

ORDINANCE NO. _____

An ordinance amending Chapter 34, “Personnel Rules,” of the Dallas City Code by amending Sections 34-2, 34-4, 34-5, 34-6, 34-8, 34-9, 34-11, 34-13, 34-18, 34-20, 34-21, 34-22, 34-23, 34-24, 34-24.1, 34-27, 34-28, 34-30, 34-32, 34-35, 34-36, 34-38, and 34-40; providing revised personnel rules; providing amended and new definitions; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (b), “Director of Human Resources,” of Section 34-2, “Administration,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(b) Director of human resources. The director of human resources is appointed by the city manager to administer the human resources [~~personnel~~] system as established by the city charter, this chapter, and other applicable city ordinances and state and federal laws. Responsibilities include, but are not limited to, the following:

- (1) Establishing processing and orientation procedures for all new city employees.
- (2) Reviewing and approving all appointments, reappointments, and reinstatements to city employment.
- (3) Providing and administering human resources [~~personnel~~] programs, rules, regulations, procedures, and actions affecting employment status, including, but not limited to, promotions, transfers, leaves of absence, and paid leave programs.
- (4) Administering and ensuring compliance with disciplinary and grievance procedures in cooperation with department directors, assistant directors, and supervisors, except as otherwise provided in this chapter.

- (5) Reviewing departmental human resources [~~personnel~~] programs, rules, regulations, procedures, and actions and ensuring compliance with city policies and this chapter.
- (6) Ensuring departmental compliance and cooperation with the rules and regulations of the civil service board, when applicable.
- (7) Providing regulations, guidelines, procedures, and assistance to employees and departments regarding human resources-related [~~personnel-related~~] complaints, excluding formal complaints filed with the civil service board.
- (8) Regulating information made available to employees by regular distribution, including all charity drives or fund solicitations in which employees are asked to contribute or participate.
- (9) Developing and administering, in cooperation with other departments, training and development programs for city employees.
- (10) Administering the employee benefit program as directed by the city manager.
- (11) Developing, recommending, and administering equitable compensation and benefit programs for city employees.
- (12) Maintaining master employee human resources [~~personnel~~] files and, in consultation with the city attorney, developing procedures for responding to all requests for human resources [~~personnel~~] information.
- (13) Reviewing all council resolutions amending the number of budgeted positions or the salary and classification schedules.
- (14) Maintaining an employee service awards program.
- (15) Administering classification and evaluation programs applicable to positions of employment.
- (16) Administering the unemployment compensation program.
- (17) Maintaining a human resources information system and preparing and submitting all statistical human resources [~~personnel~~] reports required by federal, state, or other agencies.
- (18) Providing guidance, consultation, and personnel information to other departments.

(19) Developing and maintaining an employee performance evaluation and associated merit pay program.

(20) Performing all other actions necessary for the proper administration of the human resources [~~personnel~~] system as established by the city charter, this chapter, and other applicable city ordinances and state and federal laws.”

SECTION 2. That Subsection (c), “Fire and Police Departments,” of Section 34-2, “Administration,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(c) Fire and police departments. The chiefs of the fire and police departments shall, respectively, designate an officer of rank in each department who shall act as human resources [~~personnel~~] officer, subject to the direction and supervision of the chief of the department. Those officers shall cooperate with the director of human resources in all departmental human resources [~~personnel~~] matters relating to their respective departments and maintain complete departmental human resources [~~personnel~~] records.”

SECTION 3. That Paragraph (5) of Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(5) BASE HOURLY RATE OF PAY means the hourly rate of an employee’s base salary as established in the salary and classification schedule for nonexempt employees.”

SECTION 4. That Paragraph (23) of Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(23) GENDER IDENTIT[H]Y AND EXPRESSION means an individual’s real or perceived gender identity as male, female, both, or neither.”

SECTION 5. That Paragraph (26) of Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(26) IMMEDIATE FAMILY MEMBER means:

(A) a husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, foster child, brother, or sister of an employee; or

(B) any person related to an employee by blood or marriage and who resides in the same household as the employee.”

SECTION 6. That Paragraph (35) of Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(35) PAID LEAVE means sick leave, vacation leave, holiday leave, court leave, death-in-family leave, fifteen days of military leave each fiscal [~~calendar~~] year, and mandatory city leave.”

SECTION 7. That Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended by adding a new Paragraph (35.1) to read as follows:

“(35.1) PERMANENT EMPLOYEE means an employee who is not a temporary employee. A permanent employee’s employment with the city may be terminated based on a reduction-in-force, for cause, or for any reason not prohibited by this chapter, the city charter, or federal, state, or local law.”

SECTION 8. That Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended by adding a new Paragraph (39.1) to read as follows:

“(39.1) PRORATED SALARY RATE means a proportionate salary rate based on the annual salary divided by the employee’s standard annual work hours for exempt employees.”

SECTION 9. That Paragraph (43) of Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(43) REGULAR RATE OF PAY means a[~~n~~] nonexempt employee’s base hourly rate of pay or a prorated salary rate for exempt employees plus additional payments as established in the salary and classification schedule.”

SECTION 10. That Section 34-4, “Definitions,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended by adding a new Paragraph (52.1) to read as follows:

“(52.1) TEMPORARY EMPLOYEE means an employee who has been designated as temporary pursuant to Section 34-8.”

SECTION 11. That Subparagraph (B) of Paragraph (3) of Subsection (d), “Nepotism,” of Section 34-5, “Conditions of Employment,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(B) RELATIVE means the employee’s spouse, mother, father, stepmother, stepfather, mother-in-law, father-in-law, son, daughter, foster child, stepson, stepdaughter, son-in-law, daughter-in-law, brother, sister, stepbrother, stepsister, brother-in-law, or sister-in-law, or any grandparent, aunt, uncle, niece, nephew, or cousin related to the employee by blood or marriage.”

SECTION 12. That Section 34-6, “Requirements for Induction,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“SEC. 34-6. REQUIREMENTS FOR INDUCTION.

To obtain employment with the city, an applicant must:

- (1) be at least 16 years of age, unless otherwise approved under a federally-sponsored program;
- (2) be eligible to work in the United States in accordance with the federal Immigration Reform and Control Act, as amended;
- (3) have a social security number;
- (4) agree to be fingerprinted, if requested;

(5) take a polygraph examination related specifically to job performance, for positions designated by the director of human resources; and

(6) pass a medical, physical agility, drug and alcohol, and/or mental examination after an employment offer has been extended, appropriate for the position[s] as designated by the director of human resources.”

SECTION 13. That Subsection (b), “Permanent Employees,” of Section 34-8, “Appointments,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(b) Permanent employees. An employee is designated as permanent when appointed in any situation not defined as temporary under Subsection (a). Exceptions to this subsection must be approved by the director of human resources. Nothing in this provision conveys a contract of employment with the City of Dallas and nothing in this provision is intended to be a term of a contract when combined with any other document, instrument, or writing.”

SECTION 14. That Paragraph (1) of Subsection (a), “Permanent Employees,” of Section 34-9, “Eligibility for Benefits,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(1) A permanent full-time employee is eligible for employee benefits, including, but not limited to, paid leave as provided in this chapter, health benefit plan participation, life insurance, and retirement benefits. Benefits may be changed at any time subject to applicable law and subject to city council approval when required, for any lawful reason, including budget constraints.”

SECTION 15. That Paragraph (a), “Charter Provisions,” of Section 34-11, “Probation,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) Charter provisions. Section 10, Chapter XVI of the city charter establishes the period of probation, when applicable.[:”

~~SEC. 10. PROBATIONARY PERIOD.~~

~~(a) Appointments or promotions of city officers and employees in the classified and unclassified service shall not be deemed complete until a period of six months shall have elapsed. A probationer may be discharged, suspended or reduced within said period by the city manager, or the head of the department in which said probationer is employed without right of appeal.~~

(b) ~~Probationary periods may be extended under civil service rules or personnel rules to allow six months on the job work performance or completion of any written prerequisites to employment.]”~~

SECTION 16. That Subsection (h), “Right to Retreat,” of Section 34-11, “Probation,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(h) Right to retreat.

(1) Right to retreat for certain positions.

(A) Right to retreat for classified and unclassified civil service civilian employees. If an employee is promoted into a classified or unclassified civilian civil service position and fails to complete probation in that position, whether voluntarily or because of nonsatisfactory performance, the employee maintains a right to retreat to the immediately former position, grade, and base hourly rate of pay or step, whichever is applicable if the immediately former position is vacant, [held or to a comparable one,] provided that probation was completed in the immediately former position and the former position was a classified or unclassified civil service position. A department director, in their discretion, may allow an employee in the classified or unclassified civil service to retreat to a vacant comparable position if the immediately former position is no longer available.

(B) Right to retreat for classified civil service sworn employees. Promotion of any classified civil service sworn employee of the police and fire department shall not be deemed complete until a period of six months shall have elapsed from the date of appointment to the higher rank. If, during the six-month period, the promoted employee does not merit the promotion and it is recommended by the Chief of the department that the employee be reduced, then the employee so promoted shall be returned to the rank held by the employee at the time of promotion.

(2) Not applicable to certain positions. The right to retreat does not apply to an employee promoted to or from a position that is not a classified or unclassified civil service position or to an employee appointed to the position of director, assistant director, or other managerial personnel designated by the city council.

(3) Property interest not conveyed. An employee’s right to retreat does not convey upon, imply, or intend to imply that an employee has a property interest in continued employment or a contract of employment with the city.”

SECTION 17. That Subsection (b), “Reassignments,” of Section 34-13, “Transfers and Reassignments,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(b) Reassignments. A department director may reassign positions and staff within a department to provide for the best interest of the employee or the department. An employee may not grieve a reassignment, including situations in which the employee:

- (1) was involuntarily reassigned; or
- (2) applied for and was not selected for the [A] reassignment [is not grievable].”

SECTION 18. That Subsection (c), “Transfers,” of Section 34-13, “Transfers and Reassignments,” of Article I, “General Provisions,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(c) Transfers. An employee who applies for [requests] a transfer must meet the minimum qualifications of the requested position. The following procedures apply to a transfer:

(1) Present and prospective supervisors shall cooperate in considering and processing a transfer when operations of the transferring or receiving department are not impaired and department directors for both departments agree to the transfer. Supervisors shall process the release of an employee transfer within a reasonable time following notification of the employee’s intent to accept the transfer.

(2) An employee who is transferred has no right to return to the immediately former position or a comparable position.

(3) An employee who accepts a transfer is not guaranteed the same base hourly rate of pay held in the immediately former position.”

SECTION 19. That Subsection (a), “Charter Provisions,” of Section 34-15, of Article II, “Compensation,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) Charter provisions. Section 18, Chapter XXIV of the city charter provides that the wages, hours, and conditions of employment of all city employees shall be fixed and approved by the city council.”

~~SEC. 18. EMPLOYEES' WAGES.~~

~~The wages, hours and conditions of employment of any and all of the city employees shall be fixed and approved by the city council.]”~~

SECTION 20. That Subsection (a), “Rate of Pay,” of Section 34-18, “Pay for Vacation Leave,” of Article II, “Compensation,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) Rate of pay. When pay in lieu of vacation leave is approved as provided by Section 34.23(o), the employee will receive the employee’s base hourly rate of pay for nonexempt employees or the employee’s prorated salary rate for exempt employees. This pay is not considered in determining eligibility for overtime pay under Section 34-17.”

SECTION 21. That Subsection (a), “Pay,” of Section 34-20, “Exempt Employees,” of Article II, “Compensation,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) Pay. An exempt employee is paid on a weekly salary basis regardless of the number of hours worked, unless an absence is taken when the employee has no remaining paid leave balances or when the employee is on furlough leave. In rare instances, and with the approval of the city manager, an exempt employee may receive additional compensation [~~his or her regular rate of pay~~] for overtime worked.”

SECTION 22. That Section 34-20, “Exempt Employees,” of Article II, “Compensation,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended by adding a new Subsection (d), “Emergency Work,” to read as follows:

“(d) Emergency work. As appropriate, during emergencies, such as a declaration of local state of disaster, and subject to the approval of the department director, an employee may be temporarily required to perform work outside of the employee’s normal job duties. In such situations, the employee will not lose their exempt status.”

SECTION 23. That Subsection (a), “Administration,” of Section 34-21, “Distribution of Pay Checks,” of Article II, “Compensation,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) Administration. The city controller is responsible for proper distribution of pay checks. Any discrepancy in a pay check resulting in overpayment or otherwise should be brought to the attention of the employee’s supervisor [~~and/or the human resources representative for the employee’s department~~]. The employee shall also report the discrepancy to the city controller payroll section.”

SECTION 24. That Subsection (i), “Physician’s Statement,” of Section 34-22, “Sick Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(i) Physician's statement. Upon request by a supervisor, a department director, or the director of human resources, an employee may be required to:

(1) furnish a statement from an attending physician demonstrating the existence of circumstances described in Subsection (g[~~h~~])(1), (2), (3), (4), or (5) of this section; or

(2) submit to a physical or mental examination by a health care provider (including but not limited to a physician or psychologist) selected by the city.”

SECTION 25. That Section 34-22, “Sick Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended by adding a new Subsection (v), “Department Rules,” to read as follows:

“(v) Department rules. Departments that implement rules regarding employee attendance must do so with review and input by the Department of Human Resources and the City Attorney’s Office.”

SECTION 26. That Section 34-22, “Sick Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended by adding a new Subsection (w), “Sick Leave to Be Used First,” to read as follows:

“(w) Sick leave to be used first. Accrued sick leave balances must be used first for sick leave purposes before other types of accrued leave balances can be used.”

SECTION 27. That Subsection (d), “Maximum Accumulation,” of Section 34-23, “Vacation Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(d) Maximum accumulation.

(1) Except as provided in this subsection, a[An] employee may accumulate vacation leave up to an amount equal to the employee's vacation leave entitlement for a two-year period. When accumulated vacation leave reaches the maximum allowed, the accrual ceases until vacation leave is taken.

(2) During a local state of disaster declared by the city, employees who are prohibited by their department from taking vacation leave due to the local state of disaster may continue to accrue vacation leave beyond the maximum allowed for the duration of the local state of disaster. Any vacation leave accrued beyond the maximum allowed during a local state of disaster will be forfeited if not used within one year after the expiration of the local state of disaster.”

SECTION 28. That Subsection (a), “Eligibility,” of Section 34-24, “Compensatory Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) Eligibility. An exempt employee (other than the city manager, the first assistant city manager, an assistant city manager, a department director, an assistant department director, other managerial personnel designated by the city council, or an exempt employee of the city attorney’s office or the city auditor’s office) who works overtime one full hour or more in a pay period may earn compensatory leave. A nonexempt employee (other than a sworn employee of the police or fire department) may not accrue compensatory leave but will be paid overtime for any overtime hours worked.”

SECTION 29. That Section 34-24.1, “Family Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“**SEC. 34-24.1. FAMILY AND MEDICAL LEAVE.**”

(a) Federal regulations. The terms used in this section that are not defined in Section 34-4 of this chapter have the meanings given them in the Family and Medical Leave Act and Part 825, Title 29 of the Code of Federal Regulations, as amended. All interpretations and applications of this section must be made in compliance with the minimum requirements of the Family and Medical Leave Act and Part 825, Title 29 of the Code of Federal Regulations, as amended. If any provision of this section conflicts with a provision of the federal law governing family and medical leave, the federal law prevails.

(b) Eligibility. Every employee is eligible for family and medical leave if the employee has:

(1) been employed by the city for at least 12 months; and

(2) worked at least 1,250 hours during the 12-month period immediately preceding the commencement of family and medical leave.

(c) When family and medical leave may be taken.

~~[(4)]~~ An eligible employee may take family and medical leave only in the following circumstances:

(A) for the birth of the employee's son or daughter or to care for the child after its birth;

(B) for the placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement;

(C) to care for a spouse, son, daughter, or parent~~[, or "designated care recipient"]~~ of the employee, if the spouse, son, daughter, or parent~~[, or "designated care recipient"]~~ has a serious health condition;

(D) for a serious health condition that makes the employee unable to perform the functions of the employee's position;

(E) for any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent~~[, or "designated care recipient"]~~ is a covered military member who is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation; or

(F) to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member ~~[or if the service member is a "designated care recipient" of the employee.~~

~~(2) For purposes of this subsection, "designated care recipient" means one individual designated by the employee who is 18 years of age or older and has resided in the same household as the employee and intends to reside in the same household as the employee on a continuous basis].~~

(d) Administration of family and medical leave. Specific procedures and requirements for the administration of the Family and Medical Leave Act are outlined in the administrative directives of the city. No procedure or requirement adopted by administrative directive may conflict with the Family and Medical Leave Act or Part 825, Title 29 of the Code of Federal Regulations, as amended.

(e) Disciplinary action. Disciplinary action, up to and including discharge from city employment, may be taken against an employee who:

(1) falsifies or misrepresents any facts in order to obtain family and medical leave; or

(2) shares confidential medical information relating to a request for family and medical leave with any person not authorized to receive the information.”

SECTION 30. That Subsection (a), “Eligibility,” of Section 34-27, “Death-In-Family Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) Eligibility. An allowance of three work days with pay is extended to every permanent employee when a member of the employee’s immediate family~~[, or the employee’s designated care recipient, as defined in Sec. 34-24.1(c)(2) of this chapter,]~~ dies.”

SECTION 31. That Subsection (b), “When Granted,” of Section 34-28, “Leave Without Pay,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(b) When granted. An employee may be granted leave without pay for the following reasons:

- (1) To participate in training that would result in increased job ability.
- (2) To achieve an educational level necessary to advancement in the city.
- (3) To perform a service that will contribute to the public welfare.
- (4) To recover from an illness or disability, not believed to be of a permanent or disqualifying nature, for which sick leave and wage supplementation benefits have been exhausted or are not available.
- (5) When return to work would threaten the health of others.
- (6) To provide necessary care for a family member who is ill or incapacitated.
- (7) For an excused absence during the initial six months of employment.
- (8) For an excused, but noncompensable, absence of less than a day for a nonexempt employee.
- (9) To permit vacation.

(10) To perform duties in the military service as authorized by Section 34-30 of this chapter and administrative directives established pursuant to that section.

(11) To take family and medical leave.

(12) At the discretion of the department director, as other circumstances may warrant granting leave without pay.”

SECTION 32. That Subsection (c), “Military Leave,” of Section 34-30, “Military Service/Military Leave,” of Article III, “Leave Policies,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(c) Military leave. The city will grant military leave to city employees in compliance with the Uniformed Services Employment and Reemployment Rights Act, as amended, and Chapters 437 and 613 of the Texas Government Code, as amended. [~~Specific procedures and requirements for the administration of military service/military leave policies are outlined in the administrative directives of the city.~~] No procedure or requirement adopted by administrative directive may conflict with the Uniformed Services Employment and Reemployment Rights Act, as amended, or with Chapters 437 or 613 of the Texas Government Code, as amended.”

SECTION 33. That Subsection (c), “Notice of Retirees’ Rights to Purchase Continued Health Benefits,” of Section 34-32, “Health Benefit Plans,” of Article IV, “Benefits,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(c) Notice of retirees' rights to purchase continued health benefits.

(1) Under Chapter 175 of the Texas Local Government Code, as amended, a person who retires from the city and is entitled to receive city retirement benefits is entitled to purchase retiree health benefits coverage from the city for the retiree [~~person~~] and any eligible dependents.

(2) To receive continued health benefits coverage, the retiree [~~person~~] must inform the city, within thirty days of the day on which the person retires, of the election to continue coverage.

(3) If the retiree [~~person~~] elects to continue health benefits coverage for the retiree [~~person~~] and/or any dependents and on any subsequent date elects to discontinue that coverage, then the retiree [~~person~~] is no longer eligible for coverage from the city.

(4) If a person is not participating in the city's active employee health benefit plans at the time the person retires from the city, the retiree [~~person~~] is not eligible for continued health benefits coverage under the city's retiree health benefit plans.

(5) A person hired as a city employee on or after January 1, 2010 who retires from the city may participate in the retiree health benefit plans but the cost of the continued health benefits coverage must be paid entirely by the person.”

SECTION 34. That Subsection (a) of Section 34-35, “Fair Employment Practices,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(a) City management may not discharge an individual, fail or refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of the individual’s race, color, age, religion, sex, marital status, sexual orientation, gender identity and expression, genetic characteristics, national origin, disability, military or veteran status, political opinions, or affiliations, nor shall city management take retaliatory action against an employee who makes a protected complaint of discrimination based on these categories. Nothing in this subsection extends any employee benefits, including but not limited to paid or unpaid leave, medical benefits, or pension benefits, to any individual who is ineligible for those benefits under any other provision of this chapter, the city’s master health plan, the employees’ retirement fund program, or the police and fire pension system or under any other city ordinance or resolution or state or federal law.”

SECTION 35. That Paragraph (3), “Inability to Come to Work,” of Subsection (b), “Unacceptable Conduct,” of Section 34-36, “Rules of Conduct,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(3) Inability to come to work occurs when an employee is absent due to an extended illness or injury after sick leave and/or wage supplementation have been exhausted.”

SECTION 36. That Paragraph (5), “Indifference Towards Work,” of Subsection (b), “Unacceptable Conduct,” of Section 34-36, “Rules of Conduct,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(5) Indifference towards work is exemplified by, but is not limited to, the following violations:

(A) inattention, inefficiency, loafing, sleeping, carelessness, or negligence;

(B) failure to remain at one’s work station, leaving work without permission, or taking excessive time for eating or break periods;

(C) performance of personal business, including but not limited to use of work time to study or complete school assignments when school work is not part of the employee's work duties and excessive use of personal cell phones[, blackberries, PDAs,] or other electronic devices while on duty;

(D) interference with the work of others; or

(E) discourteous or irresponsible treatment of the public or other employees.”

SECTION 37. That Paragraph (7), “Safety Violations,” of Subsection (b), “Unacceptable Conduct,” of Section 34-36, “Rules of Conduct,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(7) Safety violations are exemplified by, but are not limited to, the following violations:

(A) failure to follow city or departmental safety rules and regulations;

(B) failure to use required safety apparel;

(C) removal or circumvention of a safety device;

(D) lifting in an unsafe manner;

(E) operation of a vehicle or other equipment in an unsafe manner;

(F) smoking, including the use of tobacco products and e-cigarettes, in a prohibited area;

(G) endangering of one's own safety or that of others by careless or irresponsible actions or negligence;

(H) failure to report an on-the-job injury, vehicle accident, or unsafe work conditions;

(I) failure of a supervisor to remove from the workplace or to assist to a safe location an employee whose mental capabilities are impaired due to injury, illness, alcohol or drug use, or emotional distress;

(J) failing a city-required drug or alcohol test; or

(K) texting or emailing while operating a motor vehicle on city business.”

SECTION 38. That Paragraph (9), “Theft,” of Subsection (b), “Unacceptable Conduct,” of Section 34-36, “Rules of Conduct,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(9) Theft, regardless of item value, is exemplified by, but is not limited to, the following violations:

(A) unauthorized taking of city property or the property of others, including items from the trash;

(B) unauthorized use of city or employee funds;

(C) using or authorizing the use of city equipment or employee services for other than official city business; or

(D) using or authorizing the use of city equipment or employee services without proper authority.”

SECTION 39. That Paragraph (12), “Disturbance,” of Subsection (b), “Unacceptable Conduct,” of Section 34-36, “Rules of Conduct,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(12) Disturbance is exemplified by, but is not limited to, the following violations:

(A) fighting or boisterous conduct;

(B) deliberate causing of physical injury to another employee or citizen;

(C) intimidation, including but not limited to bullying and online harassment;

(D) unnecessary disruption of the work area;

(E) use of profane, obscene, abusive, threatening, or loud and boisterous language or gestures;

(F) harassment, including but not limited to sexual harassment, or workplace violence as defined in the administrative directives of the city;

(G) spreading of false reports; or

(H) other disruption of the harmonious relations among employees or between employees and the public.”

SECTION 40. That Subparagraph (B) of Paragraph (16), “Possession of Weapons,” of Subsection (b), “Unacceptable Conduct,” of Section 34-36, “Rules of Conduct,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(B) In this paragraph, a weapon capable of causing serious bodily injury means, but is not limited to:

- (i) any firearm;
- (ii) any prohibited [~~illegal~~] knife, including but not limited to:
 - (aa) a knife with a blade over five and one-half inches;
 - (bb) a hand instrument designed to cut or stab another by being thrown;
 - (cc) a dagger, including but not limited to a dirk, stiletto, or poniard;
 - (dd) a bowie knife;
 - (ee) a sword; and
 - (ff) a spear;
- (iii) a switchblade knife;
- (iv) any club, including but not limited to:
 - (aa) a blackjack;
 - (bb) a nightstick;
 - (cc) a mace; and
 - (dd) a tomahawk;

- (v) any explosive weapon or device;
- (vi) a firearm silencer;
- (vii) knuckles;
- (viii) ammunition;
- (ix) a zip gun;
- (x) any chemical dispensing device;
- (xi) any caustic or corrosive liquid, such as acid or lye, capable of causing serious bodily harm; and
- (xii) a taser.”

SECTION 41. That Subsection (b), “Purpose,” of Section 34-38, “Grievance and Appeal Procedures,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(b) Purpose. The grievance and appeal procedures described in this section are provided for the purpose of giving an employee the opportunity to:

- (1) present a grievance concerning the employee’s working conditions that the employee claims have been adversely affected by a violation, misinterpretation, or misapplication of a specific law, ordinance, resolution, policy, rule, or regulation; [~~or~~]
- (2) appeal a disciplinary action; or
- (3) appeal a job performance rating or merit rating.”

SECTION 42. That Paragraph (5) of Subsection (c), “Terms and Conditions,” of Section 34-38, “Grievance and Appeal Procedures,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(5) Except for the final step in appealing a [~~suspension,~~] demotion[~~;~~] or discharge, a hearing under these procedures is an informal discussion held without the taking of a written record. During any appeal hearing, a participant may take written notes. An employee must be willing to discuss the evidence and answer questions concerning the grievance or appeal at each step. Failure to discuss the facts of the case at any informal level of these procedures will constitute withdrawal of the grievance or appeal and will cause the last decision rendered to become nonappealable.”

SECTION 43. That Paragraph (15) of Subsection (c), “Terms and Conditions,” of Section 34-38, “Grievance and Appeal Procedures,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(15) An appeal concerning a job performance rating[~~, efficiency rating,~~] or merit rating may not proceed beyond Step 3 unless the person issuing the job performance rating is a department director. In that case, the employee may appeal to an assistant city manager or, if the department reports to a board or commission, to a designated board or commission member. For purposes of this paragraph, “issuing” refers to the initial job performance rating.”

SECTION 44. That Paragraph (16) of Subsection (c), “Terms and Conditions,” of Section 34-38, “Grievance and Appeal Procedures,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(16) An appeal of a reprimand may not proceed beyond Step 3 unless the person issuing the reprimand is a department director. In that case, the employee may appeal to an assistant city manager or, if the department reports to a board or commission, to a designated board or commission member. For purposes of this paragraph, “issuing” refers to the initial job performance rating.”

SECTION 45. That Paragraph (5) of Subsection (h), “Step 4 Procedure for Suspensions,” of Section 34-38, “Grievance and Appeal Procedures,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(5) A subpoena for an active city employee may be served through the director of the employee’s department. The assistant city manager assigned to the appeal hearing should forward subpoenas for non-city employees to the Dallas City Marshal for service on the witness. A witness served with a subpoena who fails to appear at the hearing or fails to produce requested evidence may be punished for contempt.”

SECTION 46. That Paragraph (1) of Subsection (i), “Final Decision,” of Section 34-38, “Grievance and Appeal Procedures,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(1) The disposition of a grievance or an appeal by the assistant city manager, city manager, employees’ retirement fund board, secretary of the civil service board, city auditor, or city secretary is nonappealable, except when the grievance or appeal involved a:

(A) claim of discrimination because of an employee’s race, color, age, religion, sex, sexual orientation, gender identity and expression, genetic characteristics, national origin, disability, or military or veteran status as it affects the employee’s training, promotion, advancement, or transfer, which may be appealed to the civil service board;

(B) civil service rule challenge, which may be appealed to the civil service board; or

(C) demotion or discharge, which may be appealed to the trial board or an administrative law judge, unless provided otherwise in the city charter.”

SECTION 47. That Paragraph (2), “Appeals to State District Court,” of Subsection (f), “Post-Hearing Deadlines,” of Section 34-40, “Appeals to the Trial Board or Administrative Law Judge,” of Article VI, “Discipline, Grievance, and Appeal Procedures,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“(2) Appeals to state district court.

(A) Either party may appeal the order of the trial board or administrative law judge to state district court within one year after:

- (i) the date on the last written order, if no rehearing is requested;
- (ii) the date on the written order denying the rehearing, if a rehearing is requested and denied; or

(iii) the date on the written order issued after the rehearing, if a rehearing is requested and granted.

(B) The appeal to the district court must be decided upon review of the record of the hearing.

(C) An appeal by the city must be approved by the city manager and the city attorney.

(D) The appealing party shall, at its expense, furnish to the court a copy of the complete hearing record presented to the trial board or the administrative law judge, including a certified copy of the transcript taken by the court reporter, [but not limited to] pleadings, hearing transcripts, exhibits, orders, and all evidence admitted during the hearing. The appealing party is responsible for paying the court reporter's fees for preparing the official hearing transcript.

(E) If the appealing party fails to provide the district court with any material required by Paragraph (2)(D) of this subsection, the appeal must be dismissed.

(F) Any appeal to state district court must be initiated by a citation and service of process pursuant to Texas Rule of Civil Procedure 106."

SECTION 48. That Chapter 34 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 49. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 50. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 51. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By _____
Assistant City Attorney

Passed _____