5.09 Alcohol Abuse Policy

A. General

The City of Clute is responsible for providing a safe, healthy and productive work environment for all employees and the public it serves, and expects all employees to report to work fit for duty and free from the influence of alcohol use. It is generally accepted that the use of alcohol is not compatible with a productive and safe workplace. The following is the City's policy regarding the use of alcohol.

B. Scope

This policy contains the general provision by which all employees are covered, the circumstances that require testing, procedures for testing and consequences for violating policy.

C. General Provisions

The City of Clute prohibits the following relative to all employees and contractors:

1. Alcohol and Alcohol Use - Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's, including methyl or isopropyl alcohol. Alcohol use is defined as the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

2. Alcohol Concentration - Employees may not report for duty or remain on duty while having an alcohol concentration of 0.04 or greater.

3. Pre-Duty Uses - Employees may not report to duty within four hours after consuming alcohol. On-call employees who are not at work, but could be called to perform safety sensitive functions, are considered to be on duty.

4. On-Duty Uses - Employees may not be on duty, report to duty, conduct City business or be on City premises or in a City owned, leased or rented vehicle while under the influence of alcohol or in an impaired condition.

5. Use After an Accident - Any employee whose performance either contributed to an accident, or cannot be completely discounted as a contributing factor to an accident may not use alcohol for eight hours after the accident unless they have been given a post-accident test.

6. Possession, Etc. - Employees may not possess, manufacture, sale or distribute any alcohol on City premises, in a City owned, leased or rented vehicle, or while conducting City business. Provided, however, this shall not prohibit the use or possession of alcohol incident to the duties of employment.

D. Inspections

When reasonable suspicion exists to believe that an employee or contractor is violating the provisions of this policy, the city reserves the right to inspect all employee or contractor work areas, which would include city vehicles, desks, lockers, and any personal items brought onto city premises including personal vehicles.

E. Refusal To Allow Inspection or Alcohol Test

Any employee refusing to submit to a required alcohol test or inspection under any of the sections of this policy will be removed from his or her position and be subject to discipline up to and including termination. Employees notified of selection will be required to report within 30 minutes (to include travel time) to the appropriate collection site for testing.

F. Violation of Policy Provision

Any violation of the provisions of the City's Alcohol Abuse Policy by an employee will result in disciplinary action up to and including termination. Any violation of the provisions of the City Alcohol Abuse Policy by a contractor or contract employee will result in the immediate removal from the work site.

G. Failure of an Alcohol Test

Any Employee testing positive for alcohol will be removed from his or her position until the start of the employee's next regularly scheduled duty period. The employee will be provided referral for assistance through the Employee Assistance Program (EAP), and will be subject to discipline up to and including termination.

H. Notification

All employees are so notified by dissemination of this document that as a condition of employment, the employee will: 1) abide by the terms of this policy; 2) notify the city of any arrest for a violation of any alcohol law or regulation occurring in or outside the workplace immediately. Any failure to notify the city of an arrest or conviction will result in discipline up to and including termination.

I. Confidentiality

Individual expectations of privacy and confidentiality must be carefully considered in establishing a record retention program. With the exception of the testing laboratory, Medical Review Officer (MRO),

designated city representative and immediate supervisor with the need to know, the results of individual alcohol tests may not be released to anyone without the express written authorization of the tested individual.

J. Circumstances that Require Testing

1. Post Accident - As soon as practicable, but not later than eight hours after an accident, each covered employee will be alcohol tested. Attempts to conduct post accident alcohol testing will cease eight hours after the accident, even if no alcohol test has been conducted. Employees should refrain from consuming alcohol for eight hours following an accident unless the employee has been alcohol tested.

2. Reasonable Suspicion - An employee must submit to an alcohol test if the City has determined that reasonable suspicion exists. This determination must be based on a trained supervisor's specific observations concerning the appearance, behavior, speech or body odors of the employee. Before a reasonable suspicion test is administered, two supervisors must substantiate and concur in the decision to test. Normally the two supervisors are in the employee's chain of command; however, if that is not reasonably available, another supervisor may be consulted. The supervisor must drive the employee to the collection site.

3. Return to Duty - Before an employee can return to duty he or she must undergo a return-to-duty alcohol test.

4. Follow-up - All employees who have been identified by a Substance Abuse Professional (SAP) as needing assistance in resolving a problem with alcohol misuse and who have returned to duty will be subject to follow-up testing.

Follow-up test will be unannounced and at least six tests will be conducted in the first 12 months after the employee is back on the job. Follow-up testing may continue for up to 60 months.

5. Pre-Employment Testing - All applicants receiving job offers are subject to testing for alcohol during the pre-employment physical.

6. Random Testing (pertains to employees with CDL's or public safety positions only) - In accordance with the Department of Transportation's Omnibus Employee Testing Act of 1991, unannounced testing must be completed on a certain number of employees with CDL's each year. The City will test 25% of its employees with CDL's each year. Such employees must be tested just before, during or immediately performing a safety-sensitive function.

K. Procedures for Alcohol Testing

All testing procedures, test evaluation measures, quality control measures applicable to laboratories, record keeping and reporting of breath alcohol test will conform to the Federal Highway Administration (FHWA) regulations, Sec. 382.105 requiring employers to test for alcohol in accordance with the procedures set forth in 49 CFR Part 40 and all amendments thereto.

L. Preparation for Breath Alcohol Testing

The employee will be notified by their supervisor that they are being subject to alcohol testing (random, post-accident, reasonable suspicion, etc.). Upon entering the alcohol testing location, the Breath Alcohol Technician (BAT) will require the employee to provide positive identification (photo I.D. or identification by a City representative). On request, the BAT will provide positive identification to the employee. The BAT will explain the testing procedure to the employee.

1. Screening Testing - The BAT will complete Step 1 on the breath alcohol testing form, and the employee will then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification will be regarded as a refusal to take the test.

If the employee does not sign the certification in Step 4 of the breath alcohol testing form or does not initial the log book entry for a test, it will be considered a refusal to be tested. In this event, the BAT will note the failure to sign or initial in the "Remarks" section of the form.

2. Confirmation Testing - If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test will complete and sign the form and log book entry. The BAT will provide the employee with Copy 2 of the form.

Refusal by an employee to sign a certification at any time requested by a BAT will result in disciplinary action being taken.

3. Employee Records - Employee records pertaining to alcohol testing will be maintained in a secure location with controlled access in the Personnel Office.

These records will be promptly released to the employee, or a person identified by the employee (including subsequent employers), upon written request of the employee.

These records will be released to the Secretary of Transportation upon request of DOT or FHWA.

In a post-accident situation, these records will be released to the National Transportation Safety Board when requested as part of an accident investigation.

M. Consequences for Violating Policy

Any employee who registers on a confirmation test an alcohol concentration of 0.04 on any test administered by or for the City of Clute will be handled in the following manner:

1. Any employee testing positive for an alcohol concentration of 0.04 will be removed from his/her position, provided referral for assistance through the Employee Assistance Program (EAP), and will be subject to discipline up to and including termination.

2. Self-referral by employees is strongly encouraged. The earlier a problem is addressed, the easier it is to deal with and the higher the success rate. While self-referral in itself, does not preclude the city's

use of correction actions, the Supervisor may allow time for completion of participation in an EAP-directed program before initiating or determining additional corrective actions.

EAP-related activities, such as referral appointments, will be treated on the same basis as other personal business or health matters with regards to use of vacation or sick leave.

3. Any employee refusing to submit to a required alcohol test or inspection under any of the sections of this policy will be removed from his/her position and be subject to discipline up to and including termination.

4. Any employee who will be terminated will be advised to obtain an evaluation from the city's SAP to determine if the employee is in need of assistance with an alcohol problem. The city will pay for this evaluation and will receive the SAP report. A copy of the report will be given to the employee by the SAP if the employee provides the SAP with a self-addressed stamped envelope.

5.10 Sexual Harassment Policy

A. Purpose

The purpose of this policy is to inform all employees that sexual harassment in the work place is strictly prohibited.

B. Definition

Sexual harassment is defined by Equal Employment Opportunity Commission guidelines as unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature if:

1. Submission to this conduct is an explicit or implicit term or condition of an applicant's employment;
2. Submission to or rejection of this conduct is a basis for offering career opportunities to an employee; or

3. The conduct has the purpose or the effect of substantially interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

C. Responsibilities

The City may be held responsible for acts of sexual harassment in the work place if management knows or should have known of the misconduct. In known cases of sexual harassment, the City must be able to show that immediate and appropriate corrective action is being taken. The City may be held responsible for acts of sexual harassment committed by policy making, executive, managerial, supervisory personnel and co-workers, as well as non-employees.

1. The City shall maintain a work place free of sexual harassment.

2. Prevention is the most effective tool for eliminating sexual harassment. Supervisors shall ensure that all employees of the City are informed of this policy and institute immediate and appropriate corrective action if such prohibited conduct is exhibited.

3. All City personnel are responsible for immediately reporting acts of sexual harassment to their supervisor. Failure to report such conduct may result in a reprimand. If the complaint is valid, depending on the severity of conduct, the City Manager may take disciplinary action up to and including discharge as provided in Chapter Six below.

D. Policy Statement

It is the policy of the City to prohibit sexual harassment of its employees in the work place by any person and in any form.

E. Policy Amplification

All Supervisors have an affirmative duty to maintain and provide for employees of the City a work place free of sexual harassment. This duty includes discussion of this policy with supervised employees and assuring them that they are not required to endure insulting, degrading or explanative sexual treatment.

Specifically, no Supervisor shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development.

Other sexually harassing conduct in the work place, whether committed by Supervisors or non-supervisory personnel, is also prohibited. Such conduct is not limited to:

1. Unwelcome sexual flirtations, advances or propositions;
2. Verbal abuse of a sexual nature;
3. Graphic verbal comments about an individual's body;
4. Sexually degrading words used to describe an individual; and
5. The display in the work place of sexually suggestive objects or pictures.

Any employee who believes that he/she has been the subject of sexual harassment should report the alleged act immediately to his/her Supervisor. Supervisors, in consultation with the City Manager, should make every effort to insure that complaints of sexual harassment are resolved promptly and effectively.

If the employee is not satisfied with the action taken by his/her Supervisor or feels that the complaint would not be received objectively by the Supervisor, the employee should bring the complaint directly to the attention of the City Manager. The complaint will be investigated by the City Manager and the employee will be advised of the findings and conclusion. All actions taken to resolve complaints of sexual harassment through internal investigation shall be confidentially conducted.

Any Supervisor, or other employee, who is found after appropriate investigation to have engaged in sexual harassment of another employee be subject to disciplinary action, up to and including discharge.

F. Policy Exceptions

Policy exceptions shall be brought to the attention of the City Manager for review and recommended course of action.

Sec. 5.11 Acceptance of Gifts

As employees of the City of Clute, we are obligated to put the City's interest first in every business transaction. Our own personal interests must not be a consideration. Decisions involving the City's purchases of equipment, supplies or services must be based solely on business criteria such as price, quality, performance, reliability and service.

The City of Clute discourages gifts and gratuities to its employees. Sometimes these gifts are given without opportunity to refuse them. The following guideline will help in making a decision:

- ❑ No monetary gift may be accepted.
- ❑ No alcohol will be accepted.
- ❑ Any gift that obligates you or makes you feel obligated should not be accepted.

5.12 Solicitations

Soliciting items for sale or donations while on duty is prohibited without permission from the City Manager.

5.13 Internet Usage

Internet services are provided by the City of Clute to support open communications and exchange of information and the opportunity for collaborating government-related work. The City of Clute encourages the use of electronic communications by its agencies and employees. Although access to information and information technology is essential to the missions of government agencies and their users, use of Internet services is a revocable privilege. Conformance with acceptable use, as expressed in this policy statement is required. Agencies of the City are expected to maintain and enforce this policy.

At a minimum, users of Internet services provided by the City are expected to:

- ❑ Make a reasonable effort to inform themselves of this acceptable use policy and acceptable and unacceptable uses on the Internet in general. The burden of responsibility is on the user to inquire as to acceptable and unacceptable uses prior to use. Compliance with applicable acceptable use restrictions is mandatory.
- ❑ Use City provided Internet services for City government-related activities and not for personal business.
- ❑ Respect the privileges of other users.
- ❑ Respect the integrity of computing systems connected to the Internet.
- ❑ Know and follow the generally accepted etiquette of the Internet.
- ❑ Avoid uses of the Internet that reflect poorly on their agency or on the City.

Users should remember that all other City existing and evolving rules, regulations and guidelines on ethical behavior of government employees and the appropriate use of government resources, apply to the use of electronic communications systems supplied by the City.

Specifically Acceptable Uses:

- Communication and information exchange directly related to the mission, charter or work tasks of the City.
- Communication and exchange for professional development, to maintain currency of training or education, or to discuss issues related to the user's City activities.
- Use in applying for or administering grants or contracts for the City's programs or research.
- Use for advisory, standards, research, analysis and professional society activities related to the user's City work tasks and duties.
- Announcement of new City regulations, ordinances, procedures, policies, rules, services, programs, information or activities.
- Any other governmental administrative communications not requiring a high level of security.
- Communication incidental to otherwise acceptable use, except for illegal or specifically unacceptable uses.

Specifically Unacceptable Uses:

- Use the Internet for any purposes that violate a federal, state or local law.
- Use for any for-profit activities unless specific to the charter, mission, or duties of the user's department or City.
- Use for purposes not directly related to the mission, charter, or work tasks of the user's department or City during normal business hours.
- Use for private business, including commercial advertising.
- Use for access to and distribution of a patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, or patently offensive representation or descriptions of masturbation, excretory functions, or lewd exhibition of the genitals.
- Material sent or received in violation of the Protection of Children Against Sexual Exploitation Act of 1977, as amended, 18U.S.C.2252. (Exception-Any law enforcement investigation)
- Use for access to and distribution of computer games that have no bearing on the city's mission. Some games that help teach, illustrate, train, or simulate city-related issues may be acceptable.
- Use of City of Clute provided Internet services so as to interfere with or disrupt system users, services or equipment.
- Intentionally seeking out information on, obtaining copies of, or modifying files and other data which are confidential under federal, state, or local law, unless specifically authorized to do so once the legal conditions for release are satisfied.
- No intentional copy is to be made of any software, electronic file, program or data using City provided Internet services without a prior, good faith determination that such copying is, in fact, permissible. Any efforts to obtain permission should be adequately documented. Intentionally seeking information on, obtaining copies of, or modifying files or data belonging to others without authorization of the file owner. Seeking passwords of others or the exchanging of passwords is specifically prohibited.
- Users intentionally representing themselves electronically as others, either on the City system or on the City Internet unless explicitly authorized to do so by those other users. Users shall not

- circumvent established policies defining eligibility for access to information or systems. Intentionally developing programs designed to harass other users, infiltrate a computer or computing system and/or damage or alter the software components of same.
- Use for fund raising or public relations activities not specifically related to City activities.
- City Personnel Rules of Conduct restricts political activities of City employees. This includes using computer equipment and resources.

Additional Guidelines:

Computer Viruses: Any software obtained from outside City government should, if possible, be checked prior to use for any viruses.

Use by Contractors: Contractors and other non-City employees may be granted access to City provided Internet services at the discretion of the City Manager. Acceptable use by contractors and other non-City employees working for the City is the responsibility of the contract administrator. The contract administrator is expected to provide contractors who use City Internet services with this information.

Passwords: Use passwords associated with a City of Clute information system only on that system. When setting up an account at a different information system that will be accessed using the Internet, choose a password that is different from ones used on City information systems. Do not use the same password for both local and remote Internet accessed systems. If the password used at the remote site were to be compromised, the different password used locally would still be secure. Passwords should not be so obvious so that others could easily guess them.

Log Off: Always make a reasonable attempt to complete the log off or other termination procedure when finished using a Internet accessed system or resource. This will help prevent potential breaches of security.

E-mail: Unencrypted electronic mail sent or received outside any department and on the Internet cannot be expected to be secure.

Disclaimers: Users should avoid being drawn into discussions where disclaimers like "this represents my personal opinion and not that of my department or the City of Clute". When you are using Internet services provided by the City, users need to remember that they are representing the City of Clute.

Procedures: The Department Head or their delegated representative is responsible for their employees' compliance with the provisions of this policy. Any violation of the provisions of this policy will result in disciplinary action.

5.14 Gambling

An employee shall not engage or participate in gambling in any form while on duty or in a City uniform.

5.15 Use of Telephone/Cellular Phones

Telephones/Cellular phones in City offices, warehouses, police station, fire stations, and other City buildings are for City business. Employees are allowed to make local personal calls but should hold them to a minimum. These calls should be made, if at all possible, on the employee's free time. Any person abusing the use of the telephones/cellular phones is subject to disciplinary action up to and including termination.

CHAPTER SIX

DISCIPLINE

6.01 General Provisions

The City of Clute is an employment at-will employer as defined under Texas Common Law (See Employment at Will – 1.05), and no practice shall limit or modify this employment at will relationship. Accordingly, this guideline does not limit the City's right to terminate an employee at any time, for any reason.

It is an objective of the City of Clute to maintain an effective and productive work force in order to provide quality services to the Citizens of Clute. Each employee is responsible for performing their job in a safe, productive and effective way and within the instructions and standards established by their supervisor. In addition, employees are expected to maintain acceptable standards of conduct in their employment. Supervisors are charged with assisting employees in correcting unsatisfactory performance and unsatisfactory conduct through disciplinary procedures up to and including termination.

These administrative procedures are intended to address general application of the principles of disciplinary actions in typical situations. Disciplinary actions should recognize the importance of the City's responsibility to provide quality service to the citizens. These procedures address a broad range of performance of duties and conduct problems. However, they are not intended to address every problem or situation which might arise.

When taking disciplinary action, the City will adhere to the following general guidelines:

- Employees will be treated fairly and equitable. Action will be taken in an objective and professional manner and shall not be based on the personal feelings of the individual administering the disciplinary action.

- The decision to take disciplinary action shall be based on a careful assessment of the circumstances of each case. Factors to consider in the assessment are: the prior disciplinary record of the employee, and the potential effect of the violation on other personnel and/or the City organization.

The final authority and responsibility for disciplinary action rests with the City Manager.

6.02 Reasons for Disciplinary Action

The following lists of actions are intended to be descriptive and serve only as a guide to the types of problems for which disciplinary action may be appropriate. Disciplinary actions should address two general categories: performance of duties and personal conduct.

Performance of Duties:

The following are examples relating to unsatisfactory performance of duties for which disciplinary action up to and including termination may be taken on the first offense. (This list of examples is not all inclusive.)

1. Incompetency in the performance of duties. The fact that any employee is deemed competent at the time of employment shall not preclude a judgment of incompetence as the result of apparent unwillingness to perform assigned tasks, being absent without leave or demonstrating unnecessary absence from the assigned work area during assigned hours of work. Other methods of proof of incompetence shall include repeated oral and written disciplinary actions for minor infractions of manuals, directives or repeated oral and written disciplinary actions demonstrating the employee's inability to meet performance standards.
2. Failure to satisfactorily meet performance standards for the position.
3. Patterned absenteeism without sufficient medical justification.

4. Absence without approved leave.
5. Unexcused tardiness, as a habitual pattern or failure to report for duty at the assigned time and place.
6. Violation of written departmental regulations regarding the performance of duties.
7. Careless, negligent or improper use of City property or equipment.
8. Improper use of leave privileges.
9. Discourteous treatment of the public or other employee(s).
10. Neglect or carelessness in the performance of duties.
11. Failure to meet or maintain specified conditions of employment, such as failure to obtain or maintain a license or certificate required as a condition for performing a job.
12. Negligently causing damage to City property.
13. Causing or contributing to an accident by operation of City equipment in an unsafe or unauthorized manner.
14. Dereliction of duty: Dereliction of duty on the part of any employee, detrimental to the proper performance of the functions of the City, is cause for disciplinary action. The following subsections constitute dereliction of duty:
 - Failure of a supervisor to immediately take action when a violation of policies, rules or regulations comes to his/her attention, regardless of the supervisor's or violator's assignment or position in the City.
 - Failure to observe and give effect to the policies of the employee's department or the City.
 - Failure to deliver to the official City custodian any property found by, confiscated by, or relinquished to employees of the City without undue delay and, in any event, before the work day is ended.
15. Misusing or failing to use delegated authority in the performance of duties.

Personal Conduct:

The following are examples relating to personal conduct for which disciplinary action up to and including termination may be taken on the first offense. The list is not intended to be all inclusive. It does describe

examples of conduct which management believes are unacceptable and could jeopardize an employee's continued employment. Examples are:

1. Theft of, aiding in, or encouraging the theft of cash, City property or equipment.
2. Destroying City records without authorization.
3. Falsifying information on City records, including application for employment or medical information or other information concerning employment status. Falsifying time sheets or other City records.
4. Willful damage to public property or willful waste of public supplies, service or equipment.
5. Insubordination: the refusal to perform a reasonable, lawful, safe and proper work assignment, duty or task from an authorized supervisor, back talk to a supervisor, etc...
6. Dispensing, using and/or possessing any illegal controlled substance or abuse of prescription drugs during the performance of job duties, on the job site or on City property or during the course of City business.
7. Physical assault committed on the job upon a City employee, member of the public or City official.
8. Using an official position or office for economic gain or soliciting favors or gratuities for performing services required by the employee's position.
9. Disclosing information as defined by statute to be confidential.
10. Unauthorized use or possession of City funds.
11. Unlawful possession or use of dangerous weapons, such as firearms or knives on the job.
12. Using threat against another employee or a member of the public.
13. Engaging in any employment activity or enterprise which constitutes a conflict of interest.
14. Using City property or equipment without authorization.
15. Violating the City's Drug and Alcohol Abuse Policies.
16. Using abusive language toward employees, supervisor or the public.
17. Unnecessarily disrupting the work of other employees.
18. Operating or conducting gambling on the job or on City property.

19. Violating safety rules or practices which endanger the employee or other or damages City property or equipment.
20. Playing tricks or jokes or engaging in horseplay on the job.
21. Violating the City's Sexual Harassment policy or other harassment such as making derogatory racial, age, ethnic or sexist remarks while on duty.
22. Engaging in personal business while on duty without authorization of his supervisor.
23. Failure to report damage to City equipment or property of others.
24. Appropriating City property, i.e. equipment, furniture or construction materials which have been abandoned or discarded.
25. Utilizing City data or information systems for any reason other than City business.
26. Sleeping on the job.
27. Falsely reporting illness or injury, or otherwise attempting to deceive any official of the City as to a health or medical condition.
28. Conviction of a felony.
29. Repeated conviction of a misdemeanor.
30. Fighting.
31. Unnecessary rudeness.
32. Failure to meet credit obligations.
33. Embezzlement.
34. Unauthorized use of city vehicle, city equipment, supplies or other City property.

Employees may also be dismissed when, in the judgment of the City Manager, the best interest of the City, or maintenance of discipline within the organization, dictates such dismissal as a result of such employee's habitual failure to maintain an acceptable standard of conduct toward his/her supervisor, fellow employees or members of the public with whom such employee comes in contact or a habitual disregard for any of the provisions of this personnel policy handbook.

6.03 Types of Disciplinary Action

The following types of disciplinary action may be applied to an employee whose performance of duties or personal conduct is unsatisfactory. This list is not all-inclusive and shall in no way prevent the supervisor from taking appropriate disciplinary action when the severity of the violation(s) or the best interest of the City, or maintenance of discipline within the organization warrants such action.

- Oral Reprimand
- Written Reprimand
- Suspension with pay
- Suspension without pay
- Termination
- If the action of an employee results in economic loss to the City, in addition to any of the above, the disciplinary action may require the employee to reimburse the City for such loss.

6.04 Procedure for Disciplinary Action of Employees who are not Department Heads

When violations of policy or acts of misconduct of an employee other than a Department Head occurs, a report of disciplinary action will be completed by the Department Head where the employee has his/her primary responsibility and a copy forwarded to the City Manager. Such report will list the nature of the violation or act of misconduct, a written description of the incident, the signature of the supervisor, and the date of the report.

The Department Head, the supervisor and employee shall meet, in a timely fashion, and discuss the report. The employee will be given a copy of the report and be given two (2) working days beginning on the next working date after receiving the report and ending at 5:00 p.m. on the 2nd working day, in which to respond to the nature and description of the violation. The response must be in writing and may include information from witnesses or other evidence on the employee's behalf. Any

response must be signed by the employee and dated on the date of the response. A written response by the employee is at his/her option and is not required.

At the conclusion of the two (2) day period, or after receiving such response, the Department Head, supervisor and employee shall meet to discuss the report. During that meeting, the Department Head shall inform the employee of the disciplinary action, if any, to be taken and of their right to appeal in writing, within three (3) working days, to the City Manager. Such disciplinary action shall be documented on the report of disciplinary action and forwarded to the City Manager for review. If the City Manager approves the disciplinary action he/she shall sign the report and forward one (1) copy to the Employee and one (1) copy to the employee's personnel file. If the City Manager disapproves of the disciplinary action, he/she shall meet with the Department Head and Supervisor to review alternate types of action.

If the employee exercises his/her right to appeal to the City Manager, the City Manager may suspend the imposition of disciplinary action pending the outcome of the hearing. The employee, Department Head/Supervisor, and City Manager shall meet within twenty-four (24) hours of the appeal and review the report. After such meeting, the City Manager will issue his/her decision within three (3) days, in writing, to the employee. The decision of the City Manager, with regards to disciplinary action, is final.

The City Manager may order a suspension, with pay, of an employee before reaching a decision on disciplinary action if the City Manager determines that such suspension is in the best interest of the City. Such suspension shall not be considered disciplinary action and shall not reflect adversely on an employee's disciplinary record.

A Department Head may suspend an employee from duty immediately, with or without pay, for violation of these policies or acts of misconduct, if the Department Head feels such action is necessary to preserve order in the City organization and is in the best interest of the City. The Department Head, supervisor and employee shall meet with the City Manager, within twenty-four hours (24), and discuss the reason for such suspension. The City Manager shall then make a determination if such action was necessary and in the best interest of the City. If the City

Manager determines such action by the Department Head was correct; the City Manager will instruct the Department Head to begin the disciplinary process listed above. If the City Manager determines such action was not correct, they shall order the reinstatement of the employee with pay for the time missed.

6.05 Procedure for Disciplinary Action of Employees who are Department Heads

Any employee of the City of Clute who is a Department Head may be disciplined or dismissed from service by the City Manager.

The City Manager shall give written notice to such employee advising him/her of the nature of the violation or act of misconduct, a written description of the incident which shall be signed and dated by the City Manager. The employee shall have two (2) working days to respond in writing to the nature and description of the violation. However, such response is at the option of the employee and is not required. At the conclusion of the two (2) day period, or after receiving the response, the City Manager shall meet with the employee and inform him/her of the disciplinary action, if any, to be taken. The decision of the City Manager shall be final.

CHAPTER SEVEN

GRIEVANCE PROCESS

7.01 Right to Grievance

Employees who feel they have been improperly treated in their job or in their work relationship with the City shall have the right to file a grievance. "Grievance" as used herein does not include any disciplinary action taken by the City Manager pursuant to Chapter Six herein.

Actions or results which occur and which are beyond the control of the City shall not be considered grounds for grievance.

Employees are encouraged to use the following grievance procedure and will not be discouraged from submitting a grievance. The employee should keep in mind the responsibility of the City to its citizens and to the public. It is the responsibility of the employee to assist in discharging this responsibility by contributing to a good working relationship among other City personnel.

7.02 Grievance Procedure

Any employee who has a grievance may submit a written statement, with all pertinent details of the grievance, to his/her Department Head. Within three (3) days of receiving the grievance, the Department Head will meet with the employee to discuss the grievance and decide what action, if any, to take regarding the grievance and the employee's right of appeal to the City manager. If a satisfactory adjustment of the grievance is not reached, the employee may appeal, in writing, to the City Manager for an adjustment of the grievance. Such appeal must be made within three (3) days of the decision of the Department Head.

When an appeal is made, the City Manager shall be given a copy of the grievance as submitted to the Department Head, the result of the meeting with the Department Head, and the reason for the appeal. Within three (3) days of receiving the appealed grievance, the City Manager shall meet

with the Department Head, supervisor and employee to discuss the grievance and decide what action, if any, to take regarding the grievance. The City Manager will have three (3) days to decide what action, if any, to take regarding the grievance and notify the employee in writing of the decision. The decision of the City Manager, regarding any action on the grievance, is final.

CHAPTER EIGHT

ATTENDANCE AND LEAVE POLICY

8.01 Attendance

Employees are to be at their place of work on time as prescribed by their respective supervisor. All departments shall maintain daily attendance records. An employee who will be late for work for any reason should attempt to notify their supervisor before working hours begin. Unauthorized tardiness or absences will be cause for disciplinary action up to and including termination.

8.02 Hours of Work/Tardiness

The typical working time per week for non-exempt regular full-time employees is forty (40) hours with special provisions made in departments that require additional hours to meet existing conditions or emergency contingencies. Non-exempt regular full time employees may have working hours that vary.

Municipal Offices are open for business between 8:00 A.M. and 5:00 P.M. Monday through Friday. Up to a one hour unpaid lunch period may be granted to all office employees as schedules and workloads permit, but they should be staggered so that offices can remain open during the noon hours. All Public Works departments conduct their business during hours determined by the respective Department Head and City Manager.

For departments using time punch clocks, the following guideline applies for late-ins and early outs:

TIME ON CLOCK

IN: 3 min. after the hr.-17 min. after the hr.
 18 min. after the hr.-32 min. after the hr.
 33 min. after the hr.-47 min. after the hr.
 48 min. after the hr.-60 min. after the hr.
 OUT: 15 min. before the hr.-1 min. before the hr.
 30 min. before the hr.-16 min. before the hr.

PAY DEDUCTION

15 minutes
 30 minutes
 45 minutes
 60 minutes
 15 minutes
 30 minutes

If an employee is inexcusably tardy for work, he/she may be "docked" according to the schedule listed above.

Chronic unexcused tardiness by an employee may subject them to disciplinary action up to and including termination.

8.03 Vacation

All Regular, Full-Time Employees accrue vacation time from the date of employment. Therefore, each employee will have an individual anniversary date.

During the first year of employment, one (1) day of vacation may be used by regular employees after meeting the provisions of the probationary period. Regular, Full-Time Employees shall earn vacation leave as computed on the following basis:

<u>Years of Service</u>	<u>Vacation (Hours)</u>
0-1	8
1	80
2	96
3-4	112
5-9	128
10-12	144
13	152
14	160
15	168

Each additional year of service up to twenty-five years over fifteen (15) earns eight (8) additional hours of vacation for a maximum of 248 hours of vacation time per year.

Vacation of any employee may not be accumulated and if not used during the year (anniversary date to anniversary date) will be forfeited unless extension of vacation is authorized by the City Manager for a specified time period.

After three (3) full years of service, any regular, full-time employee may elect to receive forty (40) hours of compensation at the then current salary of such employee in lieu of forty (40) hours of vacation, only once per calendar year.

If a regular employee's service is terminated at any time, the employee shall be paid for all vacation leave earned to the date of termination. Payment will be made in their final check.

Vacation leave shall be scheduled with the Department Head, who shall consider the needs of the City, the number of personnel needed to effectively operate his/her department, and the schedule and desires of the employee. The borrowing of vacation against future earnings is prohibited. The minimum amount of vacation that an employee shall be allowed to use at one time is four (4) hours. All vacation must be approved by the Department Head prior to being taken.

If a holiday falls during the period an employee is on vacation, the holiday shall be handled in accordance with the policy on holidays and will not be charged against the employee's vacation time.

8.04 Holidays

Regular, Full-Time employees will be paid one day's pay for official holidays, if eligible. To be eligible for holiday pay, an employee must work the scheduled workday preceding and immediately following the holiday, unless absent with excuse acceptable to his/her supervisor. If an employee is required to work on an official holiday, such employee will be paid the regular day's pay for the holiday plus one and a half times regular rate for hours worked on such holiday.

Holidays falling when an employee entitled to be paid therefore is on vacation will not be charged as a vacation day. Should the date of any official holiday fall on a Saturday, the holiday will be observed on the preceding Friday. If the official holiday falls on Sunday, the following Monday will be observed. If the holiday falls on a day which is a regular week day off for an employee, he/she will be given a different day off.

The following is a list of official holidays for the City:

- ❑ New Year's Day
- ❑ Martin Luther King Day
- ❑ Washington's Birthday
- ❑ Memorial Day
- ❑ Independence Day
- ❑ Labor Day
- ❑ Thanksgiving Day
- ❑ Day after Thanksgiving
- ❑ Christmas Day
- ❑ Employee's Birthday*
- ❑ One (1) Day to be designated annually by the City Council

* Optional, can be rescheduled at mutually convenient time through arrangements with supervisor. Must be taken before next birthday.

8.05 Sick Leave

All full-time regular employees are eligible to earn paid sick leave at a rate of ten (10) hours per month or one hundred twenty (120) hours per year.

Accrued, but unused sick leave shall be carried forward into succeeding year with no maximum accumulation. After five (5) years of service, upon termination, other than for cause, full-time regular employees will be paid for accrued but unused sick leave up to a maximum of 80 hours.

Sick leave will be charged by the hour and used for employee or family illness where the employee is too ill to be able to work safely, or an ill family member requires their presence. Employees shall notify their supervisors of their intent to take sick leave prior to, or within two (2) hours of the time they are scheduled to begin their duties. Failure to give such notification will require the absence to be charged as leave without pay, except in cases of an emergency or an unusual event.

Employees who are out for more than three (3) consecutive days will be required to obtain a doctor's full release before returning to work. In a situation where the abuse of sick leave is suspected, department heads may require documentation from a licensed physician prior to approval of an employee's request for sick leave for less than three (3) consecutive days.

Employees may borrow up to eighty (80) hours sick leave where conditions justify such borrowing upon the approval of the City Manager. Employees who leave the employment of the City for any reason before earning the amount of sick leave borrowed shall have the monetary value of the balance of borrowed sick leave deducted from the employee's final pay.

8.06 On-the-Job Injury Leave

Employees who are injured in the course of performing their job in the service of the City shall be granted injury leave if the attending physician directs the employee to refrain from working due to the nature and extent of the injury. Such leave will not be charged against vacation or sick leave.

An employee injured on the job shall notify his department supervisor of the injury immediately. The supervisor shall subsequently submit a "First Report of Injury" form and an investigative report to the Personnel Office. A claim shall be submitted to the City's workers' compensation carrier through the City's Personnel Office. Employees failing to report an on the job injury within twenty-four (24) hours from the time of injury will be subject to disciplinary action up to and including termination.

Employees injured on the job may choose their own attending physician or will be attended by a physician retained by the City if the employee has no preference or is unable to make a choice. The fee for the physicians service and hospital charges will be paid by the City's workers' compensation carrier.

An employee who is determined by the attending physician to refrain from working due to the nature and extent of the injury will receive full pay from the City for the first seven (7) days or fifty-six (56) hours

following the time of injury. After seven (7) working days the employee will receive a temporary income benefit through the City's insurance carrier, but will retain an employment status. Sick leave and personal leave shall continue to accrue as long as the employee maintains employment status.

8.07 Professional Leave

The City Manager, upon recommendation of the Department Head, may grant employees professional leave, with pay, to attend approved professional activities. Such activities include, but are not limited to, conferences, conventions, educational courses, or visits to other cities that might be in the interest of the City of Clute. Such leave shall be requested in advance of the activity.

8.08 Leave of Absence

The City Manager, upon recommendation of the Department Head, may grant leaves of absence, without pay, to employees who have achieved regular status. Such leave shall not exceed ten (10) working days. Leaves of absence in excess of ten (10) days may be extended by the City Council, upon recommendation of the City Manager. The maximum length of any leave of absence shall be six (6) months.

8.09 Family Leave Act

Pursuant to the Family and Medical Leave Act of 1993, the following is adopted by the City of Clute as the FMLA Leave:

A. DEFINITIONS

Child means a biological, adopted or foster child, a step-child, a legal ward of a child of a person standing in loco parentis (in place of a parent), who is under eighteen (18) years old, or eighteen (18) years of age or older and incapable of self-care because of mental or physical disability.

FMLA means the Family and Medical Leave Act of 1993, 29 U.S.C. 201 et seq.

Health Care Provider means:

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of Texas;

(B) a podiatrist, dentist, clinical psychologist, optometrist, and chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State of Texas and performing within the scope of their practice as defined under state law; or

(C) a nurse practitioner and nurse midwife authorized to practice under state law and performing within the scope of their practice as defined under state law; and

(D) a Christian Science practitioner listed with the First Church of Christ Scientist in Boston, Massachusetts. (Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from the city that the employee or family member submit to examination, though not treatment, to obtain a second or third certification from a health care provider other than a Christian Science practitioner.)

Key Employee means an employee who is among the highest paid 10 percent of all the employees employed by the City.

Parent means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

Reduced Leave Schedule means a leave schedule that reduces the usual number of hours per work week, or hours per work day, of an employee.

Serious Health Condition means an illness, injury, impairment, or physical or mental condition that involves:

1. any period of incapacity or treatment in connection with an overnight stay in a hospital, hospice, or residential medical care facility;

2. any period of incapacity requiring absence from work, school or other regular daily activities, of more than three calendar days, that also involves continuing treatment by or under the supervision of a health care provider;

3. continuing treatment by or under the supervision of a health care provider for chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days.

Spouse means a husband or wife as defined or recognized under state law for purposes of marriage, including common-law marriage.

Substantial and Grievous Economic Injury means a threat to the economic viability of the City or a substantial, long-term economic injury.

B. ELIGIBILITY

An employee is eligible for FMLA leave if they have been employed by the City for at least twelve (12) months and have worked at least 1,250 hours for the City in the twelve (12) months preceding the leave requested.

C. LEAVE PROVISIONS

Eligible employees are entitled to ninety (90) unpaid calendar days of leave during the 12-month period measured backward from the date an employee uses any leave, for any of the following reasons:

1. The birth or placement for adoption or foster care of a child;
2. The serious health condition of a spouse, child, or parent; or
3. The employee's own serious health condition.

When medically necessary because of a serious health condition of the employee's spouse, child, or parent, or because of the employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule.

If an employee requests intermittent leave, or leave on a reduced leave schedule, which is foreseeable based on planned medical treatment, the City may require the employee to transfer temporarily to an available alternative position, which has equivalent pay and benefits, and better accommodates recurring periods of leave than the regular employment position of the employee.

If both spouses are employed by the City, they are entitled to a total of ninety (90) calendar days of leave (rather than 90 each) for the birth, adoption, or placement in foster care of a child, or for the care of a sick parent. The entitlement to leave for a birth or placement of a child expires at the end of a 12-month period, beginning on the date of the child's birth or placement.

D. USE OF ACCUMULATED LEAVE

The City shall require an employee to count paid vacation, personal, or sick leave toward the 90-day leave period. The City must provide only enough unpaid leave to equal ninety (90) days of total leave, including all paid and unpaid leave.

E. CERTIFICATION

The City requires that any requests for leave because of a serious health condition of a spouse, child, or parent, or of the employee be supported by certification from the appropriate health care provider. Sufficient certification must be submitted within fifteen (15) calendar days or as soon as practicable, of requesting leave. Medical certification forms are available from the Personnel Department upon request.

Employees returning from leave taken because of the employee's own serious health condition, must present a health care provider's certification that the employee is able to resume work, including any limitation the employee may have as a result of his/her serious health condition.

The City reserves the right to seek, at its own expense, a second, and, if necessary, a third opinion to clarify medical certification of the need for leave.

F. REINSTATEMENT

Employees returning from Family Leave shall be reinstated to the same position or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. The job to which an employee is restored must be virtually functionally the same as that from which leave was taken.

In addition, the City may deny reinstatement to any employee if that employee would have been laid off or terminated had the employee remained at work, or if the employee did not provide a required return-to-work medical certificate or has unequivocally advised the City that he/she does not intend to return to work.

If a key employee requests FMLA leave, the City may not deny the leave, but may notify the employee that the employee will be denied reinstatement at the conclusion of the leave period, if the City determined and can demonstrate that reinstatement of the key employee would cause substantial and grievous economic injury to the City.

In order to deny the reinstatement to a key employee to the same position, the City must comply with the following procedure:

1. The City will give the employee written notice at the time the leave is requested or when the leave commences, whichever occurs first, that the

employee qualifies as a key employee and inform the employee of the potential consequences with respect to reinstatement if the City should determine that substantial and grievous economic injury to the City's operations will result if the employee is reinstated after FMLA leave. If the notice cannot be given immediately because of the need to determine whether the employee is a key employee, it will be given as soon as practicable after receipt of a request for leave or the commencement of leave, if earlier.

2. As soon as the City makes a determination that reinstatement of the key employee will result in grievous economic injury to its operations, the City shall notify the employee in writing of its determination and that it intends to deny reinstatement to employment on completion of the FMLA leave. The City must serve this notice in person or by certified mail. The notice must explain the basis for the City's finding that substantial and grievous economic injury will result, and must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

3. If an employee does not return to work in response to the City's notification of intent to deny reinstatement, the employee continues to be entitled to maintenance of health benefits and the City may not recover its cost of health benefit payments. The key employee's rights under FMLA leave continue until the employee either gives notice that the employee no longer wishes to return to work, or the City actually denies reinstatement at the conclusions of the leave period upon request for reinstatement by the employee.

4. If a key employee requests reinstatement at the end of the leave period after having received earlier notice that reinstatement would be denied, the city must make a new determination based upon circumstances at that time. If it is again determined that substantial and grievous economic injury will result from reinstatement of the key employee, the City shall notify the employee in writing of the denial of reinstatement. The City must serve the notice in person or by certified mail.

G. BENEFITS

An employee on leave shall not lose any employment benefits accrued prior to the date on which leave began. However, employees on leave will not accrue any additional seniority or employment benefits.

Health, dental and/or life insurance coverage will remain in effect for employees of the City while on leave.

If the employee fails to return from leave once his/her leave has expired and the employee fails to return to work for a reason other than the continuation, recurrence or onset of a serious health condition, the City may recover the premium that it paid for maintaining coverage under the City's group health plan for the employee on leave.

H. NOTICE BY EMPLOYEE

When the need for leave is foreseeable based on the birth, adoption, or placement of a child, or planned medical treatment, the employee requesting leave should give the City not less than thirty (30) days notice, before the date the leave is to begin, of the employee's intention to take leave.

When the leave must begin in less than thirty (30) days, the employee should give notice to the City of the need for leave as soon as practicable.

In cases when the employee requests leave for planned medical treatment, the employee should make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the City.

Failure to provide notice as required under this policy may result in delaying leave until at least thirty (30) days after the date the employee provides notice of the need for leave.

I. NOTICE BY THE CITY

The City shall post conspicuously and keep posted a notice explaining the act and the procedure for filing complaints. The notice cannot be smaller than 8 1/2 X 11 inches and must contain legible type.

In addition, once an employee requests leave under the Act, the City has an affirmative duty to provide the following specific information to the employee:

1. That the leave will be counted against the employee's annual family and medical leave entitlement;
2. Any requirements that the employee furnish medical certification of a serious health condition and the consequences from failing to do so;
3. The employee's right to substitute paid leave and whether the employer will require the substitution of paid leave, and the conditions related to any substitution;

4. Any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments;
5. Any requirement for the employee to present a fitness-for-duty certificate to be restored to employment;
6. A key employee's status as such and the political consequence that restoration may be denied, explaining the conditions required for such denial;
7. The employee's right to restoration to the same or an equivalent job upon return from leave; and,
8. The employee's potential liability for payment of health insurance premiums paid by the employer during the employee's unpaid family and medical leave if the employee fails to return to work after taking family and medical leave.

This notice may also include other information as the City deems relevant.

8.10 Family Death Leave

The City of Clute grants a maximum of four (4) days paid leave to regular full-time employees in case of death of immediate family members. Uses of this leave may include making funeral arrangements and attending funeral services including travel time.

8.11 Judicial Leave

Jury service and appearing as a witness in court when subpoenaed is a Civic Duty and employees are expected to serve or appear when called or subpoenaed without loss of pay; however, satisfactory evidence of such service or appearance must be presented to the supervisor of such employee. If an employee is dismissed from jury duty before noon, he/she is expected to return to work as soon as he/she is discharged by the Court.

8.12 Military Leave

Any regular full-time employee serving in the National Guard or other military service or reserve unit and called into service, not to exceed two

weeks, shall be entitled to receive his regular pay less any military pay received. Written evidence of pay received from the military unit must be submitted. Military leaves of more than two (2) weeks shall be without pay.

Pay for attendance at Reserve or National Guard training and exercises shall be authorized only for periods which fall within the employee's normal work schedule.

Employees leaving employment to serve in the active military forces of the United States shall be subject to the federal and state re-employment provision in effect at the time of their release from active duty.

8.13 Inclement Weather

Employees should not assume that City offices or operations are closed. We are a service operation and as such, we are obligated to the citizens to perform our duties. In the event of conditions such as freezing, flooding, etc. employee safety will be considered. If you feel it is unsafe to drive, you must contact your supervisor and notify him/her. If you cannot make it to work, you may be charged a day of personal or leave without pay. In the event of emergencies that require evacuation (such as hurricanes), non-emergency employees should return within 24 hours of the all-clear notice. In the event that City offices are closed by the City Manager due to inclement weather, employee absence will be recorded as approved paid leave. Employees already on an approved leave during an inclement weather event, may not substitute any leave approved by the City Manager for employees scheduled to work those days for the leave they are already approved for.

CHAPTER NINE

EMPLOYEE WAGE AND BENEFITS

9.01 Employee Classification & Pay Plan

The Employee Classification & Pay Plan goal is to compensate all employees in direct relation to the value of their position to the City as determined by the competitive market rate; and, to compensate employees based upon their individual performance and contributions to the City.

The City of Clute Classification & Pay Plan shall seek:

- ❑ To recognize employees for individual performance by rewarding quality performance and encouraging improvement of poor performance.
- ❑ To responsibly administer compensation dollars by providing a systematic and organized approach to salary administration.
- ❑ To compensate employees based upon the market value of a position and the type of work performed.
- ❑ To attract, retain and motivate employees by maintaining competitive compensation rates.
- ❑ To plan and control compensation costs considering economic conditions.

The Plan shall be administered without regard to any individual's race, color, national origin, religion, age, sex or handicap status.

All positions belong to one of two job families as determined by general duties and responsibilities. Those job families are Non-Exempt and Exempt as defined by the FLSA (Fair Labor Standards Act).

Each position shall have a corresponding job description which outlines reporting relationship, authority/responsibility, basic function, typical duties, required qualification and physical and environmental conditions

along with the job family designation. However, each employee works for the City of Clute and as a City employee, may from time to time, at the discretion of the employee's supervisor, be assigned to jobs outside of their regular department and/or outside of the duties of his general job description.

9.02 Texas Municipal Retirement System

All regular full-time employees with probationary or regular status will be enrolled as a member of the Texas Municipal Retirement System. Members will deposit by payroll deduction, seven percent (7%) of their gross salary. The City will match such deposit in an amount to be determined by state law and City Council ordinance.

If an employee leaves the service of the City, they may withdraw the deposits they have made, plus interest earned on those deposits. The deposits made by the City cannot be withdrawn.

Members may also be responsible for paying taxes on the amount withdrawn and should talk with Texas municipal Retirement System in regards to possible taxation of withdrawn deposits.

Employees will become vested in the system after five (5) years of employment. "Vesting" means that employees who terminate their employment with the City after five (5) years and do not withdraw their deposits, will be entitled to retirement benefits, based on deposits and interest earned, at sixty (60) years of age.

Employees should contact Texas Municipal Retirement System for information on retirement benefits or when preparing for retirement.

9.03 Social Security

All employees with probationary or regular status will make deductions, by payroll, to the Social Security system. The City will match the employee's contribution as required by Federal Law.

9.04 Group Health and Life Insurance

All regular full-time employees with probationary or regular status are covered by a group health and life insurance program. The premiums for this program are paid by the City. Dependent coverage is not offered under this program.

9.05 Workman's Compensation Insurance Program

All employees of the City of Clute are covered by Workman's Compensation Insurance. Workman's Compensation Insurance covers employees if they are injured on the job. Any injury that occurs on the job or is job-related must be reported to the employee's supervisor immediately.

9.06 Uniforms

At the will of the City and if financially feasible, the City furnishes uniforms or makes allowances for regular full-time employees who must wear uniforms in the performance of their duties.

Employees issued uniforms are required to wear them when they report for work, except in situations such as emergency call-out. Uniforms are the property of the City and are to be returned upon termination of employment. Hats worn must be city-issued (uniform or special issue). Other shirts worn with the uniform must be worn underneath the uniform shirt.

Uniforms are to be worn to and from work. Uniforms are not to be worn to eat dinner with family, at drinking establishments, etc. Only incidental use to and from work is allowed.

9.07 Overtime/Compensatory Time

The City of Clute requires employees to work overtime when necessary and as requested by the supervisor. Overtime is defined as authorized time worked which exceeds 40 hours per work week actually worked. Employees who work overtime without authorization from their

immediate supervisor will be subject to disciplinary action up to and including termination. Overtime on any job shall be allocated as evenly as possible among all employees qualified to do the job. Supervisors shall make every effort to schedule overtime as far in advance as possible. Supervisors shall be held responsible for ensuring that overtime is assigned only when absolutely necessary. Overtime, for non-exempt employees only, may be paid subject to the requirements of the Fair Labor Standards Act, 29 U.S.C. 201 et seq., as the same may be amended from time to time. Overtime may not be taken as compensatory time. Exempt/non-exempt status of all City positions shall be defined by the City's Classification and Pay Plan.

OVERTIME PAY: Non-exempt employees will be paid at the rate of one and one-half times their regular rate of pay for authorized overtime. Overtime will be paid for all additional time worked to the nearest quarter hour.

Regular full-time employees will not receive overtime pay until the number of hours actually worked exceeds 40 hours per work week. Sick leave and vacation leave are not considered actual time worked and are not included in computing hours for overtime purposes. Holiday leave is considered actual time worked when computing overtime.

Exempt employees are not eligible for overtime pay. These employees will sometimes be required to work more than the normal 40-hour week without additional compensation due to the nature of their job duties. Supervisors of exempt positions will determine occasional discretionary time off, based on work load, for hours worked in excess of 40 hours per week. This however, should not be equated to compensatory time and will only be permitted at the discretion of the supervisor.

Discretionary time is defined as flexible time off which is approved by the immediate supervisor and does not equal or exceed the number of extra hours worked. Discretionary time is not traded or accumulated based on extra hours worked. As an exempt employee there is no additional compensation for hours worked in excess of 40 hours, whether monetary or time off.

9.08 Longevity Pay

The City of Clute provides longevity pay to all full-time regular employees in recognition of the value of long term service with the City. Longevity pay will be accrued at a rate of \$4.00 per month per year for each consecutive year of service, payable once per year on the first pay period in December.

CHAPTER TEN

EMPLOYEE SAFETY

10.01 General

The City of Clute desires to provide a safe working environment for its employees. To accomplish this, the City will provide all reasonable safeguards to ensure safe working conditions. The City recognizes the need to follow good safety principles, and therefore, believes that no job is so important and no order is so urgent that we cannot take time to perform our work safely. The cooperation of all City employees in observing safety rules and procedures will provide safe working conditions and accident-free performance, which will benefit both the employees and the citizens of Clute.

Department Supervisors are responsible for developing and carrying out an aggressive program of safety education and training.

GENERAL GUIDELINES:

- Ignorance of safety guidelines outlined in this manual will not be accepted as an excuse for neglect or the use of unsafe practices in the performance of an employee's job.
- The ability/inability to perform work assignments safely shall be one factor of consideration in the selection and promotion of employees.
- The inability to perform work assignments safely is considered grounds for disciplinary action up to and including termination.
- All unsafe conditions shall be corrected as soon as possible. Specific caution or instructions regarding this condition should be given to all employees working in the area until it can be corrected.
- Each individual employee is responsible for reporting the presence of any hazard or unsafe condition to his supervisor.

- Pranks, practical jokes or other types of horseplay are not conducive to a good safety program and will not be tolerated.

PERSONAL SAFETY:

- Each employee must accept an individual commitment to the personal practice of good safety and recognize that safety is a personal responsibility.
- Each employee must follow all safety rules and comply with instructions of supervisors.
- It is the employee's responsibility, as part of the employee's job, to immediately correct or report any hazards or unsafe conditions.
- Each employee must know his job and the proper way to perform that job.
- Each employee is expected to wear personal clothing that is safe and proper for their job.
- Safety glasses, face shields, hard hats or other city issued protective gear must be worn where required.
- Employees should familiarize themselves with the hazards of materials and equipment they are working with, and take appropriate precautions or use protective equipment to prevent exposure.

GENERAL SAFETY:

- No smoking is permitted near or around gas pumps or any other flammable liquids.
- All work areas including vehicle cabs must be kept clean and free from all rubbish and debris.

- All materials in storage must be stored in a neat and orderly manner.
- All employees should know the location of the First Aid Kit in their area. Supervisors must regularly monitor these locations and make sure the proper supplies are on hand.
- Fire Extinguishers must be maintained in all work areas and kept in working condition at all times. All employees should know the location of the fire extinguishers in their working area.
- It is required that all employees learn and follow safe work procedures in the use of tools, equipment and machinery normally used in their work.
- All guards, shields, etc. must be in place and required personal protective items in use at all times when using machines, tools or equipment.
- All tools, equipment and machinery must be kept clean and in good working condition. Regular inspection procedures should be established and followed.
- No employee should attempt to use, adjust, repair or tamper in any way, with any electrical or mechanical equipment unless he has specific authorization to do so.

10.02 Motor Vehicle Safety

All employees of the City must have a valid Texas Drivers License to operate a City owned vehicle, and where required, a commercial license.

It is the vehicle operator's responsibility to operate his/her vehicle in a safe and courteous manner, and obey all traffic laws. City vehicles are constantly under observation of the citizens and must be operated in a safe manner.

Employees shall immediately report all accidents to their supervisor, and the supervisor shall notify the Clute Police Department. The employee shall not leave the scene of an accident until an investigation has been made. Employees involved in an accident shall be required to subject to a drug and alcohol test. Failure to report an accident will result in disciplinary action up to and including termination.

10.03 Job Injuries

An employee must immediately notify his/her supervisor of any on the job injury as required in paragraph two of Section 8.06 of this policy. The supervisor shall notify the Department Head, who shall notify the City Manager.

CHAPTER ELEVEN

TERMINATION OF EMPLOYMENT

11.01 Resignation

To resign in good standing, an employee of the City must give fourteen (14) days notice to the department supervisor of his/her intention to resign. Employees who terminate their employment other than by discharge will receive their final paycheck on the next scheduled payday provided all issued equipment owned by the City has been returned.

11.02 Reductions in Force

The City Manager may require the abolition of any position or authorize reduction in force at any time. Employees terminated due to a reduction in force will receive their final paycheck upon return of all issued equipment owned by the City.

11.03 Termination for Cause

Employees being terminated for cause will receive their final paycheck upon return of all issued equipment owned by the City.

11.04 Exit Interview

The Supervisor and/or Department Head shall conduct an exit interview for all employees terminating employment with the City. The interview is for the purpose of completing the employee's file by listing the person's reason for leaving City employment and insure that all issued equipment owned by the City is returned.

11.05 REVIEW BY CITY COUNCIL OF TERMINATION FOR CAUSE

Any regular employee terminated for cause may request to appear before the City Council as provided in Section 15.19 of the Charter of the City and in accordance with the Texas Open Meetings Act. A majority of the City Council may reinstate the terminated employee and impose a lesser penalty.

CHAPTER TWELVE

MISCELLANEOUS

12.01 Distribution to Employees

Each supervisor shall distribute or cause a copy of this personnel policy and any amendment hereto to be distributed to each employee under his/her supervision as soon as possible after the same is approved by the City Council.

12.02 Severability

In the event any section or provision of this personnel policy is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this policy, and such remaining sections or provisions shall remain in full force and effect.

12.03 Applicable to Law

The provisions of this policy shall apply in addition to, and shall be subordinate to, any requirements imposed by applicable federal, state or local laws, regulations or judicial decisions.

12.04 Rights Reserved

The City reserves the right to interpret, change, suspend, cancel or dispute, with or without notice, all or any part of this policy manual or the procedures or benefits discussed herein. Provided, however, employees will be notified before implementation of any change.

ISSUED this _____ day of _____, 2002.

Barbara Hester, City Manger
City of Clute, Texas

APPROVED BY the City Council of the City of Clute, Texas this 31st day of January, 2002.

Jerry Adkins
Mayor

Pete Knodel
Council Ward A

Wilbert Bonner
Council Ward B

Jose San Miguel Jr.
Council Ward C

C. D. "Chuck" Pate
Council Ward D

Bonnie Church
Council Ward E

ATTEST:

Sarah Oakes, City Clerk
City of Clute, Texas

Acknowledgement of Receipt of Personnel Policy Handbook

I hereby acknowledge receipt of the City of Clute Personnel Policy Handbook adopted by the Clute City Council on _____, 2001. I understand that I am responsible for reading and understanding the policies as outlined and further agree to comply with it and any other rules and policies of the City.

Printed Name of Employee

Signature of Employee

Month/Day/Year

Filed in employee personnel record on _____, 20__ by
_____.

