

# CITY OF RIESEL

*Employee*

## *Policy Manual*

UPDATED 12.13.17



## INTRODUCTION

Personnel policies in smaller local government jurisdictions frequently evolve through tradition and custom. Often, they are not even written into formal statements. As government grows and becomes more complex, even small jurisdictions find that they must have clearly stated personnel policies for effective operation.

These personnel policies for the City of Riesel have been developed to provide a better understanding of the relationship between the City and the citizens who serve the City as employees. This is done by:

- a. Defining the benefits and privileges enjoyed by City employees;
- b. Stating the rules and regulations that apply to City employees;
- c. Outlining the expectations the City has of its employees; and
- d. Providing information and systems to increase the efficiency of the personnel management program of the City.

Each of these policies and parts of policies are intended to stand independently. Therefore, if any policy or part of a policy becomes invalid because of federal or state law or other authority, it shall not affect the validity or application of other policies or parts of policies.

From time to time, it may be necessary to make changes in these policies as a result of changes in the City or its programs. **The City Council reserves the right and discretion to amend or withdraw these policies at any time.**

The purpose of these policies is to serve the needs of both the employees and the City to the mutual benefit of both. Any employee who has a question concerning any of the City of Riesel's personnel policies is encouraged to discuss it with his or her supervisor.

**These policies are not a contract or a promise of continued employment, and do not create any interest or expectation in one's position with the City. All employees serve "at will", meaning that either the employee or the City is free to end the employment relationship at any time, for any reason or no reason at all, with or without notice.**

## AUTHORITY

These policies are established by the City Council for the City of Riesel. Any deletions, amendments, revisions or additions to the policies must be approved by the City Council.

These policies completely replace and supersede any and all personnel policies previously adopted, individually or as a set of policies, by the City Council.

In addition to these personnel policies, Department Heads may establish departmental rules and regulations that relate specifically to personnel issues in their departments, as long as they do not conflict with these policies. If there is a conflict between a departmental rule or policy and these policies or any future amendments to these policies, the terms of these policies shall prevail to the extent such does not violate any law specifically applicable to the Department. Departmental rules and regulations must be approved by the City Council and filed with the City Secretary. Regulations specifically related to the means and methods of law enforcement are within the purview of the Chief of Police.

## COVERAGE

These policies shall apply to all employees and appointed officers in the service of the Riesel City government, except that these policies shall not apply should the same be inconsistent or contrary to any state or federal regulation affecting municipal personnel. For the purpose of these policies, the term “employee” includes appointed officers except where a distinction is clearly made.

## ADMINISTRATION

- (A) The City Council shall present to the City Secretary rules, regulations and changes as necessary for the effective administration of the personnel system.
- (B) Amendments, changes or revisions of the rules and regulations shall be made by the City Council at any regular or called Council meeting. The City Secretary shall arrange for the distribution of any amendments, changes or revisions of the Personnel Policies prior to the effective date of such amendments, changes or revisions.
- (C) The Mayor and the City Secretary shall be generally responsible for the implementation of these personnel policies.
- (D) The City Council shall have the sole responsibility to solicit, screen, and interview qualified candidates for the appointed positions of City Secretary, City Attorney, Chief of Police or Administrative Chief, Municipal Judge and Utility Supervisor. The City Council may solicit the assistance of any third party to fill appointed positions. Persons holding these positions are subject to removal only by the City Council. Other employees are appointed by the City Council after consideration of the recommendation of the applicable Department Head. Because of the unique requirements for law enforcement officers, the Chief of Police shall have the authority to screen and interview all applicants for law enforcement positions, and shall submit his/her recommended applicant(s) to the Council for formal interview and hiring. For other positions, Department Heads may conduct the initial interviews with applicants and make recommendations to the Council. The Council may, but is not required to consider only those applicants recommended by the Department Head. For any position for which applications are taken, a complete list of the applications received shall be maintained and kept available for review by the Council.
- (E) Department Heads have the authority to discipline employees under their supervision. However, a suspension without pay exceeding three (3) days or discharge requires approval of the City Council unless otherwise provided herein. If a law enforcement officer has engaged in gross misconduct, illegal activity, or violation of a citizen’s rights, the Chief of Police, with the approval of the Mayor, may suspend the officer without pay for more than three (3) days or discharge the officer. Otherwise, a suspension without pay exceeding three (3) days or discharge requires approval of the City Council.

## ARTICLE 1: EMPLOYMENT

### **SECTION 1: EQUAL EMPLOYMENT**

It shall be the policy of the City of Riesel to fill all vacant positions and award promotional appointments solely based on educational background, related work experience and other job related factors, but without regard to political opinions or affiliations, race, religion, age, sex or national origin except when age, sex or physical condition is a bona fide occupational qualification.

The City of Riesel shall not discriminate against a qualified individual with a disability (as defined in THE AMERICANS WITH DISABILITIES ACT, PUBLIC LAW 101-336, effective January 26, 1992) in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

## **SECTION 2: RECRUITMENT**

The City of Riesel will seek to fill vacancies within the workforce in the manner that will best benefit the City. Recruiting methods may include, but are not limited, promotion or transfers from City work force, referrals from Texas WorkSource or other job listing agencies, newspaper postings, TML websites/publications, job-posting websites, City website and walk-in applicants. Except as specifically required by law or the terms of a grant, the City is not bound to use any specific recruitment method.

## **SECTION 3: SELECTION**

Employees will be selected solely based on the applicant's qualifications, experience, education and other job related factors.

An individual will not be considered for employment without completing the required Application for Employment form.

All persons, upon filing an application for employment, thereby consents to an investigation of their character, habits, previous employment and other background investigations as deemed necessary by the City of Riesel for the vacant position.

Applicants will be investigated as to the truth of the statements made in their application and oral interviews, and any misstatement of fact will be sufficient grounds for rejection of the applicant or grounds for termination of employment.

Section 411.129 of the Texas Government Code gives access to criminal history information to the City for the purpose of reviewing applicants for employment with the City. To be considered for employment an applicant must sign the consent to criminal history check form.

All applicants must possess and show an authentic Social Security Card and identity card as Proof of Eligibility to Work. This is in relation to the Immigration Reform and Control Act of 1996 which requires the verification of the right to work in the United States.

All employees required to drive or operate vehicles or equipment shall possess a valid Texas Drivers License. Prior to employment to any driving position, an evaluation of the applicant's traffic offenses during the past three years shall be conducted. Applicants with evidence of a poor driving record will be rejected as measured by standards established by the City of Riesel.

Certain other requirements as established by the Texas Commission on Law Enforcement Officer Standards and Education will apply to applicants for police department positions.

## **SECTION 4: EMPLOYMENT**

The Mayor, City Secretary or Department Head shall notify each new employee of his/her employment date. Each new employee shall report to the City Secretary to complete all employment forms.

## **SECTION 5: REHIRES.**

Employees may not be considered for rehire prior to twelve (12) months after leaving City employment except for certain approved reasons. Exemptions for the twelve (12) month waiting period are:

1. Former employee left the City for reasons of health provided his or her recovery has been certified by his or her physician.
2. The former employee is a former seasonal or part-time employee.
3. The former employee has been laid off due to a reduction-in-force (RIF).
4. The former employee retires and not earlier than one-month after separation returns to duty whether permanent or part-time. [Certain retirement system rules or tax regulations may require a longer waiting period and/or additional procedures].

The Mayor and City Council may waive the twelve (12) month period for certain positions due to labor shortage of qualified applicants or for any other reason deemed in the best interest of the City of Riesel. Rehire of former employees after the waiting period will be based on the same needs and qualifications as are considered in the employment of any other applicant.

Former employees discharged for poor work performance, absenteeism, misconduct or who failed to give the required two weeks' notice will not be eligible for rehire.

## **SECTION 6: POLICY ON EMPLOYMENT STATUS**

**EXEMPT.** Exempt employees are not eligible to receive overtime pay. This status applies to salaried department heads, supervisors, professionals, and qualifying administrative employees who meet the standards for exempt employees under applicable federal regulations. Exempt employees are not eligible to receive overtime pay.

**NON-EXEMPT.** Non-exempt employees are eligible for overtime compensation.

**FULL-TIME.** An employee who has a normal work schedule of forty (40) hours per week shall be classified as a full-time employee.

**PART-TIME.** An employee who has a normal work schedule of less than forty (40) hours per week shall be classified as a part-time employee.

**REGULAR.** An employee who is not considered to be a temporary employee as defined in this policy shall be considered to be a regular employee. Regular employees may either be full-time or part-time.

**TEMPORARY.** An employee in a position that is established for a specific period of time (usually less than one year) or until a specific project is completed, shall be considered a temporary employee. Temporary employees may either be full-time or part-time.

**AT-WILL.** This manual is intended as a general guide, and the provisions of this manual do not constitute an employment agreement/contract or a guarantee of continued employment. The terms of these policies are not intended to, and do not, modify the general rule of law in this state that either the employer or employee can terminate the employment relationship at any time, with or without notice, for any reason (not prohibited by law), or no reason at all; this is the legal status that City

employees occupy with regard to employment with the City. This manual does not vest an employee with any right or claim to any procedures set out herein. The City reserves the right to change or withdraw the provisions of this manual at any time, with or without notice. No employee shall rely upon, and the City shall not be bound by, any representation or assurance by any person with regard to an employee's status of employment with the City which is contrary to, or purports to modify in any way, his or her status as an "at will" employee as is expressly set out above. Neither the time basis upon which an employee's salary or wage is paid, nor the date of payment of wages shall modify an employee's status as set out above or in any way create or be interpreted as creating an agreement or understanding that the employee will be employed for any definite period of time. The provisions of this paragraph are incorporated by reference the same as if fully copied and set forth at length in every section of this manual.

**BENEFITS.** Both Exempt and Non-exempt regular, full-time employees shall be eligible for benefits in accordance with the eligibility requirements stated with each policy describing a benefit. Temporary employees and part time employees shall not be eligible for any benefits except those required by law. Insurance contracts or applicable regulations may create a different eligibility standard which will control.

## **SECTION 7: PAY PROCEDURES**

- (A) **Pay Day** - Employees will be paid on the schedule established by the City for that employee's position. When payday falls on an official City holiday, paychecks will be issued the last workday before the holiday.
- (B) **Pay Advances** - It is the policy of the City to decline all requests for early paychecks or pay advances.
- (C) **Deductions** - Deductions required by law, such as Federal Income Tax Withholding, Social Security Contribution, and child support payments (when so ordered by a court of competent jurisdiction) and other deductions such as health insurance premiums will be deducted from the employee's pay. Other deductions authorized by the employee in writing may be deducted from the employee's paycheck. The City will not recognize any wage assignment by an employee. It is against City policy for any employee to assign their wages to another person or entity.
- (D) **Correctness of Paycheck** - The employee's paycheck is payment from the City to the employees for services rendered less any applicable deductions. When the employee receives his/her payroll check, the employee should make sure that the hours, pay rate and deductions are correct. If anything on the paycheck is incorrect, the matter should immediately be brought to the attention of the employee's immediate supervisor. If the problem is presented to the employee's supervisor, the supervisor should immediately report the problem or discrepancy to the City Secretary for resolution. Failure of the employee to bring such incorrect information or mistakes on his or her paycheck to the attention of the City in the manner set forth above will be treated as an indication by the employee that all information on his/her paycheck is correct.
- (E) **Hours Worked** - For purposes of calculating overtime, only hours actually worked will be considered. Hours paid but not actually worked (sick leave, paid holidays, vacation leave, citizenship leave, compensatory time, and the like) will not be counted as hours actually worked for purposes of determining entitlement to overtime compensation. The normal office hours of work for City Hall shall be from 8:00 a.m. through 5:00 p.m. Monday through Friday, except for official holidays. The office employees other than the City Secretary are regularly scheduled to work from 8:00 a.m. to 4:30 p.m. with a 30 minute break for lunch. The City Secretary is regularly scheduled to work from 8:30 a.m. to 5:00 p.m. with a 30

minute break for lunch. All full-time office employees are expected to work an eight (8) hour day.

In order to meet the needs of the City and the public, certain departments (such as the Police Department) or employees may be required to work a schedule that varies from the normal hours or days of work set forth above, or may be subject to call in case of emergency or special needs. The need for abnormal schedules shall be determined by each department head and the City Council. Weather related road conditions, as determined by the mayor or in his absence, the mayor pro-tem, may authorize early closures or late openings. A work day for the City shall be defined as the period beginning at midnight and ending exactly 24 consecutive hours later. For purposes of recordkeeping and compliance with the Fair Labor Standards Act, a workweek for City employees shall be defined as a period beginning at midnight each Sunday and ending seven consecutive twenty-four hour periods thereafter.

- (F) **Recording Time**-Each employee eligible to receive overtime compensation must provide weekly timesheets to the Time Clock Designee, who will present them to the Mayor. Such timesheets must show the number of hours worked each day. If any hours outside of the employees normal or scheduled work hours are worked, a narrative explanation of such hours must be included with the timesheets. These times and explanations will be presented for approval to the City Council, who will approve compensation. All employees are required to clock in and out on the City Biometric Time Clock with the exception of Police Officers who may clock in and out on their Police car computer using the City Time Clock program. When the Time Clock Designee collects the Time Sheets, he or she will review them for completeness and accuracy, make any corrections required (using the Time Sheet Correction forms), and determine the employees' overtime, if any. Copies of monthly timesheets will be presented with the City Council agenda papers to the City Council for review. Time records shall be maintained for a minimum of three (3) years. Effective October 1, 2010 the TimeClock Plus system will be the official method of timekeeping for all City employees. The old system will no longer be used. All personnel must use the time-clock for all shifts. Edit sheets may be turned into the payroll clerk as needed. Edit sheets will be signed weekly by the Mayor. Timesheets must be printed off of the TimeClock Plus system weekly and signed and turned in by the employee. Absent an accompanying edit sheet, the employee's signature is an acknowledgement that their time has been correctly recorded.
- (G) **Overtime** - The City's Policy On OVERTIME is attached hereto as **Appendix A**.

## **ARTICLE 2: QUALIFICATIONS**

### **SECTION 1: RESIDENCE (LGC § 150.021)**

- (A) An employee of the City of Riesel must be a resident of the United States or a non-citizen that is authorized to work in the United States under the Immigration Reform and Control Act of 1986.
- (B) All employees of the City are encouraged to live within the City limits.
- (C) Municipal employees may reside inside or outside the corporate limits of the City; however, employees must be able to respond to an emergency condition within a reasonable time period. What is a reasonable period of time will vary according to department and job requirements. Reasonable period of time for a position will be determined by the Department Head and approved by the Mayor.

## **SECTION 2: EDUCATION**

The minimum education requirement for any person considered for full-time employment with the City of Riesel is a high school diploma or GED. The City may require additional educational standards for any position.

## **SECTION 3: PECUNIARY INTEREST**

An employee of the City of Riesel shall have no financial interest in the profits of any contract, service or other work performed by the City; nor shall any employee profit directly or indirectly from contract, purchase, sale or service between the City and any person or company.

## **SECTION 4: ANTI-NEPOTISM**

A person related to the Mayor, or any Councilmember, per Govet. Code Chapter 573, either by 2<sup>nd</sup> degree of affinity or 3<sup>rd</sup> degree of blood, shall not be appointed or hired to fill any office, position, clerkship or other service to the City. A person related to a Department Head shall not be appointed or hired for any employment within that department.

No member of the City Council shall be hired or appointed to fill a position within the City of Riesel.

## **SECTION 5: AGE REQUIREMENTS**

Persons under the age of eighteen (18) years will be ineligible for employment in any full-time position.

## **SECTION 6: TRAINING**

The City of Riesel is committed to offering the highest degree of service possible to its citizens through the development of a well-trained and professional workforce. The following requirements are promulgated to insure that the employees of the City receive adequate training to provide the level of service necessary to meet this commitment.

- (A) Employees of the City of Riesel may be required to attend various training sessions as a condition of continued employment. Such training sessions must be designed to improve the employee's knowledge and efficiency in performing the duties of his/her job description. Eligible training sessions must be approved by the Mayor. The City Council shall receive a monthly report on any training attended by City employees.
- (B) The City will pay the cost of the approved training sessions, travel, and/or lodging required to attend the training sessions subject to the provisions of this policy and budgeted funds. The employee will reimburse the City the cost of any training if that employee has been employed less than one year and voluntarily resigns.
- (C) Licenses and or certifications may be required to fill various positions of the City.



## **ARTICLE 3: TRAVEL AND TRAVEL REIMBURSEMENT**

### **SECTION 1: STATEMENT OF POLICY**

When employees of the City of Riesel are required to travel on official business, the City will pay reasonable amounts for transportation, meals and lodging. An employee is expected to show good judgment and an appreciation for economy when incurring travel expenses. Expense limits established by these policies are limits and not allowances or authorization to spend that much if less would be adequate.

### **SECTION 2: ADVANCES**

Travel advances may be made to cover anticipated travel expenses with the approval of the Mayor.

### **SECTION 3: TRANSPORTATION**

- (A) The City may purchase tickets in advance for employees traveling by common carrier. All employees shall travel in tourist or economy class where such services are available.
- (B) City owned vehicles may be used for out-of-town travel when approved by the Mayor. Itemized receipts must document all expenses incurred for operation of such vehicles.
- (C) Employees who, with authorization from the Mayor, use their personal vehicle for official out-of-town business shall be reimbursed at the maximum amount allowed by the Internal Revenue Service for mileage. Adequate vehicle liability insurance must either be previously provided or secured by the employee prior to utilizing a personal vehicle for official business.
- (D) In all cases, an employee will be reimbursed only for the most economical and efficient rate for transportation as determined by the Mayor.

### **SECTION 4: LODGING**

An employee is expected to make hotel or motel reservations well in advance whenever possible and to take other actions to insure that lodging is secured at moderate rates. If an employee is to attend a formal, organized meeting or conference, he/she may stay at the hotel or motel where the meeting is to be held.

### **SECTION 5: SUBSISTENCE ALLOWANCE**

- (A) Employees that are required to travel out of town for City purposes may be granted a subsistence allowance up to a maximum daily amount set by the Council. Verification of receipts is required.
- (B) Where registration or tuition fees include one or more meals, only those meals not covered by such fees will be reimbursed by the City. Where prices or tickets to conference luncheons or dinners exceed individual meal limits, the applicable meal and daily limit may be increased by the excess amount.

## **ARTICLE 4: SICK LEAVE**

### **SECTION 1: POLICY**

The City provides sick leave in order to safeguard employee health and morale. Sick leave is a privilege and not a right that an employee may use as he/she pleases. The abuse of sick leave will give rise to disciplinary action up to and including dismissal. All full time regular employees shall be eligible for paid sick leave. Part-time regular and temporary employees are not eligible for sick leave.

### **SECTION 2: RATE OF ACCRUAL**

Full-time regular employees shall accrue six (6) sick days per year on their anniversary date. All sick leave must be approved by the employee's supervisor. Any employee using this leave for any other purpose than is stated in this policy will be subject to disciplinary action up to and including discharge. Upon returning to work the employee may be required to present proof of illness from a health care provider at the request of the City Secretary, in order to be paid for the sick days used.

Any unused sick leave at the end of the anniversary year will be carried over into the next year. The maximum amount of unused sick leave that an employee shall be allowed to accrue is thirty (30) days. Sick leave is granted only in the case of actual illness or injury, and does not vest to the employee. No terminating employee shall receive any pay for unused sick leave.

### **SECTION 3: COMPENSATION**

Any sick leave days that are unused at time of termination will expire and employees will not receive any extra compensation for any remaining days in their leave account. Sick pay may not be applied to absences for which the employee is receiving compensation for lost wages under some other insurance program, including workers compensation. Neither shall cash payment in lieu of legitimate use of sick leave be made under any circumstances. An employee becomes ineligible for sick leave benefits upon giving notice of resignation.

### **SECTION 4: USE OF SICK LEAVE**

- (A) Sick leave may be used for approved medical, dental or eye appointments. An employee shall be required to request prior approval for sick leave to be used for non-emergency medical, dental, and optical appointments.
- (B) Sick leave may be used in the case of personal illness or illness in the immediate family who reside in the household.
- (C) An employee taking sick leave for doctor appointments, non-emergency surgery, or other scheduled medical procedure shall file a leave request form with his/her immediate supervisor prior to taking sick leave.
- (D) Pregnancy or birth of a child will be treated as any other illness for the purposes of the City's sick leave policies.

- (E) When an employee uses sick leave, the employee will be granted up to the number of hours of sick leave that he was normally scheduled to work for the applicable day. Sick leave is not considered as hours worked for purposes of overtime.
- (F) The City Secretary, or the employee's immediate supervisor, may require a doctor's certificate anytime an employee uses sick leave. (It is suggested that employees make a practice of submitting a doctor's certificate with all claims for sick leave.)
- (G) An employee taking sick leave shall report to his/her immediate supervisor, the Mayor, or the City Secretary the employee's status and intent to return to work. When possible, this report shall be made by the employee in person (if the employee's conditions makes it impossible to report in person, the employee should report by telephone, in writing, or through another person who has knowledge of the employee's status). A report of the employee's status and intent to return to work shall be made at least weekly. An employee that fails to make such a report will be treated the same as an employee that fails to report for work and may be subject to disciplinary action including dismissal.
- (H) Absences of three (3) or more consecutive days must be documented by a physician's or health care provider's statement before the employee will be allowed to return to work unless the City has established a different procedure or elects to waive this requirement for a particular absence. The City may require a physician's or health care provider's statement for absences of less than three (3) days at its discretion.
- (I) Should an employee unequivocally give notice, either verbally or in writing, of intent not to return to work, the City's obligations, if any, to maintain benefits (subject to COBRA requirements) and to restore the employee to his/her former position of employment with the City cease.
- (J) An employee who has been receiving sick leave benefits and has been released by the attending physician must return to work the first work day after receiving such release. An employee that fails to return to work after being released will be treated the same as an employee that fails to report to work and may be subject to disciplinary action including dismissal.
- (K) Sick leave benefits are not to be used for any purpose other than medical conditions of the employee or their immediate family who reside in their household due to illness, injury or pregnancy. Any attempt to obtain medical leave benefits by fraud could subject the employee to dismissal.
- (L) The minimum amount of sick leave that may be used at any one time is four (4) hours.
- (M) Bereavement - Up to five (5) work days paid leave may be authorized by the Mayor in case of the death of a member of the employee's immediate family. Immediate family shall be defined as the parent, child, spouse, brother, sister, grandparent, parent-in-law, brother-in-law, sister-in-law, or grandchildren of either spouse.
- (N) There shall be a 90 day waiting period after employment begins with the City before an employee may use sick leave.
- (O) The City Secretary shall maintain an updated record of employee sick leave balances as part of the payroll records.

## ARTICLE 5: FAMILY AND MEDICAL LEAVE

FAMILY AND MEDICAL LEAVE. The Family and Medical Leave Act (“FMLA”) applies to the City. The FMLA is a federal law that provides unpaid leave and certain protections for *eligible employees* who need to take leave for specified family and/or medical reasons.

“Eligible Employees” must have worked for the employer for a total of at least 12 months AND have worked at least 1,250 hours over the previous 12 months.

The FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee’s child after birth, or placement for adoption or foster care;
- To care for the employee’s spouse, son or daughter, or parent, who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the employee’s job; or
- Military caregiver or exigency leave.

The City’s FMLA Policy is attached hereto as **Appendix B**.

## ARTICLE 6: VACATION

### **SECTION 1: PURPOSE**

It is the policy of the City of Riesel to provide paid vacation leave, affording an opportunity for healthful rest and relaxation to all full-time employees.

### **SECTION 2: RATE OF ACCRUAL**

All regular full-time employees of the City of Riesel shall be eligible for paid vacation leave. Annual vacation shall be accrued as follows:

- a. Employees with 5 or more years of service -- 4 weeks (updated 12/12/17)
- b. Employees with less than 5 years of service -- 2 weeks

One week of vacation time is equal to five working days. Accrual occurs at the employee’s anniversary date.

Vacation leave must be used in the employment year of accrual, except for the leave accrued in the first employment year. Leave may be accrued and carried over from year-to-year up to a total of 20 working days. Any accrued vacation leave in excess of 20 working days will not carry over into the next employment year and will be lost.

An employee who is rehired by the City within 365 days after employment has been terminated shall have their prior service with the City counted toward years of service for calculating the rate of vacation accrual.

### **SECTION 3: USE OF VACATION LEAVE/PAYMENT IN LIEU**

- A. An employee must complete at least twelve (12) months of employment before he or she is eligible to use vacation leave.
- B. Employees generally must give the City Secretary and their supervisor at least three (3) days notice of a request to use vacation leave in increments of a day or less. Employees generally shall submit their requests for vacation leave in excess of one day in duration to their supervisor at least two weeks prior to the requested dates.
- C. The supervisor shall schedule all vacations for his/her department. The supervisor will give special consideration to seniority, operating needs of the department, and the times of employee requests. The grant of vacation leave in excess of three (3) days must be separately approved by the Mayor. All requests for vacation leave of short duration (three days or less) during the year shall be subject to approval by the employee's supervisor.
- D. The minimum amount of vacation that an employee shall be allowed to use at any one time is four (4) hours. This four (4) hours must be taken all at one time.
- E. Employees shall not be allowed to borrow vacation against possible future vacation accruals.
- F. If a holiday falls during the period an employee is on vacation, the holiday shall be handled in accordance with the provisions of the POLICY ON HOLIDAYS and will not be charged against the employee's vacation balance.
- G. If an employee becomes ill while taking vacation leave, the period of illness may be charged against the employee's sick leave balance and not vacation if:
1. The employee promptly notifies the City Secretary of the illness;
  2. The employee provides the City Secretary with acceptable proof of the illness; and
  3. The City Council must give the City Secretary permission to change the period of illness to sick leave.
- H. An employee may opt to receive up to five (5) days vacation time in pay in lieu of actually taking vacation for that time if approved by the City Council.
- I. Employees who have been employed for less than twelve (12) months will receive no pay for accrued vacation at the termination of employment.
- J. Employees who have been employed for at least twelve (12) months shall be paid for all unused vacation at their regular rate upon termination of employment, up to a maximum of 10 working days; if the employee has given a two (2) weeks notice of leaving.
- K. The City Secretary shall maintain updated records of employee vacation balances as part of the payroll records.

### **ARTICLE 7: HOLIDAYS**

#### **SECTION 1: OFFICIAL HOLIDAYS**

A. All regular full-time employees of the City shall be eligible to receive a day off with pay for each official City holiday. To receive the paid holiday benefit, an employee shall be required to work the day preceding the holiday and the day following the holiday in accordance with the employee's normal work schedule unless the absence is an excused absence approved by the employee's supervisor or the Mayor in the instance of a supervisor taking off.

B. The official paid holidays for the City shall be:

New Years Day  
President's Day  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving - Thursday & Friday  
Christmas Eve  
Christmas Day

## **SECTION 2: OBSERVANCE OF HOLIDAYS**

- (A) Should a holiday fall on Saturday, it will be observed on the preceding Friday or if any holiday falls on Sunday, it will be observed on the Monday following as determined by the City Council.
- (B) Regular Full-Time City employees will receive the same number of holidays; they will receive one full work day of compensated leave based on their normal assigned shift, paid at their normal rate of pay, to observe each holiday designated by official action of the City Council. The City retains the right to require employees to work on holidays when the City's workload or department schedule requires it.
- (C) Most Regular Full-Time employees observe City holidays as they occur; however, when an employee works on a holiday, or if a holiday falls on a day which is not a regularly scheduled work day for such employee, the City will allow time off with pay on a different day as a substitute holiday. The substitute holiday will be taken at a time approved by the employee's supervisor, and must be taken in full day increments based on the employee's normal assigned shift, not to exceed eight (8) hours. Substitute holiday leave must be taken within ninety (90) calendar days after the holiday. If approved by the Mayor based on the needs of the City, the employee may be paid for the substitute holiday in lieu of taking the time off. Pay in lieu will be based on the employee's wage rate at the time that the substitute holiday accrued based on the employee's assigned shift (not to exceed eight (8) hours).
- (D) In order to be allowed a substitute holiday or to receive holiday pay, an employee must actually be entitled to be paid for either (1) the last regularly scheduled work day for the employee before the holiday or (2) the first scheduled work day for that employee after the holiday.

## **ARTICLE 8: OTHER LEAVE**

### **SECTION 1: PERSONAL LEAVE**

In very limited and special circumstances, full-time employees having no available accrued paid leave may be granted leave without pay at the discretion of the City Council.

## **SECTION 2: CIVIC RESPONSIBILITIES**

(A) All employees will be excused from work for whatever time is necessary when they are called to jury service or subpoenaed as a witness in a court of law. Employees receiving notice of a jury call or witness duty are expected to notify their supervisor at the earliest opportunity and to keep their supervisor informed of their expected date of return so that replacement personnel can be arranged for if required. Regular full-time and regular part-time employees called for jury service may receive pay. Leave for service as a witness is unpaid, unless such service is on the City's behalf. In order to receive pay for jury service an employee must present to the City Secretary a statement from the court clerk of the days of such service or other evidence of the days of such service. The employee may keep the jury or witness fee, if any. AN EMPLOYEE MUST NOT BE DISCRIMINATED AGAINST FOR SERVING AS A JUROR. AN EMPLOYEE RETURNING FROM JURY SERVICE SHALL BE ALLOWED TO RESUME EMPLOYMENT IN ACCORDANCE WITH APPLICABLE STATE LAW.

This provision shall not apply to grant leave for participation by an employee in litigation to which the employee is a party or in which the employee has an interest in the outcome.

(B) All employees qualified and entitled to vote in national, state, municipal or other elections shall be allowed sufficient time off, with pay, during a workday to exercise this privilege if in the absence of such leave the employee would not be able to vote, as long as allowing such paid leave would not unduly interfere with the operations of the City. The determination of whether time-off is actually necessary to ensure the employee's opportunity to cast his or her vote shall lie within the sound discretion of the department head. Time off, with pay, to vote shall be granted where the polls are not open for two consecutive hours outside of the employee's working hours on election day.

Furthermore, in accordance with the Texas Election Code, employees will be given unpaid leave for the purpose of attendance at a precinct convention at which he or she is eligible to participate or for attendance at a county, district or state convention to which he or she is a delegate, regardless of their period of service with the City. Accrued vacation leave may be used by the employee for this purpose.

## **SECTION 4: MILITARY LEAVE**

A Regular Full-Time employee of the City who is a member of the National Guard or Reserve component of the United States Armed Forces and is engaged in authorized training or training duty shall be granted military leave to a maximum of fifteen days per federal fiscal year (October 1 – September 30) without loss of pay. Employees must provide the Mayor with a copy of their papers, orders, or similar proof regarding their attendance at training duty or exercises. The employee must give his Mayor advance notice of such leave to allow for alternate scheduling. After exhausting the fifteen days of military leave, employee will be granted an unpaid leave of absence by City for necessary absence on military exercises, or the employee may use any accrued vacation leave. Any unused paid military leave during one year does not vest or carry over into the next year. All benefits (e.g. vacation leave) continue to accrue during paid absence on military leave. An employee's absence on military leave shall not be counted against the employee and the employee will be returned to work in the same position that they occupied before the leave in accordance with applicable law. A City employee who enlists in the Federal Armed Forces, Texas State Guard, National Guard, or who is a member of the National Guard or Reserve Component of the United States Armed Forces, and is called into active duty, shall be eligible for re-employment with the City

in accordance with applicable law, including the Uniformed Services Employment and Reemployment Rights Act (USERRA).

## **ARTICLE 9: EMPLOYEE BENEFITS**

### **SECTION 1: GROUP MEDICAL INSURANCE**

All regular full-time employees of the City shall be eligible for coverage under the group hospitalization and medical insurance program provided by the City, and other regular employees may be eligible depending on the terms of the Master Contract and applicable regulations. New employees will not be eligible for this coverage until they have completed ninety (90) days of employment, or as set forth in the Master Contract if a different period is required thereby. The City shall pay the premium for coverage of eligible employees. An employee eligible for coverage under the group hospitalization and medical insurance program of the City may include eligible family members under the coverage by paying the full cost of their coverage. Premiums for family members covered under this plan shall be deducted from the employee's bi-weekly paychecks. The benefits for this program shall be in accordance with the provisions of the Master Contract. A copy of the Master Contract shall be kept in the City Secretary's office and may be reviewed by employees during normal working hours. Continuation of benefits upon employment separation shall be at the employee's sole cost pursuant to the terms and conditions of the Master Contract and applicable federal and state law.

### **SECTION 2: AUXILIARY COVERAGES.**

Auxiliary insurance such as vision, dental etc. may be offered to employees at the discretion of the City council.

### **SECTION 3: RETIREMENT PLAN**

A retirement plan has been established with the Texas Municipal Retirement System (TMRS). The employee and employer contributions and the terms of the plan, eligibility information, and benefits provided for under the plan are available for review at the City Secretary's Office during normal working hours. ALL full-time, regular employees are REQUIRED to participate in the TMRS program of the City by law.

### **SECTION 4: WORKER'S COMPENSATION INSURANCE**

All City employees shall be covered by the City of Riesel Workers' Compensation Program while on duty for the City. The cost of this insurance is paid by the City.

Under the Workers' Compensation Program, an employee who suffers a job related injury or job related illness shall be eligible for medical and compensation benefits in accordance with the applicable determinations and regulations. The compensation of an employee on leave from employment with the City while receiving workers' compensation benefits shall be such benefits received, which are in lieu of compensation from the City. The City does not provide any supplementation or salary continuation program to supplement workers' compensation benefits.

An employee who suffers an on the job injury or job related illness shall notify his/her supervisor or the City Secretary as soon as is reasonably possible so that the appropriate reporting forms can be prepared and transmitted. The City Secretary must be notified as soon as possible by either the employee or the supervisor. Notice to the City Secretary should be made within twenty-four (24) hours after the incident. Failure to report job related injuries or illnesses in a timely manner may



affect an employee's eligibility to receive Workers' Compensation benefits or may delay benefit payments.

An employee who has been receiving Workers' Compensation benefits may be required to provide a release from the attending physician before being allowed to return to work.

A person on leave due to an occupational injury or illness for which workers' compensation benefits are being provided shall not accrue vacation or sick leave during that period of leave.

No person shall ever be retaliated against for applying for or receiving workers compensation benefits. Any other employee engaging in retaliatory conduct is subject to discipline up to and including discharge.

## **ARTICLE 10: DRUG-FREE WORKPLACE**

### **SECTION 1: GENERAL POLICY**

It is the policy of the City to endeavor to maintain a workplace that is free from the effects of alcohol and drug use so that employees may work in a safe and healthy environment. Compliance with this policy is a condition of your employment or continued employment with the City.

### **SECTION 2: PROHIBITED CONDUCT**

Employees are prohibited from the use, sale, dispensing, distribution, possession, or manufacture of illegal drugs, narcotics, inhalants, alcoholic beverages, drug paraphernalia, or other controlled substances on City premises and work sites, or while in City vehicles, or operating City equipment. Employees are prohibited from being under the influence of illegal drugs, narcotics, inhalants, alcoholic beverages, or other controlled substances during work hours or while performing employment tasks for the City.

### **SECTION 3: TESTING**

Law enforcement personnel and employees using City vehicles or motorized equipment which travels on the roads for City business are subject to drug/alcohol testing where there is "reasonable suspicion" to believe that the employee has used drugs or alcohol while on duty for the City or has performed duties for the City under the influence of the same. Applicants for law enforcement positions and employees operating vehicles for the City which require a commercial driver's license are subject to post-offer, pre-employment testing, and periodic testing (scheduled or random) subject to any regulatory requirements.

### **SECTION 4: DISCIPLINARY ACTION**

Employees violating this policy will be subject to disciplinary action up to and including dismissal from employment.

### **SECTION 5: REHABILITATION**

Treatment for drug, alcohol, or substance abuse may be available according to the provisions of the employee's health plan. Employees should contact their primary care physicians and health insurance carrier. The City does not directly provide any such treatment. Employees may contact the City Secretary's office for assistance in obtaining educational materials related to drug, alcohol, or substance abuse.

## **SECTION 6: OTHER LAWS AND REGULATIONS**

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

### **ARTICLE 11: TELEPHONE POLICY/COMPUTERS**

#### **SECTION 1: PERSONAL CELLULAR PHONES AND PERSONAL CALLS**

Personal calls during the work hours, regardless of the phone used can interfere with employee productivity, safety and be distracting to others. Employees are directed to generally make personal calls during breaks and lunch period and to ensure that friends and family members are aware of the City's policy. Failure to do so may result in disciplinary action.

#### **SECTION 2: PERSONAL USE OF CITY PHONES**

City telephones have been installed or provided for the conduct of City business. Personal phone calls, incoming and outgoing, should be limited to emergencies or be infrequent and short. No long distance phone calls of a personal nature shall be placed on City telephones. Failure to adhere to this policy may give rise to discipline.

Employees in possession of City equipment such as cellular phones, beepers and radios are expected to protect the equipment from loss, damage or theft. Upon resignation, termination of employment, or at any time upon request, the employee may be asked to produce the equipment for return or inspection. Employees unable to present the equipment in good working condition within the time period requested (i.e. 24 hours) might be expected to bear the cost of a replacement. Employees may be held liable for loss or damage to City- issued cellular phones. Employees who separate from employment with outstanding debts for equipment loss or unauthorized charges will be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

#### **SECTION 3: SAFETY ISSUES FOR CELLULAR PHONE USE**

Employees whose job responsibilities include driving or equipment operation are expected to refrain from using their phone/communication device while driving or operating equipment. Safety must come before all other concerns. Regardless of the circumstances, employees are strongly encouraged to pull off to the side of the road and safely stop the vehicle or to shut down the equipment before placing or accepting a call. If acceptance of a call is unavoidable and pulling over is not an option, employees are expected to keep the call short, use hands-free options if available, refrain from complicated or emotional discussions and keep their eyes on the road. Special care should be taken in situations where there is traffic; inclement weather or the employee is driving in an unfamiliar area. Under no circumstances are employees required to place themselves at risk to fulfill business needs. Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions.

## **SECTION 4: SURREPTITIOUS TAPING OF CO-EMPLOYEES, SUPERVISORS, OR CITY OFFICIALS**

Proper functioning of the City requires that persons feel free to communicate with one another in a candid and open manner and that there be a spirit of cooperation. Surreptitious recording of co-employees, supervisors or City officials creates a barrier to these goals being achieved and is insulting and petty. Therefore, secret tape recording or videotaping by, or caused by, an employee of the City of co-employees, supervisors, or City officials is strictly prohibited, regardless of the alleged reasons therefore. **This prohibition applies regardless of whether the employee is a party to the conversation.** Violation of this policy will give rise to disciplinary action up to and including termination. The only exception to this policy is if the taping is part of a criminal investigation and the proper authorization from a court has been obtained.

## **SECTION 5: CITY COMPUTERS/INTERNET/ELECTRONIC MAIL**

Use of the City's computer system, and access to/use of the internet and electronic mail from City computers is subject to the policies attached hereto as **Appendix C**.

## **ARTICLE 12: SEXUAL HARASSMENT POLICY**

### **SECTION 1: GENERAL POLICY**

It shall be the policy of the City of Riesel to provide and maintain a work environment free of sexual harassment, sexual exploitation, and sexual intimidation and to investigate any complaint of sexual harassment. All employees are expected to comply with this policy, and failure to do so will result in disciplinary action up to and including immediate termination.

### **SECTION 2: DEFINITION/PROHIBITED**

Sexual harassment can occur in many forms, including, but not limited to unwelcome physical contact, verbal abuse based on gender, leering gestures, subtle advances and pressure inviting sexual activity, display of sexually oriented materials or objects that offend another employee, sexual innuendoes and conversation of a sexually oriented nature that is offensive or unwelcome to another employee, and hostility or discriminatory treatment solely based on gender. Such conduct will not be tolerated by the City. Furthermore, such conduct is unlawful where submission to the conduct is made a term or condition for obtaining employment opportunities or avoiding adverse employment action, submission to or rejection of the conduct is used as a basis for making employment decisions, or where the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Sexual harassment of any type is strictly prohibited and will give rise to disciplinary action up to and including discharge.

### **SECTION 3: REPORTING.**

If an employee feels that he or she is being sexually harassed, the employee should tell the harasser he or she finds the conduct offensive and insist that it stop. The employee should further report the matter to his or her immediate supervisor. If the employee is unable or unwilling to speak with his or her immediate supervisor about the harassment, or if the supervisor is the harasser, the employee should report the incident directly to the next higher level of authority in his or her department or to

the City Secretary or the Mayor. A supervisor or official receiving a report must immediately notify the Mayor. The employee should be requested to put the report in writing, but the failure or refusal of the employee to do so does not justify doing nothing. In that circumstance, the supervisor or official who received the verbal report shall create a written report of what they were told. All written reports shall be immediately provided to the Mayor. The City will investigate the matter promptly and take whatever corrective action is appropriate. Upon receiving a report, supervisors should be proactive in protecting the alleged victim from further harassment during the investigation. This may include increased supervision, re-arranging employee work locations or job assignments or other appropriate actions. Any such steps must not create the appearance that the alleged victim is being retaliated against for reporting. Employees are encouraged to report sexual harassment whether or not they are the victim of the harassment.

#### **SECTION 4: RETALIATION PROHIBITED.**

Retaliation against any employee for reporting or opposing sexual harassment is strictly prohibited and will give rise to disciplinary action against the perpetrator up to and including discharge.

#### **SECTION 5: IMPLEMENTATION AND SUPERVISOR'S RESPONSIBILITY**

It shall be the responsibility of the City Secretary to inform supervisors and employees of the policy concerning sexual harassment, the gravity of such behavior and the procedure to be employed in the event such an allegation develops. Each supervisor has the responsibility to maintain the workplace free of sexual harassment. This duty includes discussing this policy with all employees and to assure them that they are not to endure insulting, degrading, or exploitative sexual treatment.

### **ARTICLE 13: DISCRIMINATION**

#### **SECTION 1: GENERAL POLICY**

The City is an equal opportunity employer. Discrimination on the basis of race, creed, national origin, religion, gender, age, disability or other status protected by law is not City policy.

#### **SECTION 2: PROHIBITED.**

Discrimination is strictly prohibited and will give rise to disciplinary action up to and including discharge.

#### **SECTION 3: REPORTING.**

If an employee feels that he or she is being discriminated against based on race, age, gender or any other status identified in Section 1 above, the employee should report the matter to his or her immediate supervisor. If the employee is unable or unwilling to speak with his or her immediate supervisor about the discrimination, or if the supervisor is the perpetrator, the employee should report the incident directly to the next higher level of authority in his or her department or to the City Secretary or the Mayor. Supervisors/officials receiving a report must immediately report the matter to the Mayor. The employee should be requested to put the report in writing, but the failure or refusal of the employee to do so does not justify doing nothing. In that circumstance, the supervisor or official who received the verbal report shall create a written report of what they were told. All written reports shall be immediately provided to the Mayor. The City will investigate the matter promptly and take

whatever corrective action is appropriate. Upon receiving a report, supervisors should be proactive in protecting the alleged victim from further discrimination during the investigation. This may include increased supervision, re-arranging employee work locations or job assignments or other appropriate. Any such steps must not create the appearance that the alleged victim is being retaliated against for reporting. Employees are encouraged to report discrimination whether or not they are the victim.

#### **SECTION 4: RETALIATION PROHIBITED.**

Retaliation against any employee for reporting or opposing discrimination is strictly prohibited and will give rise to disciplinary action against the perpetrator up to and including discharge.

#### **SECTION 5: IMPLEMENTATION AND SUPERVISOR'S RESPONSIBILITY**

It shall be the responsibility of the City Secretary to inform supervisors and employees of the policy concerning discrimination, the gravity of such behavior and the procedure to be employed in the event such an allegation develops. Each supervisor has the responsibility to maintain the workplace free of discrimination. This duty includes discussing this policy with all employees and to assure them that they are not to endure discriminatory treatment.

### **ARTICLE 14 COMPLAINT/GRIEVANCE PROCEDURE**

#### **SECTION 1: APPLICABILITY.**

These policies apply to all employees of the City. Employees are encouraged to use these procedures and will not be penalized for doing so.

#### **SECTION 2: SCOPE.**

Employees may file a complaint/grievance based on his/her disagreement with discipline received, alleged mistreatment or unfair treatment, alleged violation or misapplication of policies, working conditions, and non-frivolous matters of a similar nature. The process for reporting sexual harassment or discrimination is covered by Articles 12 and 13 above

The following are specifically not grievable: 1) disciplinary action taken by the City Council; 2) matters of general City policy.

#### **SECTION 3: INFORMAL RESOLUTION.**

An employee should pursue, if possible, an informal resolution of his/her complaint before filing a formal complaint/grievance. An employee is encouraged to resolve the complaint through all levels of management within the City. After this effort is exhausted, the employee may file a formal complaint. If the employee's problem is with the immediate supervisor, the employee may discuss the problem first with the Mayor or a City Councilperson.

#### **SECTION 4: COMPLAINT TO THE MAYOR**

If the employee is unable to resolve his or her grievance informally at the department level, the employee may file a formal grievance on the City's grievance form with the City Secretary for review by the Mayor.

To be considered, a complaint/grievance regarding discipline must be filed, in writing, within 5 working days from the occurrence, exclusive of City holidays. All other complaints/grievances must be filed within 10 working days from the occurrence which is subject matter thereof. If the employee fails to meet the filing time limits, the employee shall be deemed to have waived his/her opportunity to use the complaint/grievance system, unless otherwise provided by these policies.

In the event that good cause exists in the Mayor's sole discretion, the Mayor may elect to waive or extend the deadline for filing the written complaint/grievance.

The Mayor will review the complaint, meet with the complainant and the supervisor, and make a determination on the grievance.

#### **SECTION 5: APPEAL TO THE CITY COUNCIL.**

If the grievance is not able to be resolved by the Mayor, the employee may ask for the City Council to consider his/her grievance. The request must be in writing and must be filed with the City Secretary within 30 days of the Mayor's determination. The City Council will consider the grievance at the next City Council meeting at which it can lawfully be considered.

#### **SECTION 6: GENERAL RULES.**

No employee shall retaliate in any manner against an employee who has filed a complaint/grievance. Retaliation is strictly prohibited, and an employee found to have retaliated against another employee for filing a grievance/complaint will be subject to disciplinary action up to and including discharge.

Abuse of the complaint/grievance procedure will not be tolerated, and such abuse of process will give rise to disciplinary action up to and including discharge.

Nothing herein constitutes a contract or guarantee that a particular procedure will be followed with regard to a complaint/grievance. The procedures set out in this manual are guidelines and are not intended to be contractual in nature or to create any property right or expectation. The procedure or action taken in a matter rests in the discretion of the City.

### **ARTICLE 15** **PERSONAL CONDUCT**

#### **SECTION 1: CITY EXPECTATIONS.**

All employees are expected to perform satisfactorily the job duties for which they have been employed, to maintain a high level of personal conduct on the job, to render courteous and efficient service to the public, to be mindful of safety practices, and to exercise the utmost care in the use of

the City's property. Employees are expected to exhibit conduct which instills faith on the part of the public in their City government.

## **SECTION 2: EXAMPLES OF UNACCEPTABLE CONDUCT.**

The following is a list of illustrative acts or omissions which do not demonstrate the high standard of conduct which is expected of employees of the City of Riesel. This list is merely illustrative and does not encompass all prohibited practices or address all employment situations that could arise. Furthermore, the following list does not constitute any guarantee of continued employment as long as an employee does not participate in prohibited conduct. Employees of the City of Riesel occupy an at will status with the City under which either the City or the employee can terminate the employment relationship at any time for any reason not prohibited by law, or for no reason at all. Subject to the foregoing, City of Riesel employees are prohibited from:

1. Using their official positions to secure special privileges or exemptions for themselves or others;
2. Habitual tardiness or absenteeism;
3. Discourteous or offensive conduct toward fellow employees or to the public;
4. Insubordination, inefficiency or neglect or abandonment of duties;
5. Granting any special consideration, treatment, or advantage to any citizen, individual, or group beyond that which is available to every other citizen, individual, or group;
6. Theft, abuse or deliberate destruction or defacing of City property;
7. Using City property for any purpose other than conducting official City business;
8. Acting with carelessness or negligence in the operation of City equipment or in the performance of employment duties which results in the destruction or damage of property or injury or death to any person or endangers life or property;
9. Fighting or gambling in any form on work premises or during work hours;
10. Commission of any crime while on duty, on City premises, or in City vehicles;
11. Possessing unauthorized weapons or explosive materials on City premises or in City vehicles;
12. Racial, religious, sexist or ethnic slurs or remarks made while on City business and intended to harass or discriminate against another employee or a member of the public;
13. Sexual harassment in any form;
14. Insubordinate, discourteous or abusive conduct toward supervisors, department heads, the City Secretary, or the City Council and its members;
15. Falsifying time records or any other official personnel record, or punching or filling out another employee's time record;
16. Failure or refusal to cooperate with fellow employees or to follow instructions of supervisory officials;
17. Falsification, destruction or defacing of any official records of the City of Riesel;
18. Unauthorized or unexcused absence from work;
19. Revealing, without authorization, confidential information in the course of employment, including confidential City records;
20. Accepting any commission, kick-back, discount or other thing of value from persons or companies doing business with the City;
21. Abuse of sick leave or other authorized leave, or abuse of other privileges or benefit programs provided by the City;
22. Leaving work during working hours without the permission of the employee's supervisor or department head;
23. Participating in horseplay or practical jokes, or disorderly conduct of any kind while on work premises or during working hours, including the use of abusive, profane, or threatening language;
24. Carelessness or inefficiency in the performance of duties, including disregarding applicable safety or work regulations;

25. Operating City vehicles without possession of a valid and/or proper operator's license, or failure to maintain a satisfactory driving record if the employee is required to operate a vehicle as part of her/her job;
26. Misappropriation of City funds, property or assets;
27. Being under the influence of drugs, alcohol, controlled substances, or any other intoxicating substance or beverage while on duty or on call, or otherwise being in violation of the City's Drug and Alcohol Policy;
28. Abuse of office or position;
29. Receiving a gift, reward or any other form of compensation that compromises an employee's position and responsibilities with the City;
30. Failure to comply with notification requirements for absences;
31. Acts of dishonesty in the performance of duties.

It is not possible to list all rules of work conduct, and the various forms of prohibited conduct identified in this provision are not necessarily inclusive of all forms of prohibited conduct. The City tries to avoid unnecessary restrictions on an employee's personal conduct because we feel certain that our employees will exercise common sense and follow the generally accepted customs of good taste and standards of ethical behavior. The degree of discipline imposed for a particular act or omission may vary and is within the discretion of the City. No guarantee of continued employment or "for cause" employment separation is made hereby.

### **SECTION 3: HOURS OF WORK/ATTENDANCE.**

Regular and prompt attendance at work is required of all City of Riesel employees. Hour of operation of City Hall are as established by the City Council. Hours for field or salaried employees may fluctuate as job requirements dictate. Police and emergency service personnel are scheduled as public safety considerations dictate. Employees are expected to be at their work place or on official duty unless officially excused by the Mayor or the Mayor's designee. Any employee who fails to report, is habitually tardy, leaves the work place without proper approval or misuses leave will be subject to disciplinary action.

#### **A. EXCUSED ABSENCES.**

An absence may be recorded as an excused absence for reasons of family illness, death in family, or a circumstance beyond the control of the employee which precludes the employee's presence at the duty station and for which paid leave is not available or authorized. The request shall be made to the employee's Department Head or in the department head's absence, the Mayor (or the Mayor pro-tem) for his/her approval/disapproval. Abuse of this process will not be tolerated. Absences, even for acceptable reasons create problems in carrying out the operations of the City, and excessive absenteeism cannot be allowed.

#### **B. UNEXCUSED ABSENCES.**

Any employee who fails to report for work or does not give proper notification of an absence will be charged with an unexcused absence. Three consecutive days of absences without proper notification and approval of the employee's Department Head or in the department head's absence, the Mayor (or the Mayor pro-tem) will be considered an automatic resignation. Disciplinary action will result for any unexcused absence.

#### **C. TARDINESS.**



Tardiness on the part of employees increases the workload of fellow employees, interferes with productivity and reduces the quality of service. An employee will be considered late for work if they fail to report for duty, ready for work assignment, at the time specified.

An employee who continues to be tardy after verbal counseling and reprimand will be given written warning. Any tardiness by the employee after written warning may be penalized by being sent home for the day without pay. Subsequent violations may give rise to more serious disciplinary action, up to and including discharge.

#### **SECTION 4: SECONDARY EMPLOYMENT.**

Employees may be employed at any time other than hours that they are working for the City in any capacity in a business, trade, occupation or profession, provided such employment does not adversely affect the employee's job performance for the City.

Sick leave or other personal leave (other than vacation or comp time) cannot be used in order to work outside employment. Employees found to have abused leave to work elsewhere will be subject to discipline up to and including discharge.

In addition, if an employee calls in sick for his/her shift for the City, it is expected that the employee will also be unable to perform his/her outside employment-even if that outside employment is at a time not within the employee's shift for the City. If the employee performs his or her outside employment in those circumstances, it will be presumed that the employee did not have a legitimate excuse for his or her absence.

Tardiness for a shift start time or leaving early from a shift due to outside employment will not be tolerated. The employee's job with the City must be considered by the employee to be his/her primary employment, and take precedence over any other employment. If the employee cannot make such a commitment, he/she will not continue to be employed with the City.

### **ARTICLE 16: PROFESSIONAL CONDUCT**

#### **SECTION 1: GENERAL POLICY**

- (A) Employees are expected to present themselves in a professional manner.
- (B) An employee's appearance and conduct reflect on all City officials and employees, and should be as outstanding as possible. An employee's clothing should be suitable for the type of work required but should also be as clean and neat as possible depending on the situation.
- (C) Courtesy and professionalism will be considered a necessity in any personal dealings with the public.
- (D) Information concerning City business should be held in confidence. Most City records are available to the public through established and required procedures.

### **ARTICLE 17: USE OF CITY VEHICLES**

#### **SECTION 1: GENERAL POLICY**

City vehicles shall be used only for City business. Only the employee assigned a City vehicle or a fellow employee temporarily designated by the assignee may operate the vehicle. Each employee of the City of Riesel who is required to operate a vehicle shall possess a valid Texas Drivers License; maintain such license; and be insurable. City employees assigned or otherwise operating City vehicles or equipment shall observe the following practices:

- (A) Operate vehicle safely and economically and in strict compliance with all traffic regulations.
- (B) Comply with routine maintenance schedules.
- (C) Assume responsibility for reporting needed repairs to the vehicle.
- (D) Radio equipped vehicles shall maintain radio contact with the base station when on duty or on call.
- (E) No posters, stickers or advertisements shall be placed upon City owned vehicles without prior approval of the City.
- (F) City vehicles may be used for transportation to and from an employee's residence when assigned to an employee on a full-time basis, when the employee is officially on call for emergency duty, or when a vehicle is duly assigned to an employee on a temporary basis.
- (G) Unless authorized by the City, City vehicles may be used only for the transportation of City employees or other persons engaged in some form of City activity.

**ARTICLE: 18**  
**POLICY ON DISCIPLINE**

**SECTION 1: COUNSELING**

Each supervisor shall be responsible for noting and pointing out to the employee whenever the employee's work habits, production or personal conduct on the job falls below an acceptable level. In counseling with an employee concerning failure to meet acceptable standards, the supervisor should generally point out the following to the employee:

- What action or behavior is failing to meet the acceptable standard;
- What is the acceptable standard;
- Why does failure to meet the standard create a problem;
- What must the employee do to meet the standard; and
- What is the time frame in which the standard must be met.

Supervisors should document such counseling.

Where appropriate progressive discipline is preferred.

**SECTION 2. FORMAL DISCIPLINE**

While it is generally desirable to counsel with an employee and use a progressive discipline approach prior to initiating formal discipline, this policy shall not be interpreted to prevent immediate formal action whenever the best interest of the City and its effective operation require it. Such discipline may include verbal reprimand, written reprimand, suspension (with or without pay), demotion, discharge, or such other disciplinary action deemed appropriate by the City and in the sole discretion of the City. Nothing herein changes an employee’s status as an “at will” employee.

**ARTICLE 19**  
**POLICY ON PROVIDING STATEMENTS TO THE MEDIA**  
**(added 11/13/15)**

1. General Rule.

Except as otherwise provided herein, the Mayor or his/her designee shall be the official spokesperson for the City, and the sole person authorized to give statements to the media on behalf of the City.

2. Exceptions.

a. Emergencies. In an emergency situation where it is necessary to warn the public of a public health or safety issue, any department head or police officer may communicate that information to the media.

b. Basic Information on Police Matters. The provision of basic statements of information as to traffic accidents, arrests, police emergencies, and other such matters shall come from the Police Chief or his/her designee. Basic information does not include opinions, suspicions, or speculation. Basic information relates to time, place, manner, identities, charges, and other information that is factual in nature. Basic information does not include information confidential by law or information that would interfere with an investigation by the police. Basic information also does not include any statement indicating negligence, wrongdoing, or mistake by a City officer or employee.

c. Direction. If an employee is directed by the Mayor to speak to the media on a matter, that person does not violate this policy by doing so.

3. Matters Never to be Discussed. No employee, whether or not covered by one of the foregoing exceptions, shall comment to the media on possible liability of the City or its employees, possible violation of law by the City or its employees, or possible responsibility of the City or its employees for any damage to persons or property.

4. Interpretation. If there is a question in a given situation as to the application of this Policy—seek instruction from the Mayor or City Attorney.

5. Public Information Act. This policy solely relates to giving statements, comments or interviews to the media. It does not apply to Public Information requests under Chapter 552 of the Texas Government Code. Each department head is responsible for properly handling public information requests that they receive. Generally, a department head should notify the City Secretary and the City Attorney on any request that involves information that should be withheld as there are procedural processes that must be complied with to withhold information.

**ARTICLE 20**  
**AMENDMENT AND SEVERABILITY**

**SECTION 1: AMENDMENT**

These Policies may be amended, supplemented, or totally withdrawn at any time in the sole discretion of the City through its City Council. The notice posted in accordance with the Texas Open Meetings

Act with regard to the City Council meeting at which such action is taken shall be notice to all employees of such an amendment, supplementation, or withdrawal.

## **SECTION 2: SEVERABILITY**

If any section, subsection, sentence, clause or phrase of these policies is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portions of these policies, and all the remainder of these policies not so declared to be invalid shall continue to be in full force and effect.

## *Appendix A—Policy on Overtime*

1. **Purpose.** The purpose of this policy is to define City overtime and compensatory time procedures and address the requirements of the Fair Labor Standards Act (the "Act").

2. **Scheduled Overtime.** Overtime is never at the employee's discretion. All employees (including exempt employees to whom overtime is made available) are prohibited from working scheduled overtime unless such work is authorized in advance by the City Council.

Certain matters occur or require attention on a regular basis so that the time spent on those tasks may be reasonably anticipated. For example: required attendance at City Council meetings, trade, or associational meetings, weekend checks of water and sewer systems, and other such matters. It is the desire of the City Council that schedules be adjusted so as to account for these recurring events without creating an overtime obligation. For example, if an employee is to check the water and sewer systems over the weekend, and this normally takes two (2) hours, his/her schedule during the normal workweek should be adjusted so that only 38 hours of work are scheduled for Monday through Friday. By way of further example, if an employee is required to attend a City Council meeting, his/her schedule should be adjusted so that attendance at the meeting does not create overtime. If a supervisor or a department head is unable to comply, scheduling for his/her department will be transferred to the Mayor (or, if applicable, the City Council). Failure to comply or abuse of overtime will give rise to disciplinary action. Supervisors/department heads shall submit the schedules for his/her department each week to the Mayor (or, if applicable, the City Secretary). The City Secretary is responsible for giving monthly time sheets for each employee to the City Council at the regular scheduled Council Meeting.

3. **Unscheduled Overtime.** Unscheduled overtime is overtime that is required due to unforeseen circumstances or an emergency. Such does not include needed work due to failure to complete regular work duties within a work day, or matters which can wait to be addressed during regular work hours without harming the City or the public, or disrupting City services. In the circumstance of unscheduled overtime, such overtime must be approved in advance by the Mayor, or in his absence, the Mayor Pro Tem, or if time permits, the City Council. In the event that none of the forgoing officials can be reached, the department head may approve unscheduled overtime only when an emergency or disruption of City services requires immediate action, and must provide a report to the City Council detailing the reasons for the overtime.

4. **Compensatory Time.** In accord with the City's past practices, non-exempt employees shall be compensated for overtime in the form of compensatory time off in lieu of cash. Compensatory time off will be credited at a rate of one and one-half hours for each overtime hour worked (except for law enforcement employees). City employees may accrue up to 40 hours of compensatory time within a calendar year. After the accrual limit is reached, overtime will be paid in cash. Employees whose compensatory time accrued currently exceeds these limits will be required to reduce such accrued time by taking time off. That is, the City will require an employee to take accrued compensatory time. Cash will not be paid in lieu of compensatory time except: as set forth below for law enforcement employees; where the City Council determines that such is necessary to reduce accrued balances or to support the City's operations; where the employee has reached the accrual limit; or at separation from employment. Office staff may not accrue compensatory time without prior Council approval. Time spent for required attendance at Council meetings should be offset by a

reduction in scheduled hours of work during the same workweek so as to prevent the accrual of overtime/comp time. Pre-approved overtime work of the office staff will be paid at time and one-half, and not as comp time.

**5. Law Enforcement.** Although the City is not legally required to compensate law enforcement personnel for overtime given the current size of its police force, the City seeks to provide a working environment which rewards loyal and efficient service and assures retention of good personnel, and, therefore law enforcement personnel will receive overtime (compensatory time) for hours *actually worked* in excess of 40 hours during a work week, but at straight time and not at time and one-half. The employee may accrue up to 40 hours of comp time, and anything above that amount will be paid bi-weekly.

Law enforcement personnel who are off duty will not be compensated for time responding to calls for which their assistance was not specifically requested. Time will only be considered for overtime compensation where the officer was called to assist or where an emergency exists such that the need for assistance is clear. The Chief of Police shall use his/her best efforts to schedule personnel so as to prevent the incurrence of overtime. Merely being “on-call” does not equate to work hours for overtime purposes. Abuse of this program for compensation of law enforcement personnel will result in cancellation of this program, and could result in disciplinary action up to and including discharge. Due to the need to assure police coverage, overtime or accrued compensatory time may be paid in cash in lieu of time off if the Mayor, in consultation with the Police Chief, or the City Council determines such is proper to assure coverage and the ability to create work schedules.

**6. Exempt Personnel.** Although the City is not legally required to compensate exempt personnel for overtime, the City seeks to provide a working environment which rewards loyal and efficient service and assures retention of good personnel, and, therefore, will provide overtime (compensatory time) compensation to exempt personnel on the same basis as other City employees. However, because of the much higher relative accrual of extra hours on average by an exempt employee in law enforcement; an exempt law enforcement employee (Chief of Police) will receive compensatory time at straight time, and not time and one-half. Abuse of this program will result in its cancellation, and could result in disciplinary action up to and including discharge.

## APPENDIX “B”

### FAMILY MEDICAL LEAVE ACT

#### **I. Introduction**

The Family and Medical Leave Act (“FMLA”) is a federal law that provides unpaid leave and certain protections for eligible employees who need to take leave for specified family and/or medical reasons. The following is a summary of the rights and responsibilities of an employee under the FMLA:

#### **EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT**

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##### **Basic Leave Entitlement**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee’s child after birth, or placement for adoption or foster care;
- To care for the employee’s spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee’s job.

##### **Military Family Leave Entitlements**

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves may use their 12-week leave entitlement to address certain qualifying exigencies. Based on the enactment of H.R. 2647, this leave now also applies to eligible employees with a spouse, son, daughter, or parent who is an active duty service member in the regular Armed forces, not just to National Guard and Reservists. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Based on the enactment of H.R. 2647, caregiver leave is now expanded to eligible employees caring for a family member who is a veteran who is undergoing treatment, recuperation or therapy for service-related serious injury or illness that occurred any time during the five years preceding the treatment.

##### **Benefits and Protections**

During FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

##### **Eligibility Requirements**

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

##### **Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

### **Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

### **Substitution of Paid Leave for Unpaid Leave**

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### **Employer Responsibilities**

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

### **Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

### **Enforcement**

Any employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against any employer.

## **II. Non-Military FMLA Leave**

### **A. Eligibility**

Only eligible employees are entitled to FMLA leave. *See* "Eligibility Requirements" under Part I above.

### **B. Non-Military FMLA Leave Rules**

1. Non-Military leave entitlement under the FMLA is generally set forth Part I above under the heading "Basic Leave Entitlement". The method used by the City for calculating available FMLA leave is a rolling twelve (12) month period measured backward from the date an employee uses FMLA leave. All leave taken by an employee during such a twelve (12) month period which qualifies as FMLA leave, whether paid or unpaid, shall be counted as part of the twelve (12)



work week limit, whether or not such was requested as FMLA leave by the employee, except as otherwise provided herein or by law.

2. Spouses employed by the City are jointly entitled to a combined total of twelve (12) weeks of family leave for the birth and care of a newborn child, for placement of a child for adoption or foster care, and to care for a parent who has a serious health condition. Leave for birth and care, or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement.

3. In certain circumstances, employees may take intermittent leave or leave on a reduced- leave schedule. Intermittent leave or leave on a reduced schedule may be taken whenever medically necessary in accordance with applicable regulations.

4. Notice requirements for employees seeking FMLA leave are generally set out in Part I above under the heading "Employee Responsibilities".

a) Upon receipt of a request for FMLA leave from an employee, the appropriate supervisor shall immediately notify the Mayor and the City Secretary. The Mayor will issue a response to the employee's request which notifies the employee of whether or not they are eligible for FMLA leave, and otherwise generally informing the employee of his or her rights and responsibilities under the FMLA. The response should be provided within five (5) business days of the receipt of the request.

b) If the employee does not request FMLA leave, but the circumstances of the needed leave or absence, based on sufficient information known to the appropriate supervisor indicates that such qualifies as FMLA leave, the supervisor shall notify the Mayor and City Secretary immediately upon obtaining such information. The Mayor will give notice to the employee of whether or not they are eligible for FMLA leave, and otherwise generally informing the employee of his or her rights and responsibilities under the FMLA. The notice should be provided within five (5) business days of learning of the need for leave.

Nothing herein absolves or relieves the employee from their responsibility to notify their supervisor(s) of an absence in accordance with other policies of the City, or the responsibilities of the employee to comply with employee notice requirements under the FMLA.

(c) The FMLA regulations provide for a two step process whereby an initial notice is provided by the employer regarding the FMLA, and the employee's rights and responsibilities thereunder and, if appropriate, directing the employee to provide the applicable medical certification. Thereafter, once any required certifications have been received and reviewed (but within 5 business days of receiving the information), a designation notice is provided by the employer which will notify the employee whether the leave has been approved or denied, or whether more information is needed to make a determination. If sufficient information is available at the time of the first notice to make the determination on whether the leave is approved, the employer may send the designation notice concurrently with the initial notice. The City adopts the DOL- approved forms set forth below.

(d) Nothing in this Policy shall be deemed to extend any benefits or protections beyond those specifically required by the FMLA, or to extend the length of FMLA leave beyond that required by the FMLA.

#### 5. Maintenance of Health Benefits

(a) Group health benefits will be continued for the employee and covered eligible dependents while on FMLA leave, on the same conditions that coverage would have been provided if the employee had not taken FMLA leave, with the employee continuing to pay any portion of the cost that the employee paid prior to the leave. If the leave is paid, the employee's portion of the cost will be deducted as a payroll deduction. If the leave is or becomes unpaid, the employee must then pay the City on a monthly basis their portion of the cost. Please consult with the City Secretary with regard to the particular deadlines, however, an employee's payment must generally be received prior to the first day of each month. Employees have a thirty (30) day grace period in which to pay their share of the cost. If payment is not timely made, the employee's coverage may be cancelled, provided the City provides the employee with written notice of the possible cancellation at least fifteen (15) days before the date that the coverage will lapse. If the City pays an employee's share of the cost to prevent a lapse of coverage, the employee must reimburse the City, and the City may recover such from the employee.

(b) The City may recover from the employee its portion of the costs it expended for an employee's health coverage during any unpaid FMLA leave if the employee fails to return to work after the period of leave to which the employee is entitled has been exhausted or expired, except where the failure to return to work is due to the continuation, recurrence, or onset of a serious health condition or other circumstance beyond the employee's control.

#### 6. Use of Paid Leave

(a) The City requires that an employee exhaust any available accrued paid leave concurrently with FMLA leave. After any available paid leave is exhausted, the remainder of the FMLA leave taken shall be unpaid leave.

(b) Where paid leave is concurrently used with FMLA leave, the employee must follow the same rules under the applicable City policy that apply to other employees regarding the use of such leave.

#### 7. Certification

(a) If the employee has not provided a medical certification on the form addressed below as part of a request for FMLA leave, the City may require that the employee provide a medical certification on the adopted form by notifying the employee to do so in the Notice of Eligibility and Rights & Responsibilities. The medical certification must generally be returned to the City within 15 days of the employee's receipt of the Notice of Eligibility and Rights & Responsibilities. Failure to provide the medical certification may result in the employee's leave being denied.

(b) An employee's direct supervisor may not contact the employee's health care provider. All contact with the employee's health care provider shall be through the Mayor. It is the employee's responsibility to provide all necessary information from the employee's health care provider. An employee who desires for the City to speak directly to the employee's health care provider must execute a HIPAA Compliant Consent/Authorization to contact the employee's health care provider.

(c) If a medical certification is not complete or is insufficient, the City may require the employee to cure the defects by giving the employee written notice of the information that is lacking. The employee must be given at least seven (7) days to cure the deficiency.

(d) Recertification may be requested by the City no more often than every 30 days. If the original certification indicates that the period of absence will be more than 30 days the City cannot request recertification until after the expiration of that expected period of absence; however, in any case the City may request recertification every six (6) months. In certain circumstances the City may request recertification in less than 30 days due the employee's request for an extension of leave, changed circumstances, or receipt of information casting doubt on the validity or continuing validity of the reason for the employee's absence or the certification.

(e) The medical recertification must generally be returned to the City within 15 days of the employee's receipt of the City's request for the recertification. The City is entitled to the same information to which it is entitled for an original certification. Failure to provide the medical recertification may result in the employee's leave being cancelled.

#### 8. Fitness-for –Duty/Return to Work

(a) All employees who take non- intermittent FMLA leave for a personal serious health condition rendering them unable to perform their job will be required to present a fitness-for-duty certification with regard to the particular health condition causing the need for Family Medical Leave prior to returning to work. The City may require that the certification specifically address the employee's ability to perform the essential functions of the job. Where reasonable job safety considerations exist, the City may require a fitness-for-duty certification before an employee can return to work from intermittent leave.

(b) The City may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work consistent with the City's other leave policies and considering the facts and circumstances related to the individual employee's leave situation.

(c) An employee should notify their supervisor at least two (2) business days prior to their expected return date. If practicable, more notice of expected return date should be given.

## 9. Failure to Return to Work

An employee will be considered to have abandoned the job and may be terminated from employment if the employee fails to return from leave or to contact the Mayor about the need to extend the leave (if less than twelve (12) weeks have been taken) on or before the first work day following the end of approved FMLA leave.

## 10. Benefit Accrual

Other benefits, such as sick leave and vacation leave will not accrue while the employee is on unpaid leave, but will continue to accrue during any period of paid leave.

## 11. Forms

The approved City FMLA forms are those developed by the United States Department of Labor, including:

Form WH-381-Notice of Eligibility and Rights & Responsibilities

Form WH-380-E-Certification of Health Care Provider for Employee's Serious Health Condition

Form WH-380-F-Certification of Health Care Provider for Family Member's Serious Health Condition

Form WH-382-Designation Notice

Care must be exercised to assure that the appropriate procedures are followed and the correct forms are used.

[Military FMLA addressed below]

## **III. Military FMLA Leave**

### A. Eligibility

Only eligible employees are entitled to FMLA leave. *See* "Eligibility Requirements" under Part I above.

### B. Military FMLA Rules

#### 1. Leave Entitlement

##### (a) Types of Military-Related FMLA Leave

Military-related leave entitlement under the FMLA is generally addressed in Part I above under the heading "Military Family Leave Entitlements". There are two different types of military-related FMLA leave. The first type is generally referred to as "Qualifying Exigencies" leave, and provides for leave for employees who are immediate family members of a person called to active military duty or called to active duty status in the National Guard or Reserves, and for employees who are immediate family members of active duty service members in the regular Armed Forces, to use their 12 weeks of FMLA leave, or any portion thereof, to address certain qualifying contingencies which arise from the call to duty. Examples of matters that qualify as qualifying exigencies are set out in the applicable FMLA regulations and are generally referred to in Part I above under the heading "Military Family Leave Entitlements".

The second type is generally referred to as "Military Caregiver". Military Caregiver leave allows for an employee who is an immediate family member of, or next of kin to a service member who incurred a "serious injury or illness" in the line of duty on active duty to take up to 26 weeks of FMLA leave during "a single 12 month period" to care for the service member. The "Serious Injury or Illness" must be incurred in the line of duty as determined by the Department of Defense, rendering the service member medically unfit to perform the roles of his office, grade, rank or rating, and require either ongoing medical treatment, therapy or recuperation, whether in an inpatient or outpatient facility, or is on TDRL (Temporary Disability Retired List). Based on the enactment of H.R. 2647, "Serious Injury or Illness" also includes an injury or illness that existed before the beginning of the service member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. Also based on the enactment of H.R. 2647, caregiver leave

is now expanded to eligible employees caring for a family member who is a veteran who is undergoing treatment, recuperation or therapy for a service-related Serious Injury or Illness that occurred any time during the five years preceding the treatment. The serious injury or illness may manifest itself before or after the service member became a veteran (for example PTSD).

(b) Persons Who May Receive Military-Related FMLA Leave

Qualifying Exigency leave may only be taken by a spouse, parent or child of a service member. This leave applies to National Guard, Reservist and regular, active Armed Forces service members. Military Caregiver leave may be taken by spouses, parents, children or “next of kin”. “Next of kin” means the nearest blood relative other than a spouse, child or parent. The service member can designate who is his/her next of kin who will be acting as his/her caregiver. Military Caregiver leave applies to the armed forces, including regular armed forces, National Guard and Reserve. Based on the enactment of H.R. 2647, caregiver leave is now expanded to eligible employees caring for a family member who is a veteran who is undergoing treatment, recuperation or therapy for a service-related serious injury or illness that occurred any time during the five years preceding the treatment.

2. Calculation of Leave Entitlement

(a) Military Caregiver Leave

The up to 26 workweeks of unpaid leave for Military Caregiver leave is based on “a single 12 month period” that begins on the first day that the employee takes leave for this purpose. An eligible employee is limited to a combined total of 26 workweeks of leave for ANY FMLA-qualifying reason during the “single 12 month period”, and only 12 of the 26 workweeks may be for a FMLA-qualifying reason other than to care for a covered service member. Spouses employed by the City are limited to a combined total of 26 weeks in a “single 12 month period”. If the employee does not use the entire 26 weeks during the applicable “single 12 month period” the unused weeks do not carry over and are forfeited.

(b) Qualifying Exigency Leave

The up to 12 weeks of unpaid leave for Qualifying Exigencies is based on the rolling 12 month period established by the City for FMLA leave. It is not 12 weeks in addition to the standard 12 week entitlement; rather, the employee can use all or a portion of the employee’s standard 12 weeks towards qualifying exigency leave. Thus, to the extent FMLA leave is used for a qualifying exigency, the amount of leave available for use by an employee for the employee’s own serious health condition or other qualifying FMLA purpose is reduced.

3. Use of Paid Leave/Accrual of Benefits/Insurance

The City requires that an employee exhaust any available accrued paid leave concurrently with FMLA leave. After any available paid leave is exhausted, the remainder of the FMLA leave taken shall be unpaid leave.

Other benefits, such as sick leave and vacation leave will not accrue while the employee is on unpaid leave, but will continue to accrue during any period of paid leave.

Health insurance is subject to the same rules as standard FMLA leave. *See* Part II B. (5) above.

4. Intermittent Leave

Military Caregiver leave may be taken intermittently when *medically necessary* to care for the covered service member or veteran. When leave is for planned medical treatment, the employee must make a reasonable effort to coordinate and schedule such treatment so as not to unduly disrupt the operations of his/her department. Qualifying Exigencies leave may also be taken intermittently under the circumstances and as required to be granted by the FMLA regulations.

5. Employee Notice

Employees seeking to use military caregiver leave must generally give 30 days notice of the need to take leave for planned treatment of the service member or veteran; however, if the leave is foreseeable but 30 days notice is not practicable, the employee must provide notice as soon as practicable—generally either the same or the next business day. An employee must provide notice of the need for FMLA leave for a qualifying exigency as soon as practicable. When the need for military family leave is not foreseeable, the employee must provide notice to the City as soon as practicable

under the facts and circumstances of the particular case. Such notice must provide the City with sufficient information to determine that the employee is seeking leave that could qualify as FMLA leave, and the anticipated timing and duration of the leave. For example, if an employee is seeking leave for a qualifying exigency, the notice should provide the City with information on the particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated date(s) and duration of the leave. For military caregiver leave, the notice should at a minimum provide the City with information showing that the leave is for a qualifying family member who is a covered service member or veteran with a service-related serious injury or illness and the anticipated date(s) and duration of the leave.

#### 6. Employer Notice

The notice requirements and forms applicable to the FMLA generally apply-specifically including:

Form WH-381-Notice of Eligibility and Rights and Responsibilities; and

Form WH-382-Designation Notice

#### 7. Certifications

The City may require that an employee's request for military family leave be supported by an appropriate certification.

Qualifying Exigency leave must be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which the leave is sought, including contact information if the leave involves meeting with a third party. The City may contact an individual or entity named in a certification to verify the information contained therein.

Military Caregiver leave for a covered service member or veteran with a serious injury or illness must be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA). The City may take steps to verify/authenticate or clarify a medical certification, ITO or ITA, but such cannot be conducted by the employee's direct supervisor. Such will generally be conducted through the Mayor.

*Adoption of Certification Forms.* The DOL-approved certification forms for FMLA military leave are adopted for use:

Form WH-385-Certification for Serious Injury or Illness of Covered Service Member; and

Form WH-384-Certification of Qualifying Exigency for Military Family Leave

Any additional forms issued by DOL to address the changes made by H.R. 2647

#### 8. Failure to Return to Work

An employee will be considered to have abandoned the job and may be terminated from employment if the employee fails to return from leave or to contact the Mayor about the need to extend the leave (if less than the amount of the FMLA leave entitlement has been used) on or before the first work day following the end of approved FMLA leave.

### **IV. Rules of General Applicability**

#### A. Policy as a Summary

The FMLA is a complex law made even more complex by its interaction with other laws. Therefore, it is impossible to address every possible matter that may arise. This Policy is intended as a general summary, and does not prevent the City from relying on provisions of the FMLA or its regulations not specifically addressed herein.

B. No Retaliation

No official or employee of the City shall discriminate or retaliate against an employee for seeking FMLA leave, or intentionally deny, restrain or interfere with any right provided by the FMLA.

No official or employee of the City shall discriminate or retaliate against any person for opposing, reporting, assisting in opposing, filing a claim, or assisting in the prosecution of a claim for violation of the FMLA.

Such discrimination, retaliation, or intentional acts will subject the perpetrator to disciplinary action, up to and including discharge.

**APPENDIX “C”**  
**COMPUTER, INTERNET AND E-MAIL POLICY**

**I.**

**GENERAL POLICY STATEMENT.**

It is the City’s policy to maintain and monitor all City owned/operated/leased computer systems, computer hardware, software, Internet access, and Intranet access.

Purpose: To define the parameters within which the City computers and computer systems may be used; establish rules for the protection and security of the City’s information technology equipment, systems and data; and define the expectations of the City as to employees’ use of City computers, internet and e-mail. This Policy applies to all City employees.

<b>II.</b> <b>POLICIES AND PROCEDURES</b>
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It is the City’s policy to maintain and monitor all City owned/operated/leased computer systems, computer hardware, software, Internet access, and Intranet access.

1. All users of the City’s computer network, including for Internet access, are responsible for complying with all Local, State, and Federal laws.
2. Non-employees are expressly forbidden from using any City terminal/P.C./laptop without proper authorization from City management.
3. Deletion, examination, copying or modification files and /or data belonging to other users without their prior consent is prohibited.
4. Once a user is advised to cease certain activities, they must stop those activities at once. The use of all computer hardware, software, and network by City employees on City owned or leased equipment is to be **for City business only except for de minimis personal use. NO expectation of privacy shall exist as to any user of the City’s system, and the City may monitor or audit computer use.**
5. It is a violation of this policy to engage in an unauthorized, deliberate action that damages or disrupts the computer system, alters its normal performance, or causes it to malfunction.
6. No software may be installed on any City owned or leased computer without prior approval of the City.
7. Employees and visitors should maintain a “care zone” around City computer equipment, so that food and drink cannot fall directly in or onto the equipment. This includes equipment located in City offices and off-site, such as laptops assigned for office or vehicle use.
8. The security of the hardware/equipment is the responsibility of the department using that hardware/equipment. This includes protection against unauthorized use, theft, and accidental damage.
9. The security of the software and data is the responsibility of any department that uses and/or maintains it.
10. The City installs a virus protection software package on all desktop computers. Users should leave this virus protection software enabled at all times. Virus protection software will detect viruses, but will not automatically eliminate them. The user has to do that, following prompts from the virus protection software.

11. Passwords are necessary to protect the security of our information and computer systems. Passwords are the property of the City of Riesel. Passwords do not belong to the user and the use of passwords does not guarantee confidentiality.
12. **Games are prohibited on all City-owned computers. Games may not be loaded-either from software or from the Internet.**
13. Any use of licensed software must not violate the City's license for that software. No modifications to software may be made except by the Information Systems Contractor, and then only after consultation with the City and the licensor.
14. **Downloading or streaming of MP3 and other music files, video files, TV or radio programs, and browser enhancements is strictly prohibited unless directly associated with your job duties and authorized by the City.**
15. The City computer system/computers/internet access/email shall never be used to access, download, receive or transmit pornographic materials of any kind.
16. Violations of any of the above restrictions may result in disciplinary actions up to and including termination.

<b>A. E-MAIL</b>
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The City does not currently provide e-mail accounts. Employees are able to send and receive e-mails via personal accounts. E-mails regarding City business should be saved and archived or saved and periodically copied to a disk. Even though personal accounts are involved, use of the City's computers continues to be subject to the rules set forth above.

<b>B. NETWORK SECURITY</b>
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1. The following actions are prohibited:
  - a. Use of systems and/or networks in attempts to gain unauthorized access to remote systems.
  - b. Decryption of system or user passwords.
  - c. The unauthorized copying of system files.
  - d. The copying of copyrighted materials, such as third-party software, without the express written permission of the owner or the proper license.
  - e. Intentional attempts to "crash" Network systems or programs.
  - f. Any attempts to secure a higher level of privilege on Network systems.
  - g. The willful introduction of computer "viruses" or other disruptive/destructive programs into the City's network is strictly prohibited.
  - h. Any employee bringing in diskettes, CD's, DVD's, or any other media to upload/download files into PC's or networks must first clear such items through the Department Head. Generally these will be prohibited unless part of a work product.
  - i. The City maintains the right to remove diskette drives, CD-ROM drives, or DVD drives at any time.

Violations of any of the above restrictions will likely result in disciplinary action up to and including termination.

<b>C. GUIDELINES FOR INTERNET USE</b>
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1. Except for de minimis personal use at breaks, etc., the Internet may only be used for work related information, research and communication.
2. The Internet may not be used for personal gain or advancement of individual views, solicitation of non-City business or to disrupt the operation of the City network or the network of other users.



3. It is strictly prohibited to deliberately enter into or attempt to enter into inappropriate sites (described as but not limited to those that contain sexually explicit materials, gambling, games, drugs, violence, lifestyle choices, cults/occults, hate speech, criminal skills, etc.)
4. Development of a web or home page for personal or departmental purposes is not permitted on a City account.
5. Generating, receiving, viewing, storing, transmitting or other use of data material that is abusive, profane or obscene is prohibited.

Violations of any of the above provisions may result in disciplinary action up to and including termination.

APPENDIX “D”

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ON CALL POLICY FOR CITY OF RIESEL POLICE OFFICERS

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June 12, 2012

It is the policy of the City of Riesel that off duty police officers are not restricted when on-call. Although all officers are subject to recall for emergencies, they are allowed to engage in any off duty activities and personal pursuits, as well as travel to surrounding areas. Officers on vacation are not considered to be on-call. If an officer on vacation is close by he/she may be called in to assist in an emergency. However, an officer on vacation is not required to be accessible and has no travel restrictions. An officer scheduled by the Police Chief to be the primary on-call officer on a date will notify MSO Dispatch that he/she is the primary officer on- call when no officers are actively on duty. The primary on-call officer is allowed to go about his/her normal activities except for the consumption of alcohol. If the primary officer receives an emergency call in which a timely response cannot be made, he/she will direct the MCSO Dispatcher to dispatch another officer or dispatch a sheriff's deputy to the scene. Gas drive offs, thefts, deliver messages, stray animals, and other non-violent calls where the time of occurrence cannot be determined are not considered emergency calls. These calls may be handled by phone or be delayed until an on duty officer can handle them. The officer should contact the complainant or have dispatch contact the complainant to explain the delay. Emergency calls will be robberies, assaults, and other violent calls that require immediate investigation or law enforcement intervention. Selection of officers to be the primary on-call officer will be made on a fair basis with an eye toward distributing primary on-call designation among the officers as evenly as possible. Officers are allowed to trade scheduled primary on-call status as needed.